

TOWN OF WARWICK PLANNING BOARD

July 18, 2018

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, July 18, 2018 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**PUBLIC HEARING Francisco and Regina Pedro**

Application for Site Plan Approval for the construction and use of a two-story addition including an attached two-car garage and alterations to existing two-story residence, located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 72 B 4 L 8; project located on the southeastern side of Jersey Avenue 1000 feet south of Lake Trail (438 Jersey Ave.), in the SM Zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Jonathan Hodosh, Architect. Francisco Pedro, Applicant.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Pedro public hearing.

Mr. Astorino: 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 – 04/18/18 need ZBA variances and should add low impact stormwater measures to account for the overall increase in square footage of building size
6. TW Building Department – 04/03/18: property requires septic pump out documentation be submitted to the building department; permit needed for boathouse & shed (call for inspection when removed).
7. ZBA for sideyard, two sideyards, and lot coverage. The complete ZBA approval language from May 21, 2018 must be added to the plans.
8. Drawings show that the area of disturbance will be 1,750-sf (0.04 acres); EAF must be updated.
9. The surveyor must sign and seal the plans.
10. The Town of Warwick standard note for lighting must be added to the plan.
11. A proposed driveway is shown on NYS Route; NYSDOT review and approval is required.

12. Applicant to clarify how the proposed garage will be constructed. This structure is shown to be overlapping with the neighbor's cabinets and very close neighbor's property; applicant to clarify if the garage be constructed without going onto the neighbor's property.
13. The plan shows that retaining walls will be removed but there is no proposed grading shown to demonstrate how the proposed driveway and garage will be constructed. Applicant to clarify.
14. There are some concrete retaining walls that appear to be located on both this property and the property of 72-4-7 (N/F Micik); applicant to clarify who maintains these retaining walls.
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." (Sheet 1, Note 16)
16. Surveyor to certify that iron rods have been set at all property corners.
17. The ZBA resolution contains the following two conditions:
  - a. The boathouse and shed be removed before a CO is granted, and
  - b. As recommended by the Orange County Planning Department, a CO being issued shall require a survey [as-built or record drawing] be done to insure that all of the proposed development is finished in strict adherence to the construction drawings.  
These two conditions shall be added as notes on the site plan (or completed before the Planning Board process is finished).
18. Payment of all fees.

The following comment submitted by the Conservation Board:

Francisco & Regina Pedro – None submitted.

The following comment submitted by the ARB:

Francisco & Regina Pedro – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has not yet taken any action under SEQRA because this was sent off to the Zoning Board of Appeals for variances. The Planning Board has not yet established Lead Agency. I have a Resolution for that for the Planning Board's consideration. I have also reviewed the short EAF and the proposed plan. I have also prepared a draft Negative Declaration for the Board's consideration tonight if everything is in place.

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. MacDonald. The following Resolution was carried 3-Ayes.

617.6

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

Name of Action: Pedro Home Expansion

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Francisco & Rogeria Pedro for a  $\pm$  0.15 acre parcel of land located at 438 Jersey Avenue on Greenwood Lake, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 3/26/18 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is 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 other involved and/or federal agencies on this matter.

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

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

Comment #2: Applicant to discuss project.

Jonathan Hodosh: We are proposing to add a 2<sup>nd</sup> floor to an existing single-family home. There was a boathouse and shed that was located in the back. That has been demolished. We also propose an attached 2-car garage and create a driveway. Where we are right now there is no parking in the front yard. There is no proper driveway.

Mr. Astorino: Will you be putting in a new driveway onto a State Road?

Jonathan Hodosh: Yes.

Mr. Astorino: Ok.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 04/18/18 need ZBA variances and should add low impact stormwater measures to account for the overall increase in square footage of building size

Jonathan Hodosh: Ok.

Comment #6: TW Building Department – 04/03/18: property requires septic pump out documentation be submitted to the building department; permit needed for boathouse & shed (call for inspection when removed).

Jonathan Hodosh: The pump out was done last week. I have a document here for that.

Comment #7: ZBA for side yard, two side yards, and lot coverage. The complete ZBA approval language from May 21, 2018 must be added to the plans.

Jonathan Hodosh: Right.

Comment #8: Drawings show that the area of disturbance will be 1,750-sf (0.04 acres); EAF must be updated.

Jonathan Hodosh: That has been done.

Comment #9: The surveyor must sign and seal the plans.

Jonathan Hodosh: Will do.

Comment #10: The Town of Warwick standard note for lighting must be added to the plan.

Jonathan Hodosh: Will do.

Comment #11: A proposed driveway is shown on NYS Route; NYSDOT review and approval is required.

Karen Emmerich: We have not done that.

Mr. Astorino: That might be a problem. Has it been submitted?

Karen Emmerich: No. The subject never came up until tonight.

Jonathan Hodosh: Right. I don't think it was on the previous plans.

Laura Barca: The plans that were received for the Workshop included a new driveway.

Jonathan Hodosh: It wasn't in the previous comments. We were not aware of it.

Mr. Astorino: That is a problem. We can't close out SEQRA or give an approval. If the NYSDOT deems the driveway location needs to move something on the site plan, we cannot act on it until we have their approval that the driveway is coming onto that road in that location. We don't know that yet.

Francisco Pedro: There is a driveway over there already.

Mr. Astorino: Is it a new driveway on a State Road?

Jonathan Hodosh: It is a modified driveway.

Mr. Astorino: Karen, is it a new driveway on a State Road?

Karen Emmerich: It is an existing driveway for that property.

Mr. Astorino: Laura, is it a new driveway on a State Road?

Laura Barca: The plans says it is a proposed driveway. I believe it is in a slightly different location than the existing one that is there.

Jonathan Hodosh: It is in the same location. It is just being widened a little bit.

Laura Barca: That unfortunately requires NYSDOT approval.

Mr. Bollenbach: You are increasing the size of it.

Mr. Astorino: That is my point. We can't act on it if it requires a permit. Do you need to widen it?

Jonathan Hodosh: We could leave it the same at the street and then widen it. They only care about the driveway opening the curb cut. Is that correct?

Mr. Astorino: Yes. It is the curb cut.

Jonathan Hodosh: We could leave the same curb cut.

Mr. Astorino: That would totally be your call.

Laura Barca: No.

Mr. Astorino: Why do you say that?

Laura Barca: The NYSDOT has to take a look at it.

Mr. Astorino: But what if they don't change the curb cut?

Laura Barca: No.

Mr. Astorino: You are saying that the NYSDOT has to look at it regardless. Is that correct?

Laura Barca: Yes.

Mr. Astorino: So, that does not matter.

Laura Barca: Correct. For example with what happened with H&M Subdivision. They weren't changing it but it had to be coordinated with them. I apologize but it has to be.

Mr. Astorino: There is no apology needed. The problem is if it needs it then it needs it. It would come back and bite you later on.

Mr. Bollenbach: Why don't we just adjourn the public hearing?

Mr. Astorino: Do we have to adjourn it? Let's open the public hearing and see if there are any comments. Let's go through the rest of these comments. Since you are going to the NYSDOT, you might as well widen the driveway the way you want it to.

Francisco Pedro: Yes. I want to widen the driveway.

Mr. Astorino: Exactly.

Comment #12: Applicant to clarify how the proposed garage will be constructed. This structure is shown to be overlapping with the neighbor's cabinets and very close neighbor's property; applicant to clarify if the garage be constructed without going onto the neighbor's property.

Laura Barca: There are cabinets shown on the plans. I don't know what they are.

Francisco Pedro: Those cabinets are actually on my property. They have to be moved.

Mr. Bollenbach: Are they like storage structures?

Francisco Pedro: Yes.

Laura Barca: They are actually the neighbor's cabinets. On the plans they are shown on your property. Your proposed garage shows it to overlap with them.

Francisco Pedro: He needs to get rid of them. They are the neighbor's cabinets. They are on my property.

Karen Emmerich: They are on both sides.

Francisco Pedro: Yes. They are encroaching.

Laura Barca: If you are putting up a garage, you can't put them on top of the cabinets.

Mr. Astorino: I get it now.

Francisco Pedro: He is going to remove them.

Comment #13: The plan shows that retaining walls will be removed but there is no proposed grading shown to demonstrate how the proposed driveway and garage will be constructed. Applicant to clarify.

Jonathan Hodosh: I believe that has been addressed.

Laura Barca: The retaining walls on the plans are shown to be removed. I'm unclear on how it is being positioned so that there is no proposed grading shown on the plan right now. There is no elevation for the garage itself on where it is going to fit and where that is.

Jonathan Hodosh: I have spoken to Jeremy about that.

Karen Emmerich: We need that information from you.

Mr. Astorino: We need that to be shown on the plans.

Comment #14: There are some concrete retaining walls that appear to be located on both this property and the property of 72-4-7 (N/F Micik); applicant to clarify who maintains these retaining walls.

Jonathan Hodosh: That is the same question as along the side of the driveway.

Mr. Astorino: You will need to clarify that.

Laura Barca: That one is actually on the other side of the property.

Mr. Astorino: You will need to clarify that.

Francisco Pedro: Ok.

Comment #15: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." (Sheet 1, Note 16)

Karen Emmerich: Will do.

Laura Barca: It is on the plan.

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

Jonathan Hodosh: Will do.

Comment #17: The ZBA resolution contains the following two conditions:

- a. The boathouse and shed be removed before a CO is granted, and

Jonathan Hodosh: Those have already been removed.

Mr. Bollenbach: That has to be cleared with the Building Department for the demolition and to verify that has been complete.

Jonathan Hodosh: Ok.

- b. As recommended by the Orange County Planning Department, a CO being issued shall require a survey [as-built or record drawing] be done to insure that all of the proposed development is finished in strict adherence to the construction drawings. These two conditions shall be added as notes on the site plan (or completed before the Planning Board process is finished).

