

TOWN OF WARWICK PLANNING BOARD
September 21, 2022

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 21, 2022 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Jason Schuler and Moranne Frazier

Application for Site Plan Approval and Special Use Permit for the construction and use of the existing residential dwelling and two Class 2 Home Occupations consisting of a Pilates Studio, and food processing with Retail Sales a/k/a Goodmaker Acres, situated on tax parcel S 27 B 1 L 18; project located on the northern side of Pine Island Turnpike 700 feet east of Edenville Road (246 Pine Island Tpke), in the LB zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Jason Schuler, Applicant.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Goodmaker Acres 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 – 04/13/21 advisory comments for outside agency approvals for OCDPW, TW ZBA, and OCDOH; clarify farm stand proposal; protection of black dirt; and clarify home occupation.
6. NYS Parks, Recreation, and Historic Preservation letter is needed for land disturbance – no further action letter dated 04/27/22
7. OCDPW – 04/28/21 approval letter
8. TW Building Department – 04/06/21 no violations
9. OCDOH approval for the water system, letter dated 04/27/22 and OCDOH sewage disposal approval letter received, dated 08/04/22

10. ZBA variance granted 04/26/21; ZBA language on Sheet C-2
11. Add language from §164-46.J 130.
12. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 14
13. Surveyor to certify that iron rods have been set at all property corners. (Applicant is requesting a waiver.)
14. The liber and page for the Agricultural Notes must be added to the plan.
15. Payment of all fees.

The following comment submitted by the Conservation Board:

Jason Schuler and Moranne Frazier – None submitted.

The following comment submitted by the ARB:

Jason Schuler and Moranne Frazier – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: As far as SEQRA is concerned, this is an Unlisted Action. The Planning Board has not designated itself Lead Agency. I have prepared a draft Resolution for Lead Agency for the Planning Board’s consideration.

Mr. McConnell makes a motion for Lead Agency.

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

617.6

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

Name of Action: Goodmaker Acres Class 2 Home Occupations

Whereas, the Town of Warwick Planning Board is in receipt of an application for Site Plan and Special Use Permit approvals for two Class 2 home occupations on a ± 6.79 acre parcel of land located at 246 Pine Island Turnpike, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 3/29/21 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted Action, and

Whereas, the Planning Board has determined that the proposed project is within 500 feet of a farm operation within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed with the owner(s) of farm operations identified in the Statement and the Planning Board must evaluate and consider the Statement to determine possible impacts the proposed project may have on the functioning of farm operations within the agricultural district, and

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter including the Orange County Department of Health, Orange County Department of Public Works, and Town of Warwick Zoning Board of Appeals, which will make their own SEQR determinations of significance.

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

Be It Further Resolved, that the Planning Board hereby authorizes its Chairman to discharge any other SEQR responsibilities as are required by 6 NYCRR 617 in this regard.

Comment #2: Applicant to discuss project.

Dave Getz: Jason and his wife Moranne own the property. They live at the house on the site. There is a small accessory building behind the home. The plan includes expanding that accessory building and creating two home occupations. One will be a Pilates Studio in that building. The other home occupation would be for his food processing business including a retail area in that building. We had done a site visit this afternoon. You had seen that they drilled a new well on the site for the food uses. We received outside approvals from the Orange County Health Department for water and septic. We received OCDPW approval for revising the driveway entrance. We had been to the ZBA on two separate occasions. We received variances for the size of the accessory building and the height for deer fencing that he installed to protect some of his agricultural areas.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 04/13/21 advisory comments for outside agency approvals for OCDPW, TW ZBA, and OCDOH; clarify farm stand proposal; protection of black dirt; and clarify home occupation.

Mr. Bollenbach: That has already been done. We can strike Comment #5.

Mr. Astorino: Yes.

Comment #6: NYS Parks, Recreation, and Historic Preservation letter is needed for land disturbance – no further action letter dated 04/27/22

Mr. Astorino: We have that letter.

Comment #7: OCDPW – 04/28/21 approval letter

Mr. Astorino: We have that letter.

Comment #8: TW Building Department – 04/06/21 no violations

Comment #9: OCDOH approval for the water system, letter dated 04/27/22 and OCDOH sewage disposal approval letter received, dated 08/04/22

Mr. Astorino: We received those letters.

Comment #10: ZBA variance granted 04/26/21; ZBA language on Sheet C-2

Mr. Astorino: That is on the map.

Comment #11: Add language from §164-46.J 130.

Dave Getz: Will do. That is one of the special conditions.

Comment #12: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 14

Dave Getz: Yes.

Comment #13: Surveyor to certify that iron rods have been set at all property corners. (Applicant is requesting a waiver.)

Dave Getz: We request a waiver on the Surveyor to certify iron rods. We are not changing anything on the site.

Mr. Astorino: We were at the site. I don't see a need to mark it. You are not going over your boundaries. Is the Board in agreement with that?

Mr. Kennedy: Yes.

Mr. Astorino: The Board is in agreement to waive the certification of iron rods.

Comment #14: The liber and page for the Agricultural Notes must be added to the plan.

