

CHAIRMAN: GEORGE AULEN

MEMBERS: WILLIAM OLSEN, JAMES PATTERSON, JESSE GALLO & KARL SCHEIBLE

Alternate: Kerry Boland

VILLAGE OF WARWICK
PLANNING BOARD MEETING
AUGUST 13, 2019

The monthly meeting of the Village of Warwick Planning Board was held on Tuesday, August 13, 2019. Present were: George Aulen, Jim Patterson, Jesse Gallo, Karl Scheible, Bill Olsen, alternate: Kerry Boland, Village Engineer, Dave Getz and Planning Board attorney, Robert Dickover. Others present: Jay Myrow, Ron Charlton, Keith Woodruff, Susan Roth, Joe Irace, Robert Krahulik, Tony Driton and others.

The Board recited the Pledge of Allegiance.

The Chairman acknowledged correspondence received.

A MOTION was made by Jim Patterson, seconded by Bill Olsen and carried to accept the minutes of the June 11, 2019 Planning Board meeting. (5 Ayes)

A MOTION was made by Bill Olsen, seconded by Kerry Boland and carried to accept the minutes of the July 9, 2019 Planning Board meeting. (3 Ayes) {3 Abstentions - Karl Scheible, Jim Patterson and Jesse Gallo}

PUBLIC HEARING

FORESTER AVE.

SUBDIVISION & SITE PLAN
APPROVAL

77 FORESTER AVE, LLC

Mr. Aulen read the public hearing notice.

Mr. Getz - I had 5 comments and from the time I wrote the letter the applicant has addressed a couple of them. I have received an updated lighting plan and additional stormwater information. My other comments are regarding the ZBA and the status of your application.

Mr. Myrow - The area variance was granted to allow a the driveway from Forester Ave. to run through an R District to a non residential use on Thursday, August 9, 2019. This is going to

allow vehicular traffic to go back to the Mechanical Rubber building which has been done for the last 75 years and is the only way to get there. Since this is between a Town and Village parcel we have to provide access from Forester Ave. to the Mechanical Rubber building it will go through the Village parcel.

Mr. Woodruff - The piece of property we are looking at to develop is the existing 2.19 acre parcel in front of Mechanical Rubber, it is what Mechanical Rubber used as a parking lot and to gain access to the rear portion of the building of which is situated in the Village of Warwick. The Mechanical Rubber is contained in the Town of Warwick, thus needing the variance to continue to use the driveway. The subdivision is for 2 separate tax parcels but it was on one contiguous deed so we had to file for a subdivision. As part of the development we have 93 parking spaces as well as 40 total apt. units, 12-1 bedroom and 28-2 bedroom apts. It will be a split level so it will essentially look like a townhouse along Forester Ave. and as you drive in you will multiply levels with parking provided underneath, there is also additional parking spaces throughout the site plan. Currently Mechanical Rubber has a singular traffic loop, one way in and one way out onto Forester and we will maintain it and continue that same traffic pattern, we will improve upon it, widen it so we can provide fire truck access, continue to provide the ability for the delivery trucks to maintain their presence into the rear so they can continue to make deliveries to the rear to deliver and pick up. We have provided a lighting plan because of the indication that there was possible bleeding of that light onto one of the adjoining properties. So we revised the plan which has a very sharp cut-off and that will alleviate any bleeding of the light onto that neighboring property as well as trying to maintain the existing vegetation along the shared property-line along with a 6ft. high property fence. The building is a U shape with an internal courtyard, we have stormwater treatment for the rooftops and the primary stormwater will be treated in the rear portion of the property under ground.

Mr. Aulen - This is one contiguous building.

Mr. Woodruff - Yes, it is essentially a horseshoe shape with different elevations.

Mr. Aulen - You have received a Special Use Permit from the Village Board.

Mr. Woodruff - Yes and we received a variance from the ZBA for the setbacks as well as the driveway. The subdivision plan will show the ZBA variances.

Mr. Dickover - Has the Special Use Permit been issued?

Mr. Woodruff - Yes.

Mr. Getz - There is a slight change near the American Legion building, are you going to have a driveway that goes to the back of that building?

