

**BOARD OF TRUSTEES  
VILLAGE OF WARWICK  
JUNE 5, 2017**

**7319**

The regular bi-monthly meeting of the Board of Trustees of the Village of Warwick was held on Monday, June 5, 2017. Present were: Mayor Michael Newhard; Trustees Barry Cheney, William Lindberg, Eileen Patterson and George McManus. Also present were Deputy Clerk, Barbara Ranieri and DPW Supervisor Michael Moser. Others present: Many Village residents.

The Mayor called the meeting to order and led in the Pledge of Allegiance.

The Deputy Clerk held the roll call.

Mayor Newhard: Before we really get going and I'm sorry for this delay but I need to meet with my Board in Executive Session. So, open the doors, relax, we're going to my office. It's not about the issue at hand, it's something else, but it's important that I talk to the Board.

**Executive Session**

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to go into Executive Session to discuss collective negotiations pursuant to Article 14 of the Civil Service Law. Five Ayes.

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to go back into the regular meeting. Five Ayes.

**Continuation of Public Hearing to consider a zone change for 41 South Street from Limited Office Overlay to Central Business**

Mayor Newhard: Tonight is a continuation of a Public Hearing to consider a zone change for 41 South Street from Limited Office Overlay to Central Business and we will open up that discussion if anybody is interested in saying anything about that.

Jim Neujahr: I'm just wondering what the full range of use is with this change?

Mayor Newhard: It would be what would be the Central Business District. So it is basically all types of business.

Jim Neujahr: Any kind of business would be allowed there?

Mayor Newhard: What you see next door or on Railroad Avenue or any of our business districts.

Jim Neujahr: Would they be allowed to rip the house down?

Mayor Newhard: I believe it's adjacent to the Historic District.

Jim Neujahr: I think it's across the street from it.

Mayor Newhard: Still it's considered a supporting... there's a demolition delay and many things to stop that from happening.

Trustee Patterson: We have rules in place in our zoning that would not allow... let's just reaching out of the blue, a Taco Bell to show up there looking like a Taco Bell. Take the example of Dunkin' Donuts, they had to conform to the look of the Historic building that was already there; or if there wasn't a building there they would have to look like the rest of the Village.

Jim Neujahr: But they can make substantial changes to the appearance of that building.

Mayor Newhard: It would have to go through the Architectural Review Board. Any retail establishment, no matter if it's in the Historic District or not must go before the Architectural Review Board.

Jim Neujahr: Do we have any idea what kind of use is planned for this or just that they want to be able to use...

Mayor Newhard: I believe it's a woman's clothing boutique.

Jim Neujahr: But in fact anything could go in there.

Mayor Newhard: Yes, that is something you should know. Right now it is zoned residential with a limited office overlay.

Jim Neujahr: The house next to it which is one house closer to me is also a rental house. If this goes to Central Business what would prevent the owner of that rental in seeking the same kind of zoning change?

Mayor Newhard: It does have to go through this very process and it doesn't just go through it and become something, it is determined by the Board's approval in the end and that's why we have a public hearing.

Jim Neujahr: We're new to this town. We've lived here less than two years and as any new person we hate to see any changes in things we chose. I hate to see anything really change the nature of Warwick. I see all of this kind of things as adding to a change which from some people's point of view is very good but from others it's not.

Trustee McManus: We can tell you that there's no proposed building design change from the owner of this right now. We can't speak for what he might do a year later.

Jim Neujahr: But you can't base something on what somebody says they're going to do because as we found out, a lot of people change their minds about what they're going to do.

Mimi Fader: My question would be in addition to my husband's if you send a notice out and I know that's on the agenda too, to the people within X amount of feet, if everybody says no, does that make it no, or does it still...

Mayor Newhard: That's the information that goes to the Board and we determine it based on that.

Mimi Fader: In reference to a residential area what stops this moving on and on to... we live across from the church in the middle of South Street and it's all residential. So now you're suggesting or whatever proposing a commercial, what happens to the next and the next? This is our concern.

Mayor Newhard: We understand that. That's part of a planned development and community planning and there are many different ways to think about how a community grows. Part of Warwick's success is that it grows from the inside out instead of... we don't have sprawl at our edges like many communities do. It's a two-edged sword. There's always the edge between residential and commercial and that's why many people are here this evening. That's something that we all have to contend with and how we want to grow and how we want to grow the best way possible so that it doesn't affect the most important thing in our lives and valuable thing which is our real estate, the houses we own and the neighborhoods we live in. We truly do understand that. That's all part of the decision making process.

Unidentified Woman: In that decision making process would it be a sacrifice zone though? Would there be a consideration of a sacrifice zone?

Mayor Newhard: You mean another zone?

Unidentified Woman: A sacrifice zone meaning that the residents that are concerned and that now there are houses and now there are not houses... those residences are now sacrificed for business commercial situations because we are expanding from inside and we don't want to have a sprawl.

Mayor Newhard: I don't know. That's something I would have to go to a planner and really find that out but that's an interesting concept for many things. We do that to some degree with protection of farm land. Anyone else on this particular issue?

A **MOTION** was made by Trustee McManus, seconded by Trustee Cheney and carried to close the Public Hearing. Five Ayes.

**Public Hearing to discuss a change in the Zoning Code 145-171 regarding notification of property owners**

Mayor Newhard: The second Public Hearing actually is not going to be discussed tonight. It's on the next agenda. It was actually put on two calendars, so it's on our next meeting's agenda. Just for your information that's for greater notification of people in neighborhoods or vicinities when changes are made, not so much as in the Planning Board stage but with the Village Board if there is a zone change.

**Approval of Minutes**

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to approve the May 15, 2017 minutes. Five Ayes.

**Approved and Audited Bills**

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to pay all approved and audited bills in the amount of \$1,110,237.26. Five Ayes.

**Discussion**

**Warwick Commercial Properties**

Mayor Newhard: Under discussion tonight we have a request from Warwick Commercial Properties and their request is for that residential zone to become office overlay. Before we can even move forward with that request I need a consensus from the Board as to... is that interesting? I think you're familiar with the property.

Trustee McManus: I'm not interested in changing it.

Trustee Patterson: Can you tell me what the property is?

Trustee McManus: 4 Overlook.

Trustee Patterson: Right now it's limited office overlay.

Mayor Newhard: No, right now it's residential.

Trustee Patterson: Right now it's residential and he wants to change it to limited office overlay.

Trustee Cheney: He previously made a petition to us to change it to GC.

Trustee Patterson: I do want to pursue it because I think that the neighbors want to be heard on this.

Mayor Newhard: We would move forward with a local law and eventually a public hearing on that.

Trustee Cheney: We're going to need more documentation.

Mayor Newhard: We'll put a motion then on the agenda.

Trustee Patterson: Can we also as part of that ask for a report from the Building Inspector about the status of the project... the adjoining property and make sure that everything that the applicant has been asked to do with that process has been completed.

Mayor Newhard: Part of the motion should be an escrow to cover expenses.

### **Sign Regulation**

Mayor Newhard: The sign regulation which seems to be a misprint in our zoning code, I was just going to send to Steve Gaba for him to look at and move forward with a public hearing on that.

Trustee Cheney: The one thing that I noticed with that is if we remove LO and agree that LO wasn't supposed to be part of that sign regulation there is no sign regulation to LO, so we have to look at that condition.

Trustee Patterson: Would we add LI to this?

Trustee Cheney: Right now they're suggesting that we take out the LO and substitute LI.

Trustee Patterson: Are you suggesting that we leave LO and add LI?

Trustee Cheney: Not necessarily, no.

Mayor Newhard: Because they're two different animals.

Correspondence

Mayor Newhard: Under correspondence this evening we have a letter from Village Engineer, David Getz, regarding BDP Industries maintenance bond and we have a motion on that and also a letter from Altice regarding channel removals. Then also a letter from Mobilitie proposing the installation of a small cell site on Welling Place. Is the representative here this evening?

Paul Costa: I work for Mobilitie. We are a wireless facility company and what we're doing is we're building small cell sites and what they do is boost the capacity of the larger towers without the need for building larger towers. Right now what we do is basically build them on either existing utility poles or street lights or we can build them on our own utility poles that we put in the right of way. Right now we have a site proposal over by the CVS within the right of way. What we do is basically we would put it on our own utility pole so it would look like this and it's just a small two foot antenna on top. The pole itself is 32 feet and the antenna would make the whole structure 35 feet. Then we have four pieces of equipment; a small radio, an AC distributor, a UA relay and a meter for power. What we do is we pull power from overhead so we don't trench anything and this would power the site. It would boost capacity for the area. The reason we are in the right of way is just... certification from the State and Public Service Commission as a telephone exchange. We don't process any of the data we just pass it through our equipment to the core network. We don't own Spectrum. We don't have customers. We're just passing through the information and that's why we're considered a local telephone exchange and that allows us to be in the right of way plus our equipment design allows us to be in the right of way.

