

Chairperson Johnson called the regular meeting of the Planning Board to order at 7:00PM. Members present were Chairperson Rick Johnson, Lou Villanova, Dennis Landry, Elaine Leasure, and Christopher Paap. Also present were Norm Druschel, Building Inspector, and Phil Williamson, Code Enforcement Officer. Wesley Pettee, Engineer for the Town (LaBella Engineering) was not present. Due to the COVID-19 pandemic and to comply with CDC social distancing, the meeting was held at the Walworth Town Hall, accessible live to the public.

Chairperson Johnson asked the Board if there were any corrections that needed to be made regarding the minutes of October 12, 2021. Chairperson Johnson said there is one correction: the last statement for the second item on the agenda should say “agreed that consideration will be given” instead of “agreed to make.” Mr. Villanova made a motion, seconded by Ms. Leasure, to accept the minutes of the October meeting as corrected. Mr. Landry abstained since he was not present at the October meeting. All other members were in favor. Motion carried.

Chairperson Johnson addressed the first item on the agenda:

1. Application of Daniel Kummerow of 121 Beverly Drive, Rochester, NY 14625 for Preliminary Approval for a Subdivision and Site Plan for the property located at 304 Whitney Road, Town of Walworth, and County of Wayne. Property is zoned RR1-Rural Residential 1. (Public Hearing)

Don Lewis of D.H. Lewis Engineering PLLC representing Daniel Kummerow came forward to speak before the Board. Mr. Lewis said Mr. Kummerow proposes to subdivide a 1-acre lot from the existing parcel and build a house on that lot. Mr. Lewis said he received the comments from Wesley Pettee, Engineer for the Town:

December 13, 2021

Mr. Rick Johnson, Planning Board Chair
Planning Board Members
Town of Walworth
3600 Lorraine Drive
Walworth, NY 14568

**RE: Kummerow Subdivision, Lot 8
LaBella Project No. 212141.149**

Dear Mr. Johnson and Planning Board Members:

LaBella Associates has reviewed the proposed subdivision to create a 1-acre lot on the south side of Whitney Road in the RR-1 Zoning District. The plan was drawn by D.H. Lewis Engineering and is dated 11/3/21. We offer the following summary of our findings and observations for your consideration.

1. County Referral. We note that the parent parcel (Tax Map No. 61116-00-115754) appears to be within 500-feet of the municipal boundary. Our understanding is that this proximity would trigger the need to refer the application to the Wayne County Planning Board pursuant to GML, Section 239-n.

2. Potential Realty Subdivision. We ask that the Applicant verify whether this subdivision needs Realty Subdivision approval per the NYS Department of Health. Our understanding is that a Realty Subdivision is a subdivision into five (5) or more lots, each comprising of five (5) acres or less within any three (3) year period.

3. Silt Fence Callout. The design professional may want to adjust the leader arrow for the “Proposed Silt Fence,” as it appears to be pointing to the limit of disturbance.

4. Septic. We generally defer septic system comments to the Town of Walworth, but we note that the leach field appears to have a diversion swale and grading so as to avoid or minimize the amount of surface water that would flow over the area.

5. Finished Grade Septic Lateral Invert. We note that the proposed finished grade is called out on

Sheet 1 as being 504.5', and the Lateral invert at the house is called out as 504.5. We ask the applicant to confirm the lateral and septic tank inverts.

6. Stone Check Dam. We ask the design professional to clarify whether the proposed stone check dams are temporary features or permanent features.

Thank you for the opportunity to review the project on your behalf. Please feel free to call us if you have any questions.

Respectfully submitted,
LABELLA ASSOCIATES, D.P.C.
Wesley A. Pettee, AICP
Senior Planner

cc (via e-mail): Norm Druschel, Building Inspector, Town of Walworth
Phil Williamson, Code Enforcement Officer, Town of Walworth
Barbara Goulette, Clerk, Town of Walworth
Donald H. Lewis, Jr. PE, DH Lewis Engineering PLLC

Mr. Lewis asked the Board what he is required to do in regard to the potential realty subdivision mentioned in the comments since Mr. Kummerow intends to subdivide 4 more frontage lots and then sell the remainder of the property. Chairperson Johnson asked Mr. Williamson if he had any information on this subject. Mr. Williamson said according to Realty Subdivision frequently asked questions on the New York State Department of Health website:

How is the "4 lots every 3 years" scenario applied?

The initial period of consideration begins when the first residential lot is "offered" for sale. If a fifth residential lot is offered for sale within three years of the initial lot offering, all previously sold residential lots within that same tract are also subject to Realty Subdivision law. Once the fifth lot is sold any additional residential lots within that same tract will be subject to Realty Subdivision law, regardless of the time frame for future offerings. If a landowner never offers for sale more than 4 residential lots within a 3-year period, the lots and tract will not be subject to Realty Subdivision law. To defend against illegal Realty Subdivision formation educate and coordinate with the County Clerk's Office to alert the jurisdictional DOH office staff when owners attempt to file property plats where suspected violations of the intent of the Realty Subdivision Laws may be an issue. Training local developers and consultants may also be helpful.

Ms. Leasure asked if the water for this lot will come from Ontario. Mr. Druschel said the watermain comes from Ontario and it is done as an out-of-district user.

Chairperson Johnson asked if there were any more comments from the Board. There were no issues brought forward. Ms. Leasure made a motion, seconded by Mr. Landry, to open the public hearing. Chairperson Johnson opened the public hearing at 7:12PM. Chairperson Johnson asked if there were any comments from the public. No issues were brought forward. Ms. Leasure made a motion, seconded by Mr. Landry, to close the public hearing. Chairperson Johnson closed the public hearing at 7:13PM.

Chairperson Johnson said this application needs to go to the Wayne County Planning Board for their review. Mr. Lewis said the Wayne County Planning Board does not have a meeting scheduled before the next Walworth Planning Board meeting on January 10, 2022. Mr. Williamson said if this Board grants preliminary approval, we will prepare the paperwork and submit it to the County immediately thereafter; then if the County Planning Board has not responded within 30 days, this Board can act on the application at the January meeting.

Elaine Leasure made a motion, seconded by Lou Villanova, to accept preliminary approval for the Kummerow Subdivision and Site Plan.

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| Roll Vote: | Chairperson Johnson | Aye |
| | Lou Villanova | Aye |
| | Elaine Leasure | Aye |
| | Christopher Paap | Aye |
| | Dennis Landry | Aye |

Motion carried.

Chairperson Johnson asked if there was any other business to come before the Board. No more issues were brought forward. Ms. Leasure made a motion, seconded by Mr. Landry, to adjourn the meeting. All members were in favor. Chairperson Johnson adjourned the meeting at 7:41 PM.

Respectfully Submitted,

Barbara Goulette, Clerk