Mr. Woodruff - At present the Legion was utilizing some of the paved parking surfaces that were on this parcel. What we are going to do is maintain a 10ft. wide path so they can still maintain the side door that leads into the kitchen as well as providing vehicle access to the back as well as pedestrian access.

Mr. Getz - So that is an existing path?

Mr. Woodruff - Yes, we will be granting an easement for ingress, egress for that 10ft. wide paved section.

Mr. Patterson - Is the driveway you received a variance for still considered a driveway or is it now a roadway?

Mr. Woodruff - It will be a private driveway.

Mr. Myrow - The entire maintenance obligation is entirely on us.

Mr. Dickover - Regarding the driveway, we have talked about getting a base level of service on that driveway for the Mechanical Rubber site so that in the future when that site goes for an approval for some different use, they are going to be looking to access it from this driveway and I think the concern that this Board had was that if it will impact the Village you may not have much say in the matter because it has a driveway. One of the conditions of this approval was to be that no future use of the driveway would be made in access of the current level of service without further approval from this Board. I am not sure that we have seen that study or the level of service report.

Mr. Myrow - We gave you the numbers at the last meeting.

Mr. Aulen - They gave us an approximate number of deliveries each day and week.

Mr. Myrow - I can get those numbers to you.

Mr. Dickover - If there is going to be a decision on this we are going to need to reference them and they should probably be put on both the subdivision and the site plan map.

Mr. Getz - I agree. The subdivision plat will have to be filed as the County Clerk but not the site plan.

Ms. Marge Kaladaski - How many floors?

Mr. Woodruff - 3 floors.

Ms. Kaladaski - Will there be an elevator?

Mr. Charlton - The first floor will have access via the courtyard so there will not be any steps on a number of the units.

Mr. Gerard Kearns - I know you did a traffic study or impact study, was any consideration taken for pedestrian traffic because with the size and scope of this you could potentially have 100 students going to school and will there be cross-walks across Forester? Because it is a very busy street.

Mr. Woodruff - We did a traffic study but only for vehicles, typically pedestrians are not included in a traffic study. We are going to be maintaining the sidewalk along Forester...

Mr. Kearns - You know as well as I do that you will have over 100 potential people there or maybe more with kids and you can see it now going down the street from the park and if you want to go to the Village the quickest way is one straight line across Forester and there is no crosswalk there, there is nothing and given the size of this project it should have been included in the study.

Mr. Woodruff - Unfortunately if you put a crosswalk in we would also have to cut the curb on the opposite side in order to provide handicap access at present the only way to get across is to go down to the Veterans Memorial at cross at that crosswalk and cross again at Devon Woods.

Mr. Kearns - My comment is really directed at the Board, I think the Board should be including it your approval, I think it is something that should be considered before you give final approval. You have that park so you have kids going across to there, there are lots of bicycles over there, I just think something should be done before someone gets hit by a car or killed. You have like 80 units so there could be 50 or 60 kids probably.

Mr. Woodruff - There is going to be 40 units of which 28 will be 2 bedrooms so assuming the 28 would actually be the only ones with children staying there you could have over 50.

Mr. Kearns - I just think it falls upon the Board and it is their responsibility to include it in their consideration. They would be negligent if they didn't.

Tom Scott - I am across the street from the American Legion, what is going on with the lighting and landscaping?

Mr. Woodruff - The Legion itself we are not going to be proposing anything but we are going to be adding additional landscaping in the corner and along the front of the building as well as trees and low lying shrubs. As far as the lighting we don't propose any lights protruding out past the driveway entrance so there will not be anything to add across the street.

Mr. Scott - So you are not going to put any lights in the parking lots itself?

Mr. Woodruff - There will be but they will not be shining out into the street.

Mr. Scott - They will not be shining out to Forester?

Mr. Woodruff - No.

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

Mr. Woodruff - We would like to request if the Board could make a vote for a conditional final approval?

Mr. Aulen - We have received all of the correspondence required, we have comments from the OCDP, we have an example of a Virginia DEQ stormwater design...

Mr. Woodruff - Yes, Mr. Getz requested some additional documentation of how we came about some of the calculations we provided.

Mr. Aulen - Why is it called Virginia?

