

**PLANNING BOARD
VILLAGE OF WARWICK**

October 8, 2024

Minutes

LOCATION:

VILLAGE HALL

77 MAIN STREET, WARWICK, NY

7:30 P.M.

MAXIMUM OCCUPANCY- 40

The Regular Meeting of the Planning Board of the Village of Warwick was held on Tuesday, October 8, 2024, at 7:30 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present was Chairperson, Jesse Gallo, Board Members: Kerry Boland, Scot Brown, Bill Olsen, Bryan Barber and Alternate Vanessa Holland. Also, present was the Planning Board Secretary, Kristin Bialosky, Village Engineer Keith Woodruff, Alternate Village Engineer Jason Pitingaro, Planning Board Attorney Elizabeth Cassidy and Joe Irace, Randi and Robert Barlow, John Christison, Brian Friedler, Lugene Maher, Tom McKnight and Kirk Rother.

Chairperson, Jesse Gallo called the meeting to order and led in the Pledge of Allegiance. The Planning Board Secretary, Kristin Bialosky held the roll call.

Acceptance of Planning Board Minutes

A **MOTION** was made by Scot Brown, seconded by Bill Olsen and carried for the Acceptance of Planning Board Minutes: September 10, 2024.

The vote on the foregoing **motion** was as follows: **APPROVED**

Jesse Gallo Aye Kerry Boland Aye Bryan Barber Abstain
Scot Brown Aye Bill Olsen Aye

Applications

1. **Yesterday's – John Christison** -<https://villageofwarwick.org/yesterdays-16-elm-st/>

Amended Site Plan Review

Discussion:

Chairperson Gallo introduced the application and Village Engineer Keith Woodruff recused himself from the discussion as his firm represented the applicant on the previous application to the Planning Board. Chairperson Gallo asked the Alternate Engineer, Jason Pitingaro to come to the table. John Christison introduced his application stating that he wanted to keep his storage trailers where they are. He stated that this was the first time he was made aware that the trailers

were in the flood zone. He stated that Boris Rudzinski, the Village of Warwick Building Inspector, did not make him aware that the trailers were in the flood zone and that he just wanted the trailers removed. Mr. Christison said he had no problem moving them out of the flood zone to another spot on his property. Chairperson Gallo asked Mr. Christison to explain the other items he wanted to change from the original site plan, and Mr. Christison stated that the original landscaping plan for the stormwater management area is being revised, and his landscaper is ready to start as soon as the board approves the new plantings. He also discussed avoiding the use of blacktop for the exit area to prevent water runoff into the stream. Alternatives like millings, crushed concrete, or bluestone are being considered. Mr. Pitingaro recommended widening the exit to 25 feet, which Mr. Christison confirmed is feasible. The Fire Company has provided a letter to Mr. Rudzinski confirming that the current access is adequate for fire trucks. Chairperson Gallo asked the Planning Board Attorney, Elizabeth Cassidy to discuss her memo. Ms. Cassidy stated Mr. Christison's property is located in the LI zoning district. The application is not subject to General Municipal Law 239, but the Planning Board will decide if a public hearing is needed under Section 145-96. This is an unlisted action under SEQRA, and the application will be referred to the Architectural Review Board (ARB) per Section 54 of the Village Code. The property is not within the historic district and does not appear to require review by the Design Review Board (DRB) per Section 145-24. The site is approved for use as an eating and drinking establishment under Use Group K. Any use not listed in the use table is prohibited (Section 145-302D), and outdoor storage is prohibited (Section 145-9118H). The Building Inspector should determine if the proposed storage falls under prohibited outdoor storage. If allowed, the applicant must prove the storage is incidental to the primary eating and drinking use. Portable storage containers are not considered temporary structures under Section 145-181, and screening requirements for the storage units must be addressed. Buffering for parking lots adjacent to residences should use landscaping to mitigate nuisances like headlights and noise. Site plans adjacent to residential areas must use a combination of buffers, screens, and materials to ensure attractive transitions between differing architectural styles. The code also requires thickly planted buffer zones between non-residential and residential areas. Two storage containers appear to be located in the front yard, which is not an allowed accessory use in that space, under Sections 145-50 and 145-51. The application is subject to floodplain permits under Chapter 69, Section 4.2, and must comply with construction standards. The engineer will assess if the proposal meets these standards, but it does not appear to. Bill Olsen asked Mr. Pitingaro where the floodplain was located. Mr. Pitingaro stated it was important to distinguish between a floodplain and a floodway and he went on to say that the containers are located within the floodway which is an area that is subject to flooding and could be channelized as well. Mr. Pitingaro explained he would not go through his entire memo as it was lengthy, but his comments focused on the need to bring aspects of the current site into compliance with prior approvals or amend the prior approval to incorporate modifications. Specifically, the storage containers need to be relocated, and the board must evaluate the impact of placing them in a new location. There was also a discussion about determining what constitutes the front yard, with a suggestion that it is likely considered the area bordering the street to the front of the main structure on the property. It was discussed where the trailers would be put as there were many factors to consider. Chairperson Gallo asked for clarity on a temporary structure. Mr. Pitingaro stated he considered the containers temporary structures. He stated that Mr. Christison indicated he would be phasing out the containers. Mr. Christison explained that if it was easier to get rid of the storage containers that is what he would do. Mr. Pitingaro told the applicant that any