Jonathan Hodosh: Ok.

Comment #18: Payment of all fees.

Jonathan Hodosh: Ok.

Laura Barca: Ben, on Comment #12 you read the first half of the comment about the cabinets. But you didn't read the second half of the comment.

Mr. Astorino: Ok. Applicant to clarify if the garage be constructed without going onto the neighbor's property.

Laura Barca: I am not sure on the drawing how far that is. But it is pretty close.

Jonathan Hodosh: We are pretty close. We will probably need a construction easement.

Mr. Bollenbach: Provide that to us.

Jonathan Hodosh: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Pedro application, please rise and state your name for the record. Let the record show no public comment. There is still work that needs to be done. You need to go to the NYSDOT for the entrance permit. There are a few other issues.

Mr. Bollenbach: They would either need a permit or a sign off.

Mr. Astorino: They would need either one. I don't feel a need to keep the public hearing open. We could close the public hearing.

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

Seconded by MacDonald. Motion carried; 3-Ayes.



Mr. Astorino: Once you obtain the NYSDOT permit, then you can come back to us.

Mr. Bollenbach: The Board could adjourn it to the next available agenda.

Mr. Astorino: Ok.

**Mr. McConnell makes a motion to adjourn the Pedro Site Plan application to the next available agenda.**

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

Jonathan Hodosh: Thank you.

**Review of Submitted Maps:*****St. Stephen's Annex Site Plan***

Application for Site Plan Approval for the construction and use of a meditation garden, a 2,200 s.f. fellowship hall, a 525 sf community room, additional parking spaces and walkways, as well as interior upgrades to St. Stephen's Church, situated on tax parcel S 42 B 1 L 49; parcel located on the northern side of West Street Extension 0 feet west of St. Stephen's Lane (75 Sanfordville Rd), in the SL zone, of the Town of Warwick.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Chris DeHaan, Architect.

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 submittal
6. TW Building Department – 07/05/18 open permits for re-roof (20102), sign (20444), and shed (25276).
7. ZBA: area variance needed for lot coverage.
8. ARB: Applicant to advise when architectural plans will be ready (DeGraw and DeHaan).
9. Planning Board to determine if a site inspection is necessary.
10. Applicant to provide service capacity letters (e.g., utility, water, sewer, highway, police, ambulance, fire, and school).
11. Sheet 1, Note 13, please add the Biodiversity Overlay.
12. Sheet 1, Note 14 shows one 911 address. Applicant to confirm with Town 911 Coordinator if additional 911 addresses are needed for each building.
13. Applicant to clarify if stormwater generated from the proposed parking area will be directed to an existing stormwater basin.
14. Applicant to clarify if there is only one existing stormwater basin.
15. Applicant to clarify if stormwater generated from proposed annex and proposed garden will be directed to an existing stormwater basin.
16. Applicant to provide details for the proposed garden area (e.g., will area be pavers or impervious).
17. Applicant to clarify that existing stormwater basin can manage any new added stormwater flows to it.
18. A complete Landscaping Plan must be submitted.
19. The location, design, and construction materials for each existing and proposed feature must be called out.
20. Applicant to verify if lighting is proposed. The Lighting Plan must be in accordance with §164-43.4.
21. Provide details/documentation that lighting will be shielded, as required with §164-43.4F.
22. Provide wattage/lamp information for each fixture.

23. Any signage and a Master Sign Plan must be in accordance with §164-43.1.
24. Applicable declaration information must be added to the plans.
25. Surveyor to certify that iron rods have been set at all property corners.
26. Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.
27. Payment of all fees.

The following comment submitted by the Conservation Board:

St. Stephen's Annex Site Plan – None submitted.

The following comment submitted by the ARB:

St. Stephen's Annex Site Plan – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted a short EAF. It does fall below the threshold for a SEQRA review. This application is a Type 2 Action. No SEQRA review is necessary. I have prepared a Resolution for the Planning Board's consideration.

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

Seconded by Mr. McConnell. Motion carried; 3-Ayes.

617.6

State Environmental Quality Review (SEQR)

### **Resolution**

Type 2 Action

**Name of Action:** St. Stephen's Annex

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan application by Saint Stephen's Roman Catholic Church for a ± 15.9 acre parcel of land located at 75 Sanfordville Road, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated 6/26/18 was submitted at the time of application, and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(7) and, therefore, SEQRA does not apply, and

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

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

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

Comment #2: Applicant to discuss project.

Chris DeHaan: The Church is looking at expanding some of their facilities to include a fellowship hall for events for after services and for holiday services when there is a big turnout. They want to have some meeting rooms from time to time for different organizations within the Church. It wouldn't be an addition that would be used 24/7. They are also providing for a smaller community room meeting space. They do have one currently in the building. They need expanded bathroom facilities in the Church. Right now all they have is 2 single bathrooms. They want to take the existing community room that is adjacent to it and turn it into bathrooms. They also want to create some additional parking areas for those times.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – pending submittal

Comment #6: TW Building Department – 07/05/18 open permits for re-roof (20102), sign (20444), and shed (25276).

Karen Emmerich: That will be taken care of.

Chris DeHaan: We will follow up on that.

Comment #7: ZBA: area variance needed for lot coverage.

Karen Emmerich: We have submitted to the ZBA.

Comment #8: ARB: Applicant to advise when architectural plans will be ready (DeGraw and DeHaan).

Mr. Astorino: Do you want to get that to the ARB since you are the ARB?

Chris DeHaan: I do think what we have in this packet that we handed out this evening is probably adequate for the ARB to review.

Comment #9: Planning Board to determine if a site inspection is necessary.

Mr. Astorino: I don't feel a site visit is necessary. Does anybody else want to do a site visit?

Mr. MacDonald: No.

Mr. McConnell: No.

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

Comment #10: Applicant to provide service capacity letters (e.g., utility, water, sewer, highway, police, ambulance, fire, and school).

Karen Emmerich: Yes. Connie has them.

Comment #11: Sheet 1, Note 13, please add the Biodiversity Overlay.

Karen Emmerich: Will do.

Comment #12: Sheet 1, Note 14 shows one 911 address. Applicant to confirm with Town 911 Coordinator if additional 911 addresses are needed for each building.

Karen Emmerich: Yes.

Comment #13: Applicant to clarify if stormwater generated from the proposed parking area will be directed to an existing stormwater basin.

Karen Emmerich: It will be. It will slightly be expanded.

Comment #14: Applicant to clarify if there is only one existing stormwater basin.

Karen Emmerich: Correct.

Comment #15: Applicant to clarify if stormwater generated from proposed annex and proposed garden will be directed to an existing stormwater basin.

Karen Emmerich: Yes. The building will be.

Comment #16: Applicant to provide details for the proposed garden area (e.g., will area be pavers or impervious).

Chris DeHaan: There will be a landscape plan provided.

Comment #17: Applicant to clarify that existing stormwater basin can manage any new added stormwater flows to it.

Karen Emmerich: We will give you the calculations.

Comment #18: A complete Landscaping Plan must be submitted.

Chris DeHaan: Yes.

Comment #19: The location, design, and construction materials for each existing and proposed feature must be called out.

Chris DeHaan: It will match the existing building. It will be brick.

Mr. Astorino: Ok. It will be the same.

Chris DeHaan: Yes.

Comment #20: Applicant to verify if lighting is proposed. The Lighting Plan must be in accordance with §164-43.4.

Chris DeHaan: Yes.

Comment #21: Provide details/documentation that lighting will be shielded, as required with §164-43.4F.

Chris DeHaan: Yes.

Comment #22: Provide wattage/lamp information for each fixture.

Chris DeHaan: Yes.

Comment #23: Any signage and a Master Sign Plan must be in accordance with §164-43.1.

Chris DeHaan: None is proposed right now. We will take a look at that.

Comment #24: Applicable declaration information must be added to the plans.

Karen Emmerich: Will do. We will put that on the plans.

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

Chris DeHaan: Yes.

Comment #26: Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.

Chris DeHaan: Yes.

Comment #27: Payment of all fees.

Karen Emmerich: Yes.

Karen Emmerich: We would like to ask the Board if we could be set for a public hearing. We understand that we have to go to the ZBA first for variances.

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

Mr. McConnell: Would we be getting a full landscaping plan?

Chris DeHaan: Yes.

Mr. McConnell: The vegetation that you have shown that you handed to us tonight is not necessarily accurate but it will be done on the full landscaping plan?

Chris DeHaan: Yes. That was more for the site plan the overall scope of the project. There will be an entire separate landscape plan.

Mr. McConnell: A question came up at the Work Session about the trees and stuff here between Sanfordville Road and the proposed parking. Be sure to include that.

Chris DeHaan: Yes. Ok.

Mr. Astorino: Does the Board want to set the St. Stephen's application for a public hearing.

**Mr. McConnell makes a motion to set the St. Stephen's Annex Site Plan application for a Public Hearing at the next available agenda.**

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

Mr. Astorino: Does the Board want to send them to the ZBA with a "Positive" recommendation?

Mr. McConnell: Ok.

Mr. MacDonald: Ok.

Mr. Astorino: We will send St. Stephen's application to the ZBA with a "Positive" recommendation.

Karen Emmerich: Thank you.

Chris DeHaan: Thank you.