Dave Getz: Could we get a waiver to remove those notes? This application is for a Class 2 Home Occupation? They are not proposing a farmstand.

Mr. Astorino: John, could that be removed?

Mr. Bollenbach: They have agriculture all around the property. It is for the benefit not only for the current owners but also for perspective purchasers to advise them there is black dirt and farming operations surrounding the property.

Dave Getz: The reason why I am asking for that, we understand the notes are important. It adds months of time to get the maps signed.

Mr. Bollenbach: I will leave it for the Board's discretion.

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

Mr. Bollenbach: Are you proposing just to put the notes on the plans without the recording of the liber and page?

Dave Getz: Yes.

Mr. Astorino: I feel that would be fine. Is the Board ok with that?

Mr. Kennedy: Yes.

Mr. Astorino: I agree. We have a consensus from the Board on that.

Dave Getz: Ok. Thank you.

Comment #15: Payment of all fees.

Dave Getz: Yes.

Mr. Fink: Under SEQRA, we have an indication from the State that there is an Indiana Bat habitat within the area including the site. I would recommend that we put a time of year restriction placed on the plans. It should state no tree cutting 5" or larger diameter at breast height between April 1st through October 31st.

Mr. Bollenbach: Are you going to waive the declaration requirement for that as well? That generally appears in a declaration.

Mr. Astorino: There is no tree cutting proposed here whatsoever. I understand the note. That note should be placed on the plan. That would be fine. They are not even proposing to cut a tree on the property. We just walked that site. There is nothing proposed to be cut there at all. I feel just a note on the plan would be fine.

Mr. Bollenbach: The map note should be the Agricultural Note and the time of year restrictions for the Indiana Bats.

Mr. Astorino: You are not doing any cutting. Just having the map notes would be fine. 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 Goodmaker Acres application, please rise and state your name for the record. Let the record show no public comment.

Mr. Fink: I have prepared a Part 2 and Part 3 EAF for the Planning Board's consideration. That satisfies the requirement for the Negative Declaration. I have prepared a draft Resolution for the Planning Board's consideration. The two primary issues were the archeological study, which was done and signed off. The other is to have the Applicant place the notes on the plans. SEQRA has been satisfied.

Mr. Kennedy makes a motion for the Negative Declaration.

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

617.12(b)

State Environmental Quality Review (SEQR)
Resolution Authorizing Filing of Negative Declaration

Name of Action: Goodmaker Acres Home Occupations

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of two proposed Class 2 home occupations at 246 Pine Island Turnpike, Town of Warwick, Orange County, New York, and

Whereas, the Planning Board classified the action as Unlisted and identified other involved agencies pursuant to SEQR, which remain responsible for conducting their own SEQR determination, and

Whereas, the Planning Board has reviewed the Short Environmental Assessment Form (EAF) for the action, including the Part 1, Part 2, and Part 3 dated 3/29/21 and 09/20/22, the probable environmental effects of the action against the Criteria For Determining Significance, and has considered such impacts as disclosed in the EAF.

Now Therefore Be It Resolved, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chairman to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

Be It Further Resolved, that the Planning Board authorizes the Chairman to take such further steps as might be necessary to discharge the Lead Agency's

responsibilities on this action, including the filing of the Negative Declaration with other Involved Agencies.

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

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

Mr. McConnell makes a motion to waive Comment #13, Surveyor to certify that iron rods have been set at all property corners.

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

Mr. Kennedy makes a motion on the Jason Schuler and Moranne Frazier application, granting Site Plan Approval and Special Use Permit for the construction and use of the existing residential dwelling and two Class 2 Home Occupations consisting of a Pilates Studio and food processing with retail sales, situated on tax parcel S 27 B 1 L 18; project located on the northern side of Pine Island Turnpike 700 feet east of Edenville Road (246 Pine Island Tpke.), in the LB zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Negative Declaration was adopted on September 21, 2022. Approval is granted subject to the following conditions:

1. NYS Parks, Recreation, and Historic Preservation letter is needed for land disturbance – no further action letter dated 04/27/22
2. OCDPW – 04/28/21 approval letter
3. TW Building Department – 04/06/21 no violations
4. OCDOH approval for the water system, letter dated 04/27/22 and OCDOH sewage disposal approval letter received, dated 08/04/22
5. ZBA variance granted 04/26/21; ZBA language on Sheet C-2
6. Add language from §164-46.J 130.
7. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 14
8. Surveyor to certify that iron rods have been set at all property corners. (Applicant is requesting a waiver.) Waiver Granted.
9. The Agricultural Notes and Indiana Bat Notes must be added to the plan.
10. Payment of all fees

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

Dave Getz: Thank you.

Jason Schuler: Thank you.

PUBLIC HEARING OF Amity Investors, LLC

Application for Site Plan Approval and Special Use Permit for the construction and use of apartments and a food retail market in the existing building to consist of a mixed use of a 1-Bedroom Apartment, a studio live-work unit located on the upper level of existing building and a 2,000 s.f. retail food market with deli service located on the lower level of existing building, situated on tax parcel S 12 B 2 L 12.21; project located on the southern side of C.R. 1 and the western side of Glenwood Road (625 Glenwood Rd.), in the LB zone, of the Town of Warwick.

