

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

VILLAGE OF WARWICK
PLANNING BOARD MEETING
AUGUST 17, 2017

The monthly meeting of the Village of Warwick Planning Board was held on Thursday, August 17, 2017. Present were: George Aulen, Bill Olsen, Jim Patterson, Jesse Gallo, Ryan Denerley, Raey Webster, Village engineer, Dave Getz and Planning Board attorney, Robert Dickover. Others present were: Robert Silber, James Ramus, Ross Winglovitz, John Cappello, John Christison, Patrick Gallagher, and others.

A MOTION was made by Jim Patterson, seconded by Bill Olsen and carried to accept the minutes of the June 15, 2017 Planning Board meeting. (5 Ayes)

VILLAGE VIEW	SITE PLAN/SUBDIVISION	VILLAGE VIEW
	APPROVAL EXT.	

Mr. Ramus – We are here to ask for an additional 90 day extension of a preliminary approved plan for a subdivision which I believe is for 28 lots and as you are aware we are still looking to do the Cluster subdivision which would add 17 more lots and we are still trying to iron out the fees. We have submitted a revised EAF and Site Plan to the office to be sent out with your Intent to be Lead Agency. But we are here tonight to request an extension to the previous plan just in case. We do not want to lose this project in case the fees for the cluster don't work out.

Mr. Aulen – As you are aware this project has been around for a long time and things may have changed from your original application. I just want you to keep that in mind and you should review you the original application just to make sure.

Mr. Ramus – We will. Mr. Getz also requested a preliminary grading and stormwater on the new project and we will get that to him.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to grant an extension to Village View for preliminary site plan/subdivision approval until November 17, 2017.

16 ELM STREET

SITE PLAN APPROVAL

16 ELM ST. LLC

Mr. Getz – The applicant submitted 3 reports and an architectural plan where the seating capacity has been provided. The Traffic Study recommends some improvements regarding striping and sidewalks and eliminating a few parking spots near the corner of Elm St. and West St. to improve site distance and with those improvements completed their conclusion based on traffic counts and their analysis of future traffic volumes is that the existing roadway is adequate and that the levels of service at various intersections that will be affected will continue to be at acceptable levels. I sent a copy of the study to Mike Moser of the DPW because some of the improvements would be off-site and I am waiting on comments he may have. An updated report was provided on archeology.

Mr. Winglovitz – Based on an available map on previous structures that were out there, the NYS Office of Historic Preservation requested that we perform trenches on the site to excavate deeper to see if there was any evidence of the old structures. A plan was prepared and circulated showing where the structures were in relation to our plan and where we were going to excavate in relation to those structures and the trenches across the site that were to be excavated. The archeologist was present when the site was excavated and found nothing significant. They concluded their report that no further work needs to be completed. It was submitted to the State and we are awaiting their response.

Mr. Cappello – Which we should have in the next few days.

Mr. Getz – There was also an updated environmental site remediation report that was repeated the information plus added new data that was collected at the same time that the archeology was being done. They took samples of soil and ground water, sent them to the lab and the results came back that they did not encounter any significant levels of contaminants. So, essentially the site is clean.

Mr. Denerley – Would that be considered a Phase II environmental assessment?

Mr. Winglovitz – Well, nothing was found so it would be more like a Phase I ½ . They did not find anything to begin with and they normally do a Phase II when they find something and want to investigate it further

Mr. Aulen – As the Village engineer stated the test showed the dirt was clean.

Mr. Getz – There was a couple of results that came back with an asterisk but it was clarified that it did not mean it exceeded any kind of level. Earlier in this process the applicant submitted a Full EAF and a permit application for development in a Flood Hazard area. But since we do not have the SHPO comments I think it would be pre-mature to review.

Mr. Aulen – Yes it can't be reviewed until we have all of the information for the EAF and based on the recommendation of the attorney, we do the Flood Plain after the EAF and SEQR.

Mr. Gallo – There is a typo on the ESA on the first page where they reference 19 Elm St. where it should read 16 Elm St. The traffic study recommendations for the on-site, is the applicant willing to do...

Mr. Winglovitz – Yes, the applicant does not have a problem with fulfilling those improvements, they are logical...