***Ty and I Ranch Subdivision***

Application for Sketch Plat Review of a proposed 3-Lot Cluster subdivision, situated on tax parcel S 64 B 3 L 12.2; parcel located on the eastern side of California Road 600 feet south of Cascade Road (9 California Rd), in the MT zone, of the Town of Warwick.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Matt Tangredi, 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 – no comments received to date
6. TW Building Department – 07/05/18 open permits for garage (8042), pool, deck and shed (10743), horse barn (15325), extension of horse barn (18784), and re-roof / repair to lean-to and greenhouse (25223)
7. Zoning Board of Appeals - §280A variance needed
8. Planning Board to determine if a site inspection is necessary.
9. Short EAF #15 includes a partial response; Applicant to submit complete response.
10. §164-41.H(2)(a) states that all new dwellings shall meet the following setback to the greatest extent practicable: From all external road ultimate rights-of-way: 100-ft. Lot 1 proposes 83-ft, PB to clarify if a waiver is required.
11. The metes and bounds for all lot lines, including the proposed lot lines, must be shown on the drawing.
12. Proposed homes are in the Ridgeline Overlay; Applicant to clarify if home will be proposed at 35-ft or will remain at 25-ft.
13. The sight distance for each driveway must be shown on the Cluster Subdivision Plan.
14. A location for a replacement septic system must be shown for Proposed Lot 3.
15. The force main trench detail on Sheet 6 should have dimensions and specifications for the fill material shown.
16. An intermediate SWPPP is required for land development activities greater than one acre to less than five acres of disturbance per § 164-47.10C(2)(b). Drawing states 1.5 acres disturbance.
17. On the Cluster Design 4-Step Process drawing, the X or + symbol needs to be identified in the legend.
18. The 911 addresses must be shown on the plan.
19. A survey must be signed and sealed by a Licensed Land Surveyor.
20. Surveyor to certify that iron rods have been set at all property corners.
21. Applicant to clarify if private road agreement existing for California Road and Cherry Tree Hill Road.
22. The liber and page for the Ridgeline Overlay and Biodiversity Notes declaration must be added to the plan.
23. Payment in lieu of parkland fees per §75-3.A(2)(a)(3) for two lots.
24. Payment of all fees.



The following comment submitted by the Conservation Board:

Ty and I Ranch Subdivision – None submitted.

The following comment submitted by the ARB:

Ty and I Ranch Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant has submitted a short EAF. The Planning Board is currently reviewing it. It is an Unlisted Action. There are no other Involved Agencies. The Planning Board could go ahead and declare itself Lead Agency tonight.

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. MacDonald: The following Resolution was carried 3-Ayes.

617.6

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

Name of Action: TyandI Ranch Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Matthew Tangredi for a  $\pm$  15.097 acre parcel of land located at 9 California Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/27/18 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is 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 other involved and/or federal agencies on this matter.

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

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

Comment #2: Applicant to discuss project.

Karen Emmerich: We are proposing a 3-Lot Cluster subdivision situated on a 15-acre parcel. The property is located between 2 roads California Road and Cherry Tree Hill Road. We are proposing 2 new houses with 1 existing house on the remainder of the property.

Matt Tangredi: There is a distinct reason why I wanted to go with a Cluster plan. We kept a lot of thought with the neighbors and the environment on this. We want to do as little impact as possible. My son and I are raising livestock. That is why we call it Ty and I Ranch. We are raising a farm here. I am the 4<sup>th</sup> generation here in Orange County. My son, Tyler was born here in Warwick. I want to give him the opportunity to stay here as a Warwick resident forever. That is what the other small lot the 1.2 acre is for.

Mr. Astorino: That is a good plan.

Matt Tangredi: Thank you.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – no comments received to date

Comment #6: TW Building Department – 07/05/18 open permits for garage (8042), pool, deck and shed (10743), horse barn (15325), extension of horse barn (18784), and re-roof / repair to lean-to and greenhouse (25223)

Matt Tangredi: They are not totally completed. A lot of them have been. I have spoken to the Building Inspector already. He knows that I am knocking a lot of it out. Most of these are permits from the 1980's and 1990's. The house needed a lot of work. The last permit that is there regarding the re-roof/repair to lean-to and green house, I pulled that permit myself. That is about 90% done. I am working diligently on that.

Mr. Astorino: Ok.

Comment #7: Zoning Board of Appeals - §280A variance needed

Karen Emmerich: Yes. We are in the process of applying for that.

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

Mr. Astorino: A site visit would be necessary because it is a Cluster subdivision.

Mr. McConnell: Yes.

Mr. Astorino: It is required. It is a Cluster. Connie, when is our next Work Session?

Connie Sardo. August 6, 2018 is our next Work Session.

Mr. Astorino: I won't be there for that Work Session. Do we want to do it on August 15<sup>th</sup> before the Planning Board Meeting at 6:00pm?

Mr. McConnell: I won't be there.

Mr. MacDonald: I won't be there either.

Mr. Astorino: Let's put it on the August 6, 2018 Work Session for the Board to discussing setting a site visit. You have to go to the ZBA anyway. There is no rush yet.

Matt Tangredi: Ok.

Mr. Astorino: We will get that set.

Comment #9: Short EAF #15 includes a partial response; Applicant to submit complete response.

Karen Emmerich: Will do. I believe that part is about the endangered species. We have not heard back from the Natural Heritage Program yet.

Mr. Astorino: Touch base with Laura and Ted on that.

Karen Emmerich: Yes.

Comment #10: §164-41.H(2)(a) states that all new dwellings shall meet the following setback to the greatest extent practicable: From all external road ultimate rights-of-way: 100-ft. Lot 1 proposes 83-ft, PB to clarify if a waiver is required.

Mr. Astorino: We will discuss that at the site visit.

Comment #11: The metes and bounds for all lot lines, including the proposed lot lines, must be shown on the drawing.

Karen Emmerich: Yes.

Comment #12: Proposed homes are in the Ridgeline Overlay; Applicant to clarify if home will be proposed at 35-ft or will remain at 25-ft.

Matt Tangredi: If you take a look at the plans with elevations, it is a little hard to see the smaller ones. The main house that I am looking to build to raise my son in is roughly 25-Feet below street level.

Mr. Astorino: You are in a zone that is in the Ridgeline Overlay District. You are in it no matter where you are. If you have any plans to build a house above 25 feet, I would do it now.

Karen Emmerich: We could do a Visual Analysis.

Mr. Astorino: Do it at the 35-foot level.

Matt Tangredi: That was what I was asking.

Karen Emmerich: Right. We could do that.

Comment #13: The sight distance for each driveway must be shown on the Cluster Subdivision Plan.

Karen Emmerich: Will do.

Comment #14: A location for a replacement septic system must be shown for Proposed Lot 3.

Karen Emmerich: Yes.

Comment #15: The force main trench detail on Sheet 6 should have dimensions and specifications for the fill material shown.

Karen Emmerich: Ok.

Comment #16: An intermediate SWPPP is required for land development activities greater than one acre to less than five acres of disturbance per § 164-47.10C(2)(b). Drawing states 1.5 acres disturbance.

Karen Emmerich: Will do.

Comment #17: On the Cluster Design 4-Step Process drawing, the X or + symbol needs to be identified in the legend.

Karen Emmerich: Ok.

Comment #18: The 911 addresses must be shown on the plan.

Karen Emmerich: Will do.

Comment #19: A survey must be signed and sealed by a Licensed Land Surveyor.

Karen Emmerich: Yes.

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

Karen Emmerich: Yes.

Comment #21: Applicant to clarify if private road agreement existing for California Road and Cherry Tree Hill Road.

Matt Tangredi: We all agreed to help each other. We are neighbors.

Mr. Astorino: Is there a written agreement?

Matt Tangredi: I haven't seen any since I purchased it.

Mr. Astorino: I think we had done something out there.

Mr. Bollenbach: They have been done. Connie, you will have to search California Road and Cherry Tree Hill Road.

Mr. Astorino: Take a look for it. I think there had to be something.

Matt Tangredi: Nobody has approached me with anything.

Mr. Astorino: Ok.

Comment #22: The liber and page for the Ridgeline Overlay and Biodiversity Notes declaration must be added to the plan.

Karen Emmerich: Yes.

Comment #23: Payment in of parkland fees per §75-3.A(2)(a)(3) for two lots.

Karen Emmerich: Yes.

Comment #24: Payment of all fees.

Karen Emmerich: Yes.

Mr. Astorino: Ok. You are off to the ZBA. Does the Board or Professionals have any comments?

Mr. McConnell: Is there open space being provided?

Mr. Astorino: Yes.

Mr. McConnell: Ok. Are we going to require stone cairns for the open space?

Mr. Astorino: Yes.

Mr. McConnell: That is missing from these notes.

Matt Tangredi: Could you explain that a little more?

Mr. Astorino: When you have the limits of open space it is deed restricted property.

Mr. Bollenbach: Cairns are a pile of stone so that you can see where the limits are. There are certain activities that can be conducted or cannot be conducted within those open space areas. There will be a declaration for the open space that will be recorded. That brings me to the next item. You said you have horses and cattle. I am suggesting that the Board might consider placing some notes on the map. To have a commercial agricultural operation for large animals you would need 20 acres. You do not have 20 acres. However there are provisions for accessory uses to a residence. There is specific criteria for large animals on how many acres you would need. Perhaps we could put that on the map so that there wouldn't be any confusion in the future.

Matt Tangredi: We are just goat farmers right now. We have little miniature goats.

Mr. Bollenbach: How many do you have?

Matt Tangredi: We have 6 goats right now.

Mr. Bollenbach: Ok. You are allowed small-scaled animals. You would need 3 acres for the first 2 animals. For large animals, you would need 3 acres for the first large animal then one additional acre for each additional animal and how many beehives? It is all broken down and listed in the Code.

Matt Tangredi: I would like to get that information.

Mr. Bollenbach: Put that in the notes.

Karen Emmerich: Yes. It is in the Zoning Code. We will get you a copy.

Matt Tangredi: Ok.

Mr. Astorino: Does the Board or Professionals have any other comments or concerns?

Karen Emmerich: We would like to be set for a public hearing? We know we have to go to the ZBA first.

Mr. Astorino: They need to go to the ZBA and we need to do a site visit. We could set them for a public hearing.