Mr. Woodruff - Virginia, Maryland and the Chesapeake Bay district is basically on the forefront of stormwater technologies because of the Chesapeake Bay being so crucial. So typically everyone looks at Virginia, Maryland and New Jersey as the epicenter for all stormwater management practices.

Mr. Aulen - The names on the maps should be updated.

Mr. Dickover - There is a number of pieces of housekeeping if we are going to talk about a Resolution to approve the site plan and subdivision which will be a joint Resolution with conditions.

1) The language of the variance for the driveway to service the back parcel should be put on both the site plan drawings and the subdivision.

Mr. Getz agreed.

Mr. Woodruff - Would it be possible to just have those notes on the subdivision plan because that will be filed with the County?

Mr. Dickover - I want to see it in both places because of the future use of the back parcel. When that comes back to this Board, and we may be all gone by then, there will be questions on how that application affects the current approved site plan for the front parcel and I don't want to see it forgotten and that subdivision map may never get to this Board, so I prefer to have on both.

Mr. Woodruff - Okay.

Mr. Dickover - 2) I think the approval should refer to the level of service to the back parcel and make note that the site plan approval is granted with that level of service and any future increases of the level of service on the driveway would have to come back to this Board for approval.

Mr. Getz - That is car and truck.

Mr. Dickover - Yes.

Mr. Myrow - We gave both.

Mr. Olsen - Do we have that in writing or verbally.

Mr. Myrow - Verbally but I will certainly either e-mail or reduce it to writing.

Mr. Dickover - There was a comment from a member of the public with respect to the thought of cross-walks and I think the Board should consider that or not but dispose of the issue one way or another. It seems the thought that there may be over 100 children generated in a 40 units building of which there are 12 - 1 bedroom units is pretty unlikely that you will see that number of children in these places but I don't recall if the traffic study spoke to the number school age children that might be generated by this project.

Mr. Woodruff - I do not see a comment with regards to pedestrian traffic or the number of school age children that could be generated from the project.

Mr. Getz - Is there a sidewalk on the opposite side of Forester?

Mr. Olsen - No.

Mr. Getz - I agree that maintaining the sidewalk in front of the applicant's project is the most important thing and funneling pedestrians...

Mr. Myrow - It goes down to a cross-walk area that is barely visible. I don't know where they would go to if you put in a cross-walk, it would not go to anything.

Mr. Getz - I agree.

Mr. Myrow - There is a natural way to funnel traffic down to Memorial Park and across.

Mr. Dickover - Is there a crossing-guard at that location?

Mr. Myrow - No. It is striped and it does have a post in the center. People walk on the other side where Wadesons is and then it crosses over again by Coquito's so it is basically that sidewalk system that is utilized.

Mr. Myrow - Where does it end?

Mr. Scheible - It ends near the last building at Burt Farms and then there is no sidewalk, it is all driveway, so completing that sidewalk up to Forester which I believe is 60 or 70 ft. would be nice and that is the access to the cross-walk.

Mr. Myrow - Is there a plan to put a sidewalk in?

Mr. Dickover - That would be an off-site improvement of which we can not bind this applicant to pay for that. That is something you could recommend to the Village Board.

Mr. Myrow - I know that we are adding density but I am not sure it is necessarily significantly exacerbating what already is there. There is a lot of foot traffic walking to and from the library. If there is a need the Village is probably going to have to take it up.

Mr. Aulen - In any case if you could just estimate the number of children possible in this complex...

Mr. Dickover - And going to the elementary school.

Mr. Aulen - Just address the comments from the public.

Mr. Dickover - The SWPP is done, are you satisfied with it?

Mr. Getz - I need to review the latest calculations which came in yesterday but they were minor tweaks. The design is good and I just need to finalize my review.

Mr. Dickover - I saw lighting fixtures that you are proposing but I do not see a commitment to one or the other. I see the one that is recommended, have they become part of your official lighting plan? Is it scaled out on the drawing?

Mr. Woodruff - Yes.

Mr. Getz - Yes, there is a plan dated yesterday, Aug. 12 that shows the cut-off before the property line.

Mr. Olsen - What kind of a lighting system is that?

Mr. Woodruff - It is an internal light system that has a shield and because of the internal shield the lighting output is decreased slightly but it also giving you a very sharp cut-off at the back of the fixture.

Mr. Getz - I am fine with that.