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

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Jolly Onion 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. TW Building Department – 10/14/21 Certificate of Occupancy required for #29824 for esthetician.
6. OC Planning Department – 10/08/21 no advisory comments
7. OCDPW – 12/06/21 no impact letter received
8. OCDOH – Septic system accepted 04/27/18.
9. The surveyor must sign and seal the plan.
10. There is a typographical error; the note stating that there is 18 striped spaces, says that the spaces will be unstriped; Applicant to update the drawings.
11. §164-46.J(53) Town of Warwick Design Standards is mandatory; please show on the drawing and/or provide a narrative to demonstrate how this project complies to the extent possible for an existing building/property.
 - a. Existing and proposed lighting is required to be shielded,
 - b. Please add additional trees between the parking area and the septic field,
 - c. Please add additional trees between the large parking area and the propane tank,
 - d. Please grade large parking area to properly use of the drainage basin located in the rear corner,
12. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 19
13. Surveyor to certify that iron rods have been set at all property corners.
14. The liber and page for the Aquifer Notes must be added to the plan.
15. Payment of all fees.

The following comment submitted by the Conservation Board:

The following comment submitted by the ARB:

Amity Investors, LLC – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board classified this application as a Type 2 Action. SEQRA review is not necessary.

Comment #2: Applicant to discuss project.

Dan Getz: We discussed this project at the Work Session. The bottom floor of the eastern portion of the building is going to become a food retail market with deli service. The top floor of the building would be residential uses. Recent changes to the plans were in landscaping and the parking lot to the west. We will be paving portion of the parking lot and stripping spaces so that we have enough spaces per Code. The remaining portion of the parking lot in the south western corner will be regraded for drainage and to have a uniform surface. It will be done with Item #4 and compacted. There will be a row of boxwoods planted to protect the neighbors from the headlights from the cars. There are no changes proposed to the restaurant use. That restaurant will continue.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

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

Dan Getz: Yes. They are aware of that.

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

Comment #7: OCDPW – 12/06/21 no impact letter received

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

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

Dan Getz: Yes.

Comment #10: There is a typographical error; the note stating that there is 18 striped spaces, says that the spaces will be unstriped; Applicant to update the drawings.

Dan Getz: Yes. Will do.

Laura Barca: That has been corrected on the plan.

Comment #11: §164-46.J(53) Town of Warwick Design Standards is mandatory; please show on the drawing and/or provide a narrative to demonstrate how this project complies to the extent possible for an existing building/property.

- a. Existing and proposed lighting is required to be shielded,

Dan Getz: We submitted a lighting plan. All of the lighting is to be shielded. There is a note on Sheet 1 stating that all lighting existing or proposed needs to meet the shielding requirements.

- b. Please add additional trees between the parking area and the septic field,

Dan Getz: Yes. We added trees and 6' high fence.

- c. Please add additional trees between the large parking area and the propane tank,

Dan Getz: We have added trees. If you need more trees, let us know.

- d. Please grade large parking area to properly use of the drainage basin located in the rear corner,

Dan Getz: Yes. It is shown on the plans.

Comment #12: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet C-1, Note 19

Dan Getz: Right.

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

Dan Getz: We ask the Board to waiver the certification of iron rods. There are no changes proposed to the property line.

Mr. Astorino: We are ok with that.

Comment #14: The liber and page for the Aquifer Notes must be added to the plan.

Dan Getz: Will do.

Comment #15: Payment of all fees.

Dan Getz: Understood.

Dan Getz: Do any Board members or Professionals have any comments or concerns?

Mr. McConnell: We had discussed the noise issue. I was wondering what had been done about that.

Mr. Fink: I went out to the site earlier today. I took noise readings at 3 different locations. One location was about 50 feet behind the fan. Then, I went back about 150 feet halfway the distance to the nearest residential neighbor. Then, I went back to the rear of the site to the residential neighbor's property boundary. I had 2 different sound meters. The one meter is the old fancy sound level meter. I have another sound meter on my

phone. It is an app on my phone. I used the 2 sound meters at the same time. I found some interesting differences. It was not much. It was about a 2 decibel difference between the 2 sound meters. The fan itself, when I was about 50 feet behind it, it was about 58 to 59 decibels. That was just for the fan. That was without any background traffic noise. When I went about 150 feet away, it dipped down to about 44 decibels. When I went back all the way to the neighbor's property, it was at 43 decibels. That is a fairly low level of noise. It is audible. You could hear the fan.

Mr. Astorino: Is the noise level acceptable?

Mr. Fink: It is acceptable under any criteria that you would find through the FAA, OSHA, or anything like that. The thing that was remarkable with this is that the traffic was significantly higher. When cars went by, I had readings of 52 decibels. A big truck would go by, I would get 62 decibels. A motorcycle was at 69 decibels. That was far in excess of what the fan producing. It was pretty consistent. I was there for about ½-hour doing these different readings. I believe the fan itself complies with the noise ordinance.

Mr. McConnell: Do we know what the threshold is? You had said the 44 decibels at the property line were in an acceptable range. What is the threshold?