**Mr. McConnell makes a motion to set the Ty and I Ranch application for a Final Public Hearing at the next available agenda.**

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

Mr. Bollenbach: Does the Board want to make a "Positive" recommendation to the ZBA?

Mr. McConnell: Do you think anything in the site visit would show us something different?

Mr. Astorino: Not off a Private road.

Mr. McConnell: Ok.

Mr. Astorino: I would send them with a Positive recommendation to the ZBA. John, do you agree with that?

Mr. Bollenbach: Yes.

Mr. Astorino: Ok. We will send the Ty and I Ranch application to the ZBA with a "Positive" recommendation.

Karen Emmerich: Thank you.

Matt Tangredi: Thank you.

***Barricella 35 Union Corners Road Solar Farm***

Application for Site Plan Approval and Special Use Permit for the construction and use of a large-scale community commercial 2.75 MW solar energy installation, situated on tax parcel S 29 B 1 L 62.2; project located on the western side of Union Corners Road 400 feet south of Meadow Ridge Road (35 Union Corners Rd), in the RU/AI zones, of the Town of Warwick.

Representing the applicant: Joe Fiori from Nexamp. Dave Young from Chazen Companies.

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 submittal
6. TW Building Department – 06/11/18 no violations
7. ZBA – setbacks from Federal wetlands, possible setbacks for active Agricultural lands
8. OCDPW – driveway access and possible construction near or under the County Road (Union Corners Road)
9. PB to determine if a site inspection is desired. PB requested 10-ft tall markers/flags be located to show the height of the panels and the locations of the panels.
10. Service capacity letters must be submitted.
11. There is not a signature on the Applicant's Escrow Account Form. A form with a signature must be submitted.
12. The proposed height of the panels should be included in the bulk table.
13. The bulk table on Sheet 1 must be completed, including acres of solar panels, and distances from the USACE wetlands.
14. Applicant must show compliance with the setbacks shown in §164-46.J(127).
15. Applicant to clarify the variances being requested in the bulk table on Sheet 1.
16. Applicant to clarify how the four-step process (§164-41.1E(3)) was used to site the locations for the solar panels.
17. Applicant to clarify how panels will be installed and if soil testing is required prior to installation.
18. Applicant to clarify permits required for proposed wetland disturbance.
19. A Visual Assessment including Lines of Sight Profiles must be provided [§164-47.1F(3)(a)], including landscaping to provide year-round screening (if not already provided) any glare/reflection onto adjacent properties and roadways.
20. Applicant shall provide access road in accordance with §A168-19.
21. The proposed security fence is 7-ft tall; Planning Board to determine if ZBA variance is required. §164-42G(8) appears to allow 6-ft tall fencing.
22. Applicant to provide Decommissioning Plan if large-scale solar panel project is without energy for 180 days in accordance with §164-42G(9).



23. Applicant to clarify what is included in the calculation of the area of disturbance for this project (0.16 acres on Sheet C130).
24. Applicant to confirm that project is in compliance with NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance document, dated 04/05/18
25. Stormwater Pollution Prevention Plan has been submitted.
26. Applicant to clarify on the plans if and where the direct connection to a utility is located and how that connection will be made.
27. §164-46.J(53) requires compliance with the Town of Warwick Design Standards.
28. Applicant shall clarify on the plans compliance with the Town of Warwick Performance Standards (§164-46.J(81)).
29. §164-46.J(97) requires additional screening; Applicant to update plans to show compliance.
30. 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.”
31. The declaration information for the Agricultural Notes, Aquifer Overlay Notes, and Private Road and Maintenance for the common driveway must be added to the plans.
32. Surveyor to sign and seal final plans.
33. Surveyor to certify that iron rods have been set at all property corners.
34. Applicant to provide Decommissioning Report and/or Bond, as required by the Planning Board.
35. Payment of all fees.

The following comment submitted by the Conservation Board:

Barricella 35 Union Corners Rd Solar Farm – None submitted.

The following comment submitted by the ARB:

Barricella 35 Union Corners Rd Solar Farm – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has provided us with a long EAF. After reviewing the form, there are other Involved Agencies. This application also meets the Threshold of a Type 1 Action. The best that the Board could do tonight is declare It's Intent To Be Lead Agency. We will need to circulate to the other Involved Agencies. We would have to wait 30 days before the Planning Board could declare Lead Agency.

Mr. MacDonald makes a motion for Intent To Be Lead Agency.

Seconded by Mr. McConnell. The following Resolution was carried 3-Ayes.

**Resolution Establishing Intent to be Lead Agency**

Type 1 Action

**Name of Action:** Warwick Renewables LLC Solar Farm

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan/Special Use Permit application by Warwick Renewables LLC for a ± 43.9 acre parcel of land located at 35 Union Corners Road, Town of Warwick, Orange County, New York; and

**Whereas**, an Environmental Assessment Form (EAF) dated June 7, 2018 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 1 action because it involves a nonagricultural use within a New York State Agricultural District and includes the physical alteration of more than 2.5 acres of land; and

**Whereas**, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed with the owners of farm operations within 500 feet of the site and then the Planning Board must evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district; and

**Whereas**, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter including the Orange County Department of Public Works, Orange County Planning Department, New York State Department of Environmental Conservation, and Town of Warwick Zoning Board of Appeals.

**Now Therefore Be It Resolved**, that the Planning Board hereby declares its intent to be Lead Agency for the review of this action; and

**Be It Further Resolved**, that the Planning Board hereby authorizes its Chairman to circulate the attached lead agency coordination request letter(s) to all other involved agencies and to discharge any other SEQR responsibilities as are required by 6 NYCRR 617 in this regard; and

**Be It Further Resolved**, that unless an objection to the Planning Board assuming lead agency status is received within thirty (30) days of the date of mailing the EAF, the Planning Board will become lead agency for the review of this action.

Comment #2: Applicant to discuss project.

Joe Fiori: I represent Nexamp. We are a 10 year old company based in Boston, Massachusetts. We are one of the largest developers in the northeast. We are one of the top 3 Solar Developers. The project that is in front of you tonight is located at 35 Union Corners Road which is currently an active horse farm. We have sited this project in the rear of the property. It would be invisible from Union Corners Road. We think it is a pretty good location in siting these type of projects. This is a community solar project. Our intent is to sell the electricity to residents and small businesses. We ideally want to

target the Town of Warwick as a way to reduce electricity costs. This is something that we have done for 22+ projects across the northeast which were mostly done in Massachusetts. Because of recent regulations, we are expanding into New York. We are excited about the benefits that this project could bring to the local community as in the form of tax revenue, clean energy and electricity savings.

Dave Young: We have an existing drive coming off a County Road. It will be improved with a County permit. There will be a new access drive brought to the rear. Some of it will be new. Some of it will go over an existing farm path. It will be improved with a soil reinforcement map. That will be right between 2 wetland areas. There are wetland areas on each side of the drive. There are also wetlands located in the back of the property. Looking at the map, the panels will be located in this area. There is about 10-acres of actual panel array area. The earth disturbance would be about 1.6 acres. Our stormwater management is taken care of through the installation of grass swales around the exterior of the project. That is where we sent our stormwater runoff into the wetlands after it has been treated through the updates and swales. We have a couple of examples of how the connections could be made to the electrical system up the road. We would have some visuals to show as we move further on. We know that there will be a site inspection with the Planning Board. At that inspection, we could figure out where you want those visuals taken from.

Mr. Astorino: Ok. One of the Visual Analysis should be from Big Island Road.

Dave Young: Yes. We have one of those shots in here.

Mr. Astorino: Ok.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – pending submittal

Comment #6: TW Building Department – 06/11/18 no violations

Comment #7: ZBA – setbacks from Federal wetlands, possible setbacks for active Agricultural lands

Mr. Astorino: You will need to go to the ZBA for those items. Laura, regarding the Federal wetlands, is that 100 feet in our Code?

Laura Barca: Yes.

Mr. Astorino: You need a Jurisdictional Determination to determine where the wetlands are? Is that correct?

Mr. Bollenbach: Yes.

Joe Fiori: This is one area where we ran into some significant confusion going through the Town's By-Law. On a Federal level the Court does not have a setback from Federal

regulated wetlands. We took a deep dive into this By-Law. We looked into the section that discusses setbacks from solar projects. There was language in there that says the following setbacks shall prevail. It lists out the setbacks. That was what we had as we were developing this project over the last 6 months to a year. We didn't find that. There was a section in there that looks like it references Designated Protection Areas. In that area it has 100-foot to 200-foot setback listed for properties adjacent to designated areas. In that definition it listed the Federal wetlands. We looked at this. We were confused. We got our own counsel on it. We went with the language that says the following shall prevail for solar projects. That was our assumption. We just abided by what the ACOE currently dictates which is no setbacks from Federal wetlands.

Mr. Bollenbach: Where are those inconsistencies located? What is the setback that you have proposed?

Dave Young: Looking at the map, to the panels it is about 20 to 25 feet. We have a fence line in there that would be very close to the wetlands in spots.

Mr. Astorino: You are actually touching the wetlands in the one spot. Is that correct?

Dave Young: No. It is not actually touching. But, it is within a couple of feet of it.

Mr. Astorino: Have the wetlands been delineated?

Dave Young: Yes.

Mr. Astorino: The Code reads Designated Protection Area ie: Federal wetlands requires 100-foot setback. Ted, is that correct?

Mr. Fink: Yes.

Mr. Astorino: Ok. That would be a trip to the ZBA. Who delineated the wetlands?

Joe Fiori: Our Wetlands Biologist delineated the wetlands.

Mr. Astorino: John, wouldn't it need a Jurisdictional Determination?

Mr. Bollenbach: Yes.

Dave Young: We would request that if this was the case. We were assuming that there would be no setbacks.

Mr. Astorino: Never assume.