Mr. Dickover - There are two OCDP letters to this Board, the first one is for the site plan and the second one is for the subdivision. The comments for the subdivision were simple and local determination. The site plan comments dated February 22, 2019 has a binding comment that 30% of the proposed total units be affordable. We have not really discussed that but it is a binding comment and if the Board does not require that, it is going to require a super majority which would require four of you to not incorporate that and we would have to put in writing our explanation for not requiring it on this project. The alternative to that is the applicant commits to the affordable housing.

Mr. Olsen - 30% is kind of high, I mean maybe 10 or 15% but 30% is high.

Mr. Aulen - In any respect we did discuss it one time and there was really no response as far as whether they were going to put affordable housing or not.

Mr. Patterson - Do we know what the apartments are going for?

Mr. Charlton - Whatever the market rate is.

Mr. Myrow - The intention is that they be rented at market rate and what that is compared to affordable, does the Village have a regulation regarding affordable for apartments?

Mr. Olsen - I don't think so.

Mr. Aulen - I know we have one for subdivisions but I don't know if it is addressed for apartments, we will have to research that.

Mr. Myrow - The formula is?

Mr. Dickover - 30% of the total units, I think it would be about 12 and it would be \$1,314.00 including utilities and fees.

Mr. Olsen - Aren't these condos?

Mr. Charlton - No they are apartments but they are separately metered.

Mr. Myrow - So we would have to put pen to paper to...

Mr. Charlton - This was addressed at the Village Board meeting and Barry Cheney, he referenced a lot of this stuff and the numbers that they have for Warwick as existing affordable units is not correct and he thought that with a lot of the other additions to the Village and Town that those numbers were not correct and that is coming from a County Legislature.

Mr. Myrow - What we need to know is whether the Village Code has an Affordable Housing for apartments. That wasn't something the Village Board had to pass on as part of the Special Permit?

Mr. Charlton - No, they also said if they did want to address it they should address it in their Code not individually per applicant.

Mr. Dickover - The Village has a payment in Lieu of Parklands with respect to dwelling units on site plans so this Board would need to make a determination based upon the present and the

anticipated future needs for parks and rec fees that the recreation should be shown on the plat and if there is no room for it therefore payment in lieu of parkland would be paid. That is all pursuant to the Village regs 120-18D. There is going to be a need for escrow deposits for the review and inspections during construction. Hours of construction should be set forth in the approval which is just the Village law. Because this project involves both public and private improvements, the public improvement is the drainage facility as well as a sewer-line and there will be no partial, temporary or individual CO's issued until all of the public and private improvements were installed such as the privacy fencing, the lighting improvements in the parking lot, the parking areas and the landscaping. They will need a maintenance bond for the landscaping and because the landscaping for this project is an important element for privacy and screening so it is important that it is installed and maintained which I believe is a 2 year period post CO.

Secretary - The hours of construction per the Village Code are as follows: Mon-Fri 7:00am - 9:00pm; Sat-Sun - 8:00am - 9:00pm.

Mr. Dickover - I recall modifying the time of construction with the Riehle building across the street with the concern that you have a major thoroughfare with construction going on with some rather late hours and the Board may want to consider that.

Mr. Aulen - We have had agreements from alot of the applicants to discontinue construction at 8:00pm.

Mr. Dickover - Is that something that the applicant is willing to offer?

Mr. Charlton - Yes, 8:00pm is fine.

Mr. Myrow - Is that weekday?

Mr. Aulen - Yes.

Mr. Dickover - So it will be 7:00am to 8:00pm on weekdays and on weekends, I think we did 7:00pm on the weekends 8:00am to 7:00pm.

Mr. Aulen - Yes and no Sundays.

Mr. Dickover - Regarding Special Conditions; Mr. Myrow is working on a number of easements which are being tweaked now but they are as follows: 1) License in favor of the Mechanical Rubber parcel to maintain existing encroachments and monitoring well and they are doing a license 2) An easement for access and egress in favor of the Mechanical Rubber building across the lands of the front parcel/driveway 3) A temporary as well as a permanent utility easements in favor of Mechanical Rubber bldg. across the lands of Forester Ave. 4) An easement for access and egress in favor of the American Legion bldg. across the lands of Forester Ave. 5) Offer of Dedication for a drainage and sewer easement in favor the Village of Warwick across lands of the American Legion.

