

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

VILLAGE OF WARWICK
PLANNING BOARD MEETING
JANUARY 19, 2017

The monthly meeting of the Village of Warwick Planning Board meeting was held on Thursday, January 19, 2017. Present were: George Aulen, Bill Olsen, Jim Patterson, Jesse Gallo, Ryan Denerley, Village Engineer, Dave Getz and Planning Board attorney, Robert Dickover. Others present were: Chris Littell, Evangelos & Jennie Theologis, John Christison, Ross Winglovitz, John Cappello, Frank Petrucci and others.

A MOTION was made by Bill Olsen, seconded by Ryan Denerely and carried to accept the minutes of the December 15, 2016 Planning Board meeting. (4 Ayes)

22 McEWEN ST.

AMENDED SITE PLAN
APPROVAL

WARWICK WINE BAR

Mr. Dickover – My memo makes reference to two issues that were before the Board after the conclusion of the public hearing was closed. 1) Tent like structure covering an outdoor grill and whether or not it required a variance or was permitted. Since that time the Building Inspector sent a letter to the Board that based on an inspection that he did around January 12, 2017 that he did not observe a tent in the rear outside eating area. So I think that issue has been resolved. 2) The issue of noise as it was described by members of the public and what if anything the Board could do with respect to that. I have addressed the issue in a number of ways in the memo: Provisions of the Village Code both Zoning and General code that speak to noise and the enforcement provisions with respect to them and Mr. Getz brought up the Performance Standards

under the Zoning Code which may be applicable to the premises and on that issue he was correct. The Performance Standards are applicable in the zone and one of the Performance Standards speaks to noise and no you do not need to make specific reference to that but if the Board were inclined you could specifically make a condition that the premises is operated in compliance with the Performance Standards in particular the noise but you don't need to do that because whether you do or not the operation of the premises are not just subject to that provision they are also subject to noise provisions under the Zoning and or Village Code. Other than that I think you have concluded the procedural aspects of this matter.

Mr. Olsen – You talked about the possibility of noise mitigation measures but I don't know what is logical or possible in this kind of environment, are there things that can be done?

Mr. Aulen – Obviously they have to adhere to the Zoning Law and the Village Ordinance on noise. We could make an approval contingent upon not have any outside speakers, etc. It has been suggested by the public to have the windows closed because apparently there is not much noise disseminating when the windows and doors are closed but I think in the summertime that would be rather uncomfortable.

Mr. Olsen – It could be air conditioned but I think that is part of the ambiance to have the windows open and people coming in and out, I understand that fully. I would assume it would be much nicer with the doors and/or windows open and about the people talking loudly outside well...

Mr. Aulen – That could be anybody walking down the street.

Mr. Olsen – I know.

Mr. Dickover – The amplified music falls under the Village Code prohibitions against noise, it would fall under the Performance Standards for noise but the concept of not having amplified music when doors and windows are open, I think that could be within your purview, if you think there is something to mitigate it.

Mr. Aulen – My concern is that apparently the Police have been there several times and they did not have any problem but it is a hit and miss problem.

Mr. Dickover – That is the nature of noise complaints. The more you are subjected to it the more annoying it becomes because it is foremost in your mind.

Mr. Aulen – In my opinion I think we should just reinforce adhering to the existing Village Ordinance and the Zoning Law requirements on the noise. I don't think we as a Planning Board can do much more than that.

Mr. Dickover – Yes, from a Planning standpoint the applicant/operator of the premises is subject to those whether we say so or not. We certainly can repeat it as a condition of the site plan approval if that is what you are inclined to do. The Building Inspector would have some enforcement provisions. If there was noise emanating out of there on his inspection he could issue a Stop Work Order or a Cease & Desist Order based upon his own inspection. He is given some enforcement authority under those provisions.

Mr. Olsen – Can we put something regarding outdoor speakers?

Mr. Dickover – I don't think they are allowed under your Village Code...

Mr. Aulen – Are you talking about exterior speakers?

Mr. Olsen – Yes. I have no idea if they are even there but....

Mr. Aulen – Based upon your memo and what was brought up in the public hearing enforcement is by the Police and/or the Building Inspector and not by this Board but if you would like to make that a condition...

Mr. Olsen – Yes, I would like to make that a condition.

Mr. Aulen – I would also like to put a condition reiterating what is required by Local Law. That is really all we can do and they have to follow that anyway.

A MOTION was made by Bill Olsen, seconded by Ryan Denerley and carried to grant an approval for Amended Site Plan to include the second floor as part of the eating and drinking establishment located on the first floor conditional upon 1) the operator of the premises shall at all times comply with the Village of Warwick Performance Standard provisions 145-04 of the Village Zoning Ordinance and in particular the noise standards 2) There shall be no outside speakers allowed on the premises. (4 Ayes)

30 NORTH ST.

SITE PLAN APPROVAL

MR. & MRS. THEOLOGIS

Mr. Getz – This property is located in the R zone at the north end of North St. and on 0.7 acres. It is not located in the Historic District. The applicant is proposing a new 2 story, 2 family residence. There was a previous building that has been removed so the lot is vacant and has been stabilized with hay and mulch. It is an allowed use under the zoning. The Bulk Table is incomplete. In the Village there are yards, which represent the property line and perhaps a patio or a shed and setbacks are from the property line to the main structure and also Lot Depth and Street Frontage are not listed. Based on the information provided, it appears that a variance will be required for the proposed front setback to the new building.