Mr. Getz – Can you summarize what they are?

Mr. Winglovitz – They have requested a centerline striping for a driveway, to continue the sidewalk that currently ends to the railroad track, that is where the sidewalk to the bridge terminates.

Mr. Christison – Roughly 35 ft. of sidewalk.

Mr. Olsen – Who owns that property?

Mr. Christison – Mr. Petrucci right now and the railroad. I will have to get permission from the railroad for the sidewalk over the railroad property but I am not sure how that works.

Mr. Olsen – Will you show it on the plan?

Mr. Winglovitz – Yes.

Mr. Gallo – On the traffic study I noticed a figure of 12 but it did not seem to use the peak Saturday hours or volumes. It used mid-day week day pm with an entry of 47 and an exit of 36. Do what the hours were for this study? I just didn't see anything specific in the report.

Mr. Winglovitz – We can provide it.

Mr. Getz – There are a couple more typo's where they labeled the main street as Orchard Ave. instead of Oakland Ave. and the shopping center is called Mitchell Corners not Michael Corners.

Mr. Denerley – There is no indication in the traffic study about loud motorcycles or trucks or anything in that nature and I am not sure whether that is something that can be tracked but it is an area of concern.

Mr. Winglovitz – Are you talking about sound from the vehicles?

Mr. Denerley - Yes, particularly motorcycles.

Mr. Winglovitz – That is something that I have never seen projected. There is a lot of traffic that goes down Elm St. and there could be trucks and motorcycles and so forth and I don't know how many we would be adding to that. They would need to comply with whatever the sound requirements are for motor vehicles.

Mr. Aulen – Actually the traffic count is just the number of units that go by not what type they are. The only thing we may have to do is find out if the Village is willing to put No Parking on those 2 spots.

Mr. Getz – I will follow up with Mr. Moser.

Mr. Aulen – We will wait to get a final report from him but I can say that Elm St. appears to be in the same condition as most of the Village streets.

Mr. Winglovits – Procedurally we would like to move to a hearing but I understand that you typically don't set a hearing until SEQR is completed.

Mr. Aulen – Yes, and SEQR can not be completed until we have all of the information. We were hoping we would get it sooner rather than later so we will have to wait another month.

Mr. Winglovitz – There is no way to set a hearing subject to receipt of...

Mr. Aulen – No, that is not the way we do it. We need all of the information and then we do SEQR, the EAF and then we set the hearing.

Mr. Denerley – You have mentioned that your loan from the bank is pending on approval of the application, is that correct?

Mr. Christison – Yes.

Mr. Denerley – Will the bank feel secure without the state Phase II. Typically, I know that banks, if there is any concern. . .

Mr. Christison – Technically, Mr. Petrucci did the Phase I and II which was given to the bank and then we gave them the update on this one and they are fine with it.

Mr. Winglovitz – They were ok with the original document and then we submitted the extra one.

Mr. Gallo – The variance on the plan is acceptable for this project and application even though it is from the 1990's. . .

Mr. Aulen – The variance for the 47ft. instead of 50? Yes, that should be there, we told them to put it on the plan.

Mr. Gallo – Yes.

Mr. Aulen – I think the Board is looking for a final site plan at this point.

Mr. Gallo – Has there been any updates with the adjoining property owners and any sort of agreements that may or may not take place?

Mr. Christison – Basically there are a few that are ok with getting the property and then various neighbors here have signed a petition against the application and the deal was when we had the meeting at the restaurant was if you leave us alone, we leave you alone but it is still being negotiated but it is hard when you see those letters in the paper and to the Planning Board.

Mr. Cappello- Right now we do not have the authority because until this is approved Mr. Christison does not own the property so he does not have the authority to agree to anything. When we say give the land, I want to make sure that there not be any subdivision or deed contemplated. It would be a license agreement to say that at John's will these would be allowed to remain. We are still discussing that as hard as it may seem to. . .

Mr. Aulen – In other words you will keeping the property as is?

Mr. Cappello – Yes, we would not subdivide, that would be just another approval to go through. We can move the fence and give a license to them to say “you are on our property but you are voluntarily allowed to keep it for a certain number of years” and put conditions so that they would not have to remove their facilities, but to deed them the land would be a very costly procedure and it would add months.

