

CHAIRMAN: GEORGE AULEN  
MEMBERS: WILLIAM OLSEN, JAMES PATTERSON, JESSE GALLO & RYAN  
DENERLEY  
Alternate: RAEY WEBSTER

VILLAGE OF WARWICK  
PLANNING BOARD MEETING  
DECEMBER 21, 2017

The monthly meeting of the Village of Warwick Planning Board was held on Thursday, December 21, 2017. Present were: George Aulen, Bill Olsen, Jim Patterson, Jesse Gallo, Ryan Denerley and Village Engineer, David Getz. Others present were: Larry Wolinsky, John McGloin, Kirk Rother, Robert Schmick, Jim Tomaselli and others.

A MOTION was made by Bill Olsen, seconded by Jim Patterson and carried to accept the minutes of the November 16, 2017 meeting, noting that there were two pages numbered 4 to be corrected. (4 Ayes) {1-Abstention – Jesse Gallo}

16 ELM STREET

SITE PLAN APPROVAL

16 ELM ST. LLC

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Mr. Aulen read a letter from the applicant's attorney, John Cappello from Jacobowitz & Gubits, LLP. The letter requested that the application be tabled until the January meeting to complete and analyze the results and also with regard to the comments and e-mails submitted to the Village Board by some concerned neighbors making claims that they were attempting to manipulate the schedule to appear during the holiday season in order to frustrate attendance. Mr. Aulen – We have also received a letter from Hudson Highlands and that letter will be discussed at the January meeting.

Mr. Wolinsky – We are requesting yet another extension. The bank is working very hard to try and move this property. It has had some significant interest. The bank has advised me that they are very close to receiving an offer. Per your attorney's memo regarding the zoning which has not changed as far as I know and there has not been any major change so then an extension would be appropriate. I also wanted to reemphasize to the Board is that one of the things we are trying to accomplish here is pushing the repair onto the development as opposed to the HOA which is really not in a financial position to handle it. So, we are asking for your indulgence for another extension so we can hopefully get this project into a developer's hand who can afford to do that.

Mr. Aulen – At the time we made the approval there was some staging that the applicant at that time agreed to so I would have your people take a look at that and make sure they are aware.

Mr. Wolinsky – Yes, everyone who has looked at this project has reviewed the plans and the Resolution.

Mr. Patterson – Is it correct that the Dam Permit expires on December 31, 2017?

Mr. Getz – I believe it is expired already.

Mr. Wolinsky – The Dam Permit has been long expired but the DEC has been willing to reinstate it.

Mr. Patterson – But I believe it is just until the end of this year.

Mr. Wolinsky – Yes so what would have to happen is they would either agree to extend and reinstate it or the developer would have to submit a new application and obtain the permit, which is unfortunate because it will cost more but they will be able to get a permit. The DEC wants this done at some point and time.

Mr. Olsen – You said something about the HOA and I have always understood it would be the developer...

Mr. Wolinsky – If the approvals expire and they are not renewed and because the dam is located on the property in Warwick Meadows, Warwick Meadows has the liability for the dam. So if all the approvals go away and the developers go away and the only thing left is the dam and the HOA, the DEC will look to the HOA to do the improvement, it has to.

Mr. Olsen – How can we be sure they are not stuck with this?

Mr. Wolinsky – The best way, unfortunately, is to extend the approval so the developer can do the dam work.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to extend the site plan approval until March 16, 2018.

Mr. Getz – The proposed boutique will be on the first floor of an existing 2 story building located near Kuiken Bros., it is in the Central Business zone and is not located in the Historic District. Earlier this year in July, the Board of Trustees rezoned this property, it used to be in the Limited Office Overlay and was rezoned into Central Business. Other than putting a sign out front I don't believe any other site work is proposed.

Mr. McGloin – That is correct.

Mr. Aulen – There is parking in the back?

Mr. McGloin – Yes, there is 3 spaces that exist.

Mr. Getz – Other than the boutique there other 2 apts. Do you know the bedroom count?

Mr. McGloin – I know that downstairs is split between 1 apt. and the boutique and then there is another apt. on the second floor. I believe they are 1 bedroom apts.

Mr. Getz – The tax lot should be correct on the vicinity map and application form and the plan should indicate which portion of the first floor is the boutique. Will they be using the front door as the entrance?

Mr. McGloin – Yes and I can indicate that it is the left side of the building toward Kuiken Bros., the building is an L shape.

Mr. Olsen – How much space?

Mr. McGloin – 400 sq.ft.

Mr. Getz – We would also like to see the Bulk Table expanded to show a column showing the proposed setbacks and requirements.

Mr. McGloin – They are all existing but I can do that, there are no changes.

Mr. Getz – Regarding parking, no spots are proposed for the business but the spots exist for the apts. but there is on-street parking along South St.