Ms. Theologis – Yes, we can not move the house further back because the lot is narrow and there is a huge hill behind us.

Mr. Getz – The alignment of the house is similar to the old one based on the survey. The building area is quite level. We would also like a plan on what is existing today and what is proposed, along with utility connections, water, sewer, drain lines, etc. In reviewing the required site plan elements I have suggested what items may not be pertinent or crossed out and attached an amended list. I am not sure that we need the topography because according to this plan you are keeping area similar to what was there before but if you are to shift the building to a different part of the site we would want topography to understand the slope of the land, grading, ...

Mr. Olsen – Are there any drainage issues up in that area?

Mr. Patterson – There is quite a dip in one area...

Mr. Getz – Yes, as you approach McEwen it is rising up.

Mr. Olsen – I tend to think it would be good to see it.

Mr. Getz – It would be helpful. Will there be a basement?

Mr. Theologis – We are not planning a basement so no.

Mr. Getz – If there is a basement the topography would be helpful because we would need to see the foundation drain from 8 or 9 ft. down and where that would outlet and to make sure it does not go on the neighboring property. If you do not have a basement then the footing drain is not a concern but I think the topography is a good idea.

Mr. Theologis – We have forwarded this information to the architect Greg Anderson and he said he would revise the plan.

Mr. Getz – He can call me if he has any questions.

Mr. Aulen – If they are going to rent one side how does the handicap parking work?

Mr. Getz – It is not a public building and they have to comply with ADA but I do not think it is required. But the Code requires parking spaces to be shown.

Mr. Aulen – They have 2 garages...

Mr. Patterson – And a gravel driveway.

Mr. Theologis – I want to extend the driveway and make it a little wider so there is enough parking for 2 cars.

Mr. Olsen – You are not allowed to have parking in the front of the house, right?

Mr. Aulen – Parking is not allowed in the front yard setback but you can park in your driveway.

Mr. Getz – You may want to request a variance to park in the front yard setback. From McEwen St. it does look like a driveway but it is a Village street and the Village does plow it.

Ms. Theologis – Yes.

Mr. Patterson – Are you planning on living on one side of the house?

Ms. Theologis – Yes.

Mr. Olsen – There is a room labeled office, is that an office or just a room that you will work in?

Mr. Theologis – It is a house office not a real business office.

Mr. Getz – A short form EAF has been submitted but questions #2 should be amended to yes because they require the variance from the ZBA.

Mr. Dickover – There are 2 bump outs at the rear of the house, they may be patios...

Ms. Theologis – Yes, they are concrete patios.

Mr. Dickover – They should be labeled so we know whether or not they are encroaching into the required yard.

A MOTION was made by Jim Patterson, seconded by Ryan Denerley and carried to declare the Planning Board Lead Agency and list the application as a Type 2 action under SEQR. (5 Ayes)

16 ELM ST.

SITE PLAN APPROVAL

16 ELM STREET LLC

Mr. Winglovitz – We are proposing a restaurant/catering facility of 3,600 sq.ft. at the former Country Chevy storage lot on Elm St. next to the railroad tracks. The site was developed I believe in the early 1990's as a parking facility for additional vehicles. What we are looking to do is put a 3,600 sq. ft. restaurant, 1,800 sq. ft. per side, restaurant being 1,800 sq. ft. and the kitchen and catering hall will occupy the other 1,800 sq. ft. There is a very narrow neck coming in off of Elm St., we have provided a loop road and our goal is to keep all of the parking within the existing parking area. There is a flood plain that covers a large majority of the property. We have had the site of the building out of flood plain 1) we do not want to impact the flood plain & 2) concerns for insurance and for the building. There are 44 parking spots required and we are showing 44. It will also be designed with the option so that the applicant can build additional parking. So we will show future parking, grade it, permeate it as part of the project to have the option to build it he need be for the restaurant and catering facility. Water and sewer will be available from Elm St., we will have to deal with Stormwater as part of the design. We think we

are going to reduce the imperviousness of the property because of the compacted gravel which was constructed as part of the original project and we will turn some of that into landscaping which will help the impervious nature of the property but we will have to do a full SWPP report.

Mr. Cappella – I would like to reiterate that where we going to provide the parking is historically where parking has existed and makes the most sense to locate it there and that allows us to locate the building out of the flood plain and use the existing paved area.

Mr. Aulen – And there is nothing in the flood way at all? Because according to the DEC you can not build in the floodway.

Mr. Winglovitz – Mr. Getz asked us to show the floodway on the plans, so I will have to locate that.

Mr. Getz – I printed out a FEMA map of the area which shows both.

Mr. Winglovitz – If there is anything it would only be the existing gravel...