Mr. Myrow - There is a temporary construction easement for us to build the infrastructure and there is a permanent easement that the American Legion is giving to the Village once we dedicate the sewer line and the infrastructure to the Village.

Mr. Dickover - I believe we will need a stormwater facility management agreement.

Mr. Scheible - Is there a distribution of parking or a guarantee of parking to the Mechanical Rubber building that encroaches?

Mr. Getz - I agree.

Mr. Dickover - The concerns we had was we want to have the impact of possible development out in the Town and they have done that. We wanted to have the traffic impacts at Locust and Woodside and they have done that, also Sleepy Valley with the new roads coming out and they have done that as well. From a comment from a member of the public we asked them about any changes in the Flora and Fauna and they have agreed to do that in the Supplement as well. There were sight distances were brought up by one of the public, they have agreed to address that. In the applicants response from a comment from Mr. Desrats, a member of the public, regarding the new subdivision and sidewalks on both sides of the road. We have gone back and forth on this and I am not sure where we are. Are you having sidewalks on both sides or just one side?

Mr. Rother - Both sides where there are dwellings. The Village Board was really encouraging the connected streets.

Mr. Dickover - There was a letter from Guy and Donna Kipp where they commented on ground and water studies. The ground and water studies are already addressed in the DEIS. The applicant in their response says that "ground and water studies like the one referenced in the DEIS are carried out by municipalities" I am not sure what was being referred to there...

Ms. Roth - Do you remember the Leggett Brasherars and Graham study, the overall study that they did for the Town and Village for the ground water, that is what they wanted updated and that was something that I referenced in the DEIS.

Mr. Dickover - Yes and that I think is beyond the purview of the Supplement and the applicant has declined to undertake that requested review that was put in these two members of the public. In my opinion, I think the applicant's response to this was appropriate. The letter from GreenPlan, Ted Fink, the Town Planner, wanted the Supplement to discuss the impact of the potential development on the Town of Warwick zoning provisions and in particular the Ridgeline Overlay District and the applicant will incorporate that.

Ms. Roth - He also wanted us to discuss the fiscal impact of just the road in the Town without any houses on it.

Mr. Getz - Didn't he want that to be considered if it was public or private?

Ms. Roth - He said what if it is not approved. I am assuming he means approved for dedication, but he wanted the fiscal impact of just the road and how much it will cost to maintain it versus the tax generation of it.

Mr. Rother - Which we will do.

Mr. Dickover - If the Board is comfortable with where the Scope is at you can form a motion to adopt the Scope and the Supplemental EIS.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to adopt the revised Scope and Supplemental EIS. (5 Ayes)

18 RAILROAD AVE.

SITE PLAN APPROVAL

18 RAILROAD LLC

Mr. Getz - The plan that was submitted was essentially the same plan from August of 2016 and at that meeting a lot of our discussion was about parking. I believe the same number of apartments were proposed and the same floor plan, correct?

Mr. Irace - Yes, nothing has changed.

Mr. Getz - Based on my notes from that meeting we advised the applicant that he must demonstrate that he owns enough parking spaces for the proposed apartments. With the current submission, Mr. Krahulik provided a letter indicating an agreement is possible for parking, there are no site improvements involved and the Board typically will revise the site plan checklist to eliminate those that are not appropriate. I would like to see the staging areas, dumpster locations, etc. and how it is being handled.

Mr. Irace - I will, although it is built now.

Mr. Aulen - You have already built the apts.?

Mr. Irace - When we first came here in 2016 the building was in such disrepair it was in fear of collapsing so when we tabled the approval process for the apts. we went ahead and built the shell and so the shell has been built.

Mr. Irace displayed photos to the Board.

Mr. Irace - The drawings are slightly revised showing the shell and there are no apartments in yet it is just one big open space but it has a firm solid structural roof and the floor has been reinforced. So there is really no reason at this point to put dumpsters and staging areas because it has all been built.

Mr. Aulen - Has it all been approved by the Code Enforcement Officer?

Mr. Irace - For the shell only. The only change to the drawing is the 92% impervious surface I made based on the calculations. This project is all pre-existing because the floor was there we did not add a floor, we sloped the roof in the opposite way just to facilitate water going to the back street then to the food court area.