Mr. Fink: Laura, is the threshold 55 decibels?

Laura Barca: I think in the Town Code it is 50 decibels.

Mr. Astorino: I thought it was 60 decibels.

Mr. Bollenbach: It depends on the nature. It is between 50 and 60 decibels. It depends if it is a pulsating noise, a consistent noise, etc...

Mr. McConnell: I would recommend that Ted's study be reduced to writing and attached somewhere into the files so that we have the baseline. If the fan starts to go bad such as a bearing goes and the noise level increases and it, we could see it was at 44 decibels and now the decibels are at 62. We should have some kind of reference to the standard.

Mr. Bollenbach: There is a map note stating that on the plans.

Mr. McConnell: Ok. That note is on the plans.

Mr. Astorino: As long as we reference that. I get your point. That is a good idea.

Mr. Fink: For the record, I could prepare a memo regarding the sound readings for the Planning Board files.

Mr. McConnell: That would be good.

Mr. Astorino: I agree with that. Do any other Board members or Professionals have any concerns? This is a public hearing. If there is anyone in the audience wishing to address the Jolly Onion public hearing, please rise and state your name for the record. Let the record show no public comment. We need a motion from the Board on Comment #13, to waive the certification of iron rods.

Mr. McConnell makes a motion to waive Comment #13, Surveyor to certify that iron rods have been set at all property corners.

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

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

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

Mr. Kennedy makes a motion on the Amity Investors, LLC application, granting Site Plan Approval and Special Use Permit for the construction and use of apartments and a food retail market in the existing building to consist of a mixed use of a 1-Bedroom Apartment, as studio live-work unit located on the upper level of existing building and a 2,000 s.f. retail food market with deli service located on the lower level of existing building, situated on tax parcel S 12 B 2 L 12.21; project located on the southern side of C.R. 1 and the western side of Glenwood Road (625 Glenwood Rd.), in the LB zone, of the Town of Warwick, County of Orange, State of New York. A Type 2 Action was adopted on October 20, 2021. Approval is granted subject to the following conditions:

1. TW Building Department – 10/14/21 Certificate of Occupancy required for #29824 for esthetician.
2. OC Planning Department – 10/08/21 no advisory comments
3. OCDPW – 12/06/21 no impact letter received
4. OCDOH – Septic system accepted 04/27/18.
5. The surveyor must sign and seal the plan.
6. There is a typographical error; the note stating that there is 18 striped spaces, says that the spaces will be unstriped; Applicant to update the drawings.
7. §164-46.J(53) Town of Warwick Design Standards is mandatory; please show on the drawing and/or provide a narrative to demonstrate how this project complies to the extent possible for an existing building/property.
 - a. Existing and proposed lighting is required to be shielded,
 - b. Please add additional trees between the parking area and the septic field,
 - c. Please add additional trees between the large parking area and the propane tank,
 - d. Please grade large parking area to properly use of the drainage basin located in the rear corner,
8. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 19
9. Surveyor to certify that iron rods have been set at all property corners. (Waiver Granted)
10. The liber and page for the Aquifer Notes must be added to the plan.
11. Payment of all fees.

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

Dan Getz: Thank you.

Review of Submitted Maps:***Seth Horn Subdivision***

Application for Sketch Plat Review for a proposed 2-Lot (MINOR) subdivision, situated on tax parcel S 26 B 1 L 69.32; parcel located on the northern side of Deer Pond Road 2352 feet East of Blooms Corners Road (33 Deer Pond Drive), in the RU zone, of the Town of Warwick.

Representing the Applicant: Seth and Elenora Horn, Applicants.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – 03/18/21 advisory comments for proposed lot delineation, wetlands, endangered species (Indian Bat).
6. TW Building Department – 03/12/21 open deck permit (16517), open fence permit (18170), and permit for retaining wall (19951)
7. NYS Parks, Recreation, and Historic Preservation letter is required for land disturbance.
8. A darker line type should be used for the existing lot line and a different darker line type for the proposed lot line.
9. A stabilized percolation rate must be shown with a minimum of two tests per hole.
10. Eljen system and tank locations only shown for one of the subdivision lots.
Applicant to clarify location of the existing system and existing well location on Lot 1.
11. On Sheet 3, both an absorption trench detail and an Eljen system are shown. If Applicant is proposing an Eljen system, the other trench detail does not need to be shown.
12. If the Applicant proposes a plan to build either 4- or 5-bedroom home, then there must be details for both 1,250- and 1,500-gallon septic tanks.
13. All Eljen systems require an effluent filter; please add a detail to the plan.
14. The profile of the septic system should be shown from the edge of building to the leach field; the effluent filter should be included in this profile.
15. The plan (Sheet 2) indicates that a distribution box will be used; however, the detail (Sheet 3) indicates that a drop box will be used. Application to pick one design methodology and update the plan accordingly.
16. The driveway detail on Sheet 3 must include the depth of the crushed stone subbase.
17. There is a 50-ft wide access and utility easement shown across a portion of Lot 2 to benefit Lot 1. Applicant to clarify why a portion of the easement is shown in the delineated wetland and if there is a similar proposed easement across existing parcel 26-1-69.31. A note shall be added to the plan stating that the construction of this access may require wetland approvals.
18. The following Standard Notes do not appear on the plan:
 - a. Overlay Protection Table

