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October 2, 2024

**MEMO**

TO: Village of Warwick Planning Board  
Applicant

CC: Kristin Bialosky, Planning Board Clerk  
Jason Pitingaro, Village Conflict Engineer

FROM: Elizabeth K. Cassidy, Esq.

RE: Attorney comments on application of  
16 Elm Street Realty, LLC  
210-12-14

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I have reviewed the application of 16 Elm Street Realty LLC for changes to the existing site plan for Yesterday's Restaurant. Changes include the provision of three metal storage containers on site together with changes to the proposed fire apparatus access road and landscaping.

Comment	Status
1. The Property is located in the LI zoning district	For Information
2. Application is not subject to GML.	For Information
3. The Planning Board to evaluate whether a public hearing should be held on the amendments pursuant to § 145-96.	
4. SEQR: This is an unlisted action pursuant to SEQR.	
5. The Application to be referred to the Architectural Review Board pursuant to § 5-4 of the Village Code.	
6. The property is not located in the Historic District. It does not appear the project is subject to review by the AHDRB pursuant to § 145-24.	

<p>7. The site has been approved as an eating and drinking establishment subject to Use Group K on the bulk table. See below. Any use not identified in the Use Table shall be deemed prohibited. See § 145-32 (D). An accessory use is a building, structure or use which is clearly incidental or subordinate to and customarily used in connection with, the principal building, structure or use and which is located on the same lot with the principal building, structure or use. See 145-181.</p> <p>I also note that § 145-91 (I)(8)(h) provides that outdoor storage shall be prohibited.<sup>1</sup> The Building Inspector should issue a determine as to whether the proposed storage is outdoor storage prohibited under the code.</p> <p>In the event, the Application is determined not to be prohibited outdoor storage, the Applicant to demonstrate that proposed storage is incidental to the eating and drinking principal use already on the lot.</p>	
<p>8. The code specifically finds that portable temporary storage containers shall not be considered temporary structures. See § 145-181 (“Structure, Temporary”) STRUCTURE, TEMPORARY – Structures without any foundation or footing and that are removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. For the purposes of this definition, motor vehicles and portable temporary storage containers, as defined herein, shall not be considered temporary structures.<sup>2</sup></p>	
<p>9. Applicant to address screening requirements for the proposed storage units. I draw the Board’s attention to the following provisions of the code:</p> <p>145-70 (C) (3) - Buffering of parking lots adjacent to residences (if applicable) shall be accomplished through landscaping sufficient to screen the nuisance characteristics of parking, such as headlights, noise and views of cars.</p>	

<sup>1</sup> The code does permit a contractor’s storage yard as a conditional use, but it must be part and parcel of a landscaping or construction business. See Definition of Contractor’s Storage Yard; See also Use Table.

<sup>2</sup> No definitions of motor vehicles or portable temporary storage containers was defined else where in the zoning code.

<p>145-91 (I) (2) - Site plans involving nonresidential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to the impact of the development on such district or use. The Planning Board shall encourage the use of a combination of landscaping, buffers, berms, screens, visual interruptions, and common building materials to create attractive transitions between buildings of different architectural styles and uses.</p> <p>See also 145-91(I) (8)(e) - Landscaping shall be used to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land uses. A buffer zone thickly planted with native trees and shrubs of sufficient width to entirely screen a non-residential use from a neighboring residential use shall be required.</p>	
<p>10. Two of the storage units appear to be located in the front yard. This appears to be in violation of § 145-50 and § 145-51 as it is not an accessory use which is permitted in the front yard.</p>	
<p>11. 100-year Floodplain - The instant application is subject to a permit pursuant to Chapter 69, Section 4.2. I refer the Board to Sections 5.1-2, 5.2, and 5.4 for construction standards. I defer to your engineer as to whether the proposal conforms to the standards. I do not believe it does.</p>	

Use Group	Minimum Lot Area (sq. ft.) (see also Note 4)	Lot Width (ft.)	Front Setback (ft.)	Front Yard (ft.)	Side Setback (ft.)	Total Side Setback (ft.)	Side Yard (ft.)	Side Yards within 25' of Residence District Boundary	Rear Setback (ft.)	Rear Yard (ft.)	Rear Yard within 25' of Residence District Boundary	Street Frontage (ft.)	Max Height (ft.)	Development Coverage (%) (see also Note 4)	Building Coverage (%) (see also Note 4)	Floor Area Ratio (F.A.R.)	Lot Depth (ft.)	Livable Floor Area/Dwelling Unit (sq. ft.)	Lot Area/Dwelling Unit (sq. ft.) (see also Note 4)	Bedrooms/Acre of Lot Area
a	200,000	400	100	100	100	200	75	100	100	75	100	300	35	25	n/a	0.20	500	n/a	n/a	n/a
b	20,000	100	35	35	20	50	10	n/a	35	10	n/a	80	35	35	n/a	0.25	125	1,250	n/a	n/a
c	40,000	150	50	50	30	60	20	20	30	30	30	100	35	20	n/a	0.20	200	600	4,000	12
d	40,000	100	100	20	20	50	20	40	45	20	35	100	40	n/a	25	0.20	200	n/a	n/a	n/a
e	80,000	200	50	20	20	40	10	10	20	10	10	200	35	n/a	n/a	n/a	200	n/a	n/a	n/a
f	17,500	100	35	35	20	50	10	n/a	35	10	n/a	75	35	35	n/a	0.25	125	1,200	n/a	n/a
g	22,500	125	40	40	25	60	15	n/a	35	10	n/a	90	35	35	n/a	0.25	125	900	n/a	n/a
h	40,000	20	20	20	Note 5	Note 5	Note 5	n/a	35	35	n/a	20	35	20	n/a	0.20	100	600	4,000	12
i	40,000	150	50	25	30	60	20	20	30	30	30	100	35	40	n/a	n/a	200	600	2,000	24
j	5,000	50	Note 1	n/a	10	10	10	15	10	10	20	50	40	80	40	0.40	50	600	n/a	n/a
k (see 6)	5,000	50	Note 1	n/a	10	10	10	n/a	10	10	n/a	50	40	100	n/a	n/a	50	n/a	n/a	n/a
			Note																	