Joe Fiori: Our number one concern generally speaking is our environmental impact? We had a certified Wetlands Biologist go out and site this project. They found no evidence of NYSDEC wetlands. We submitted a letter as to what his findings were in terms of the Federal wetlands they found. Our next process with that was if the Town really has a

setback? It really is not clear to Nexamp or to our Counsel on how to read that Section of the Code.

Mr. Astorino: We could make that clear for you.

Joe Fiori: Ok.

Mr. Astorino: Ted, what is required?

Mr. Fink: Laura and I were asked this question from Linda Stancliffe who is from your office.

Dave Young: Yes.

Mr. Fink: She sent us an email on trying to get clarification. The only question at that time was to whether or not 100-foot or 200-foot setback applied. When I took a look at it, I had seen why there was some confusion on Linda Stancliffe's part. I sent an email back to Linda, Laura, and to you Joe stating that it would be the 100-foot setback that would apply. It would not be the 200-foot setback.

Mr. Astorino: It sounds like your office was in contact with our Professionals.

Joe Fiori: Correct.

Mr. Astorino: That 100-foot setback information was provided to you.

Joe Fiori: We got feedback that this was the interpretation. Quite honestly, we asked that question incorrectly. We had seen the 100 and 200-foot number.

Mr. Astorino: You got your answer that it is 100-foot buffer. Is that correct?

Joe Fiori: Correct.

Mr. Astorino: That question was asked a while ago. You got an answer. Now a ZBA variance is required through the Town Code. You will have to go to the ZBA for a variance. Before you go to the ZBA, you had it delineated. Do they need a Jurisdictional Determination?

Mr. Fink: There is a time factor involved with the ACOE and the Jurisdictional Determination. We would have our Town Professional, who is also trained in the wetland delineation, see if whether or not they agree.

Mr. Astorino: I know that we have done that in the past with subdivisions.

Mr. Fink: Yes.

Mr. Astorino: But they have never come this close.

Mr. Fink: Right.

Mr. Astorino: This is pretty close. I feel a Jurisdictional Determination would be needed. That is my opinion. How does the rest of the Board feel?

Joe Fiori: When we seek Jurisdictional Determination it is when we are impacting wetlands. If we were within the 100-foot NYSDEC buffer or if we were cutting trees within ACOED regulated wetland area. But in this case, if we go to the ACOE and we are not impacting that wetland because ACOE has no setback, they would not require that.

Dave Young: They would verify that we are not impacting it. Linda Stancliffe is the Project Manager for Chazen. I am subbing for her tonight because she had another obligation. As far as the Jurisdictional Determination goes, you are typically looking for any kind of connection to a different waterway that would make it a waterbody that has to be protected further beyond the setbacks that we are talking about. What we are actually trying to find out about the 100-foot setback is that the interpretation by Counsel was that the 100-foot applied to properties adjoining us. It was not to our own property.

Mr. Astorino: Was that said by your Counsel?

Dave Young: Yes.

Mr. Astorino: Maybe your Counsel should have seen the email.

Joe Fiori: They did. That was our interpretation.

Mr. Astorino: The question was asked. It was answered in a correct manner.

Mr. MacDonald: The 100-foot buffer that is there is to protect the wetlands. What is in these solar panels? Is there hazard materials in them?

Joe Fiori: There are not any hazard materials in solar panels. Silicone is the main metal.

Mr. MacDonald: Could you through those away into County Waste?

Joe Fiori: Yes. We recycle that.

Mr. MacDonald: Ok.

Joe Fiori: I could submit documentation for that.

Mr. Astorino: We are not the ZBA. You need to go to the ZBA. Ted, I would like to see a Jurisdictional Determination on this. When other projects came before us that had situations like this, we had them get a Jurisdictional Determination. I am sure the same question is going to arise with the ZBA.

Dave Young: I am not familiar with your ZBA. Is it a lengthy process?

Mr. Astorino: You would make an application to the ZBA. You would go to a meeting. They could either act on it or hold you off for months. We can't answer for the ZBA. We are not the ZBA.

Connie Sardo: The ZBA applications are on the Town's website. The ZBA application fee is \$250.00. You would have to complete an application and provide the items that are requested such as maps, pictures, deeds, etc...

Mr. McConnell: If what you are telling us is the closest that you have there is 25 feet. If in the past we have been flexible for encroachments that came within say at 50 or 60 feet, would it be possible and still be economical for you to lose that much additional panels so that you could back it out to 50 or 60 feet?

Joe Fiori: I think when we leave here tonight the decision we would have to make is if we do go to the ZBA. This project is tight for a couple of reasons.

Mr. McConnell: Looking at your map, I see to the right hand side of that array there is a fair amount of space. Maybe you could shift some panels over to there. You might be no more than 75 feet from it. We could take that under consideration.

Mr. Astorino: I agree.

Laura Barca: If the disturbance is less than 100 feet, you would still need a ZBA variance.

Mr. McConnell: Ok. I am not talking about whether or not you need ZBA. I am trying to understand why this buffer exists.

Mr. Astorino: The Town's Code is to protect a sensitive area.

Mr. McConnell: I agree.

Mr. Bollenbach: The Planning Board has the discretion as to whether or not to require a Jurisdictional Determination or have it verified independently.

Mr. McConnell: As the Planning Board's Attorney, would you clarify me the significance to require a JD?

Mr. Bollenbach: It is that the Federal wetlands have been determined by the Federal Government to be accurately delineated.

Mr. McConnell: Ok.

Mr. Astorino: They will still need to go to the ZBA.

Joe Fiori: If we were able to somehow reduce this project's size and not encroach on the delineated wetlands...

Mr. Astorino: You would still go to the ZBA. You would still be within that 100-foot buffer.

Joe Fiori: Could we make a request to get a JD dependent on whether we decide to move with the ZBA or not?

Mr. Astorino: You would be going to the ZBA regardless unless you are more than 100 feet away.

Joe Fiori: If we can go back and reduce the size of it so that we are not within that 100-foot buffer, do we still have to go to the ZBA?

Mr. Astorino: Then it would be a moot point. If you are 100 feet away from the wetlands, then you don't need the ZBA.

Mr. McConnell: I would be more comfortable with that.

Mr. Astorino: Regardless, we would have to do a site visit.

Dave Young: Is that the only ZBA issue?

Mr. Astorino: Laura, are there anymore ZBA issues?

Laura Barca: There was a question about possible setbacks for active Agricultural lands.

Mr. Bollenbach: That would be 100 feet.

Laura Barca: Correct.

Mr. Astorino: Ok.

Dave Young: Looking at the map, this is certified agricultural land. This part is in the Agricultural Overlay but it has not yet been certified.

Mr. Bollenbach: What we are looking at is if it is actively being farmed. It is not whether or not it is in an Agricultural District.

Joe Fiori: That was not the response that we received from the Town. You have to apply for that protection. If that is recorded, then those protections now apply to your land.



Mr. Astorino: Are you talking about the Agricultural Protection Overlay? I don't even understand how that comes into play with this. If there is an active agricultural farm next to this property, does it border this property? Is that true?

Mr. Bollenbach: I don't know. I don't see a site context map.

Mr. Astorino: The bottom line is the property that is next to you, is it residential or an active agricultural farm?

Mr. Bollenbach: Is that Bing Nop's property?

Mr. Astorino: Yes. Is Bing Nop's property active agricultural?

Mr. Bollenbach: Yes.

Mr. Astorino: Ok. You would have to stay 100 feet away from it.

Dave Young: Right.

Mr. Astorino: That is active agricultural. That would be 100 feet.

Joe Fiori: Ok.

Mr. Astorino: It has nothing to do with the AP-O. I don't know where that came from. Looking at the other side of this on the map, it looks like something is farming here. Is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: Hay is agricultural.

Mr. Bollenbach: Yes. It is.

Joe Fiori: If we wanted to keep that within the 100 feet, would that also need ZBA?

Mr. Bollenbach: Yes.

Mr. Astorino: Yes. If you want to keep it closer. It would need a ZBA variance.

Joe Fiori: Ok.

Comment #8: OCDPW – driveway access and possible construction near or under the County Road (Union Corners Road)

Mr. Astorino: You would have to get a permit for whatever you want to do on their road.

Laura Barca: If you need the contact information, I could get that to you.

Dave Young: We know that.

Laura Barca: Ok. Mike Carroll would want to talk to you sooner rather than later.

Comment #9: PB to determine if a site inspection is desired. PB requested 10-ft tall markers/flags be located to show the height of the panels and the locations of the panels.

Mr. Astorino: Put some markers/flags out there so we know what it would look like.

Dave Young: Looking at the map, there is a high point up here. It would be the one in the middle.

Mr. Astorino: Ok. As you have heard before, at our next Work Session we will discuss scheduling a site visit. We are lacking Board members right now due to vacations. We will discuss scheduling the site visit at our 8/6/18 Work Session but we will set it at our 8/15/18 Planning Board Meeting. At this point, you are at if you are going to change some stuff and go to the ZBA. We will list Comment #10 through Comment #35 for the record.

Mr. Bollenbach: The Board might want to discuss Comment #16.

Comment #10: Service capacity letters must be submitted.

Comment #11: There is not a signature on the Applicant's Escrow Account Form. A form with a signature must be submitted.

Comment #12: The proposed height of the panels should be included in the bulk table.

Comment #13: The bulk table on Sheet 1 must be completed, including acres of solar panels, and distances from the USACE wetlands.

Comment #14: Applicant must show compliance with the setbacks shown in §164-46.J(127).

Comment #15: Applicant to clarify the variances being requested in the bulk table on Sheet 1.

Comment #16: Applicant to clarify how the four-step process (§164-41.1E(3)) was used to site the locations for the solar panels.

Mr. Bollenbach: Ted, have you seen any of that submitted?

Mr. Fink: No. I have not. I also have some comments regarding this matter.

