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## VILLAGE OF WARWICK PLANNING BOARD MEMORANDUM

**To:** Chairman Jesse Gallo & Members of the Planning Board  
**From:** Jason A. Pitingaro, PE  
**Subject:** Yesterday's Restaurant, 16 Elm Street, Section 210 Block 12 Lot 14  
**Date:** October 8, 2024

The following items have been submitted to our office:

- Cover letter prepared by Friedler Engineering, PLLC, dated September 17, 2024
- Cover letter prepared by Engineering & Surveying Properties, P.C., dated July 12, 2024
- Sheet entitled "Fire Apparatus Access Road" of plans entitled "Elm St Restaurant (Yesterdays)," prepared by Engineering & Surveying Properties, P.C., dated July 11, 2024
- Sheet entitled "SWM Landscape Plan" of plans entitled "Elm St Restaurant," prepared by Engineering & Surveying Properties, P.C., dated June 3, 2024
- Application for Site Plan, received September 19, 2024
- Village of Warwick Planning Board Preliminary/Final Site Plan/Amendment to Site Plan Checklist, prepared by Brian Friedler, PE, dated September 17, 2024
- Short Form EAF, prepared by Brian Friedler, PE, dated September 17, 2024

### Description/Background

In February 2018, the owner was granted site plan approval for the construction of a new eating and drinking establishment. In 2021, the project was reapproved.

The owner is proposing to amend the previously approved site plan for the Elm Street Restaurant (aka Yesterday's) site located at 16 Elm Street, Section 210 Block 12 Lot 14. The proposed amendments include the installation of metal storage containers for the use of storage and field changes made during construction, including amendments to proposed stormwater management facility plantings and replacement of part of a proposed fire access road with compacted gravel instead of asphalt pavement.

It appears that parking facility has been completely reconfigured, adding spaces to the west, removing the circular circulation, reconfiguring sidewalks and adding significant areas of gravel throughout the site.

The containers and fire apparatus access road are located within both the regulatory floodway and 100-year floodplain associated with the Lower Wawayanda Creek (1306-0079), a Class C(I) stream located offsite to the south.

The site consists of approximately 3.7 acres in the Light Industrial (LI) Zoning District in the Village of Warwick. It adjoins property owned by Northfolk Southern Railway Railroad, LLC to the south and residences to the north, northeast and west. Ingress/egress to the site is from an entrance from Elm Street, a Village Road, to the east.

The proposed use of the site as an “Eating/Drinking Establishment” falls under Use Group K, and it is a permitted use subject to Planning Board site plan approval. Because the site is located within a floodplain, 51,584 sf was deemed usable area after the deduction of floodplain area as part of the prior approval. A floodplain development permit was issued by the Planning Board on September 21, 2017.

**Stakeholders**

Owner/Applicant: 16 Elm Street Realty, LLC  
Consultants: Friedler Engineering, PLLC; Engineering & Surveying Properties, P.C.

**SEQRA**

1. The project was previously reviewed as an Unlisted Action. The Planning Board conducted an uncoordinated review; held a public hearing on October 17, 2017; and issued and adopted a negative declaration.
2. The Planning Board should confirm that with the amendments the project remains substantially similar to the previously reviewed project and either reaffirm the prior findings or begin a new SEQRA process. It appears that impervious areas and parking and landscaping have changed significantly, and storage would be considered an additional use.

**General Comments**

1. GML 239 review is not required.
2. The resolution of approval included the following conditions:
  - a. “No partial or temporary Certificates of Occupancy/Use shall be issued for any structure within the project unless all of the public and private improvements located within the overall plan have been constructed to completion.”
  - b. “The issuance of a certificate of occupancy for the restaurant structure to be built within the project area is conditioned upon the applicant installing all site plan improvements inclusive of the privacy fencing and landscaping as provided in the site plan.”
3. The applicant shall clarify the existing conditions on site, including but not limited to the statuses of the construction of the fire apparatus access road and any existing storage containers.
4. A cut sheet/elevation/photograph of the storage containers shall be provided.
5. The locations of proposed metal storage containers shall be clarified. Discrepancies between submitted plans shall be corrected. The cover letter and Friedler Engineering, PLLC site plan indicate three storage containers, whereas the Engineering & Surveying Properties, P.C. plans show four storage containers.
6. The metal storage containers and fire access are sited in both the regulatory floodway (as depicted on the prior approved site plans) and the FEMA 100-year floodplain.
7. The applicant shall confirm the proposed use of the metal storage containers, including whether they are temporary in nature and the timeline for their installation and removal.
8. Our office has reviewed the storage containers as temporary structures, although a building permit is required should the containers remain for longer than 30 days.