- b. Lighting
 - c. Agricultural Notes (need to confirm)
 - d. Biodiversity
 - e. Driveway Note #6
19. The stormwater plan must be in compliance with Town of Warwick §164-47.10 Stormwater Management.
 20. Applicant to add stormwater control measures and details to the plan, including but not limited to silt fence, stabilized construction entrance, etc.
 21. 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.” Sht 1 Construction Note
 22. The proposed driveway onto Blooms Corners Road will require removal of an existing stone wall. The limits of removal should be shown on the plans. The line type for stone wall in not consistent with the Legend for stone wall.
 23. Surveyor to certify that iron rods have been set at all property corners.
 24. The liber and page for the Ridgeline, Agricultural Notes, and Indian bat must be added to the plan.
 25. Payment in lieu of parkland for one lot.
 26. Payment of all fees.

The following comment submitted by the Conservation Board:

Seth Horn Subdivision – None submitted.

The following comment submitted by the ARB:

Seth Horn Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning has not taken any action under SEQRA yet. The Applicant has submitted a short EAF. It is an Unlisted Action. There are no other Involved Agencies. The Planning Board could declare itself Lead Agency. I have prepared a draft Resolution for Lead Agency for the Planning Board’s consideration.

Mr. McConnell makes a motion for Lead Agency.

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

617.6

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

Name of Action: Seth Horn Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of an application for Subdivision approval of a ± 41.2721 acre parcel of land located at 33 Deer Pond Drive, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 2/24/21 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted Action, and

Whereas, the Planning Board has determined that the proposed project is not within 500 feet of a farm operation within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not apply, and

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

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

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

Comment #2: Applicant to discuss project.

Seth Horn: We are proposing a 2-Lot Subdivision.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 03/18/21 advisory comments for proposed lot delineation, wetlands, endangered species (Indian Bat).

Comment #6: TW Building Department – 03/12/21 open deck permit (16517), open fence permit (18170), and permit for retaining wall (19951)

Mr. Astorino: You would need to go to the Building Department to close out those permits.

Seth Horn: I spoke to someone about this last week. I was told by the Building Department that the only permit that was currently open is the fence permit. We intend to have that fence done before a public hearing.

Mr. Astorino: Ok. That is fine. Laura, do any of these comments stand out?

Laura Barca: No. You could list the comments for the record.

Mr. Astorino: We will list Comment #7 through Comment #26 for the record.

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

Seth Horn: Yes.

Mr. McConnell makes a motion to Set the Seth Horn Subdivision application for a Final Public Hearing at the next available agenda.

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

Seth Horn: I have two questions. Comment #17 talks about an easement. It is really more of a personal thing rather than a construction type of thing. On part of the property that we want to maintain, there is a very nice walking path there. It is like an old dirt farm road that has been grown over. We like to walk up and down there. To get there from Deer Pond Drive, we would have to walk over part of their property. It is away from where the building site would be. That is why we are requesting the easement is to allow us walk there 2 or 3 times a year to enjoy that path. That is what the easement is for.

Eleanora Horn: Some times we walk there and clean up the trail from branches.

Mr. Astorino: You want it delineated as an easement. Is that correct?

Seth Horn: That was the advisement from our Engineer.

Mr. Bollenbach: That is acceptable. You would just need to clarify the need for wetlands.

Seth Horn: Ok. Regarding Comment #23, Surveyor to certify that iron rods have been set at all property corners. I had a conversation with your Engineer, Laura Barca back in June of 2021. I was down in Charlotte, North Carolina. My Engineer was concerned about the property corners. He himself and his company did our original property measurements when we first bought it. That was why we went back to them. I was under this impression that the definition of that was to point out the new property as opposed to the entire existing property. I would like to get a clarification on that. My Engineer is still confused regarding that. I thought that we had a conversation about delineating the new line that is going to be in the center versus the entire perimeter of the existing property.

Laura Barca: When you walk the property, they set the iron pins for the entire property. They should already be there. They could be noted on the plan as iron pins found. That would be fine. They are already there. You wouldn't have to redo it. It is done already. As long as they are done, the only thing you would need to add are the iron pins.

Seth Horn: It would make sense to delineate the new line.

Mr. Astorino: If they did it. They should know where they are.

Seth Horn: I will pass that along to my Engineer.

Mr. Astorino: If he has any questions, he could call Laura, our Engineer.

Seth Horn: Ok. It also comes down to thousands of dollars to do the whole entire thing. Iron Pins found should be marked on the plans.

Laura Barca: Yes. It would usually state IP found on the plans.

Seth Horn: Ok. Thank you.

Comment #7: NYS Parks, Recreation, and Historic Preservation letter is required for land disturbance.

Comment #8: A darker line type should be used for the existing lot line and a different darker line type for the proposed lot line.

Comment #9: A stabilized percolation rate must be shown with a minimum of two tests per hole.