Mayor Newhard: Did you read our ordinance?

Paul Costa: Yes, that was part of the reason I came. The ordinance is designed for larger towers and we're not going to go through that, but a lot of the rules and things would not be applicable to the site due to the location, size and scope and also just wanted to kind of present it to the Board; understand, get some feedback on the site location, design as well.

Mayor Newhard: One of the things in our ordinance, it talks about sharing and for you to do as extensive a study for that capability first before you construct something.

Paul Costa: Two things; we can't attach to the larger towers because this is made to boost the capacity of the larger towers. The larger towers are all designed for voice and they weren't anticipating all the data being transferred so they can't put any more antennas on these towers so what this does is it boosts the capacity of that tower. We can't locate on a larger tower and we looked at locating on existing utility poles but that also wasn't possible due to the type of utility pole; we're only allowed to go on certain poles that

don't have primary power. All the ones out there have transformers and primary power which prevents us from co-locating on those poles.

Mayor Newhard: Also, let's say this is built in a community, could other people co-exist on this tower as well?

Paul Costa: Yes, it has the ability. You would just put additional equipment on it.

Mayor Newhard: But then it starts to become much less than a simple pole.

Paul Costa: If you don't want us to put another carrier on there we can do that as well.

Trustee McManus: What carrier do you represent?

Paul Costa: Right now we're building this for Sprint. It's a nationwide rollout. They're building about 70,000 of these sites throughout the nation.

Trustee Patterson: You're just asking for one in the Village?

Paul Costa: It's just one. It's for the density in the Village, to boost the capacity there. When you have a dense area you have all these people using the same micro tower and what this does is that it allows more people to access that.

Trustee McManus: Why not on a light pole that's existing in the parking lot?

Paul Costa: Are those Village light poles?

Trustee McManus: No, they belong to CVS.

Paul Costa: Also the design of them, the square shape and the height, I don't think it lends itself to the equipment. When you have to band some of the equipment to the square poles, it doesn't hold as well.

Trustee Patterson: Those are not our poles, right? Aren't they Orange & Rockland's poles?

Mayor Newhard: They would be putting up a brand new pole on the side of the street where there are no poles.

Paul Costa: We can talk to our team and possibly move down here where there are no poles, this way it keeps it out of there. We can work with you guys for a location that might be more suitable. Unfortunately all these utility poles here have power. I noticed

there was a spot over here that... it's out of the way. We have different design options. We can put... that one has a box. We can put all the equipment in the box.

Trustee Patterson: Can I suggest that we ask Paul to speak with our Village Engineer to make sure that he's okay with it as a first step?

Mayor Newhard: I think it would be also important to give us site options other than that one. This is a Historic District and if you look down that street there's a row of cherry trees, very lovely and this would be just this pole sticking out in the middle.

Paul Costa: I can look for some alternative sites.

Mayor Newhard: What about on flagpoles? Is that an option?

Paul Costa: Is there one that you're thinking of?

Mayor Newhard: Above the TD Bank, actually there used to be one, which is right there on the corner.

Paul Costa: It just depends on structurally if the flagpole would hold it and things like that.

Mayor Newhard: ...and the height. I can talk to our engineer but I think if you could show us some different sites that would be better and this is really preliminary.

Paul Costa: I just wanted to introduce the project.

Mayor Newhard: Where do you work out of?

Paul Costa: We have offices all over the country but I'm based in New York City. I just wanted to introduce the project and begin a discussion.

Trustee Cheney: Is it expected that more carriers would also be looking at this type of technology?

Paul Costa: This is the next thing that's going to happen because of the way phones are used. Putting up another tower really doesn't solve the problem. You need to be closer to the user because of the data constraints... watching a video, sending files. The closer you are to the end user... Verizon is doing these, AT&T...

Trustee Cheney: Where is Sprint's current tower?

Paul Costa: I can get that. I'm not 100% sure. I can find the donor site.

Trustee Cheney: It's close enough that only one of these would be needed for the entire Village?

Paul Costa: Yes.

Trustee Cheney: The more demand there is, is it likely that more of these would be requested?

Paul Costa: Right now, this is a huge roll out for them so I don't anticipate them needing in the future, but also if some new crazy app comes out where data is in demand it could be possible.

Trustee Cheney: I'm just trying to get a handle on how many of these...

Paul Costa: This is the one right now that we're proposing. There's no additional ones.

Mayor Newhard: If you don't mind I would also like to reach out to the Historical Society because they have properties that are adjacent and it might be better suited in a less conspicuous way and also it might be a source of revenue for them. That would be a wonderful thing.

Paul Costa: We have design options.

### **Privilege of the Floor**

Mayor Newhard: We'll now open it to Privilege of the Floor and I know that the majority of people here are here because of their concern about their neighborhood and Elm Street and we are glad that you came out. We understand that as the Village Board, you look at us for leadership. In some cases there are certain ways that things have to happen and laws but we are here to listen to you. Eileen was at the meeting that you had the other evening. I was not able to go. I had another meeting. But there were a couple of questions that she left that meeting with and I do have the answers or the response from the Planning Board legal counsel. First off, I'll open it up to the floor. Please respect the five minute limit because there are a lot of people here this evening and also try not to be redundant. There are certain things that are key and if somebody has said it, then that's wonderful. I also want to remind you that this is a very important time. This is in the hands of the Planning Board not so much our Board but the Planning Board. The letters that I have received are great but they have to continue. I get copied on what you send to the Planning Board. Your voice is important and I've told many people along the way that that is the most important thing. I urge you, because those letters do get read and they

become part of an entire larger document of information. I just want to remind you of that. If you are not able to express yourself this evening... the great thing is that this is on television. We're recorded here. That's very important for the greater public to understand your concerns. We'll start with Mr. Gallagher. Also, please state your name for the record.

Patrick Gallagher: Thanks for having me here tonight. There are three pages and to respect the five minute rule, three different people will read them, so hopefully myself, followed by Paul, followed by John. What you can do regarding the proposal on 16 Elm? First of all does our Village Board have a liaison to the Planning Board? Does that person exist?

Mayor Newhard: Yes, Barry.

Patrick Gallagher: Okay, I wanted to know who it was. We are petitioning you with a complaint and stating for the record that as it stands the Planning Board won't hear from the public before making a SEQRA declaration of significance and that without hearing from us they will likely issue a negative declaration and it appears they're missing or choosing to overlook key issues such as traffic and noise impacts as well as potential toxic vapor intrusion into any new building constructed at the proposed site. Many other recognized environmental concerns are documented and exist on the site. See the Phase 2 study by William Going dated 2013. The existing EAF updated 5/8/17 by Ross Winglovitz, the engineer for the applicant states that a phase 1 and 2 EAS, not an EAF but an EAS have been performed and submitted to the Village. The EAS has determined that no hazardous material is on site. Unless Mr. Winglovitz is looking at different documents there is a glaring error in that statement and on the EAF document as filed with the Village with no comment from the Planning Board. Going back to SEQRA the Hyde Park Planning Board, for instance, allows and encourages public comment early and often in the SEQRA process. They open the public hearing prior to making the SEQRA determination to ensure that the public has had a chance to provide information that the Planning Board may not have and should be considering before making a decision on a declaration of significance. Then they simply keep the Public Hearing open after the determination of significance right into the planning site review. Our Planning Board is apparently unaware of this or unwilling to offer equal access to the public. I spoke with the Vice Chair of the Hyde Park Planning Board this morning myself to confirm this. Many communities allow early public comment. This is not a one off situation. We're happy to provide a list of other communities in the region that try to employ best practices like early public comment promoted by the Pace Land Use Law Center. We ask that the Village attend similar classes or at the very least reach out to Planning Board peer groups prior to determining how decision making in the SEQRA process is going to proceed in this case. The decision in this case is critical to our community's health and well-being and should include all the neighborhoods involved

and the broader public. Many people are unaware of this project and its impact on their Village life. In light of all this the Village Board stands well within their legal rights and can and should pass a local law establishing SEQRA procedures that require the Planning Board to open a public hearing prior to making a determination of significance for commercial projects adjacent to residential zones.