Mr. Aulen – We should know how many bedrooms exist for the parking.

Mr. Miller – There are two bedrooms, one in each apt.

Mr. Getz – Is there a proposed sign?

Secretary – There is a sign application in the file to be put on the next agenda.

Mr. McGloin – I know that the ARB has reviewed it.

Secretary – Yes, it was reviewed by the ARB.

Mr. Olsen – Has it been approved.

Secretary – Yes.

Mr. Getz – The floodplain from the creek extends onto the back of the property and the plan does show the flood elevation down near the barn so in my opinion a Flood Development Permit is not needed because they are working inside the building and all of those elevations are considerably higher than the flood plain elevations.

Mr. Aulen – Yes, there is nothing proposed in the Flood Plain.

Mr. Olsen – The barn is just for storage?

Mr. McGloin – Yes, I believe the owner uses the barn for storage.

Mr. Getz – Not for the business?

Mr. McGloin – No.

Mr. Getz – The applicant has provided a copy of the site plan checklist requesting waivers on some of the site plan features for your consideration.

The Board reviewed the checklist.

The Board agreed to waive elements of the amended site plan check list.

Mr. McGloin – I would like to request a waiver for the public hearing and the reason I say that is because this application has been through 2 public hearings, one for the zone change and one for the Village Board.

Mr. Aulen – Was the site plan presented at either of those public hearings?

Mr. McGloin – No but there are no changes to the site. There is nothing that is any different now than there was when they were seeking the zone change. The only thing that is new, that is being constructed is the sign.

Mr. Olsen – Where is the sign going to go?

Mr. McGloin – Right next to the porch, it is shown on the plan, it is 15ft. off of the curb.

The Board agreed to waive the public hearing due to the fact that the applicant had 2 public hearing in front of the Village Board for a Zone Change from R to CB and that the site has not changed.

Mr. Getz – This application is adjacent to the Historic District so a Long EAF will be required. The applicant has submitted a Short EAF.

A MOTION was made by Jim Patterson, seconded by Bill Olsen and carried to declare the Planning Board Lead Agency under the SEQR process and to declare this action a Type I under SEQR. (5 Ayes)

VILLAGE VIEW

CLUSTER SUBDIVISION/  
REVIEW OF DRAFT SCOPING

VILLAGE VIEW

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Mr. Rother – I must have misspoken at the last meeting. I do not have a letter from the DOT.

Mr. Aulen – We can review this now and move on it as much as we can but this will require a public hearing to get public input on the Scope.

Mr. Getz – The primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or non-significant. I have a list of the major topics which include: A)Soils, Topography & Geology B)Ground & Surface Water Resources C)Wastewater Management D)Water Supply E)Stormwater Management & Flooding F)Flora & Fauna G)Traffic H)Land Use & Zoning I)School Services J) Fiscal Impact K) Cultural Resources. This appears to be a complete list and applicable to this project and certainly if the public has other topics that are significant they can be added. The Planning Board attorney’s memo recommends that in the EIS there be a discussion about how the proposed cluster plan meets the goals of the Village’s Zoning section on clustering and how the open space will be permanently protected. Should we review the whole Scope?

Mr. Rother – The first two sections are just standardized things. In section 3 Description of the Proposed Action, under Item C Project Description is where we would insert Mr. Dickover’s request of how it fits in with the objectives of the Cluster Zone.

Mr. Getz – When you discuss alternatives, I have heard that this is going to be a 200 lot project and I think it is because Mr. Silber owns property in the Town that could theoretically annexed...

Mr. Aulen – At one time all of his property was presented, I think it was 212 units but that was including everything in the Town including Townhouses which is not part of this application.

Mr. Getz – Do you want that to be an alternative discussed in the EIS because it is not even close to what is on the table.

Mr. Aulen – The problem is, is that most of the property is in the Town.

Mr. Rother – That was a concept which would have required all of the Town land be annexed into the Village, we drew a sketch, we met with the Mayor, Supervisor and Chairman Aulen and the feedback we received from the Village was that it was too much and they were not interested so that was the end of that.

Mr. Aulen – You could address it, that one time it was proposed and ...

Mr. Rother – Ok.

Mr. Olsen – There are connecting roads to potential developments; you have to at least say that.

Mr. Rother – Even further than that, in the 28 lot plan we did a sketch plan of what could be done in the Town. There is about 70 acres in the Town and I believe there were about another 22-24 single family lots that could potentially be built in the Town. We will discuss that.

Mr. Aulen – We should also be discussing affordable housing.

Mr. Rother – We will certainly be happy to discuss it.

Mr. Aulen – Yes, well that was our comment from OCDP. Keep in mind that the Planning Board does have some leeway in lot sizes, I know you were looking for incentives.