Comment #10: Eljen system and tank locations only shown for one of the subdivision lots. Applicant to clarify location of the existing system and existing well location on Lot 1.

Comment #11: On Sheet 3, both an absorption trench detail and an Eljen system are shown. If Applicant is proposing an Eljen system, the other trench detail does not need to be shown.

Comment #12: If the Applicant proposes a plan to build either 4- or 5-bedroom home, then there must be details for both 1,250- and 1,500-gallon septic tanks.

Comment #13: All Eljen systems require an effluent filter; please add a detail to the plan.

Comment #14: The profile of the septic system should be shown from the edge of building to the leach field; the effluent filter should be included in this profile.

Comment #15: The plan (Sheet 2) indicates that a distribution box will be used; however, the detail (Sheet 3) indicates that a drop box will be used. Application to pick one design methodology and update the plan accordingly.

Comment #16: The driveway detail on Sheet 3 must include the depth of the crushed stone subbase.

Comment #17: There is a 50-ft wide access and utility easement shown across a portion of Lot 2 to benefit Lot 1. Applicant to clarify why a portion of the easement is shown in the delineated wetland and if there is a similar proposed easement across existing parcel 26-1-69.31. A note shall be added to the plan stating that the construction of this access may require wetland approvals.

Comment #18: The following Standard Notes do not appear on the plan:

- a. Overlay Protection Table
- b. Lighting
- c. Agricultural Notes (need to confirm)
- d. Biodiversity
- e. Driveway Note #6

Comment #19: The stormwater plan must be in compliance with Town of Warwick §164-47.10 Stormwater Management.

Comment #20: Applicant to add stormwater control measures and details to the plan, including but not limited to silt fence, stabilized construction entrance, etc.

Comment #21: 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." Sht 1 Construction Note

Comment #22: The proposed driveway onto Blooms Corners Road will require removal of an existing stone wall. The limits of removal should be shown on the plans. The line type for stone wall in not consistent with the Legend for stone wall.

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

Comment #24: The liber and page for the Ridgeline, Agricultural Notes, and Indian bat must be added to the plan.

Comment #25: Payment in lieu of parkland for one lot.

Comment #26: Payment of all fees.

Wheeler Road Estates “Sectionalizing Plan”

Application for Preliminary Subdivision Approval in Three Sections for 29-Lots plus 2-Affordable Housing Lots and 1-Home Owners Association Lot which included open space, stormwater management facilities and private roads. Application for conditional Final Subdivision Approval of Section I for 9-Lots plus 1-Affordable Housing Lot and 1-Home Owners Association Lot which includes open space, stormwater management facilities and a private road, situated on tax parcel S 8 B 2 L 44.223; parcel located along the northerly side of Wheeler Road (C.R. 41) at the intersection with Dussenbury Drive, in the SL zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Nick Rugnetta from Pietrzak & Pfau Engineering, LLC.

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 Dept: 01/27/21 binding comment that Full EAF should be submitted because changes in environmental regulations over time; advisory comments to prepare affordable housing plan, shared facilities maintenance agreements, and concerns about construction on steep slope.
6. The USACE Nationwide Permits are due to be re-issued on February 25, 2022. Applicant to confirm that the project will comply with the terms and conditions of the new permit.
7. OCDPW approval letter dated 08/31/21
8. Proposed roads will be private with an HOA to maintain, Findings Statement page 1.
9. OCDOH approval valid through 01/08/27
10. Sheet 1, Note 23 indicates that well testing may have been completed; Applicant to clarify the results of this testing.
11. The stormwater plan must be updated to comply with the current NYSDEC and Town regulations. This SWPPP has been reviewed and accepted. The Applicant must present rationale to the planning board for requesting a waiver to the 5-acre disturbance threshold.
12. Cluster Subdivision: Applicant to show compliance with Town of Warwick Town Code §164-41.1.E Cluster Subdivision.
 - a. Applicant to submit Yield Plan
 - b. Applicant to submit Site Context Plan
 - c. Applicant to submit Four Step Plan
13. Affordable Housing: Applicant to clarify if this is proposed (1 affordable housing unit for every 10 proposed homes).
14. Trees showing as to remain on Sheet 32 (Tree Mapping) are within grading limits. Tree preservation lines for each tree to remain, based on the tree's drip line (per detail), should be included on Sheet 32, with trees to be removed updated accordingly.
15. The tree line drawn on Sheet 14 (Landscape Plan) does not appear to account for all septic fields; plan should be updated to show the correct proposed tree line.
 - a. Sheet 25 (Landscape Plan) includes notes regarding shrubs and groundcovers, yet there are no shrubs and groundcovers on the plan.