Paul Woods: The requirement could and should apply to commercial projects that meet a threshold for size, decibel levels, vehicle trips, air quality and other triggers. This proposal could cause a localized decline in indoor and outdoor air quality beginning with a disturbance of contaminated soil on the former industrial site and followed by fumes from commercial exhaust systems, outdoor deck heaters, second hand smoke and a big increase in auto exhaust. The proposal could completely upset the general peace and enjoyment of our homes. There would be a sound in the form of constant bar chatter, table service and other noise and visual impacts imposed upon those living adjacent to the site as well as those affected by the amphitheater effect evident anywhere that this sort of facility exists. Neighbors at the Warwick Winery are subjected to constant unwanted noise as are residents on Bittersweet off Warwick Turnpike thousands of feet away from the source of sounds. Residents on McEwen across from the wine bar are subjected to similar life changing noise at close range. The Board is well aware of this. The problem exists everywhere in the Village and the Town where the bars are situated in a neighborhood whether it's commercial or kids. Wheeler, Welling, Elm, Orchard, where our tiny Mayor lives, Hamilton, Van Buren, West, Howe, River, Division, Factory, John Streets are all part of the proposals impact zone. Additional congestion impacts everyone in the Village and Town but traffic studies along these streets have been subjectively deemed unnecessary by the Planning Board. There's a long stretch of silence on the recording of the last Planning Board meeting when the traffic question comes up, followed by equivocation, rationalization and a faulty determination. We demand the Village Board acknowledge our concerns and acknowledge with a new law that is critical and necessary for the Planning Board to assess all impacts prior to issuing a declaration of significance. The Village Board can and should modify the zoning to require greater setbacks between commercial uses and adjacent residential property. The use of table defines eating/drink establishments as use group K. Code provides vague definition of buffering between some uses. There are anomalies and not applicable designations that are inconsistent when reviewed in relation to other uses. Ten feet is ridiculous. On the simple level it makes no sense that a bank abutting a house requires twice as much separation as a giant bar abutting a home. This application illuminates the need for an intense review followed by corrected by large required setbacks. A responsible Village Board should protect the residents and itself. You can and should institute a moratorium on new commercial construction adjacent to residential property until setbacks are reviewed and made consistent and corrected with the SEQRA procedure is straightened out.

John Maxie: We have asked the members of this Board and the members of the Planning Board to come to our homes and stand in our yards in the quiet of the day or evening and look at the proposed project from our property lines. We thank Eileen for appearing on the evening of the 31<sup>st</sup> and participating in an exchange with our lawyer. Mr. Cheney had committed to attending but unfortunately did not make it. Not one from this Board or the Planning Board has accepted our invitation, acknowledged our letters or has taken the opportunity to stand quietly with us in our yards and see exactly where this very large structure would be in the context of our homes. Anyone that does come and looks is aghast at what is proposed. The proposed bar is twice the size of almost every dwelling in its shadow and at times three times the size of local dwellings at over 5682 square feet when the proposed decks and outdoor patio are considered in the overall square footage. It would loom over the neighborhood in size and operation. People cannot believe it would be allowed here. The height and size are appalling in this setting. We are living current residents not imaginary ones. We live and sleep in the real Warwick not in the pretend horse and buggy Village. These are our homes that are threatened. We have asked and begged for help, direction and answers at multiple meetings. So far we've been told there is nothing that the Village Board can do. Our lawyers and experts tell us there is plenty that you can do. We have already paid you in taxes and trust you to represent us in the Village and the County. Now we are paying someone else to represent us to you. That is wrong. Does this Board think that we deserve equal treatment and that our interests are as important as the applicants? Pass a new law or change current zoning laws. The purpose of the light industrial district is to allow appropriately scaled business operations which are not well suited for residential neighborhood environments. This is no different than recent code changes for solar projects in the Village. Please step out of the Planning Board Stone Age where the current chairman exists. He told us publically that he won't hear anything from his house. Do you choose to hear us? It is a choice. We are asking that you force yourselves out of your comfort zone and join us outside of ours. Do the right thing and leave an honorable legacy and an intact Village.

Tom Andreas: I hear the concerts when they used to do them at Stanley Deming. I hear Railroad Green concerts at my house. I don't mind. They're once a month or something. Now they're proposing to have speakers on the outside decks which will conform... they won't have live music but the speakers will conform to the same performance standard at Railroad Green complies with, which I'm thinking is going to be pretty loud or at least it can be very loud. I'm thinking if they do this seven days a week, I go out in my yard I'm going to hear this bar playing their music seven days a week until 2 a.m. if they want to. That will be what they are allowed to do. I'm just flabbergasted that the Village would even consider this. They probably have to consider it because the applicant is coming forward and asking for it, but to get serious consideration in this neighborhood, I'm just like, I can't imagine that Warwick would seriously consider doing this, as concerned as Warwick is with the tone of living, the quality of life that they promote and the location and just the whole atmosphere that the Village promotes to the people who live here this

is a real game changer. I can't imagine selling my house if I was adjacent to this. What would I have to do to sell that house with this thing in my back yard? I'd have to drop my price \$20,000 and hope that I could find somebody that didn't mind having this there. I would never buy a house with this in the back yard. It's just amazing to me to consider it.

Susan Graf: A point that came up the other night that I found very interesting when the zoning was changed for that area somebody had asked did the Board at that time, the Board that was changing the zoning understand due to environmental concerns and the lay of the land there that any business such as this would have to be situated on the highest furthest parcel of the land which is literally in the back yards of the homes that are there. So a question came up as to whether the zoning itself might be revisited to see if perhaps this was an oversight and that the Board didn't understand at that time that this is how any property that would be built there or any building that would be built there would have to be situated. Most people look at it and they see that lot. They think it's going smack in the middle of it. It's not a big deal. It's not that close. It's still close but it's not in the back yards of people but the reality is very different and as another gentleman said when you're standing there, when you see precisely where this will be it seems unbelievable that this could even be considered.

Mayor Newhard: Susie, I just want to respond because that was a question actually that Eileen took from the meeting and we gave it to the Planning Board's legal counsel and I just want to read you the response of that. The question from Trustee Patterson, can we have a look at the feasibility of putting a building on that property? The floodplain is an issue that has been raised and is the reason the building has to be set so far back on the property. It occurs to me that the 100 year flood map changed recently. Was that after we rewrote the zoning code? If so, could it impact any decisions we make during the development of the new zoning map, specifically as it relates to this property. Robert Dickover, who is the counsel for the Planning Board responded it is the Planning Board's responsibility during its review process to consider the feasibility of construction on the property. The flood plain has been identified and construction within the flood plain is not being proposed. I do not recall whether the flood plan map was changed before or after the zoning code changes. It was, we believe, afterwards because it was after Irene and after Hurricane Lee. I do not see that as being an issue in this project, whether the property was zoned by the Village Board taking into account the current location of the flood zone is not within my knowledge nor do I see it as being a germane issue at this time. The Planning Board has to consider what the law is now not what it may have been or could have been in the past. That's truly a legal response and we can reach out to our counsel too, the Village Board's counsel which we'll gladly do as well.

Ginny Schaper: I wrote down some notes. Some of them were already mentioned so I'll skip over them. I just wanted to say that I stand with my neighbors on West Street against a proposed beer garden on Elm Street. I'll make three simple points, one of them has

already been well stated about that this bar would be open until 2 a.m. with noise. My experience from the Liberty Green project, I go back a long time with this Board, is that no environmental study ever really reveals all the anticipated problems or covers everything that a large construction project can have. You just can't see everything. So, you think you've got everything with these studies and it doesn't happen that way. I fear for my neighbors on West Street and the impact that this bar will have on them and once the project is complete it is next to impossible to go back to the builder and tell him you need to rectify this. Again, I've got personal experience with this with the Liberty Green issue. I also enjoy the summer concert series and what I love about it is it's over with by 10 o'clock. I cut that very short. I do remember Mr. Mayor, again back to Liberty Green we had discussions about whether Pond Hill Avenue should be made a through street or not. I've lived there for a 30 years and I remember you telling me point blank after we sat through a lot of Board meetings, we've had a lot of great discussions, you were very honest with me and you finally said to me Ginny, we decided not to make Pond Hill Avenue a through street because it would be the destruction of an existing Village development and a Village neighborhood. I feel that this bar would not just destroy the West Street environment but numerous Village developments and I think that needs to be taken into consideration as the broad spectrum of areas that could be covered by this.

Judith Dickinson: I live on Van Buren Street directly across from this building that's being proposed. My suggestion is why does this have to be a restaurant/bar? This flat area down in the hollow has south facing exposure. It's in my belief and everybody else's that there's toxic material underneath. Why disturb that? Why not put a solar farm in there. It could generate income for the Village. It could help lessen the need for this gas frack generating station that's being built very soon, which is not needed. Why doesn't Warwick lead the way in being a green Village and having a solar station there that could power the government of the Village?

Mayor Newhard: I can tell you if I owned the property I would.

Judith Dickinson: Why cannot you buy the property?

Mayor Newhard: It's in contract with another purchaser.

Judith Dickinson: Why can't we find a suitable use for that land that's satisfactory to everybody in the Village? It's been proposed to have a solar farm.