**Application Form**

1. Item 10: The applicant shall clarify the special use permit required.
2. Item 11: The Type of Project (Amendment to Approved Site Plan) should be checked.

3. Item 18: The applicant shall indicate the 1990 variance from street frontage requirements.
4. Item 19: The total disturbance of the amended project should be included.

### **Environmental Assessment Form**

1. A Long Form EAF was previously reviewed as part of the prior SEQR process. The applicant shall submit a revised copy of the approved Long Form EAF.
2. A Short Form EAF has been submitted. The following comments pertain to the Short Form EAF.
  - a. Item 2 should be revised to “yes,” and it should include Planning Board approval, ZBA variance, floodplain development permit, and building permits.
  - b. Item 3b shall be revised to indicate the ground disturbance associated with both the previously approved project and the proposed amendments.
  - c. Item 6 should be clarified/revised.
  - d. Item 8a shall be confirmed to be accurate based on the prior traffic study and prior environmental review.
  - e. Item 9 should be clarified/revised. The project must meet minimum energy code requirements.
  - f. Items 10 & 11 shall be revised. The project will connect to public water and sewer.
  - g. Item 12 indicates that the project site contains or adjoins a site listed on the National or State Register of Historic Places. The applicant shall confirm that a submission to SHPO was made as part of the previous SEQR process and that SHPO issued a determination of no effect.
  - h. Item 15 identified a species of concern: Indiana Bat. The applicant shall confirm that appropriate tree clearing restrictions have been included on the plans. No tree clearing notes are included on the site plan submitted. The applicant shall confirm whether any additional tree clearing is proposed.

### **Code Compliance & Zoning**

1. Pursuant to §145-44, a building permit is required for “temporary structures which will be utilized for thirty (30) days or more.”
2. Pursuant to §145-91, containers “shall be screened around their perimeter from the street and from other adjacent residential areas through the addition of evergreen plantings or architectural elements.” The applicant shall clarify the proposed screening for the containers from view of Elm Street and adjoining residences for the period they are to remain on site.

### **Parking Requirements**

1. The approved landbanked parking has been removed from the plans. The approved plans indicated 44 spaces required, 45 proposed and 61 landbanked. The current plans show approximately 55 paved parking spaces.
2. The approved plans included a parking calculation based on 3,600 feet of gross leasable area (GLA), which is defined as follows:
  - a. “GROSS LEASABLE AREA. The term ‘gross leasable area’ (GLA) as used herein shall mean the gross floor area minus the following floor area deductions:
    - i. Elevator shafts and stairways
    - ii. Public restrooms

- iii. Public lobbies, common mall areas, atriums and courtyards provided solely for pedestrian access to the building from the exterior, and/or for aesthetic enhancement or natural lighting purposes.
- iv. Permanently designated corridors (i.e. not subject to relocation by the requirements of a specific lease)."

The covered porch and second story do not appear to have been included in the GLA. The applicant shall clarify/confirm.

3. The applicant shall demonstrate compliance with the following parking lot landscaping requirements set forth in §145-70:
  - a. "In all parking lots providing eight (8) or more off-street parking spaces, a minimum of one canopy tree having a caliper of at least (3") in diameter at breast height (dbh) and 10 shrubs shall be planted for each eight (8) parking spaces and any additional portion thereof..."
    - i. Seven trees and 70 shrubs are required for the parking proposed. Four trees and 48 shrubs are included on the stormwater landscaping plan.
4. The applicant shall clarify the screening of the westerly parking spaces proposed, particularly screening of headlights facing residential adjoiners from head-in parking pointing toward the property lines. The applicant shall demonstrate compliance with the following parking lot screening requirements set forth in §145-70:
  - a. "Whenever a parking lot abuts the side or rear lot line of a lot in a residence district, or any land in residential use, said parking lot shall be effectively screened from such adjoining lot by a substantial fence, or berm, or thick evergreen hedge as determined by the Planning Board, with a height of not less than six (6) feet at the time of planting and pruned to a height of not less than six and one-half (1/2) feet."