- b. Sheet 31 (Stormwater Pond Details), fix spelling errors in Plants List, fix botanical/common name for red twig dogwood.
 - c. Provide quantities for rain garden plantings. No spacing included for herbaceous perennials as part of rain garden.
16. Waiver needed from Planning Board for boulevard entrance in lieu of two separate access points.
 17. Waiver needed from Planning Board for not proposing sidewalks or street lighting [a requirement of §137-11A(1)].
 18. Provide legal description for the proposed open space areas.
 19. Applicant to propose drainage district to the Town Board with back-up Town drainage district to maintain stormwater and boulevard island.
 20. Declaration information for Aquifer, Agricultural Notes, Private Road Notes, Open Space notes, shared driveway notes for Lots 6 & 7, stormwater maintenance notes for Lots 14 & 20, drainage easements over individual lots, (access and maintenance easements must be provided for all shared utilities located within private lots (including drainage conveyance piping, structures, and stormwater management features), maintenance of landscaping in Boulevard & centers of cul-de-sac, and maintenance of individual home rain gardens must be added to the plans.
 21. Surveyor to certify that iron rods have been set at all property corners.
 22. A Performance Bond, a Driveway Culvert Bond for Lots 6 and 7, and a Landscape Bond must be submitted to the Planning Board Attorney's specifications. Payment of site inspection fees associated with each bond must also be submitted. Applicant to submit cost estimates for each bond.
 23. Payment in lieu of parkland for 31 Lots.
 24. Payment of all fees.

The following comment submitted by the Conservation Board:

Wheeler Road Estates "Sectionalizing Plan" – None submitted.

The following comment submitted by the ARB:

Wheeler Road Estates "Sectionalizing Plan" – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This project went through the Full EAF with a draft & final Environmental Impact Statement and Findings Statement. Since so much time has passed since that was done, the appropriate thing to do would be to prepare an Amended Findings Statement that reaffirms the information that was gathered as part of the original EIS from 15 to 20 years ago. The Applicant has provided us with a pre-comprehensive analysis. They have updated the documentation. There was just one thing that I had asked for a clarification on. That had to do with endangered species and the information that was provided in the appendix to their report. We conveyed that to Nick at the Workshop meeting. I believe that comes from Steve Esposito. As long as Steve is aware of that, the best thing would be is for him to respond in writing to that. If he needs any clarification, please have him give me a telephone call. I could explain to him the discrepancy that I had found. As soon as that is taken care of, then I will prepare a draft document for the Board to review any of the changes on that document since it was originally adopted in the year 2005.

Comment #2: Applicant to discuss project.

Nick Rugnetta: This is the Wheeler Road Estates subdivision. The property is located on the northern side of Wheeler Road, C.R. 41. We are proposing a 31-Lot residential subdivision with 3 dead end cull-de-sac roads. There are 2 stormwater ponds located on the site. We have over 50% of the site designated as open space. We have gone through the review process. We have developed a SWPPP in accordance with the NYSDEC stormwater manual. That has been reviewed and approved by the Town Engineer. We are in the process of wrapping everything up. Tonight, we ask the Board to set us for a public hearing.

Mr. Astorino: Laura and Nick, are there any comments here that we need to discuss tonight?

Laura Barca: No.

Mr. Astorino: I know that you are working on them. Not to beat a dead horse, you need to get through all of these comments for the Sectionalizing Plan. You would need to get that to us. You also need to go before the Town Board for the affordable housing and a few other issues. Does the Board want to go through any of these comments? If not, I will state these comments for the record.

Mr. McConnell: With the Sectionalizing Plan, does there need to be the affordable housing?

Mr. Astorino: There will be one in the first section.

Nick Rugnetta: The first 2 sections. There will be 1-Affordable House in Section I and 1-Affordable House in Section II.

Mr. Astorino: It doesn't have to be. But I think it should be.

Mr. Bollenbach: It is required that there shall be one for each 10 lots.

Laura Barca: It depends on when you get to 10 lots.

Mr. Astorino: Ok. Once you make it to 10 lots, then you need to have one affordable home.

Nick Rugnetta: The affordable homes are on Lot #5 and Lot #19. I believe that we came to the conclusion that there are 2-Affordable Houses and not 3-Affordable Houses.

Mr. Astorino: Yes.

Mr. Bollenbach: Correct.

Mr. Astorino: Ok. We will list Comment #3 through Comment #24 for the record.

Nick Rugnetta: There is one comment I would like to discuss. Comment #11 regarding the stormwater and the disturbance, we wanted to review with the Board because the

project is somewhat of a larger scale. We have demonstrated on the plans keeping the disturbance in phases under 5 acres or less. I believe there are actually 11 different phases here. To give the potential builder an option, we wanted to see if the Board wanted to take a look at issuing a 5-acre waiver for the disturbance.

Mr. Astorino: Laura, is that something that is practical?

Laura Barca: I think you talked to Dan from my office.

Nick Rugnetta: Yes. I did.

Laura Barca: We have some questions about how the stormwater phasing fits into the sectionalizing. We don't necessarily have a problem with doing that. It all depends on the contractor who's on the site and as long as he maintains the site, the decision is to the Planning Board. Typically, they would like more information when it is going to be a big project and it would be easier for the contractor.

Mr. Astorino: I would want assurances from our Engineer that it could be done. But if you get a contractor in there that doesn't know what he's doing, then that is a problem.

Laura Barca: You could go disturb ½-acre. If you have a contractor that is a bad contractor, then you could have a problem.

Mr. Astorino: We are giving some leeway here.

Laura Barca: From an Engineer's standpoint that it could be done, the answer is absolutely.