Mayor Newhard: I also want to remind everyone here that you can't choose your neighbors and I say this in a very important way in terms of what our democracy is and what is allowed and what is freedom. We can't go through a selection every time of who we want sitting next to us because that's not how we do it in America. But what we do is, we understand the differences and we try to work with those differences and make it

work for everyone. That's truly what we try to do. I agree I would love to own that property. I would love to put solar panels. I would love to create a microgrid with those solar panels which is something we're working on in another place but it is being purchased by someone else.

Judith Dickinson: Why spoil our outside views, our beautiful views by putting that out where everybody has to see it? It won't be seen down in that hollow. There could be parking there which we need parking very desperately.

Margaret Bowes: The response from the Planning Board's attorney only addressed the flood plan. That's not the point we wanted to make. Did they understand when the zoning was changed that the only buildable section of it was in our back yard?. He did not answer that. He simply talked about, oh well, the flood plain was changed, maybe before, maybe after. I think the point that we wanted to make was when the zoning was changed it never could have been down there. Did you understand it had to be up on what we consider the buffer between that field and our home?

Mayor Newhard: I will go back to him and I will...

Margaret Bowes: Could you feel that he answered that?

Mayor Newhard: I think it was very legal-ese in my book.

Erik Loberg: I live on Welling. I've been feeding candy to many kids now for years.

Mayor Newhard: We always wanted to make a contribution...

Erik Loberg: I can say that we have a lot of kids on Welling Avenue and Campbell and Oakland Court; many small kids. I went to high school in this town and we used to ride our bikes all through this neighborhood. My biggest concern as the father of two young children is the traffic that is most likely going to be routed from the bar through Welling and up Campbell. I know if I'm leaving the bar at 12:30, which I would never do, I'm not driving straight through the Village of Warwick. That's my biggest concern is traffic. I'm hoping there is some consideration for speed bumps or some type of method to address speeding through here especially after a night of drinking. Currently we're dealing with it now with all the dump trucks coming back from the chlorine plant back here.

Rachel Berlin: Just to continue that we already have on Van Buren people leaving the bars, parking on Van Buren Street trying to avoid the cops and they park there and then they walk to their car and think they can somehow sneak out. I've heard it 2 o'clock in the morning the other day, people fighting on Van Buren Street. I have to work the next morning and my son had school the next day and I could clearly hear the fighting from a

couple who most likely were coming from a bar, I don't know, it wasn't any of my neighbors. There are already so many bars and risks to the children and I just would hate for it to be after the fact. We already had that problem. We've had accidents at the stop sign where tragically kids were killed and it wasn't until after they all died that a light was put there. I would hate to see an accident happen and then you say why did we put in another bar?

Gene Bowen: I've been in the music business for 35 years and attending the Planning Board meeting recently the discussion came up about speakers where the Planning Board Chair, George is his name, said I won't hear them at my house down on West Street. It became very clear to me... I'm in live music. I deal with unions in New York City. I deal with residents and concerts and such. I'm constantly dealing with noise pollution and as far as noise levels in terms of areas and it was very clear to me that the applicant based on his description of speakers he's going to put on the outside, really he owns a restaurant. He knows nothing about sound. What I'm willing to do at my cost is to bring professionals in and do a study based on the ordinance that the town has and submit it to you and to the Planning Board so we can really look at as far as sound and carrying sound... what that really means. Clearly by his description of what they were going to do and the technology that exists today, we're all going to hear his music, very easily, very clearly and I think that there's tremendous negligence in not really addressing that issue in terms of looking at it and I'm willing to bring those professionals in to look at it so it can be presented. To the point about the activity of drinking in the area, about a month ago my son and I had come back from New York City and it was about 1 o'clock in the morning. I was stopped on West Street by State Troopers. When I asked why were two State Troopers pulling me over they said we have reason in this area to be pulling people over and of course the first question is have you had a drink or are you coming from one of the neighborhood bars? I said I haven't had a drink in 25 years. What is the reason that two State Troopers that you guys have... your business is really to watch the street and they said we have good reason to be watching and we're interested to see if you've been drinking or if you're coming from one of those bars. Clearly without saying it they were watching the activity on that street.

Patrick Gallagher: Will this Village Board consider a new law so that the public comment that we are free to have here is available to us at the Planning Board where we're currently locked out?

Mayor Newhard: Again that was one of the questions that Eileen brought to us and again Barry got a call on the radio, I got word of that meeting that day and I had a scheduled meeting with many people in this room that night. I'll gladly go back out and I more than welcome the rest of my Board to do it as well. The question was does the Planning Board have the option to allow public comment before the SEQRA process is finalized.

Patrick Gallagher: Not does the Planning Board have the option, they do. The question is will this Board...

Mayor Newhard: Excuse me, let me finish that. The process now only allows for public comment for the site plan review and as we know these folks have some questions about traffic, environmental, archeological issues relative to this project. I'd like to suggest that the residents be permitted to be heard. I have no idea what the results of that input will be but I'd like to believe we can give them the right to at least be heard.

Trustee Cheney: That was Trustee Patterson's request to Mr. Dickover.

Mayor Newhard: His response to that was if this project receives a positive declaration during the SEQRA review the Planning Board can and probably will require a draft DEIS. When it is completed the public will have a minimum of 30 days to comment. The Board will also determine whether to conduct a public hearing on the DEIS. If there is a public hearing on the DEIS it can but does not have to be conducted at the same time as the public hearing on the site plan application. The Planning Board will make that determination. If the project does not receive a positive declaration the only public hearing during which public comment may be received will be at the public hearing on the site plan application. If during that hearing new information comes to the Board which was not considered by the Board during its SEQRA determination the Board can re-open the SEQRA review process to take the new or added information into account and if warranted change its environmental determination. Barry do you want to comment?

Trustee Cheney: I think the only thing that I'd add to this is absent a public hearing occurring you have every opportunity to put written information into the Planning Board that they cannot ignore. They have to consider that written information.

Pat Gallagher: Personally and I enjoy this, I spent I swear the entire day writing three pages. Not everyone is comfortable putting their thoughts on paper and not everyone can make them clear. It's very difficult. It's very unlikely and none of that answers directly and this is the problem that we have had all along, nothing is being said to us in direct clear language the question is will this Board write a new law in the Village which is well within your purview telling the Planning Board that they are required to hear public comment ahead of the process. It is not something that isn't done in many other communities. It is something that is done and it is simply and I'm not expecting you to answer it tonight but I would like an answer, a yes or a no.

Trustee Patterson: I want to answer it tonight because the conversation... I just want to respond because at the meeting it was not agreed that... I made it very clear at the meeting that we could not make any changes to any laws... it was my impression that we

could not make any changes to any laws that have an impact on an already existing application. Any changes to the laws that we would make would be for future applications so that didn't necessarily...

Patrick Gallagher: Our lawyer disagreed.

Trustee Patterson: The question that we agreed that I was going to bring back to the Board was does the Planning Board have the option to change the public comment to before SEQRA and the response in English as best I can gather from Mr. Dickover's response is the public comment still comes after SEQRA but if during the public comment which comes after SEQRA there is an issue that is raised the Planning Board has the option to reopen SEQRA and reanalyze whatever information you bring forward and I think that's a good answer.

Patrick Gallagher: It's a good answer to a question that I didn't ask. The question that I did ask is will this Village Board and I won't argue it to death with you guys but I'm not getting an answer... the answer that we are looking for is will this Village Board consider and implement if they are able after discussion with legal counsel and consideration of the people in the room here... will you consider writing a new law. I don't think that the words writing a new law are as difficult as most people perceive them to be. I think that it's relatively straight forward process and that you could do it if you were willing and if you would examine the information. That's all I'm asking, a yes or a no.

(voices talking over each other)

Patrick Gallagher: It's not a new question though. It's the question that was asked there. It's the question that we ask now. It's the question that remains unanswered and we do appreciate your coming.

Trustee Patterson: Again I said before I left we have two questions; one is can the Planning Board...

Patrick Gallagher: Kind of beside the point. I appreciate what you're saying but it's kind of beside the point.

Mayor Newhard: This is actually from Steve Gaba who is our attorney and I spoke with Bob Dickover this morning regarding the Planning Board's procedure. Bob points out to me quite correctly that the appellate division has held in Kitteridge vs Planning Board of Town of Liberty that the SEQRA regulations require that a public hearing on a Planning Board application must be held after lead agency has completed its initial review pursuant to SEQRA.

Patrick Gallagher: What is initial review?

(voices talking over each other)

Mayor Newhard: Since the public hearing on application to the Planning Board is not held until after SEQRA is complete the public won't get to speak on the Yesterday's application until after SEQRA review is completed. Bob does acknowledge that if the public comment received at the public hearing raises some issues or presents some facts that were not previously considered than the Planning Board would reopen SEQRA review to address the issues or new facts and in fact he said that it has happened in the past in the Village of Warwick.