#### Site Plan Comments

1. The applicant shall confirm whether the site plan represents existing built conditions.
2. All notes, bulk requirements, parking calculations, setbacks, and other data depicted on the approved site plan (Sheet C-1), aside from the proposed amendments, shall be included on the amended site plan if the amended site plan is to supersede the approved site plan.
3. The applicant shall clarify the purpose of the additional gravel surface shown adjacent to the covered porch. This gravel surface providing direct access from the parking facility to the covered porch is not shown on the approved site plan.
4. The gate has been removed from the site plan.
5. The dumpster enclosure and screening shall be shown and labeled. The location has changed from the approved site plan. The dumpster has been relocated farther from the restaurant building and closer to adjoining residences to the west.
6. The double-yellow line controlling two-way traffic at the site entrance has not been included on the site plan.
7. A business sign for "Yesterday's" has been added on the adjoining property to the south. The applicant shall demonstrate compliance with the sign regulations set forth in §145-70, including required permitting and approval from the adjoiner for the installation.
8. The generator pad and associated privacy fence have been removed from the original location on the site plan.
9. There is additional sidewalk area containing six unlabeled A/C units and a generator shown in the rear of the building. The applicant shall provide screening of the units from view from

- adjoining residential properties to the north with a 6-foot privacy fence as shown on the previous approved plans and any other screening deemed appropriate by the Planning Board. A sound-dampening enclosure may be appropriate given the number of units.
10. The building FFE has been modified from 523.0 feet to 525.1 feet. The visual impact of the increased height should be considered. The applicant shall demonstrate that the building height complies with the 40-foot maximum building height for Group K uses.
  11. Curbing is no longer shown for the parking facility. The applicant shall clarify whether curbing has been provided and the effects of the same on the runoff from impervious surfaces.
  12. The Stormwater Management Plan may need revision/review.
  13. The proposed accessible access ramp and route have been reconfigured. The applicant shall provide a design demonstrating that the reconfigured route/ramp meets ADA requirements for minimum width, maximum slope and all other ADA design requirements.
  14. The site plan shall include notations indicating the storage containers as temporary structures. A time frame for their removal should be indicated.
  15. The “existing metal storage trailer to remain (typ. of 3 locations)” callout shall be removed/clarified.
  16. The “broken pavement” callout in the vicinity of the proposed containers shall be clarified. Any damaged areas of the previously existing driveway should be removed from the site.
  17. The regulatory floodway setback shall be shown and labeled.
  18. The metal storage containers are sited in the regulatory floodway and FEMA 100-year floodplain, which are areas governed by the Village of Warwick floodplain development permit and NYSDEC and FEMA regulations. The applicant shall demonstrate compliance with all governing regulations. The containers may need to be moved outside of the floodplain and farther from the stormwater management facility.

### **Landscaping Plan Comments**

1. A landscaping plan including all required site screening and privacy fencing shall be submitted.
2. *Ilex crenata* is designated as a Tier 5 – Watch species by Lower Hudson PRISM. The applicant should consider a native alternative.

### **Access Road Plan Comments**

1. The 5-foot-wide sidewalk adjacent to the restaurant does not appear to have been fully constructed. The applicant shall clarify the unhatched area of sidewalk.
2. The applicant shall clarify the purpose of / need for the irregularly shaped areas between parking spaces in the parking facility. The plan seems to include parking spaces with deficient dimensions, including the north-facing parking space farthest to the east and at the edge of the parking facility.
3. The applicant shall confirm the parking space striping.
4. The applicant shall clarify the purpose of / need for the gravel surfaces around the parking facility. It appears that total impervious area has increased. The applicant shall provide the approved impervious area, current impervious area and proposed impervious area on site.
5. The fire apparatus road has been reduced from 26 feet to 20 feet in width and reconfigured to curve farther south. The parking in the vicinity of the building has been reconfigured, moving the parking spaces and dumpster closer to the adjoining residences to the west and removing the circular traffic circulation. The applicant shall demonstrate that the new width and turning radii can accommodate emergency vehicles.

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6. The fire apparatus access road is sited in the regulatory floodway and FEMA 100-year floodplain. The applicant shall clarify the compaction and other mitigations proposed to reduce risk of washout of the gravel during flooding events and ensure continued stability for the use of fire apparatuses during emergency events, which may occur during flooding.

The above items represent our professional opinion based on the material submitted. Please do not hesitate to contact me at 845.703.8140 or at [pitingaro@panddengineers.com](mailto:pitingaro@panddengineers.com) should you have any questions.

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