Mr. Astorino: From my opinion, I would want more time and more of an assurance.

Nick Rugnetta: No problem. I could bring in more information at another meeting. I could get you a better plan outlining our erosion control measures that are shown on the plan.

Mr. Astorino: Ok. Bring us more information regarding that. Do you request to be set for a public hearing at the next available agenda?

Nick Rugnetta: Yes.

Mr. Astorino: You first have more work to do and go through the Town Board before you come back to us for a public hearing.

Mr. McConnell makes a motion to Set the Wheeler Road Estates Sectionalizing Plan for a Preliminary Public Hearing on the Sectionalizing plan and Final Public Hearing for Section I (10)-Lots.

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

Mr. Bollenbach: That would be public hearing for Preliminary Approval in Sections and also conditional Final Approval for Section I. Nick, did you revise Section I and II to include portion of the open space?

Nick Rugnetta: We are working on that.

Mr. Bollenbach: Ok.

Nick Rugnetta: Thank you.

Comment #3: Conservation Board: no comments received

Comment #4: Architectural Review Board: no comments received

Comment #5: OC Planning Dept: 01/27/21 binding comment that Full EAF should be submitted because changes in environmental regulations over time; advisory comments to prepare affordable housing plan, shared facilities maintenance agreements, and concerns about construction on steep slope.

Comment #6: The USACE Nationwide Permits are due to be re-issued on February 25, 2022. Applicant to confirm that the project will comply with the terms and conditions of the new permit.

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Comment #8: Proposed roads will be private with an HOA to maintain, Findings Statement page 1.

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Comment #18: Provide legal description for the proposed open space areas.

Comment #19: Applicant to propose drainage district to the Town Board with back-up Town drainage district to maintain stormwater and boulevard island.

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Comment #21: Surveyor to certify that iron rods have been set at all property corners.

Comment #22: A Performance Bond, a Driveway Culvert Bond for Lots 6 and 7, and a Landscape Bond must be submitted to the Planning Board Attorney's specifications.

Payment of site inspection fees associated with each bond must also be submitted.

Applicant to submit cost estimates for each bond.

Comment #23: Payment in lieu of parkland for 31 Lots.

Comment #24: Payment of all fees.

Other Considerations:

1. Planning Board Minutes of 8/17/22 for PB approval.

Mr. McConnell makes a motion to approve the Planning Board Minutes of 8/17/22.

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

2. Planning Board to discuss scheduling a site visit for the M&T/Ted Edwards 4-Lot Subdivision located at 77 Amity Road.

The Board discussed scheduling a date for a site visit at the M&T/Ted Edwards subdivision. The Board came to a consensus on scheduling the site visit for Monday, 9/26/22 at 5:00 p.m.

3. Planning Board to discuss scheduling a site visit for Garley 2-Lot Subdivision located at 1290 Lakes Road.

The Board discussed scheduling a site visit for the Garley Subdivision. The Board came to a consensus on scheduling the site visit for Monday, 9/26/22 at 6:15 p.m.

4. **Warwick Ridge II** – Letter from Dan Getz, Engineering Properties addressed to the Planning Board dated 9/13/22 in regards to the Warwick Ridge II Subdivision – requesting a 6-Month Extension on conditional Final Approval of a proposed 6-Lot subdivision, situated on tax parcel SBL #23-1-15.2; parcel located on the southern side of Ridge Road 800 feet west of West Meadow Way (306 Ridge Rd.), in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 4/20/22. *The Applicant has stated that the legal declarations have been filed, iron rods set, lot descriptions written and street trees added to the plan. The 6-Month Extension is needed to finish completing the rest of the conditions of the final approval. The 6-Month Extension becomes effective on 10/20/22.*

Mr. McConnell makes a motion on the Warwick Ridge II Subdivision application, granting a 6-Month Extension on conditional Final Approval of a proposed 6-Lot subdivision, situated on tax parcel SBL #23-1-15.2; parcel located on the southern side of Ridge Road 800 feet west of West Meadow Way (306 Ridge Rd.), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

The 6-Month Extension becomes effective on 10/20/22.

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

5. Planning Board to discuss canceling the 9/26/22-Work Session & 10/5/22-PB Meeting.

Mr. McConnell makes a motion to cancel the 9/26/22-Work Session & 10/5/22-PB Meeting.

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. Before we adjourn our meeting, I one thing to say. This is in regards to Ted Fink, our Town Planner. I know you will be resigning at the end of this year. I have been here for a long time now. You are a great asset that this Town has ever had. There would probably be nobody that could replace that. Truly from the bottom of my heart, I will deeply miss you. You are a great man. You are a great asset. I wish you all the best. You will surely be missed. I speak for everyone on this Board. Thank you very much for your service and everything. You have been a great asset to this community. We will miss you.

Mr. Fink: I appreciate that. It has absolutely been a pleasure working with you and the Board through the years. I have been here for 31 years. Thank you.

Mr. Astorino: I have been here for 21 years. You have been such an asset to this Town. I truly mean that from the bottom of my heart.

Mr. McConnell makes a motion to adjourn the September 21, 2022 Planning Board Meeting.

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