Mr. Astorino: First of all, we shouldn't even be hearing this tonight if we don't have the Four-Step Process. We can't get too far along without that.

Mr. Bollenbach: There is also a memo from Greenplan, dated July 18, 2018 in our packets. We will add that memo to the record. Greenplan's memo is stated as follows:

I am in receipt of proposed Site Plan and Special Use Permit Applications, dated as received at Town Hall on June 21, 2018. The Site Plans and their supporting documents including a Full SEQR Environmental Assessment Form (EAF) have been reviewed. The following comments are offered for the Planning Board's consideration. These comments should not be considered all inclusive. I may have additional comments as further information is provided for my review. The applicant should include a response, in their next submission, to each numbered review comment below:

1. The EAF provides information that allows classification of the action under SEQR. It consists of a nonagricultural use within a New York State Agricultural District and involves approximately 10 acres of physical alteration. This means the project must be classified as a Type 1 Action. Since there are other Involved and Interested Agencies, a coordinated review must be conducted. A draft Resolution and SEQR Coordination Request letters have been attached to this Memo for the Board's consideration. No other SEQR action can be taken by the Planning Board until Lead Agency has been established.
2. The New York State Department of Agriculture and Markets has prepared guidelines for solar farms on agricultural lands entitled: "Guidelines for Agricultural Mitigation for Solar Energy Projects" dated as revised on 4/19/2018." Have the proposed Site Plans been prepared in accordance with the State's Guidelines? If so, the Guidelines should be discussed and the extent to which they have been or can be addressed included in the response to this Memo.
3. The proposed project will occur within the Town's Biodiversity Conservation Overlay (BC-O) District and involves construction of a "Deer Fence." Fence details found on Sheet C550 illustrate the fence including gates. Since the fence is proposed in close proximity to the Federal Wetland, what accommodations can be made in the fencing to avoid restricting wildlife movements, especially for small mammals, reptiles, and amphibians?
4. Each of the nine conditions on large-scale solar energy installations, found in the Town Zoning Law at § 164-42.G, should be addressed in the response to this Memo.
5. The seed mix is proposed as "Ernst Solar Farm Seed Mix." Is this considered a pollinator friendly seed mix?
6. Conservation areas on the site must be addressed as per § 164-41.1.E(3) of the Zoning Law. The plans should show onsite Prime Agricultural soils (Group 1-4), if any are located within the array area. This may need to be corrected.
7. "Setbacks Adjacent to Special Areas" required in the Table of Bulk Requirements (§ 164-40N) include a 100 foot setback to federal jurisdictional wetlands and active agricultural lands. A setback variance from the Town Zoning Board of Appeals may be necessary.
8. Full EAF Part 1 comments include the following by EAF response number:
  - D.2.j The response indicates that "A technician will visit the site approximately once or twice per year for maintenance inspections." How will vegetation growth be managed? The response to question D.2.q indicates that no herbicides will be used. Will there be farm animals brought in for grazing if there will be no cutting of vegetation under the solar arrays?

E.2.c Pittsfield gravelly loam (PtB) is a Group 2 soil and Mardin gravelly loam (MdB) are Prime Agricultural Soils. Areas of disturbance of these valuable soils should be calculated. Also, will these soils be stripped and stockpiled if they are to be disturbed by onsite disturbance activities?

E.2.1 The response to the question of aquifers indicates that the site is not located over or adjoining a primary, principal or sole source aquifer. But, the site is located within the Town's Aquifer Protection Overlay (AQ-O) Zoning District meaning that it may be. This response should be verified for accuracy.

Note 5 The Time of Year restrictions on tree removal referred to in Endnote 5, for the Indiana Bat and Northern Long-Eared Bat, should be carried over to the proposed Site Plans.

Mr. Astorino: We have Greenplan's Memo, dated July 18, 2018 for the record. It seems you have like you have work to do.

Joe Fiori: We haven't seen this yet.

Mr. Astorino: You have to see where you are going to go with this before it gets too far along.

Joe Fiori: Yes. Regarding this Four-Step Process that we just received knowledge of it a couple days ago. We had looked it up. It looked like it had applied to Cluster subdivisions.

Laura Barca: I clarified that in an email to you.

Joe Fiori: Ok.

Mr. Fink: Even though it applies to Cluster, it is a Design Process that is in there.

Joe Fiori: Ok.

Mr. Astorino: You have some work to do. We will reference the rest of the comments for the record.

Dave Young: To clarify the ZBA, Comment #21 talks about a 7-foot tall fence on whether or not that has to go to the ZBA.

Mr. Astorino: A 6-foot fence is what is allowed in the Code.

Dave Young: Right.

Mr. Bollenbach: It is under the State Regulations that requires a 10-foot fence for safety issues. It may have an exemption in the Code.

Mr. Astorino: Ok. You will have to provide us that information that it is required by such agencies.

Mr. Bollenbach: It is for safety issues. Whatever the standards are, you will need to provide us that.

Joe Fiori: Ok.

Mr. Astorino: Are there any other comments you want to discuss?

Mr. Bollenbach: Have you discussed a PILOT program with the Town?

Joe Fiori: I just had a conversation with the Assessor today about it. It is a very high level as to what that could look like. She has our PILOT proposal. She is now going to circulate that.

Mr. Bollenbach: Ok.

Mr. Astorino: You have some work to do. We will discuss at our August 15, 2018 Planning Board Meeting on scheduling you for a site visit. You don't need to be at that meeting. We will contact you once the site visit is scheduled.

Joe Fiori: Ok. Thank you.

Dave Young: Thank you.

Comment #17: Applicant to clarify how panels will be installed and if soil testing is required prior to installation.

Comment #18: Applicant to clarify permits required for proposed wetland disturbance.

Comment #19: A Visual Assessment including Lines of Sight Profiles must be provided [§164-47.1F(3)(a)], including landscaping to provide year-round screening (if not already provided) any glare/reflection onto adjacent properties and roadways.

Comment #20: Applicant shall provide access road in accordance with §A168-19.

Comment #21: The proposed security fence is 7-ft tall; Planning Board to determine if ZBA variance is required. §164-42G(8) appears to allow 6-ft tall fencing.

Comment #22: Applicant to provide Decommissioning Plan if large-scale solar panel project is without energy for 180 days in accordance with §164-42G(9).

Comment #23: Applicant to clarify what is included in the calculation of the area of disturbance for this project (0.16 acres on Sheet C130).

Comment #24: Applicant to confirm that project is in compliance with NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance document, dated 04/05/18

Comment #25: Stormwater Pollution Prevention Plan has been submitted.

Comment #26: Applicant to clarify on the plans if and where the direct connection to a utility is located and how that connection will be made.

Comment #27: §164-46.J(53) requires compliance with the Town of Warwick Design Standards.

Comment #28: Applicant shall clarify on the plans compliance with the Town of Warwick Performance Standards (§164-46.J(81)).

Comment #29: §164-46.J(97) requires additional screening; Applicant to update plans to show compliance.

Comment #30: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”

Comment #31: The declaration information for the Agricultural Notes, Aquifer Overlay Notes, and Private Road and Maintenance for the common driveway must be added to the plans.

Comment #32: Surveyor to sign and seal final plans.

Comment #33: Surveyor to certify that iron rods have been set at all property corners.

Comment #34: Applicant to provide Decommissioning Report and/or Bond, as required by the Planning Board.

Comment #35: Payment of all fees.

***JuSuDa Farm of Warwick/Mike Siegel***

Application for Site Plan Approval and Special Use Permit for the construction and use of a new 4,000 s.f. commercial building and the repurposing of three existing structures to serve various specially permitted uses, situated on tax parcel S 63 B 1 L 1.1; project located on State Route 94S and Sanfordville Road (172 State Route 94S), in the OI zone, of the Town of Warwick. Continued from the 11/16/16 Planning Board Meeting. Planning Board & ARB had Joint Meeting on 11/6/17.

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 – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – 11/28/16 advisory comments for showing the building dimensions, encourage only farm-related uses, and encourage uses that are unlikely to impact the water, air, and soil.
6. TW Building Department – three open permits (two for signs & one for a fence); Applicant should call building department for final inspections to close out permit
7. NYSDOT – 04/04/17 Eastern access will not be permitted (change in use from residential to commercial) and a highway work permit is required to remove this access. On Sheet 2, Applicant shall state when the access road must be removed.
8. Applicant to provide service capacity letters (e.g., utility, water, sewer, highway, police, ambulance, fire, and school).
9. Applicant to provide table of SEQR Potential Impact Thresholds. This table should contain the following categories and a summary of what thresholds were established during this planning board process: freshwater wetlands, stormwater, erosion control, groundwater, potable water usage and wastewater disposal, cultural resources, endangered species, aesthetic resources, noise, odor, & vibration, and traffic. A note should be added beneath this table stating that failure of an applicant to comply with any of these SEQR thresholds will necessitate planning board review and additional SEQR analysis.
10. Water demands would need to be shown for the uses at this property (existing and proposed). The water use calculations for Bldg #1 should show how the 2,065gpd was determined. The water use for Bldg #2 does not appear to include farmstead patrons. Applicant to clarify that Bldg #3 has a CO for a three bedroom septic system. The water usage for Bldg #4 should show how the 360 gpd was determined.
11. Proper septic system disposal would need to be shown of the uses at this property (existing and proposed). Including size and location of septic tanks and/or leach fields. Any changes to Bldg #1 would require OCDOH review and approval. Bldg #2 does not appear to include water flow for customers and appears to be existing; Applicant to confirm that septic

system has a COC from Building Department. Bldg #3 does not provide any septic system details (e.g., tank size and linear feet of leach field) or proof of post-1994 water savings devices. Bldg #4 does not show water flow or a septic system.