Patrick Gallagher: It all comes back to uncertainly on the part of the Village Board and what we would like is an open discussion in which we are included as a group with the Village Board as a group after the Village Board has seen the situation that's kind of beside the point. We would like as a group to be addressing the Village Board and have are legal representation talking to your legal representation in an effort to come to an absolute certainty of what is and is not allowed by New York State law in these circumstances not someone's random interpretation or lack of knowledge on the subject, no disrespect meant.

Mayor Newhard: Random is our legal counsel?

Patrick Gallagher: Well your legal counsel doesn't answer the question. You are not certain nor is Barry, that's what I'm saying.

Dave Smith: The statement that you just read from your lawyer said after initial review it didn't say before or after determination. All we're asking for is before determination.

Patrick Gallagher: What is initial review?

Dave Smith: I think we can still expect to be heard before determination.

Trustee Patterson: Do you understand that being heard before the final site plan approval is sufficient because if you raise an issue that...

Dave Smith: With all due respect I don't know that we all feel comfortable that the Planning Board will be open to hearing our...

Patrick Gallagher: Our legal counsel advises us otherwise. So in the same way that you choose and wisely should follow your legal counsel, we do the same thing. Do we as the neighborhood as the citizens, do we have the same legal standing as this Board? If you

can listen to your attorney can we listen to ours and can we come together and discuss it prior to a decision being made on something that's arbitrary and the language and the response from the lawyer... no one knows what does the initial review mean? Nobody knows what that means. We need to find out.

Mayor Newhard: We can find out and clarify it.

Patrick Gallagher: That would be fabulous. Thank you.

Gedge Driscoll: I believe at the last Planning Board meeting we asked if there could be public comment not just a public hearing and we were told no. Then somebody asked the lawyer and we said is that the law or is that at their discretion and he said it was at their discretion. Is there anything that we can do about that?

Mayor Newhard: Sure and I think that this Board would be more than willing to ask that Board to be more open and to have that public hearing.

David Dworkin: I'm listening to all of this and I'm thinking that we bring arguments to the highest court in the nation. Nine judges make a decision, their decision based on legalities. They write an opinion on the legalities and there's another word moralities that I'm sure comes into play when they look at the law and I think this is what everyone should be considering re this proposal.

Lawrence Polsky: I live on McEwen Street across the street from the wine bar. I'm here to say for the record that what this gentleman said is really the point of fact of the issue is that there is a trust issue based on past experience. I can tell you the process is broken. It doesn't work. All along through the process we were told the Board can't do anything. We had the public hearing which had limited to no impact. We had to file charges against the bar which went to court. It was ruled against them. They had to pay and guess what? Nothing's changed. So we're now left with on a weekly basis people driving the wrong way up our street. There are eight children on our street, two of which are in my house. There is noise problems. It is our burden now to call the police and to your point Mr. Mayor, I have to disagree about not getting to choose our neighbors in a democracy. If there is a drug dealer living next to you the police come and in fact there are drug dealers right around that neighborhood. There's a place where you can buy pot right...

Mayor Newhard: That's not what I was referring to.

Lawrence Polsky: You're saying you can't choose your neighbors and what we're saying is we can see ahead what's happening based on past experience and it's nothing personal again the owners who are nice people but the business impact we can see it and we know it and as a neighborhood these people, it doesn't affect me as much, but they should have

the opportunity to have an input on that choice on who is their neighbor based on a projected impact otherwise they're going to be left like us up late at night. Do I want to call the police again? I want to just go to sleep. Do I know have to spend my energy calling the police and writing stuff down and trying to go back to court? Who needs that? We have lives to live and this is not the life that I'm sure you want to live.

Glen Carter: It would seem to me that the crux of the matter is something on the order of who gets to decide what is significant? What is significant information and I would claim as a member of the citizenry of Warwick that my own ability to use my mind to determine what is significant in this matter resides in the public and not in the hands of the lawyers of the Planning Board. I'd really think that it's up to everybody to decide for themselves what their motivations for wanting or not wanting the proposed property be built. I don't need to be represented into the public domain by the lawyers of the Planning Board. I can stand here and tell you I'm confident that my belief is that my own assessment of what's going on should supersede because this building that's being built literally about 25 feet from my kitchen window.

Renelle Lorrain: (inaudible)... I am a firm believer in life, liberty and the pursuit of happiness as long as it doesn't interfere with anyone else's right to happiness. I just came from living in an apartment building in the city for 45 years and if there was a tenant who made too much noise and there were enough complaints made he could be evicted. Now you're proposing something that the commercial business... there are different types of commercial businesses, most of them like the establishments on the main street here close at 5 or 6 o'clock. They go home to their families and enjoy their quiet home and do whatever they want. The carwash even closes at 5 or 6 o'clock and they go home to their families. The cars that used to be parked in the proposed building site didn't make any noise unless one had to be started because someone was going to buy it. Now for example you have a neighbor 50 feet away from your house on either side and he throws a party on Memorial Day. He's got 30 people there and of course they have a few beers, having a great time, you hear bursts of laughter and commotion and maybe somebody will have an argument but you forgive it because it's your neighbor and it's once a year or maybe twice a year. But now your neighbor decides to invite 200 people over at a time when you get home from work and want to enjoy your quiet habitation and he's going to have 200 people there every night for the entire year until 1 o'clock in the morning. So what are you supposed to do? Shut your windows to enjoy your quiet evening with your family as you watch TV or whatever you're going to do. That's an invasion of your right to happiness. Had they considered buying the lot next to the bowling alley and you would have free entertainment via Pennings, just the noise and the motorcycles riding up. I have somebody who thinks Cherry Street is a drag strip and it's so loud and any traffic that's leaving the bar, starting their cars. I feel bad for these people and I live on Grand Street. You have to consider their rights and (inaudible)... There should be different types of

commercial laws because the restaurants start business at 5 and people want to come home and enjoy their quietness.

Dave Smith: One other comment I wanted to make. I want to take issue with another statement you said one of our most valuable assets is the property values. I would argue that one of our most valuable assets is our quality of life. Property values, I understand the argument that we want to increase the property values in the community by bringing more rateables in by making a more enjoyable neighborhood but quality of life is so much more important.

Mayor Newhard: I have to agree with you. I was more so making a statement about how it is a very important piece of our personal economy.

Gene Bowen: I just want to make one point to illustrate the situation between the Planning Board and us. We hired someone who used to be on the Board to look at environmental and look at a lot of issues which were submitted to the Planning Board. He was then given a bill. He was told to pay a bill because the Planning Board in order to review his letter which we paid for the study to be done, that a bill was issued which I understand from someone on the Board, the individuals on the Planning Board submitted or requested that this bill be paid and we were told that that's not allowed, that's illegal. Enough there and from our own experience from going to the Planning Board the other night when we asked them can we please be heard and there was silence. There was absolute silence. The lawyer said that's something that we can consider. Again there was dead silence because now the door was open and they sat there in silence because no one could speak, no one could acknowledge until one Board member said I'm in disagreement with this and then of course the rest of them folded with that and that was the end of it. So clearly in terms of any level of trust we have no trust and even in trying to speak to them calmly afterwards they dismissed and it just seems that in a community and a country that was so divided and a community that we're promoted that we are neighbors that sort of behavior where we stand behind laws and we escape through laws seems to be very apparent what's going on and our frustration is that we feel that this deal is sewed up. This deal is certainly sewed up. A lot of money's been put down by the applicant. Listen my kid eats at that restaurant and loves the hamburgers. But clearly there's a lack of common sense because I think if I was proposing as I sat in front of the Planning Board that I want to put an addition on my house for my 87 year old mother and we went through all that, that had I wanted to build something ridiculously large someone would have said Gene, have some common sense as you're really having an impact on Gedge, your neighbor with that. There really seems to be when you have a number of people coming and I think that's part of the problem is communication, a number of people have actually come and stand in the backyards and see where this building will be built shake their heads and just say common sense, this isn't right. It's not esthetically, for all the reasons that it's too close. It impacts the neighborhood in such a way. But it

just seems that from the Planning Board and that's where our level of distrust is they're hiding behind legal. They're hiding behind laws. They're hiding behind checks and balances and we're afraid that this thing is just going to get shimmied through because in the end we can submit anything we want and all the studies and clearly a study that we submitted had a lot of valid points to it and it came from someone who sat on the Board and it had a lot of historical information and yet that information was told... again a bill had to be paid in order for them to review this. What message is that and then we wonder in the end we are actually going to have a voice that this thing will be sewed up and done and they won't even consider any other studies or any other impact.

Unidentified Woman: ...and that wasn't even legal but that really makes us disgusted because they said here's a bill and that's not legal and they should have never done it. Why would we trust a Board that's telling us something that's illegal? They're not even trusting the laws that the lawyers are saying because they want to bill us for something they shouldn't be billing us for so I don't have faith in the Planning Board and they were extremely condescending and that is unacceptable.