structure on the property over 30 days requires a building permit, explaining why Mr. Rudzinski was at the property.

Mr. Christison explained that 200 trees were planted. Mr. Pitingaro said the previous review was exhaustive and had a number of conditions, and in seeking the CO those conditions need to be met or amend the current approval to remove those conditions or those site design elements, otherwise the board would be approving something that is not in compliance. Mr. Pitingaro went on to state that it wasn't clear what was considered a deviation from what was previously approved and what they intend to ask for relief from the original approval. Mr. Christison stated that 200 trees were added. Mr. Christison again stated that he would get rid of the trailers as it would not be worth his time to get approvals for them. Chairperson Gallo stated he wants the site plan to reflect what Mr. Christison is asking to amend and until that is clear the application cannot proceed. Mr. Pitingaro said regarding landscaping, he suggested holding off on proceeding because some of the noted items may impact stormwater management. Any amendments to the stormwater plan could affect the proposed plantings, as they play a role in facilitating the stormwater management basin. Board member Bill Olsen asked about the crushed stone being a good alternative to black top and Mr. Pitingaro explained that the material would be suitable for use in the floodway, and it would not be washed away. Mr. Pitingaro went on to say that the accessway should be increased to 25 feet instead of 20 feet and Mr. Christison said that there was plenty of room to increase the radius to 25 feet. It was established that the plan should reflect this. Mr. Pitingaro had no objections to the proposed alternatives of crushed stone or millings for the driveway. However, it was suggested that any area not part of the driveway should be established with turf, grass, or another permanent material for aesthetic purposes. This aligns with the original plan. The proposed material is acceptable for the area, and if approved by the fire department, the 25-foot width for the driveway is preferred over 20 feet due to the tighter turn radius. The Planning Board attorney advised that the board should evaluate whether a public hearing is necessary, given the applicant's intention to remove the trailers. The focus is now on deciding between millings or a driveway, and changes to landscaping. If the trailers are removed, Architectural Review will no longer be required. The Board can then assess the remaining changes and determine if a public hearing is still needed. If necessary, they will schedule the public hearing, but the overall scope of the application would become much smaller if the containers are removed. It was confirmed that an amended site plan showing what was originally approved and what is there today and what changes the applicant would like to implement would be required. Ms. Cassidy, Esq. requested in the next submission a letter detailing the consistency with the prior SEQR determination of what the applicant is proposing, to outline so it can be used as a basis.

2. 19 Poplar Street – Barlow - <https://villageofwarwick.org/19-poplar-street/>

Site Plan Review

Discussion:

The applicants Randi and Robert Barlow introduced their application. The applicants discussed their plans for a modest 400-square-foot, one-story addition to their house, which includes a family room, laundry room, and a bathroom to accommodate visiting families, particularly their mothers, they aim to create a more comfortable living space on the ground floor, as their current

home has only a small half bath and an inconvenient kitchen setup. Ms. Cassidy, Esq. explained that the property is situated in the R zoning district and received area variances from the Zoning Board of Appeals on August 27, 2024, with the decision dated September 5, 2024. The conditions of the variance should be included in any approval. The application is not subject to General Municipal Law 239. It is noted that a public hearing is required, and the applicant must mail notice of the hearing to property owners within 300 feet at least 10 days in advance. This is classified as a Type II action under SEQRA, meaning no further environmental review is necessary. While an EAF was received for this residential development, there is a need to update the application and site plan to reflect Use Group B, as the current documents mistakenly show P for permitted use. The lot appears to meet all requirements, and the variances granted cover them under Use Group B. It would be just a small correction and to set the public hearing. The applicants asked why they needed to have another public hearing, and the attorney explained that the Board did not have authority to waive a public hearing. This application is not subject to a 239 and a public hearing can be set for the next planning board meeting. . Mr. Woodruff, the Village Engineer, went through his comments and expressed concerns about verifying whether proposed improvements will affect existing water and sewer services, particularly noting a valve at the front of the building. They advised that once the foundation is under construction, it should be ensured that these services are not impacted. The existing garage does not have any water or sewer services. Additionally, the front porch is a pre-existing nonconformity regarding the front yard setback, so dimensions should be provided to document its current status. Modifications to plans must have legal approval, and the bulk requirements will need to be updated, including changing the use group. Lastly, the updated front yard setback should be measured from the property line to the front porch. Ms. Cassidy, Esq. said, for efficiency purposes, to wait for the public hearing until changes are made to the site plan.