12. Applicant should show on the plan how the existing septic system for Building 2 (barn) will be protected from vehicle traffic. It appears to be in an existing gravel driveway area. The drawing set must include a detail for the proposed split rail fence gate.

13. The existing and proposed uses need to be clarified. Applicant may wish to consider adding uses #99 (outdoor storage) and #70 self-storage/warehouse.

14. Applicant to clarify with OCDOH if proposed outdoor storage of equipment or materials can take place of the existing septic system force main for the existing food service building.

15. Applicant to clarify with USACE and NYSDEC if proposed outdoor storage or equipment or materials can take place are the locations shown on this site plan because of the proximity of the wetland areas. Applicant to provide documentation from NYSDEC within five years to demonstrate confirmation of the wetland delineation and the proposed site uses within 100-ft of the wetland. Building Department and Applicant to clarify status of fill material behind yellow building.

16. Applicant to clarify the status of stabilizing the eroding steep slopes adjacent to the wetland area.

17. Additional landscaping will likely be required for the parking areas and likely for screening, as well. Landscaping has been added to Sheet 3.

18. A Joint PB/ARB meeting was held on 11/06/17. Notes were taken by the PB Engineer and confirmed as accurate and sufficient by members of the ARB.

19. Applicant to clarify the outdoor display area on the road-side of Building #2.

20. Applicant to confirm the purpose of the addition to Building #1.

21. The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, and Private Road and Maintenance for the common driveway must be added to the plans.

22. Surveyor to sign and seal final plans.

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

24. Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.

25. Payment of all fees.

The following comment submitted by the Conservation Board:

JuSuDa Farm of Warwick, Inc./Mike Siegel – None submitted.

The following comment submitted by the ARB:

JuSuDa Farm of Warwick, Inc./Mike Siegel – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has already declared itself Lead Agency on this. We are in the process of conducting the SEQRA review on this. We are collecting information on the application.

Comment #2: Applicant to discuss project.



Kirk Rother: The Planning Board is familiar with this project. It is 12.5-acre of land located on the corner of Sanfordville Road and Route 94S. It has been used for various agricultural uses as well as an existing residence that is located on the property. It is still being used as a residence. Mr. Siegel is looking to convert the 3 existing structures into other commercial uses and possibly build one new structure located on Sanfordville Road.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 11/28/16 advisory comments for showing the building dimensions, encourage only farm-related uses, and encourage uses that are unlikely to impact the water, air, and soil.

Comment #6: TW Building Department – three open permits (two for signs & one for a fence); Applicant should call building department for final inspections to close out permit.

Kirk Rother: I have related that to Mike Siegel.

Comment #7: NYSDOT – 04/04/17 Eastern access will not be permitted (change in use from residential to commercial) and a highway work permit is required to remove this access. On Sheet 2, Applicant shall state when the access road must be removed.

Kirk Rother: Will do.

Comment #8: Applicant to provide service capacity letters (e.g., utility, water, sewer, highway, police, ambulance, fire, and school).

Kirk Rother: I sent those to you.

Connie Sardo: When did you send them?

Kirk Rother: I believe that was sent about a year ago.

Connie Sardo: We don't have those letters in the file. Please send.

Kirk Rother: Ok.

Comment #9: Applicant to provide table of SEQR Potential Impact Thresholds. This table should contain the following categories and a summary of what thresholds were established during this planning board process: freshwater wetlands, stormwater, erosion control, groundwater, potable water usage and wastewater disposal, cultural resources, endangered species, aesthetic resources, noise, odor, & vibration, and traffic. A note

should be added beneath this table stating that failure of an applicant to comply with any of these SEQR thresholds will necessitate planning board review and additional SEQR analysis.

Kirk Rother: Ok.

Comment #10: Water demands would need to be shown for the uses at this property (existing and proposed). The water use calculations for Bldg #1 should show how the 2,065gpd was determined. The water use for Bldg #2 does not appear to include farmstead patrons. Applicant to clarify that Bldg #3 has a CO for a three bedroom septic system. The water usage for Bldg #4 should show how the 360 gpd was determined.

Kirk Rother: Some of this is on the plans already. I will work with Laura to clarify that. Building #3 which is the existing residence is a very old structure. We don't know what is there as far as septic. We will design a septic replacement that could be installed when it switches to commercial use.

Comment #11: Proper septic system disposal would need to be shown of the uses at this property (existing and proposed). Including size and location of septic tanks and/or leach fields. Any changes to Bldg #1 would require OCDOH review and approval. Bldg #2 does not appear to include water flow for customers and appears to be existing; Applicant to confirm that septic system has a COC from Building Department. Bldg #3 does not provide any septic system details (e.g., tank size and linear feet of leach field) or proof of post-1994 water savings devices. Bldg #4 does not show water flow or a septic system.

Kirk Rother: Ok. That is the same as before. We do have a septic design for Building #4 on Sheet 2.

Laura Barca: Ok.

Kirk Rother: We will take care of it.

Comment #12: Applicant should show on the plan how the existing septic system for Building 2 (barn) will be protected from vehicle traffic. It appears to be in an existing gravel driveway area. The drawing set must include a detail for the proposed split rail fence gate.

Kirk Rother: Ok.

Comment #13: The existing and proposed uses need to be clarified. Applicant may wish to consider adding uses #99 (outdoor storage) and #70 self-storage/warehouse.

Mr. Astorino: What is the principal use going to be on this site? Do we know or not know? I know we have a litany of uses that are allowed in the Code. For example regarding the Price Chopper area where there is the strip mall, they have listed what those uses would be. We know how many gallons of water would be used per day etc... Do we know any of that at this point? As it changes, they would go to the Building

Department for a change of use as long it is a lower or lesser of a use. Do we know anything that is going to be in these buildings as of now?

Kirk Rother: I don't know specifically what it is going to be in any of the buildings. We have done somewhat boxed ourselves in primarily with the parking table. Building #1, we had done the parking calculations for an eating/drinking establishment. The septic is based on the same.

Mr. Astorino: That is for the eating and drinking establishment for that one building. Is that correct?

Kirk Rother: That building was the Drunken Cherry.

Mr. Astorino: Ok. What would the other buildings be used for?

Kirk Rother: Building #2, we had done parking calculations using the Adaptive Reuse for uses like bowling, dance studio, fitness center and things like that. Building #3, a farmers market was a use that we identified parking on as well as professional offices and eating and drinking. The same thing goes for Building #4. We have done parking for those uses.

Mr. Astorino: Is he planning a farm market here from this other property? Is he planning to bring stuff to this site? There were so many things that went around on this property. I am trying to get where we are with this.

Kirk Rother: There has been changes every month. I haven't spoken to Mike Siegel much lately due to health reasons. He has had interest from people using Building #2 as a Karate Studio. There was also a landscaper interested in Building #2.

Mr. Astorino: We need to know something. We need to know what type of avenue we are looking at.

Mr. McConnell: Otherwise, it is just a continuously moving target.

Mr. Astorino: That is what I mean. If you have a landscaper there, would there be stored outside equipment? What do we look at? That was why I went back to the Price Chopper building as an example.

Laura Barca: That relates to Comment #9 where it says to layout the SEQRA thresholds for all of that. If a perspective tenant exceeds that for one of the thresholds for that building...

Mr. Astorino: Are we doing a generic approval? How do we do parking calculations? Kirk, you mentioned about the eating and drinking establishments. How are we going to do this? You have mentioned a Karate place, dance studio, and a landscape business.

How do we know how many people, parking, etc... There are so many categories in this zone.

Kirk Rother: I have listed them all. A lot of that are the special conditions. As far as the uses, it is for dance halls, physical fitness, bulk storage, business office, commercial garage or parking lot, manufacturing, service establishments and eating and drinking establishments. I don't see the commercial garage or parking lot and manufacturing being of any use. That is about it.

Mr. McConnell: You have just told us that you have not spoken to Mike Siegel in a while. In the past, he has been approached by some people. For you to stand here and represent somebody, I don't know how much credence to give that. I don't know that you know.

Kirk Rother: The one that I said it wouldn't be the commercial garage or parking lot. It is not listed as a potential allowable use in the Code. We didn't do parking for that. There are others.

Mr. McConnell: From my point of view, I think that you should come back with Mike Siegel or had a conversation with him about this is what the division is but understanding it might change until you have signatures on a lease.

Mr. Astorino: To finish this up properly, we need something here set in stone. The eating and drinking establishment we know about that. That is cut and dry.

Kirk Rother: I list all of the Bulk Tables for the four buildings which is the parking table. I have Buildings 1, 2, 3, and 4 with potential allowable uses. There are not many. Building #1 is just the eating and drinking use. Building #2 is Adaptive Reuse of non-residential structure physical fitness studios, and clean energy technology businesses. Building #3 is the farm market, business/professional offices and eating & drinking establishment. Building #4 is the farm market and physical fitness studio. That is it.

Mr. McConnell: Are we losing the house as a use residential?

Mr. Astorino: Yes.

Kirk Rother: Once it moves out. Right now, it is a permitted pre-existing non-conforming use.

Mr. Astorino: Correct me if I am wrong, but if he uses it as a farm market on Prices Switch Road, how does that work as far as approvals? Could we just have a building as a farm market?

Kirk Rother: If it was under 4,000 square feet, he wouldn't need to be here. This is for over 4,000 square feet.

Laura Barca: Right. I don't think that is applicable in this case. It is not proposed.

Mr. Astorino: Ok. It was just proposed as a farm market on one of these buildings.

Kirk Rother: Farm market and retail establishments of over 4,000 square feet...

Mr. Astorino: Ok. You are over that.

Mr. Fink: Building #3 is a 1,320 s.f. building. That one says the allowable uses would be retail establishment of 4,000 s.f. or more. How does that work?

Kirk Rother: I could take the farm market use off. At prior workshops I was told to put it all on the plan.