Joe Nachtigal: I have a feeling that if the members of the Planning Board were neighbors and adjacent to this property there's not a chance that this would happen.

Debbie Bianco: You said that letters would make a huge impact. What about a petition? People aren't letter writers just like Patrick said.

Mayor Newhard: A petition would be great. Everything that you can do, I think what Gene was speaking about a study in terms of noise, that is applicable. I think anything that you want to bring to that Board's attention that will have an effect on the environment is applicable and it should be put before them. We have said that from the very beginning and we continue to say that and that is your voice and that is your power and I believe it should make a change. Now will it stop it? I can't say that, but at least there is lots to mitigate and lots that can be decided to make it a better project and a better environment.

Debbie Bianco: When's the final decision being made? How long do we have?

Mayor Newhard: It takes months.

Debbie Bianco: They've signed a contract already.

Mayor Newhard: But that doesn't mean anything. A contract is a real estate contract and it's conditional upon approval. Approvals take a long time because there are so many details that have to be looked at.

Gene Bowen: Michael you just said a little while ago that the consideration of solar can't happen because it's under contract.

Mayor Newhard: Well, that's true. How can I consider solar...

Gene Bowen: But you just said here under contract doesn't mean it's a done deal.

Mayor Newhard: That's right but it's under contract from a real estate standpoint. I can't interfere with a contract.

Gene Bowen: I'm not asking you to interfere I'm asking if there could be feasible alternatives that the owner of the property might even consider.

Mayor Newhard: I don't know. I really don't know the answer to that.

David Dworkin: We are all neighbors and there are people here from out of the neighborhood which is great but this decision if it comes to be will affect the Village not just us and I think everybody in the neighborhood I would think because I've spoken to so many feel the same way. Warwick is special, right? We all agree to that. But it affects everything that goes forward with the Village.

Susan Graf: I'm sorry, I just want to go back to what I was talking about before, the wording of the response of that lawyer, and I'm not even sure what he said. So, I guess what I want to ask is if at the time that that zoning was created it was not understood how you would be limited in placing a business on that property, does the Board have the power to revisit that and in retrospect adjust the zoning?

Trustee Patterson: I agree with you. I don't think that was a clear answer from the attorney on that and I would just like to reserve our answer until I've had an opportunity and I'm sure the rest of the Board would agree, for us to explore that a little bit more because the new zoning document was adopted in February of 2009 and I believe that the 100 flood map was changed after that but I'm not positive about that. I don't think the attorney understood my question. I think it was to the rest of the Board to decide, first of all let's clarify when we got the new 100 year flood map and then if we find out that it was after 2009, the spirit of the way that we wrote the zoning document... because we went through this with a fine tooth comb, all of us who were on the Board at the time. If we could put our heads back to where we were then would we have paid particular attention to this property based on any changes that the 100 year flood map would have had on this property. And if so, if we would have changed the way we zoned that property, is there anything that we would or can do. I hope that in the twisted way that I just answered that question I haven't actually answered the question because I don't have

an opinion about it. I'm just saying that I would like us to be able to research and get more information and find out...

Susan Graf: That's all I'm asking that that is not a closed door there based on that silly response from that lawyer. I would really like to know is there something practical that can be done in retrospect looking at where the flood plain is or isn't now and where the placement of this building will be, exactly what you said. Would you have made that decision then to zone it the way you did and I don't believe you would have.

Trustee Patterson: Again, I don't want to answer that. I also believe that the attorney in his answer, and I'm not an attorney, I believe the attorney left it open for the Planning Board to respond to that if the flood map changed after the fact, maybe it's now on the Planning Board to change that. On the other hand that could be why the building is sitting up as high as it is to avoid the flood plain. It's not an out. It's just something that I personally would like to find out more about. Just on the other thing I really feel there's still an opportunity to be heard after SEQRA is finished with whatever environmental reports, archeological reports, traffic studies, whatever it is, very clearly the attorney gave you an opening and the answer to that question to say they can revisit it. It's just that you'll talk about after the SEQRA declaration has been made.

Patrick Gallagher: I'd like to go back to the question and have very clear understanding for all of us of what the Village Board... let's define Village Board/Planning Board, what the Village Board is capable of and what the Planning Board is responsible for. The Village Board can make decisions that impact the Planning Board. It is not as if you are held hostage by the Planning Board. You have quite a bit of leeway and quite a bit of ability to change the course of this project or change the course of how this project is commented upon and I still do not hear and again I don't expect an answer tonight you have to consult as we do, but I don't hear a direct response to the direct question of will the Village write a law insisting that the Planning Board hear our comments before a declaration is developed. That's the question. That is the most important question to me in the room. There are very many other important questions but a lot of things hinge on that.

Carrie Bowen: This is the second time I'm dealing with Planning Board stuff. After the fact the detour was established from down where Jones Chemical up Campbell Road we were told that it was decided. I'm hearing about this Planning Board and it's on us to demonstrate traffic stuff. It's on us to pay for stuff. I thought the Planning Board was part of the Village government and the Village government is responsible for our needs. I'm a little confused who is this Planning Board? I looked on the website. I saw no information on their names or how one becomes on the Planning Board. Who are these people and why are they not... if they are our neighbors aside from the guy who doesn't care because he's not going to hear the noise anyway. This is our neighbors? This is representing our

neighborhood? Our Warwick? Like, why? I think we all deserve a better explanation as to what role they serve in regards to (inaudible)... because right now I don't. This is the second time where it feels like we're fighting against the Planning Board and guess what? It's a done deal. If anything they should be in our corner. (inaudible) Jones Chemical, Yesterdays, okay, that's great and I want business to thrive too. What about residents? There's no trust.

Glen Carter: Having a hearing after the fact, it seems to me that that's just like them... they have an obligation to us to at least provide a question and answer period, to appear that they are genuinely concerned. But I do not believe that they are actually hearing us. All they are saying is go ahead, allocate to your heart's content but they're like this. They don't have to listen. They have no obligation to listen or to respond directly to our concerns and that's why I think the tables need to be turned. The hearing should be happening before all of the assessments of whether or not there is pollution underground. Is there radon in the ground? Is there 100 years of railroad waste under there? Who knows what they're going to find there. They need to know as soon as possible in a timely fashion and not just toss a bone our way as if they're going to pretend to be listening to us.

Unidentified Woman: I was wondering why it is our responsibility to pay for the studies? We pay taxes. I can't even afford to pay for all these studies and this lawyer. I can't to be honest. But I don't know what to do. But why is that our responsibility. Why is that not the Board's responsibility? Why did they say I don't think we need a traffic study and then I'm like but I live there. I know what the traffic's like. So why do I have to pay for the traffic study? I can't afford it. I can't afford all these expenses.

Mayor Newhard: You can demand that a greater traffic study be done. You have to continue to make that demand. It definitely is the squeaky wheel.

(voices talking over each other)

Gene Bowen: We need help and when we said to the Board at their last meeting that basically unless we lawyer up we don't have a chance and they sat back. We're asking for help. I'm standing here. Obviously there are a lot of people. We're not a few. We're a fairly big number but we're asking you to help us. We're asking you to communicate with the people who will not allow us to communicate with them.

Mayor Newhard: I clearly understand that.

Gene Bowen: I'm glad you understand that. I'm asking you what action is going to be taken? That's what we're asking.

Mayor Newhard: I have to speak to my legal counsel as well. I think it was said very loud and clear. I already said that I would make that expression to the Planning Board. I did say that earlier on. But there is something beyond that. There's something else that you want and I have to find out if that's legal.

Gene Bowen: How will we find out from you? How do we create a communication between us with you?

Mayor Newhard: I think I can communicate to Mr. Gallagher.

Patrick Gallagher: Well if Barry is the Planning Board liaison let's open lines of communication between Barry and myself and others because this is not simply my cranky letter writing voice trying to sway the Board. This is all of these people in the room. Let's all talk. Let's form some sort of group of concerned people and speak to the liaison from the Planning Board and ask you to speak to your Board in an effort to pass the law that allows comment prior to a SEQRA declaration.

Unidentified Man: We're asking that things be done differently, not the same old way. We want to lead the way and do it differently instead of just following the rules.

Mayor Newhard: You're also asking this Board to change a rule that is mid-stream a process.

Patrick Gallagher: We're just asking you to find out if that's legal.

Mayor Newhard: That's right. That's exactly what we will do.

Unidentified Woman: Right now what we'd like is to feel that our Boards care about us, the tax paying homeowners of this Village and we're not getting that.