19 Poplar St. – Schedule of Public Hearing

A **MOTION** was made by Scot Brown, seconded by Bryan Barber, and carried to schedule a public hearing for November 12, 2024, on the 19 Poplar St. site plan application.

The vote on the foregoing **motion** was as follows: **APPROVED**

Jesse Gallo Aye Kerry Boland Aye Bryan Barber Aye

Scot Brown Aye Bill Olsen Aye

3. 15 Elm Feed & Grain – <https://villageofwarwick.org/15-elm-feed-grain/>

Flood Plain Application – Site Plan

Discussion:

Joe Irace introduced himself as the owner of 15 Elm Feed & Grain and submitted his receipts of mailing for the Public Hearing. Chairperson Gallo asked the Planning Board Attorney for her comments and there were no new comments from her previous memo. Keith Woodruff, the Planning Board Engineer, discussed three previous comments regarding the applicant's revised plans, which have now been submitted in full size for better detail visibility. The first comment was about the size of the plans, which have been addressed. The second item involves determining whether an elevation certificate should be requested for the existing residence, as advised by the floodplain

administrator. This certificate confirms the first-floor elevation and the absence of mechanical systems, providing documentation in case of flooding. It is typically required for flood insurance and should be documented for any residential structures in a floodplain. Mr. Irace noted that the property does not currently have flood insurance. Chairperson Gallo asked how that would affect the application and Mr. Woodruff explained it wouldn't affect the application, but it would be detailing what the potential loss could be, potential risks for residential structures with apartments, particularly if mechanical systems are located below the floodplain elevation. In the event of flooding, these systems could be damaged, rendering the residences uninhabitable. The discussion emphasizes the need for an elevation certificate to assess the actual bottom elevation of the structure and determine if water from a 100-year flood would enter the building. This certificate typically requires calculations by an engineer or surveyor and provides critical information regarding crawl spaces, basements, and mechanical systems, which is essential for insurance purposes. The Planning Board as the floodplain administrator, and can request this documentation, although it is not legally required. However, the request could be made a condition for approval. This information would also help the building inspector assess the building's habitability in the future. Additionally, Mr. Woodruff suggested that the board consider requiring an as-built survey of the property after improvements are completed to document final elevations and berms. Chairperson Gallo invited questions from the Board and Bryan Barber motioned to open the public hearing.

15 Elm Feed & Grain – Open the Public Hearing

A **MOTION** was made by Bryan Barber, seconded by Scot Brown, and carried to open the public hearing for 15 Elm Feed & Grain.

The vote on the foregoing **motion** was as follows: **APPROVED**

Jesse Gallo Aye Kerry Boland Aye Bryan Barber Aye
Scot Brown Aye Bill Olsen Aye

Chairperson Gallo read the public hearing notice.

VILLAGE OF WARWICK PLANNING BOARD NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Village Planning Board of the Village of Warwick will hold a public hearing at the Village of Warwick Village Hall, 77 Main Street, Warwick, NY 10990 on October 8, 2024 at 7:30 p.m. or as soon thereafter as possible on the amended site plan application and floodplain development application of Feed and Grain LLC to allow for the importation of fill and landscaping within the floodplain at 15 Elm Street, 210-7-3. A copy of the application is available for review in the Building/Planning Department located at 77 Main Street, Warwick, NY 10990 during regular business hours. By order of the Planning Board of the Village of Warwick.

By Order of the Planning Board of the Village of Warwick,

JESSE GALLO
CHAIRPERSON
DATED SEPTEMBER 13, 2024

Chairperson Gallo asked if there were any public comments and there were no comments.

Board member Bill Olsen recommended the Public Hearing to be closed as there were no public comments in person or submitted in writing.