Mr. Astorino: I understand. But, there has to be a primary use for this property. What is the primary use? We need to review something that has parking, water usage, etc...

Laura Barca: He shows all of that.

Mr. Astorino: Ok. Are you comfortable with everything on this plan?

Laura Barca: I would be with HDR's comments being addressed.

Kirk Rother: Which that primarily is cleaning up the water and sewer use stuff.

Laura Barca: And making sure it all jives together. You need to make sure the parking, water, sewer, etc... that it all makes sense and that something is not out of whack.

Kirk Rother: Talking about this tonight, I am going to take a lot of this stuff off the plan regarding the business uses. I was told to put all of the allowable uses on the plan. But, I can see that causing issues. If I was sitting in your shoes, I could understand that.

Mr. Astorino: This is how I see this work on any commercial property. You have a tenant come in. They could stay there for 1-year or 25 years. That is not really my concern. If they get out, the owner does not have to come back to us if it is a less intensive use or the same. They could go to the Building Department and get a permit.

Kirk Rother: With the intensity being measured, I presume it is by parking, water and sewer?

Mr. Astorino: Yes.

Kirk Rother: I agree with you. I list all of that.

Mr. Astorino: This has been going on far too long. We have to get this wrapped up somehow.

Kirk Rother: I will take off anything on this plan that is not consistent with the parking table.

Mr. McConnell: That would be a start.

Mr. Astorino: I agree. Is the Board ok with that?

Mr. McConnell: Yes.

Mr. MacDonald: Yes.

Comment #14: Applicant to clarify with OCDOH if proposed outdoor storage of equipment or materials can take place of the existing septic system force main for the existing food service building.

Kirk Rother: Will do.

Comment #15: Applicant to clarify with USACE and NYSDEC if proposed outdoor storage or equipment or materials can take place are the locations shown on this site plan because of the proximity of the wetland areas. Applicant to provide documentation from NYSDEC within five years to demonstrate confirmation of the wetland delineation and the proposed site uses within 100-ft of the wetland. Building Department and Applicant to clarify status of fill material behind yellow building.

Kirk Rother: Laura, I thought the documentation of the wetland was that you needed a Wetland Consultant to verify that. Is that correct?

Laura Barca: Yes.

Kirk Rother: I have that in an email. I don't understand the reference to the DEC.

Mr. Astorino: Is this what you had explained to us about the DEC?

Laura Barca: Yes. That was an old comment with a new part of the comment added to the end of it. The new part is that it is not regulated by the DEC. Technically they have no buffer.

Kirk Rother: Voluntarily, we agreed to a 50-foot buffer.

Mr. Astorino: Ok. Are you staying within that?

Kirk Rother: Yes.

Mr. McConnell: We will need to add in this comment that the voluntarily 50-foot buffer would be maintained.

Mr. Astorino: Yes. We will add that to the comment.

Mr. Fink: We have that on there. It is on Sheet 1, Note #6.

Mr. Astorino: Regarding the fill material, is that Shop Rite's material?

Kirk Rother: I don't know. I was there today. There was definitely more fill placed behind Building #3 and over at the pad by Sanfordville Road.

Mr. Astorino: It came from Shop Rite.

Kirk Rother: Ok. It all got raised up. It didn't move the pad out.

Comment #16: Applicant to clarify the status of stabilizing the eroding steep slopes adjacent to the wetland area.

Kirk Rother: We do show that on the plan.

Comment #17: Additional landscaping will likely be required for the parking areas and likely for screening, as well. Landscaping has been added to Sheet 3.

Kirk Rother: Right.

Mr. Astorino: Ted, we will have to review that again.

Mr. Fink: Yes.

Comment #18: A Joint PB/ARB meeting was held on 11/06/17. Notes were taken by the PB Engineer and confirmed as accurate and sufficient by members of the ARB.

Mr. Astorino: We are done with that. The building has not changed.

Comment #19: Applicant to clarify the outdoor display area on the road-side of Building #2.

Kirk Rother: We will remove that. I will check with Mike Siegel on that first.

Comment #20: Applicant to confirm the purpose of the addition to Building #1.

Kirk Rother: We will verify that.

Comment #21: The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, and Private Road and Maintenance for the common driveway must be added to the plans.

Kirk Rother: Yes.

Comment #22: Surveyor to sign and seal final plans.

Kirk Rother: Yes.

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

Kirk Rother: Ok.

Comment #24: Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.

Kirk Rother: Ok.

Comment #25: Payment of all fees.

Kirk Rother: Ok.

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

Mr. Bollenbach: Regarding Comment #16, stabilizing the eroding steep slopes adjacent to the wetland area, you might consider a Bond and Remediation Schedule to show what, when, and how it will be done. There are some stabilization requirements in the Code that should have already been put in place.

Kirk Rother: What the reality is that the steep embankment that we were talking about where they filled, it has been idled so long that it is all vegetated now. It should be all graded and cleaned up nice. But for now today it is not eroding. There are thick trees growing through it.

Mr. Bollenbach: What about the new fill?

Kirk Rother: The new fill they didn't push the boundary of the fill out farther.

Mr. Bollenbach: Isn't the new fill supposed to be seeded and stabilized within 30 days? That is already in the Code.

Kirk Rother: The stuff I saw today is gravel. You won't get grass grown in there.

Mr. Astorino: Is it Mr. Siegel's intention to finish this process?

Kirk Rother: He has these 2 buildings that are sitting there empty. He wants to get them rented out ASAP. The hold up last year was dealing with the Architect. He wants to do whatever he needs to do in order to rent Building #1 and Building #2.

Mr. Astorino: Will you get these comments done and get back to us?



Kirk Rother: Yes. I am hoping the Board would be comfortable enough with setting this for a public hearing.

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

Mr. McConnell: Have a public hearing on what? You spent 20 minutes talking about that you don't know what the primary use is.

Mr. Astorino: It would be for the next available agenda once they have taken care of all of these items and cleaned all of this up.

**Mr. McConnell makes a motion to set the JuSuDA Farm of Warwick/Mike Siegel application for a Public Hearing at the next available agenda.**

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

Kirk Rother: Thank you.

**Other Considerations:**

- 1. Continental View Subdivision/Winslow** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 6/28/18 addressed to the Planning Board in regards to Continental View Subdivision – requesting 6-Month Extension on 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 (1433 St. 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 legal documents are complete and they expect to have the plans signed off by the PB Chairman soon.* The 6-Month Extension becomes effective on 7/18/18.

Mr. McConnell makes a motion on the Continental View Subdivision/Winslow application, granting 6-Month Extension on 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. Conditional Final Approval was granted on 1/18/17

The 6-Month Extension becomes effective on 7/18/18.

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

- 2. Planning Board Minutes of 6/20/18 for PB Approval.**

Mr. McConnell makes a motion to Approve the PB Minutes of 6/20/18.

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

3. Planning Board to discuss recommendation to the Town Board regarding AP-O Moratorium.

Mr. Astorino: The Supervisor came to the Work Session. He explained that they are looking to revisit on this. There has been issues with it in the past. They want to take a look at the Code and move forward. Ted, you have a letter regarding this matter to the Town Board.

Mr. Fink: Yes. I have prepared a draft letter to the Town Board regarding the Moratorium on AP-O applications.

Mr. Astorino: Ok. Please could you read that for the record?

Mr. Fink: Yes. The letter is addressed to Supervisor Michael Sweeton and the Town Board, dated July 18, 2018. The letter is stated as follows:

July 18, 2018

Michael Sweeton, Supervisor  
Town Board of the Town of Warwick  
132 Kings Highway  
Warwick, NY 10990

Re: Proposed Local Law No. 5 of 2018 - 3-Month Moratorium on AP-O Applications  
Planning Board Comments

Dear Supervisor Sweeton and Members of the Town Board:

As requested, the Planning Board has completed a review of the above proposed Amendment to the Town Zoning Law. The amendment will impose a three month moratorium on applications for inclusion in the Town Agricultural Protection Overlay (AP-O) District so that a review of the benefits of AP-O District participation and its consistency with the Comprehensive Plan can be properly studied. Moratoria are an appropriate way for addressing long-range community planning and zoning in the Town and this tool has been used in the past in Warwick.

The Planning Board does not have any objections to the proposed Zoning Amendment. The Planning Board's consensus is a positive recommendation to the Town Board to consider adoption of the changes to the Zoning Law.

For the Town of Warwick Planning Board,

Benjamin Astorino, Chairman

Mr. Fink: This is a little different from other Zoning Amendments. A Moratorium is simply a suspension of a particular action as opposed to typical Zoning Amendments which allows for new actions or somehow change things in the Town. The Planning has a responsibility under the Code to provide a certain set of specific criteria as far as how it would affect the Town and whether or not the Zoning Amendments are in accordance with the Town's Comprehensive Plan. This is different because this is basically a Moratorium to allow the Town Board to take some time to review the existing Code and to determine whether or not if any changes are warranted. If there are any changes they would need to be consistent with the Town's Comprehensive plan. It is premature to be providing a response that specifically addresses the criteria in the Zoning Law. We are really not set up for this kind of thing.

Mr. Bollenbach: So if and when the Town does have a proposal, then it would be resubmitted to the Planning Board for a recommendation if a recommendation is warranted.

Mr. Fink: That is correct.

Mr. McConnell makes a motion to send the letter to the Town Board regarding Proposed Local Law No. 5 of 2018 – 3-Month Moratorium on AP-O Applications Planning Board Comments.

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

4. Planning Board to discuss canceling the 7/23/18-Work Session & 8/1/18-Planning Board Meeting.

Mr. McConnell makes a motion to cancel the 7/23/18 Work Session & 8/1/18 PB Meeting.

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

#### **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 July 18, 2018 Planning Board Meeting.**

Seconded by Mr. MacDonald. Motion carried; 3-Ayes.