Unidentified Man: What is the liability to the Board if an idea is tabled and clearly the applicant is gone down the road, he's spent a lot of money getting to this point and it's determined that this isn't a good idea. What is the liability? Because I have a very sneaky suspicion that I've heard that a comment was made from the Planning Board that we've been sued once and we're not getting sued again. I want to ask you what is the liability having gone down this road and where things are that the town or whoever could potentially be sued.

Mayor Newhard: That would be absolutely the question I would ask our legal counsel.

Unidentified Man: That really is what hinges on you guys getting behind...

Mayor Newhard: It's not just being sued, it's whether it's a realistic expectation that it would win in court. You look at the end game when you say do I have enough reason and will this work. That's part of the question.

Patrick Gallagher: Right now it appears as if the applicant that the Planning Board defers to the applicant's attorney and if the Planning Board defers to the applicant's attorney and the applicant's attorney says hey I'm John Capella and we're going to sue your pants off. George made the statement that I was sued in 19 God knows when. He's on the Board 40 years... for a million dollars and that's never going to happen again. It's time for George to retire when his term expires in April.

Rudy Messina: I've got a simple question. How do you get rid of the Planning Board? Seriously, I'd like the question answered.

Mayor Newhard: I don't think you want to get rid of the Planning Board and a Planning Board. It's a very important function. We have this remarkable Village. We all can say that. Part of the reason we do is because of our Planning Board. These are men and women... mostly men, yes, all men, who give their time, their energy. They go to classes. It's not like they just show up. They have a great deal of interest in their community, how it develops and how neighborhoods develop. It's a very complex and important process. In any community planning is necessary.

Unidentified Woman: Did you mean getting rid of this Planning Board or a Planning Board altogether?

(voices talking over each other)

Mayor Newhard: Well, that's important to volunteer to be part of a process to be part of a change. Anyone here who wants to be part of our Planning Board... write the letter and when a position opens up...

Joe Nachtigal: I have a good feeling about this Board; that this Board is listening to us, listening to our needs and listening with an open mind. I thank you all for your time. I'd like to feel the same way about the Planning Board.

Ed Sattler: It strikes me that there's a certain irony that the project being considered now is to be built in what was the buffer zone required by a previous Planning Board.

Mayor Newhard: I'm not aware of that.

Ed Sattler: When the parking lot was put in place and Patrick help me out...

Patrick Gallagher: 1990 EAF... I don't think it was required by the Planning Board. I think that it was in direct response to the entire community's resistance to the placement of the parking down there and that Silvio Petrucci wisely chose not to fight that battle and gave up that space. However, I'll let you continue Ed but many things on that 1990 EAF find directly in the face of what's going on now.

Ed Sattler: It has defacto been a buffer zone.

Mayor Newhard: Understood and I understand quite clearly and how it's existed and how it's interpreted and felt by the neighborhood, absolutely.

Trustee McManus: We got information tonight from Mr. Gallagher differing opinions from Hyde Park and other places which allow things which is different than what our attorneys say, so can we just agree that we're going to sit down with the attorney and get all that straightened out and done and move on because we have a meeting to go to and Bill and I get up early to drive school buses.

Lawrence Polsky: Does the Village have any concerns with that crumbling cement bridge that goes over the creek alongside this property and the increased traffic that we'll be having?

Mayor Newhard: That's all part of it. It's all part of what use it will be. It's not a Village bridge. It's a County bridge.

(voices talking over each other)

### **Motions**

#### **Warwick Grove Streets**

Motion was withdrawn.

#### **S.E.M. Security Systems**

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson to authorize the Mayor to sign the service agreement with S.E.M. Security Systems for the Bosch camera system in the amount of \$2,004.00. Five Nays

### **Discussion**

Mayor Newhard: I have a question. My question is really more about not the cost but the liability of someone other than a Village employee getting into our bucket truck and doing work.

Trustee Lindberg: Barry and I had a discussion on that and we're going to talk to John Sanford.

Mayor Newhard: I don't think we can move on this then.

### **Warwick Assembly of God Kids Ministries Celebration Day**

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Cheney to grant permission to Warwick Assembly of God to use Veterans Memorial Park on June 14, 2017 from 6-8 p.m. for a Kids Ministries Celebration Day. Completed park permit, security deposit and proof of proper insurance have been received – AMENDED

### **Discussion**

Trustee Patterson: Can we just confirm that they are not going to have bouncy houses there? I thought we were going to have some kind of language about how we are not comfortable with bouncy houses.

Trustee Lindberg: I certainly will. I have a call in to him anyway. It's in the pavilion and I don't know if he knows there's tables and chairs up there already.

Mayor Newhard: It's not in our Local Law but we can make that motion. We can put it as part of the motion.

Trustee Patterson: But if they had given us that detail on the permit we would have specifically denied that part of it.

A **MOTION** was made by Trustee Patterson, seconded by Trustee Lindberg and carried to grant permission to Warwick Assembly of God to use Veterans Memorial Park on June 14, 2017 from 6-8 p.m. for a Kids Ministries Celebration Day pending confirmation that they are not going to be having bounce houses at the event. Completed park permit, security deposit and proof of proper insurance have been received. Five Ayes.

### **Summer Concert Series**

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to approve the Village of Warwick 2017 Summer Concert Series on Railroad Green on the following dates: Saturday, June 10<sup>th</sup> at 7:30 p.m.; Saturday, June 17<sup>th</sup> at 7:30 p.m.;

Wednesday, June 28<sup>th</sup> at 7 p.m.; Saturday, July 1<sup>st</sup> at 7:30 p.m.; Monday, July 3<sup>rd</sup> at 7 p.m.; Saturday, July 15<sup>th</sup> at 7:30 p.m.; Wednesday, July 19<sup>th</sup> at 7:30 p.m.; Saturday, July 22<sup>nd</sup> at 7:30 p.m.; Saturday, July 29<sup>th</sup> at 7 p.m.; Wednesday, August 9<sup>th</sup> at 7:30 p.m.; Wednesday, August 16<sup>th</sup> at 7:30 p.m.; Friday, August 19<sup>th</sup> at 7:30 p.m.; Saturday, September 2<sup>nd</sup> at 7:30 p.m.; Saturday, September 9<sup>th</sup> at 6 p.m.; Saturday, September 16<sup>th</sup> at 6 p.m. Five Ayes.

A **MOTION** was made by Trustee Patterson, seconded by Trustee Lindberg and carried to close Railroad Avenue and block off six parking spaces on the north side of Railroad Avenue and five parking spaces on the south side of Railroad Avenue on the previously mentioned dates starting three hours before the start time of each concert and remain closed until one hour after the event. Five Ayes.

### **Warwick Community Bandwagon Pride Parade**

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to close the roads shown on the attached map on June 11, 2017 from 1:30 p.m. to 2:30 p.m. for the benefit of the Warwick Community Bandwagon's Pride Parade. Proof of proper insurance has been received. Five Ayes.

### **Discussion**

Mayor Newhard: Have you talked to Lt. Radar?

Annie Colona: Yes. I personally spoke to him. He sent me a text as well and he said it's all good. He will make it happen.

Trustee Patterson: Do you want to say now that different organizations and businesses in town are encouraged and invited to attend?

Annie Colona: They are invited to attend and walk in the parade. They also can have information tables... no solicitation or fundraising but they can have information tables the day of the event. We're opening at 12 o'clock at the Community Center with pre-parade activities and we're going to do tee shirts and after that you will be able to be in a style contest after the parade and there will be prizes awarded. Yes, it's open to the public. It's free and I hope to see a lot of people there.

### **Memorandum of Agreement – Teamsters**

A **MOTION** was made by Trustee Lindberg, seconded by Trustee McManus and carried to authorize the Mayor to sign the Memorandum of Agreement by and between the Village of Warwick on behalf of the Village of Warwick DPW with Local Union No. 445

International Brotherhood of Teamsters for the five year period June 1, 2017 through May 31, 2022. Five Ayes.

**Community 2000**

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to authorize the Mayor to sign the agreement between Community 2000 and the Village of Warwick. Five Ayes.

**Discussion**

Mayor Newhard: Just for the public to understand what that is... we have received a grant to do visioning and that is going to happen and we are going to be re-looking at our Comprehensive Master Plan which is a good thing. It's something we always want to update. Community 2000 did this process with the Town many, many years ago and it was very successful. Out of that came the development of the Farmer's Market, protection of farm land... the list is long and they're all checked off. That was a very exciting and interesting time. In the meantime the Village has done its own visioning and is going to do it again, but this time we're coordinating it with the Town and the two other Villages. It will be a Town wide visioning and also have parts of it that will be specific to each Village which is very important. I'm very excited about it and Community 2000 has taken the lead in doing this. They're going to be volunteering and helping it happen. Just for the public to know we'll hear more about it in the fall or actually as it unfolds. I think it's going to be great for the Village.