Mr. Rother – Generally, my experience has been, for example, right now we are at 45 lots, there were 28 lots previously approved. We are trying to use the Cluster provisions to increase that by 17 more to get to 45 and usually when there is a required affordable housing component they will say here are your 45, 10% is the number I commonly see, so you would add 4 more lots and they are given to you by zoning and those have to be affordable lots. But remember we have this other variable that we still don’t even know yet which is the Villages’ requiring a per lot fee for these 17 extra lots...

Mr. Aulen – Understood.

Mr. Rother – So, a Village fee and affordable housing don’t really fit in the same sentence, I would think.

Mr. Aulen – That is fine but we still need to discuss affordable housing.

Mr. Getz – One of the sections that are highlighted, is fiscal impact, so that would also be included.

Mr. Aulen – I just don’t want to pass over affordable housing, I just want to make sure we get it in.

Mr. Rother – I will add that under (J) Fiscal Impact.

The Board is satisfied with item (E) – Involved Agencies.

Mr. Aulen – Item IV – Anticipated Impacts and Proposed Mitigation

Mr. Rother – This is really the meat and potatoes of the EIS...

Mr. Aulen – This was addressed in your original application.

Mr. Rother – Yes, Section A) is Soils, Topo & Geology, it may have an even lesser impact than on the 28 lots because we are proposing open space. B) Ground water will have a little bit greater impact so that will be discussed because we have 17 more homes consuming water. C) Wastewater Management will be the same, 17 more homes will discharging into the wastewater. D) Water Supply, the same thing.

Mr. Patterson – You keep saying 17 but you mean 45, correct?

Mr. Aulen – Yes, he is talking about the 17 additional to the original 28 lot application.

Mr. Rother – It will be discussed as 45. E) Stormwater Management will be very similar to the approved application, just based on areas of disturbance and impervious area.

Mr. Getz – The rules have changed...

Mr. Rother – 10%...

Mr. Getz - Section 145-67B of the Village code says that the Village's goal is to exceed the NYS stormwater requirements by 10 percent.

Mr. Aulen – What about the portion in the Town where the detention ponds are? Does that go back to the Town to be verified if we are changing the site plan?

Mr. Rother – We would and we would revise the EAF to reflect that.

Mr. Getz – When the project was reviewed last time, you had similar facilities in the Town?

Mr. Rother – We did.

Mr. Getz – Did the Town engineer review it also or was the review done here?

Mr. Rother – The Town reviewed it also but just that component of it. We had the temporary turn-around and the larger stormwater managements in the Town and so we applied to the Town for a Special Use Permit for those 2 items. I think we also had a public hearing in the Town.

Mr. Olsen – Was it approved?

Mr. Rother – Yes but with the changing of things we will go through the exercise again. G) Traffic is another one where we will have a definite change.

Mr. Aulen – You are changing entrances and additional vehicles...

Mr. Rother – Yes, so the eight intersections to be studied under traffic are the same as what was originally proposed for the 28 lots. K) Cultural Resources, we did a Phase 1 & Phase 2 archeological study and there was nothing found, so there will not be anything new to report.

Mr. Aulen – You don't have any Indiana bats in the trees?

Mr. Rother – There are potentially Indiana bats but it is the timing of when you remove those trees.

Mr. Aulen – Correct.

Mr. Rother – This property was actually agricultural. The USDA soil survey which I believe is from the 1970's shows it as field and the growth there is not that old, so I am not sure that we have any big shag bark hickories that the bats love.

Mr. Olsen – What about open space and protection of open space? According to Mr. Dickover's memo you need to put how you are going to protect that open space.

Mr. Rother – I don't know the answer to that really, because this is not a condo so there really wouldn't be an HOA, well there could be but honestly I suspect it will be an HOA and it would be for the sole purpose of owning and maintaining that open space.

Mr. Olsen – You need to be sure it does not become peoples' backyard that could be a problem.

Mr. Rother – You are aware of the things we do in the Town of Warwick and I think the Village’s code allows it too, where the open space could actually be on the lots but then you really have potential for abuse, so we are proposing it as separate but as contiguous as possible. Unless the Village wants it?

Mr. Aulen – I don’t think that would be reasonable, especially the area you are proposing as open space.

Mr. Gallo – It has steep slopes, right?

Mr. Rother – It is steep slopes, streams and wetlands.

Mr. Getz – Whatever mechanism to preserve it, I think it is a good idea to have some kind of barrier or markers, a wall or shrubs or maybe it is a steep drop off and you might not need it but something that the Building Inspector or anyone from the Village side could go out in the future and see physically where the open space is supposed to be in the field.

Mr. Rother – Sometimes we use a spilt rail fence so it is not ugly but work as a marker.