Mr. Getz – With the license agreement, what happens if the owner changes?

Mr. Cappello – It would be at will, a license agreement is not quite an easement but it is permission so the permission runs with the land and it would be conditioned upon certain things i.e., keeping up the land, maintaining liability insurance so it is clear that if anyone in their backyard or on their side of the fence it would be on their insurance.

Mr. Olsen – Is that the same thing as an easement?

Mr. Cappello – An easement is forever and a license is renewable and a little less than an easement.

Mr. Olsen – We know noise may be an issue, so is there some way that you will not have speakers outside or not use them after 8:00pm or some type of time limit because that is definitely an issue for people nearby.

Mr. Winglovitz – I think what we have committed to is that we will conform with the Sound Ordinance of the Village. If we put small speakers outside and locate them where people are sitting and so on I think it could be accomplished.

Mr. Olsen – Even small speakers now days can be very loud. The size does not matter.

Mr. Gallo – The Village actually has no way of measuring noise currently. I know it is referenced but there is really no way for them to enforce it.

Mr. Olsen – Is it possible for you to say there would be no outdoor sound after 8 or 9 in the evening?

Mr. Gallo – Or some sort of restriction on noise.

Mr. Cappello – Your code says 11:00pm.

Mr. Olsen – The codes says after 11 no outdoor speakers?

Mr. Cappello – No, it says noise, after 11:00pm. But that would be something to consider. We did acknowledge that we did receive a letter from the attorney and as with most of the submissions here was a letter prepared by someone who works for a phone utility...

Mr. Aulen – That letter was received today so the Board has not received it yet.

Mr. Cappello – We will provide you with some evidence and with the landscaping we think it is more what we can do to mitigate which we believe we have done...

Mr. Winglovitz – As part of the site walk we did a number of things in response. We closed off the back porch area to provide a sound buffer, we have added additional evergreen screening around the outdoor seating area and again we have the fence that we proposed and then we moved the patio forward. We have done several things to mitigate that part of the site plan. But we do hear your request....

Mr. Capello – Yes, we will try and provide you a couple of options between now and the next meeting.

Mr. Gallo – An alternative is a condition on the approval that it is based on a sound study once everything is in place and then evaluate it and mitigate it if there is an issue.

Mr. Aulen – As long they meet the Village requirements.

Mr. Gallo – But there is no way to...

Mr. Aulen – Well, there is a way, we can have someone...

Mr. Gallo – Yes, do a sound study.

Mr. Aulen – We can have someone come in and measure it.

Mr. Cappello – And I agree that if something like that had to be done it would be preferable when there is something you can actually hear versus having a person who installs phones make a conclusion.

Mr. Getz – You may remember the Cablevision application from several years ago and the concerns with the sound of the fans and Cablevision did a sound study after it was installed to show that they were meeting the requirements.

Mr. Denerley – Have there been any test as it relates to lighting on a similar capacity? I know that lighting can be a matter of concern from the public as well.

Mr. Winglovitz – There is a lighting plan...

Mr. Aulen – There was some investigation with Liberty Greens on their lighting after everything was installed.

Mr. Cappello – We did provide a plan and I would say unlike sound I think lighting is a little easier to show on a plan and what it is going to be like. We have a plan and if your engineer goes out and shows that whatever lighting we have is bleeding farther than our plan shows then we are in violation with our site plan approval. So that is a little easier to track and quantify than sound is.

Mr. Christison – I have been on Main St. for 32 years and I respectful of the noise and I plan on continuing it at the new spot.

Mr. Olsen – My concern is that you may not have this business forever and someone else may take it over...

Mr. Aulen – They would also have to abide to the ordinance or approvals.

Mr. Cappello – And if it can not be mitigated then the speakers would have to come out or some other type of mitigation would have to be done.

Mr. Christison – If it is done right then you don't have to blast it. It is basically up to the owner of the restaurant.

Mr. Olsen – You are not going to have dancing...

Mr. Christison – No.

The Board had no other comments.

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

Respectfully submitted;

Maureen J. Evans,
Planning Board secretary