**Pedestrian Walk Audit Training**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to authorize Michael Moser and Daniel Palaj to attend Pedestrian Walk Audit Training provided by the Orange County Citizens Foundation on June 8, 2017 from 12 to 4 p.m. There is no attendee cost for this training. The vehicle assigned to the DPW Supervisor will be used for transportation. Five Ayes.

**Tom Mance Property Maintenance**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to accept the proposal from Tom Mance Property Maintenance in the amount of \$18,500.00 for the replacement of the roof on the Belt Press building as per the recommendation of the DPW Supervisor. Five Ayes.

**Zone Change 4 Overlook**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson and carried to have the Village Attorney prepare a draft local law relative to the request for a zone change at 4 Overlook along with a SEQRA EAF pending the petitioner creating an escrow account with the Village to reimburse the Village for its costs in considering and acting on the petition in the amount of \$1,000.00 and pending notification from the Building Inspector that all open issues between him and the applicant are satisfied relative to 2 Overlook and 4 Overlook. Five Ayes.

**Village Code Chapter 145 – Zoning**

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to adopt a Local Law to amend Village Code Chapter 145 titled Zoning to change the zoning designation of certain real property located at 41 South Street in the Village of Warwick from Limited Office Overlay to Central Business.

Section 1: Purpose: The purpose of this local law is to amend the Village’s Zoning Code to change the zoning designation of certain real property located at 41 South Street in the Village of Warwick from Limited Office Overlay to Central Business as requested upon petition by the property owner and recommended by the Village Planning Board, such change being consistent with the Village’s Comprehensive Plan.

Section 2: Amendment of Code: Village Code section 141-21 Zoning Map is hereby amended by revising upon the Village’s zoning map the zoning designation of the real property located at 41 South Street, Warwick, New York 10990 and identified on the tax map as section 211 block 10 lot 19 from Limited Overlay to Central Business district.

Section 4: Effective Date: This local law shall become effective upon filing with the Secretary of the State of New York subsequent to having been duly adopted by the Village.

Roll Call Vote:

Trustee Cheney – Aye

Trustee Lindberg – Aye

Mayor Newhard – Aye

Trustee Patterson – Nay

Trustee McManus – Aye

**DPW Supervisor’s Report**

Michael Moser: Most of our time and efforts have been concentrated on spring clean-up which is now complete. We’re waiting for a final tally on the dumpsters. It took a little bit longer than expected but the crew did a great job. The other project that we’re involved is the Stanley Deming brick paver project. It’s coming along nicely. Those guys are really working hard on that. It’s going to look great when it’s completed. The only other things we managed to accomplish; we filled some potholes, we had the sweeper

out, we repaired catch basins. I met with the guys who are going to reclaim and any paving that we're planning on doing. The milling of South Street may begin this month. I'll tell you as we get a little closer but we're looking at the end of June. All the Digsafe requests were completed. The brush pile is open. The compost bins are filled. Flower baskets are up. Parking meters are done. We helped the Gardeners club. We're mowing lawns and we're putting up the flower pots tomorrow.

Trustee McManus: How much less garbage did we pick up for spring clean-up?

Michael Moser: I honestly think there wasn't any less garbage put out. We seem to have found a lot more. I will get you a final tally on dumpsters. I'm looking at that in the next couple days. I think we had more; at least more than we had last year.

Trustee Patterson: I would like us to potentially think about including language in next year's announcement about spring pick up about not only listing what is not permitted but saying that if something is included that's on the not permitted list, nothing from that property will be picked up. I don't think it should be on your guys to pick and choose and then people just leave televisions and refrigerators and construction debris there hoping that somebody is going to swing by and get it.

Michael Moser: I'd like to discuss also with you the size of what they can put out. We're having people put out excessive amounts of things. If I'm filling more than one dump truck at your house it seems to be a little bit more than standard clean up.

Trustee Patterson: There are some homes that you drive by and see the amount of stuff that they have out and the house would be spilling out windows if all of those things were actually in that house. The quantity is something to discuss but I really feel strongly about like George had pointed out that fence that was dangerous for people walking by and the DPW, refrigerators, TVs... if you could just put in your notes for next year to potentially say if anything is on the no pick up list, nothing gets picked up at that property. The rest of it I don't know how we would handle it.

Mayor Newhard: Sadly, we've had people call us in tears because someone has come in the middle of the night and put a load of tires on their property.

Trustee Patterson: Can I ask two other things? One is can we ask them to cut down the grass and it may have already happened at Seven Generations? They're leery of cutting that grass down so they don't cut the daffodils down but it can be cut now.

Mayor Newhard: Jimmy takes his cue from the Lewis Estate I think.

Trustee Patterson: Where are we with the new signs?

Michael Moser: Now that junk is cleaned up I can put guys on that. We're going to tie up all these loose ends.

Trustee Cheney: The Stanley Deming pavers... are we going to be done by the time the rec program is going to need those structures so that they can have proper coverage in the event of a thunder storm?

Michael Moser: I imagine the rec program starts after school is out and we should be out of there before then. I'm starting with dirt hopefully tomorrow and the next day leveling it off and Jason and those guys are going to tie that together at the same time.

Mayor Newhard: We're going to start reseeded actually this week.

Trustee Cheney: I'm just concerned that access is available to the pavilion area and gazebo for when the County comes to take a look and certify that the rec program...

Michael Moser: The only thing that we're going to do is the schools are having field days the next couple weeks. We're positioning the picnic tables closer to the bathrooms otherwise the whole park is open.

Mayor Newhard: They're doing an excellent job.

Trustee Lindberg: Just continue to reinforce those fences.

### **Final Comments from the Board**

Trustee Cheney: The 2016 Annual Water Quality Report is online on the Village website. If anyone desires a paper copy they can obtain one by contacting the Village DPW office at 845-986-2031 extension 110.

Mayor Newhard: I just want to remind people that are watching that at the Buckbee Center is an incredible exhibit of remembering our veterans and it will be up for two weeks until I think Flag Day. It's quite a remarkable exhibit. It is military uniforms from the revolutionary war to present and includes also the military uniforms of Jaimie Leonard who we lost in Afghanistan. It is just a remarkable, beautiful display and I want to thank the VFW in particular and the American Legion who took the role of putting this together and they also put the word out to the community and I can't tell you how many people gave wonderful donations and wonderful things to put on display. It's not just uniforms, it's also Bob Fletcher's art work and it's also some very personal things like family albums and you really get a sense of what happened in terms of the relationships of family members to these soldiers. It's a very beautiful and meaningful display. I urge everyone to see it. I also want to thank the Historical Society because they have

generously opened their doors for this to happen. It was a great idea but then for them to say you can have our space, our building, please make it happen. It was quite a joint effort.

Trustee Patterson: I was just going to say speaking of the veterans event that is lasting through Flag Day, I think that since the Sesquicentennial Committee has made this very specific point to pay homage to our veterans from Memorial Day through Flag Day, I'd like us to focus a little bit more on the display of American flags in the Village. I'm working with the Code Enforcement Inspector to make sure that any flags that are out 24 hours have lights on them, but I'd also like to extend to the homeowner... I obviously support your display of the American flag but if you choose to do it for 24 hours please make sure that there's appropriate lighting on it. I would like to ask that the clerks put something on the Facebook page or on our website describing what that should be. I know that our flag is lit from the lamps...

Trustee Cheney: It's a special light that shines on the building, like a yard light that shines on the building from across the street.

Trustee Patterson: I just want to make sure that we are... I thought it was supposed to shine up?

Trustee Cheney: Just as long as there's light.

Trustee Patterson: I also just wanted to revisit the issue that we had and the application that we had for the food truck festival. As I'm sure everybody knows the food truck festival was a tremendous success but I am very glad that we did our due diligence and made sure that we understood the scope of the event and realized it wouldn't fit. I'm so happy that they had a successful event but I also wanted to really just kudos to our office staff, Jo-Ann and Barb, who took the time to go back and research our rules and our laws and make sure that our due diligence was done. On the one hand I'm ecstatic for St. Stephen's but I'm also proud of us for doing the work that we did to make sure everything was covered.

Trustee Lindberg: Just a reminder that the Warwick Fire Department is having their bi-annual parade this Saturday. Step off is at 6 o'clock. It starts around the Park Avenue School and wanders from Park to South to Clinton to Linden down Oakland, down Main and makes a right on Forester and a left into Station 1 on Church Street.

Trustee Cheney: The reviewing stand is here in front of Village Hall.

Trustee Lindberg: Again, it steps off at 6 o'clock and will probably last 45 minutes or an hour. There's a concert on Railroad Green.

**Executive Session**

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to discuss the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. Five Ayes.

A **MOTION** was made by Trustee McManus, seconded by Trustee Cheney and carried to go back into the regular meeting. Five Ayes.

**Adjournment**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to adjourn the meeting. Five Ayes.

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Barbara Ranieri  
Deputy Clerk