Mr. Aulen – For the Fiscal Impact you are going to the financial analysis for us, what about Section V?

Mr. Getz – The wetlands were delineated in the past but don’t those delineations expire after a certain number of years and have to be renewed?

Mr. Rother – Yes, so the jurisdiction determinates Federal wetlands, not State and I believe the jurisdiction determination letter was dated in 2009, it is valid for 5 years. They have already been re-delineated and surveyed and submitted to the Corp.

Mr. Aulen – Of course you will address the fact that the little sliver on the roadway should be annexed into the Village.

Mr. Rother – That is another change I had made to the EIS and we will discuss that. If the Board is comfortable with this would the Board you consider scheduling a public hearing.

Mr. Aulen – Well we definitely have to have a public hearing and get public input on this before we move any further.

A MOTION was made by Jim Patterson, seconded by Bill Olsen and carried to schedule a public hearing to discuss the Draft Scope for the Village View Cluster Subdivision for the January 18, 2018 meeting. (5 Ayes)

Mr. Patterson – On page 4 of the EAF with regard to the roadway crossing on D2a, you have no and I don’t think it can be no if you plan on...

Mr. Rother – I absolutely agree, I will check yes, it should be a yes no matter what I will revised the EAF.

Mr. Patterson – Do you have existing waterlines that would serve the project site?

Mr. Rother – There is water in the street. Based on the original or last layout pressure to serve the highest parts of the project was potentially an issue and we had a pump station proposed.

Mr. Olsen – Still?

Mr. Getz – The plan included a proposed pump station, so he may have to do that again.

Mr. Rother – Or there will be some other alternative.

A site visit was scheduled for Saturday, January 20, 2018 at 10:00am.

Mr. Aulen – This plan presents an interesting situation.

Mr. Getz - The limits of the floodplain have been added to the plan but the limits of the floodway should also be shown. I don't believe it will affect the configuration but it is something that should be shown on the map. The wetland limits should be labeled and the jurisdictional agencies should be identified. There is definitely Federal wetland but if the wetlands fall under the NYSDEC jurisdiction a DEC wetland permit will be needed for the proposed construction on Lot 2. They have added a table on the lower part of the map showing the buildable area calculations and that is where they have subtracted out wetlands, floodplains and have come up with a net area from the lots. The proposed buildable area, once those sensitive areas are subtracted is 8,276 sq.ft. for Lot 1 and Lot 2 is 5,359 sq. ft., where 20,000 sq.ft. is required by code. So, this application will be required to go before the ZBA. One factor the ZBA does consider is the character of the neighborhood and there are similar sized lots in the neighborhood...

Mr. Aulen – But one-half of one of the lots is in the Town and the other half in the Village and apparently there was an attempt at one time to get it annexed in the Village...

Mr. Schmick – At one time they were separate lots. Historically we can go back to an old tax map and show that it was separate lots, they were just combined in the recent years.

Mr. Aulen – But we have to go with what they are now.

Mr. Getz – The Bulk Table on the plan shows several items marked with a double asterisks such as total side setback, lot width for Lot 2 needed for variances, but the side setback and street frontage should also have double asterisks. The EAF indicates that archeological resources are a possibility on the site so that needs to be investigated by an archeologist. Some other items that should be shown on the plan are existing and proposed utility connections, erosion and sediment control measures, limits of disturbance, a graphic scale and zoning district boundaries. Site distance for the proposed driveway should also be shown on the plan. If this project is approved iron pins should be shown at the new property corners.

Mr. Aulen – I believe an easement for the drainage is also necessary.

Mr. Getz – Yes. Have you met with Mr. Moser from the DPW?

Mr. Schmick – Yes.

Mr. Aulen – This needs to be discussed with the attorney and he is not available tonight.

Mr. Schmick- Mr. Moser did not think it was really a problem, he actually said it is possible it could be removed because it is not functional at this point.

Mr. Aulen – I hope it does not affect your property at that time because you are right near the floodplain. I see from the attorney's memo that he spoke with the ZBA attorney and we are Lead Agency for SEQR.

Secretary – Yes, the letter of Intent went to the Village ZBA and Town Planning Board, it has not been sent to OCDP.

Mr. Getz – We wanted some additional information before it was sent to the County.

Secretary – Yes.

Mr. Aulen – Yes, and once we have all of the information together a public hearing is required, which is standard procedure but the variances would need to be granted before we move forward.

Mr. Getz – If it is NYS wetlands they would have to apply for a wetland permit and we would need to have that permit before the Board could grant final approval.

A MOTION was made by Jim Patterson, seconded by Jesse Gallo and carried to adjourn the meeting. (5 Ayes)

Respectfully submitted;

Maureen J. Evans,  
Planning Board secretary