15 Elm Feed & Grain – Close the Public Hearing

A **MOTION** was made by Scot Brown, seconded by Vanessa Holland, and carried to close the public hearing on October 8, 2024, for the 15 Elm Feed & Grain Flood Plain application.

The vote on the foregoing **motion** was as follows: **APPROVED**

Jesse Gallo Aye Kerry Boland Aye Bryan Barber Aye
Scot Brown Aye Bill Olsen Aye

Ms. Cassidy, Esq. went back to her prior memo and stated that the GML 239 was received back from the county with an indication of local determination. Ms. Cassidy, Esq. said she saw the EAF which was received in the morning and was not distributed as it was not received the required three weeks before the Planning Board meeting. It was clarified that the townhouses were removed from the plans and Ms. Cassidy deferred to Mr. Woodruff in regard to the topographical data on the plans. He noted that the SK-2 plan includes spot elevations indicating the differences in elevation along the driveway, with specific notations showing that the berms are at an elevation of 519, while the floodplain is at 517. Although the plan does not represent an as-built condition, it provides sufficient topographical information for the Board to understand the elevation differences between pre-existing and proposed conditions. Chairperson Gallo stated that based on their comments the Board still needed to review a revised EAF that addressed all of the previous comments. Ms. Cassidy suggested soliciting comments of the board so upon review their comments can be incorporated into a proposed resolution for next month's meeting. Mr. Irace stated that it was the same short EAF form that he submitted two months ago which had a minor typo on it. Ms. Cassidy told the applicant there were additional comments. She explained that additional comments regarding the applicant's use of the New York State DEC mapping tool to assess environmental impacts, specifically the proposed grading's effect on Waywayanda Creek, while some impacts may seem minor, they still trigger a "yes" response, which the Board must address. There was also a typo related to the square footage of disturbance, and the property was listed in a critical environmental area. The DEC mapping tool is required because it provides important information, and the impacts must be evaluated accordingly. Board member Scot Brown raised concerns about adding fill in the floodplain, stressing the risk of it being washed downstream during flooding. They advised focusing on strategic planting to help secure the fill and prevent erosion if flooding occurs. Mr.

Irace mentioned that FEMA does not prevent filling land in a floodplain, making it a viable way to reclaim land if legally allowed. He explained that the land they dealt with was a former railroad bed, unsuitable for growth, but adding fill would improve it for planting trees and landscaping, enhancing the area's appearance. Ms. Cassidy, Esq. explained the updates to Mr. Irace so he can complete the EAF for submittal.

4. Village View – Silberman- <https://villageofwarwick.org/village-view/>

Discussion:

Mr. Rother discussed the Village View cluster subdivision, which has conditional approval but still requires DEC and Board of Health approvals for water and sewer extensions. The applicant, Rob Silver, is occupied with another project, which has also delayed progress. There is also a proposal to place a water storage tank on town land, which would benefit everyone but had previously been postponed due to costs and timing. The applicant is working with Village and Town officials to revisit the idea. Additionally, a wastewater pump station requires upgrading due to frequent maintenance issues. If the water storage tank is installed, it would eliminate the need for a costly booster pump system for fire flow and water pressure.

Village View Estates 180-day Extension on the conditional final site plan and subdivision approval from October 6, 2024, until April 4, 2025

A **MOTION** was made by Bill Olsen, seconded by Scot Brown and carried to approve a 180-day extension to Village View Estates on the conditional final site plan and subdivision approval from October 6, 2024, until April 4, 2025.

Jesse Gallo Aye Kerry Boland Aye Bryan Barber Aye

Scot Brown Aye Bill Olsen Aye

5. Short Term Rentals – Village Board <https://villageofwarwick.org/short-term-rentals/>

Planning Board to Draft letter to Village Board by October 16.

Discussion:

The Planning Board discussed various aspects of short-term rental occupancy, and it was decided that Ms. Cassidy would email the Planning Board Secretary key points that should be included in the letter to the Village Board. The following points were discussed:

- **Owner Presence:** Clarify whether the owner must be present during the short-term rental occupancy.
- **Residential vs. Central Business Districts:** The distinction between residential properties and those in the central business zone could be explained more clearly, as units above storefronts may face different regulations.

- **Homeowners Association (HOA) Consent:** Add a provision requiring written consent from the HOA for rentals in communities governed by HOAs, as their bylaws may be more restrictive.
- **Annual Permitting and Inspection:** The group discussed the value of having annual inspections (e.g., for smoke detectors, fire safety, etc.), which is common for maintaining property standards and ensuring landlord accountability.
- **Evaluation of the Regulation:** Consider adding a clause about periodic evaluation of the STR regulations. Since new issues may arise, the Village Board should review the effectiveness of the law periodically.
- **Fee Considerations:** There was a discussion about a graduated fee structure, especially for property owners who may own multiple short-term rentals. An idea was raised about differentiating fees for certain categories of owners, such as senior citizens, though caution was advised regarding equal protection laws.