Mr. Getz – You are allowed to do work in the floodway as long as you do not increase any water surface elevation and much of the existing driveway as you come in is in the floodway, so they are not allowed to place fill, build a structure or do anything to raise water surface elevations.

Mr. Aulen – Were you in the meeting with the DEC, because they even had a problem with an existing fence over by Cablevision, they wanted it removed.

Mr. Getz – Yes, I was at that meeting but if they maintain existing elevations and don't put up a structure in the floodway they are complying with that part of the FEMA regulation.

Mr. Aulen – We just need to be sure.

Mr. Olsen – What kind of landscaping will be in the middle?

Mr. Winglovitz – We haven't gotten that far yet, it may be a slight depressed area with landscape plantings.

Mr. Olsen – Like a detention area?

Mr. Winglovitz – Yes, but it will look nice.

Mr. Getz – Based on the Bulk Table provided it looks like they will meet all of the Zoning Requirements except for the street frontage, which is an existing non-conforming condition. Would you recommend they seek a variance for that?

Mr. Aulen – Is there an existing variance?

Mr. Petrucci – Yes, there is.

Mr. Getz – This Board is the Flood Plain administrator and there is a Flood Plain application that needs to be completed and submitted.

Mr. Winglovitz – We will demonstrate that there is no net fill on the flood plain so that you can make a recommendation to them.

Mr. Getz – You need to make sure that the floor elevation of any new building needs to be at least 2 ft. above the 100 year. There is the DEC and the Village requirement for Stormwater Management and it has been mentioned that much of the existing area in front of the building is gravel and under NYS DEC guidelines, the DEC considers gravel to be impervious. So the idea that they can reduce the impervious covers would go a long way towards meeting all of the guidelines. Will you fall under redevelopment?

Mr. Winglovitz – We might. I have to review that.

Mr. Getz – This site is potentially sensitive for archeological resources and endangered and threatened species and may need to be addressed. The Village Code indicates all off street parking shall be located behind or to the side of principal buildings except under certain conditions and so what they are proposing doesn't comply with that so I am not sure if it is a requirement.

Mr. Winglovitz – We will send off the letter identifying what we have as well as archeology, sign on to the CRIS system and upload our plan to them.

Mr. Aulen – Was that part of the railroad property at one time?

Mr. Getz – Yes.

Mr. Aulen – They didn't have any buildings there and I believe it was back in the steam days when they did not have PCB's.

Mr. Christianson – Yes and back in the day I believe it was just a rail yard.

Mr. Getz – The Village Code indicates that all off-street parking shall be located behind or to the side of the principal buildings, except under certain conditions. What they are proposing does not comply with that and if it is a requirement I am not sure...

Mr. Aulen – We will have to investigate that. If it is a requirement they will either have to adhere to it or get a variance.

Mr. Getz – The Code mentions in a few places that in some cases more strongly as a mandatory thing than in other places.

Mr. Aulen – More in the Gateway, that is where it is supposed to be mandatory.

Mr. Olsen – Unless you get a variance.

Mr. Getz – Based on the presentation it seems to make sense where they have parking, using existing areas so we may need to direct them at some point if they need to apply for a variance or not.

Mr. Aulen – We will have to review that.

Mr. Patterson – Are you planning on putting in the additional parking now?

Mr. Winglovitz – We are going to plan for it, design for it and permit as part of this so that we address the stormwater & grading for it. But the idea is to build the 44 spots and if he is successful and needs or wants additional spots he is allowed to do that and just go in and pave.

Mr. Patterson – That is what I wanted to know whether you were going to pave it or whether you would install a paver that would still allow water to go through it...

Mr. Winglovitz – They would not pave it now, it is already compacted gravel so he would probably just leave it in its present condition and he would pave it.

Mr. Olsen – That would increase the impervious...

Mr. Getz – All their calculations would have to include that.

Mr. Dickover – The project is proposed as a restaurant/catering facility but it falls under the category of an eating and drinking establishment which is permitted and it seems to fall into that category. It seems to me there are some residential homes that surround this property.

Mr. Winglovitz – Yes.

Mr. Dickover – So keep that in mind in particular under the site plan review, we have landscaping and screening as well as lighting being cast on or off the property and the noise issue.

Mr. Getz – What does a catering facility include?

Mr. Christison – Technically we had a square box when we designed it. I don't need it for the restaurant at all times, on certain days I can be real busy so I was going to have a wall go through and use it for eating and drinking and every once in a while someone may want of a party of 25 people so it is in a separate room and it was labeled a "catering room". It is not necessarily a catering hall, it is really just an overflow room. It should really be labeled a banquet room.

Mr. Aulen – Tell him to change it.

Mr. Christison – I will.

Mr. Getz – I think that would be a good idea.

A MOTION was made by Jim Patterson, seconded by Jesse Gallo and carried to declare the Planning Board Lead Agency, typed as an Unlisted Action with an Uncoordinated Review under SEQR. (5 Ayes)

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

Respectfully submitted;

Maureen J. Evans,
Planning Board secretary