Mr. Olsen - The water is going out to First St.?

Mr. Irace - Yes.

Mr. Olsen -Where does get caught?

Mr. Irace - Gutters and downspouts.

Mr. Getz - Does it go into catch basins?

Mr. Irace - Yes, there is going to be a series of gutters and it goes into the sidewalk and then into the stream. That is way it has always been but it is not hooked up yet because we have not finished the gutter system. I don't know if we can pipe it into a storm sewer. In regards to the parking, originally we were told that it had to be within a few hundred feet of the property and then it was determined that it just had to be in the Village and that would be acceptable and we spoke about buying a building and tearing it down but that is cost prohibitive so a deal would have to be made with someone, like Mr. Krahulik, to somehow obtain parking spots and not have them disappear in a year but to have some longevity and that is all I remember.

Mr. Aulen - I don't remember alleviating the distances to the parking from the building.

Mr. Irace - Originally it was suggested that on First St. that there were these old houses and in the meeting I recall that we wanted the parking to be on First St. but it is just not realistic to purchase a home and tear it down. We need 11 parking spaces, 1.5 per apt. and there are 7 apts. so then it became where can we go, we spoke with Mr. Schluter but that is a few blocks away and I think we concluded that as long as it is within walking distance that would be acceptable, as long as the deal was that the parking spaces would not disappear right away, they need to have some kind of longevity. I do not know what that means, whether you need to own it or a 100 yr. lease, it was never really defined.

Mr. Dickover - The Code says permanent parking and Mr. Krahulik has provided a proposed license agreement, I may be wrong but it which appears to be revocable, so it could be revoked tomorrow and that does not meet my definition of permanent but if the applicant can make the case on it...

Mr. Krahulik - I have a lot of questions. I want to start with the basic premise of how many spaces we really need to provide. If you read the intro paragraph of 145-70, it is crystal clear that the goal is to reduce the amount of parking required by any applicant Village wide and the parking recommendations in the schedule are the maximum number of required spaces not the minimum.

Mr. Olsen - That is for commercial retail and not for residential.

Mr. Dickover - I can't comment on this tonight, I will need to go back and look at it.

Mr. Krahulik - I don't see any distinction in the Code but these are the sections that Mr. Dickover referenced in his comments.

Mr. Dickover - I did not analyze it from a commercial use versus a residential use, we are talking about rental residential units, is that residential or commercial use?

Mr. Aulen - It is a residential use.

Mr. Olsen - It is not retail.

Mr. Krahulik - The table is in the section of the Code where they talk about apts., multi-family or mixed use dwelling.

Mr. Getz - In that same section it says that "the final number and layout of parking spaces shall be determined by the Planning Board based on the need to protect public safety and convenience" so no matter what the table says you have to be comfortable with the number of spaces.

Mr. Olsen - But that is for retail.

Mr. Getz - No, it is general under Parking and Loading.

Mr. Aulen - But, we have to be comfortable with it.

Mr. Getz - Yes, that is what it said.

Mr. Krahulik - But it does say the chart provides for the maximum number of spaces, not the minimum and there is no minimum. The Board has the discretion to say "we will not require any parking spaces" which is consistent with the preamble, which says that should be the goal of the Board, to reduce the amount of parking required.

Mr. Dickover - I think that is the way the Board has read this parking change since 2009. It is a recommended maximum number of parking spaces.

Mr. Aulen - In our purview we are permitted to determine that there is required parking and we have never indicated that there was not any parking required for any business or anything going on because the scarcity of parking spots.

Mr. Dickover - My recollection is the same as the Chairman's and I believe this Board has on occasion not required the maximum number of parking, they have certainly have deviated from the maximum at times. Typically when there is municipal parking within a reasonable walking distance...

Mr. Aulen - Which is all for retail and commercial spaces.

Mr. Krahulik - At 145-70 3(a) - The park requirements are to be used as guidelines by the Planning Board in the development of sufficient but not excessive parking for proposed uses. The Chairman is absolutely right, the final number and layout of parking spaces shall be determined by the Planning Board based on the need to protect public safety and convenience while minimizing harm to the character of the community.