Discussion:

Flood Plain Administrator –

The conversation revolves around the role of the floodplain administrator in the Village and whether it should continue to be the Planning Board or if it should be fulfilled by the Building Inspector. Key points include:

1. **Current Administration:** The planning board is currently the floodplain administrator, but there's been discussion about requesting to transfer this responsibility to the Building Inspector, as is common in other municipalities.
2. **Pros and Cons:** Having the Building Inspector as the floodplain administrator could streamline the process since they are more familiar with building codes. It could potentially increase workload, especially if there are multiple floodplain applications.
3. **Application History:** Recent applications have been few, with only a couple coming before the Planning Board in the last few years, suggesting the impact on the Building Inspector's workload might be minimal.
4. **Regulatory Changes:** Changes in regulations, such as HUD's requirement for buildings to be elevated above the floodplain, highlight the need for the Village to consider its floodplain management practices comprehensively.
5. **Next Steps:** It was suggested to write a letter to the Village Board proposing a change in the code to assign the Building Inspector as the floodplain administrator.

Overall, the conversation suggests a preference for a shift towards best practices seen in other municipalities while considering the Village's specific needs and regulations.

Zoning Code :

- **Variance Approvals:** The group discussed the need to address issues with the current zoning code, particularly regarding the six-month approval period for variances. There is a consensus that this time frame is often too short for construction projects and that flexibility for reasonable extensions should be introduced.

- **Timing of Approval:** Recommendations include starting the six-month period upon the Planning Board's site plan approval rather than the ZBA's decision, allowing applicants more time to act.
- **Double Hearings:** Concerns are raised about the requirement for double public hearings for certain applications. The group suggests that the Village Board should consider eliminating site plan approval for minor projects, as it often leads to unnecessary delays and public hearings, particularly for small single-family home additions.
- **Waiving Public Hearings:** The possibility of waiving public hearings for minor applications where issues have already been discussed at the ZBA should be considered. The goal is to avoid redundancy while ensuring that community members still have opportunities to voice their concerns.
- **Short-Term Rental Code Impact:** The discussion acknowledged the potential increase in site plan applications due to the proposed short-term rental code, which may require adjustments in how public hearings and applications are managed.
- **Proposed Code Amendments:** The group discussed drafting recommendations for amending the zoning code to allow for flexibility in approval periods and the ability to waive public hearings on a case-by-case basis. They reference language from the Village of Woodbury's code regarding expiration periods for approvals.
- **Next Steps:** A proposal will be drafted and circulated for consideration by the Village Board to implement these changes.

The discussion highlights the need for flexibility in the zoning process to streamline approvals and address concerns about timely construction while ensuring community engagement.

Procedure for Approval Resolutions -

The conversation outlines a proposed internal procedure for handling site plan approvals involving the Chairperson, Village Engineer, Planning Board Attorney, and the Planning Board Secretary. Key points include:

- **Approval Process:** The applicant will provide revised PDF site plans to the Planning Board Secretary, who will then forward them to Village Engineer for review. If approved, the applicant will print paper copies and Village Engineer will issue a letter stating that the site plan is ready for Chairperson's signature.
- **Fee Payment Conditions:** Before signing, it's important that all application fees and escrow funds are adequately funded. If the applicant owes a significant amount, the site plan will not be signed until the escrow is replenished.
- **Conditions of Approval:** Once the site plan is signed, any outstanding bills will still be owed by the applicant, even if the plans have been signed off. The goal is to ensure that escrow balances are sufficient to cover any outstanding invoices.

- **Communication with Applicants:** The Planning Board Secretary will communicate with applicants regarding their financial responsibilities and may request additional funds if their escrow is low.

Overall, the conversation emphasizes the need for clear financial management and a streamlined process for site plan approvals while ensuring that fees are paid before finalizing approvals.

Adjournment

A **MOTION** was made by Scot Brown, seconded by Bryan Barber, and carried to adjourn the regular meeting at approximately 9:30 p.m.

The vote on the foregoing **motion** was as follows: **APPROVED**

Jesse Gallo Aye Kerry Boland Aye Bryan Barber Aye
Scot Brown Aye Bill Olsen Aye

Kristin Bialosky, Secretary to the Planning Board