Mr. Aulen - And you are in the Historic District also.

Mr. Irace - Does that help or hurt us?

Mr. Krahulik - It helps because I don't you want to start destroying the character of the Historic neighborhood.

Mr. Aulen - But you also do not want to have excessive parking on the streets in the Historic.

Mr. Krahulik - Sec. 145-70 3(7) - The Planning Board may require applicants to address alternatives for reducing vehicle use, parking demand and housing costs by limiting the number of parking spaces to less than the maximum indentified herein. My initial question was that I wanted to make sure that it was not a suggestion that we were dealing with a minimum requirement, that we are at the maximum already.

Mr. Irace - Which is 1.5 per 1 bedroom apts.

Mr. Aulen - The apts. are at the minimum size of 150 sq.ft. per.

Mr. Irace - Yes.

Mr. Olsen - How many apts?

Mr. Irace - 7.

Mr. Olsen - So the maximum would be 12.

Mr. Getz - It would be 11.

Mr. Irace - Would the Board accept anything that would be less than the maximum requirement? Because it is scarce to find parking, every project we put in front of the Planning Board, that is the one thing that hits us every time.

Mr. Olsen - You are entirely correct.

Mr. Irace - It happens in every Town I go it is the same thing.

Mr. Aulen - It happens in every small Village except for the ones building parking buildings.

Mr. Irace - I have seen a lot of projects fail in other towns upstate in the Catskills because of parking requirements.

Mr. Olsen - If you have these apartments and people can't find a parking space, you may never fill your apartments.

Mr. Irace - I live in the Village and I do not have a parking spot and every night I have to put my car somewhere and it is a challenge but I love living in the Village. There are places that I guess could be had, I mean the Chase lot seems to be always empty. Is that an acceptable space to rent for this?

Mr. Dickover - That is ostensibly what you are doing with Mr. Krahulik, it is a license agreement but call it a lease and leases can be terminated but a license agreement which is revocable at will and the Code says permanent parking spaces and I don't know how that meets the Code definition.

Mr. Krahulik - We would be happy with a condition to the approval that says you have to provide parking so if parking is no longer available on my lot in theory occupancy could be denied going forward until sufficient parking is identified.

Mr. Aulen - That would be an almost impossibility and it could end up in the courts.

Mr. Irace - But there are other places like the Chase lot, so if something happens there is a Chase lot and if not the Chase lot there may be other spots.

Mr. Olsen - Where?

Mr. Irace - I don't know.

Mr. Aulen - I think this is something that needs to be thought about.

Mr. Irace - Literally owning it is cost prohibitive, to buy a building for \$300,000 and tear it down for 3 spots. You would have to raise the rents so high to cover it.

Mr. Dickover - This building itself does it have 3 or 4 spots in alcove?

Mr. Aulen - There is no parking there.

Mr. Irace - The front of the building is an outside dining area.

Mr. Krahulik - And it is in contravention with the intent of the code, the very first sentence says the Village of Warwick finds a large and highly visible parking areas can damage the scenic and historic character of the community. I don't think the Village wants us tearing down houses and building parking lots.

Mr. Irace - Or fill the whole outside dining area with parking...

Mr. Olsen - No.

Mr. Irace - But yet that is the only real legal thing we can do on our own property but we certainly don't want to do that, so I don't know what the answer is and I agree that we should have some parking at least 1 per apt. would be a minimum but where to find it and how to work a deal out...

Mr. Olsen - Isn't the Chase lot booked up?

Secretary - No, there are 35 spaces available.

Mr. Irace - We just did apts. in Florida and the developer just have to make a deal with someone and he is renting from the Church who has lots of spots and I guess they could say not to park there anymore but they do make concessions on the amount of required parking. Just being realistic maybe one per apartment if it requires 2...

Mr. Aulen - That is the Village of Florida.

Mr. Irace - Yes I know but what I am saying is most towns think about it holistically, like where else could someone go and we would like this building to be built otherwise it is just like you saying no you can't build buildings ever again and you don't want to say that but then how does someone who wants to renovate a building which had apts. in it at one time and now he wants to move forward...

Mr. Aulen - I don't know what was there before. I know when you came in before you said it was in such bad condition you couldn't do anything, so know that you have corrected that problem...

Mr. Irace - Yes, it is good and solid and it is a nice clean space but the past 3 years have gone by and a lot of rent has been lost on that space, that would have paid for the whole renovation, if these 7 spaces were filled with tenants.

Mr. Aulen - What would they be rented out at?

Mr. Irace - I don't know, I mean I pay \$1,300.00 for my 1 bedroom apt. and I live right by the railroad track above the Barbershop. I think the rates are between \$1,200 - \$1,500.00 but times that by 7 and it is \$100,000 a year times 3 years. I am just saying that leaving it empty is not earning anything.

Mr. Aulen - I am not arguing that point but as far as Zoning goes it requires parking, permanent parking.

Mr. Krahulik - It really doesn't.

Mr. Aulen - That is what Mr. Dickover indicated in his comments.

Mr. Dickover - Yes.

Mr. Aulen - At this point you can have your discussions with Mr. Dickover and come back with something or you could go to the Board of Trustees and get an interpretation from them.

Mr. Irace - Or get a variance...

Secretary - Would it be an interpretation from the ZBA?

Mr. Dickover - They have the authority to interpret the Zoning Ordinance and the parking is in the Zoning Ordinance. I think for this Board though you need to determine how many parking spaces this Board is going to look for and it would also help the applicant start looking.

Mr. Aulen - It calls for 1.5 so that is what we will start with.

Mr. Scheible - Even if it is 1 you still need 7 spaces, it is still the same dilemma.

Mr. Irace - 7 is easier to find than 12.

Mr. Olsen - Is the Chase lot considered permanent?

Mr. Dickover - It sounds like a lease situation and what is the definition of permanent? It seems to me in the past this Board has allowed within a reasonable distance of a municipal lot...

Mr. Aulen - That is basically for retail.

Mr. Dickover - Commercial.

Mr. Sylja - What if I bought property for parking, would that be considered permanent parking?

Mr. Olsen - Yes.

Mr. Sylja - Yet, I fail to make the payment and they foreclose on me...

Mr. Dickover - That is a good point.

Mr. Aulen - We have a problem with the Zoning Law. We have to adhere to the Zoning Law, we can not deviate from it. We will allow our attorney to evaluate this, unless of course he wants to change his answer now.

Mr. Dickover - I am not prepared to change my answer now.

Mr. Getz - Can a landlord limit the number of cars a tenant is allowed?

Mr. Dickover - You could do that in a lease agreement but you can't make it a condition of approval for these apartments. The problem is the enforcement of that, who is going to monitor that?

Mr. Irace - If we were to go to the ZBA would that resolve you ...

Mr. Krahulik - It could and I would like the Board to tell us the minimum number of spaces you will require, then we could go to the ZBA and pursue variances through them, to either provide the number of spaces or get a variance from the required number of spaces to go with a variance on where they can be located. The Chairman is now suggesting 2 spaces per apt. so that would be 14.

Mr. Aulen - That is not what I suggested.

Mr. Patterson - It was 1.5.

Mr. Krahulik - So what is the number?

Mr. Scheible - 11.

Mr. Krahulik - The parking spaces are not the issue, we have all we need, it is where they are located.

Mr. Aulen - Unfortunately we have to go with the Zoning Law but if you would like to go to the ZBA or the Board of Trustees to get it changed...

Mr. Irace - Do we just make an application to the ZBA or do we need to be denied here to go there.

Mr. Dickover - You don't need a referral on an interpretation but on the other hand...

Mr. Krahulik - We are not going for an interpretation we are going for an outright variance because the interpretation is the Board has the discretion to require as many as they up to 11. I could get an interpretation the minimum is 0 but that doesn't help because you could still say you want 11, so we will be going for a variance from the word permanent and the location.

Mr. Irace - Permanent is a very subjective thing...

Secretary - What type of variance would you be seeking? Interpretation, Area or Use?

Mr. Krahulik - A use variance.

Mr. Aulen - With the 5 steps that are required for a use variance, I would be surprised if you got it. Use variances are very difficult to get.

Mr. Dickover - I am sure the Board could provide you with a letter or referral to the ZBA.

Secretary - Yes they can.

The application was tabled.

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

Respectfully submitted;

Maureen J. Evans,
Planning Board secretary