

CHAIRMAN: JAMES PATTERSON

MEMBERS: WILLIAM OLSEN, JESSE GALLO, KERRY BOLAND & THOMAS McKNIGHT

Alternate: Bryan Barber

VILLAGE OF WARWICK  
PLANNING BOARD MEETING  
APRIL 13, 2021

The monthly meeting of the Village of Warwick Planning Board was held on Tuesday, April 13, 2021. Present were Jim Patterson, Jesse Gallo, Bill Olsen, Tom McKnight, Bryan Barber, Village Engineer, Dave Getz and Planning Board attorney, Robert Dickover. Others present were: John Christison, John Cappello, Keith Woodruff, Joe Irace, Andrew Fetherstone, David Everett, Steven Esposito, Patrick Gallagher, Gene Bowen, David Gordon, Lenore Franzese, Priscilla Cashey, Melanie Wesloske, Nancy Bowden, Bradley Cleverly, Debbie Pappar and others.

The meeting was held in the Town Hall.

The Board recited the Pledge of Allegiance.

Mr. Patterson acknowledged correspondence from Leyland Alliance and Patrick Gallagher.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo, and carried to accept the minutes of the March 9, 2021 Planning Board meeting (5 Ayes)

16 ELM ST.

RE-APPROVAL OF SITE PLAN

16 ELM ST. LLC

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Mr. Cappello – Last month we appeared before this Board for a re-application seeking to reapprove the 16 Elm St. of site plan. We provided a plan and the Long EAF that was updated with additional trees that Mr. Christison voluntarily agreed to install and documentation with photos and testimony that there have been no change of circumstances or disturbance. The ZBA rendered a decision denying the appeal and upholding the determination of the Building Inspector so pursuant to the ZBA's determination there really is no need for an approval because the time frame was tolled but because there had been some questioning regarding that and because the timeframe to challenge has not passed we feel that it is prudent for us to do this re-

application. The Planning Board directed the Building Inspector to provide you with information and make a determination and a report confirming that there are no changed circumstances and that there were no trees removed in the area of disturbance and that there was a voluntary increase in the number of plantings proposed. By the way the ZBA determination has no bearing on the Planning Board decision even though the ZBA said we did not have to proceed so whether some one agrees or disagrees with the ZBA determination has no impact on your determination. The application has been submitted with a letter reviewed by your attorney which provided case laws to what the standard is for re-application for an extension so we are asking the Board for tonight is to review the information, we have responded to questions, we have submitted photos regarding the trees and we would like the Board to grant or consider the application.

Mr. Patterson – Based on the fact that the applicant has approval to continue do we go through this process? What are we reviewing?

Mr. Dickover – You are reviewing their application for an extension and I have given you an opinion that I don't think that this Board has the jurisdiction to grant that and in the alternative he is seeking a re-approval, so you have an application in front of you which you are required to entertain and follow the procedure for re-approval which are the same as those for site plan application. I concur with Mr. Cappello's conclusion that the ZBA recent determination has no bearing on this Board. You have an application that they have asked you to process and it is my opinion that you do so. The status of the matter at this point is that back in March the Board re-affirmed it status as Lead Agency and for SEQR purposes that they re-affirm the typing of the action at that time as a Unlisted Type Action. We did ask the Building Dept. to review the factors that are required for an extension of an approval and also to find out whether or not there have been any changes in circumstances which is the legal standard on this review for Board approval. You have a letter dated March 26, 2021 from the Building Inspector answering the questions with respect to any changes in circumstances and he finds that other than the planting of some additional trees there have been none as so forth. His conclusion basically is there have been no changes with respect to the project in the area that is surrounded by. If the Board concurs with those conclusions I believe you can proceed this evening to move the action for SEQR purposes as well as perhaps scheduling a public hearing but the Board has to be comfortable with the report from the Building Inspector and make your own determination.

Mr. Patterson – I did receive the letter from the Building Inspector and it is clear that there are no changes in his point of view. I believe that the presentation and photos submitted by the applicant clearly identifying the fact that these particular trees are indeed removed and I just want to know if there are other trees and where this came up and where the question is about these trees and if these are in fact the only trees in question.

Mr. Cappello – There was an allegation made that trees and vegetation were removed within the area on the site plan that said "no disturbance". The Building Inspector raised the question and the Village Board actually heard it and requested and John offered more trees. What we provided you is evidence that in reality by virtue of showing the photos before showing the location of the telephone pole which is clearly shown on the site plan in the area of the back of the building was located and showing the pictures before show the trees that were behind those in the area between that telephone pole and the neighboring properties was grass and lawn area which is why your original approval required substantial plantings in there and we also showed you photos of the basketball hoop which is a pole with a hoop at one point and showing that there

were some trees behind that pole and that the disturbance regarding the construction was in front of that pole. So that area really was not disturbed or had any large trees removed. The trees that were removed on the site in the area of disturbance did take away some canopy which is the reason the plan was supplemented and because John wanted to be a good neighbor.

Mr. Patterson – So the Building Inspector has not actually witnessed all of this?

Mr. Cappello – He has been out to the site on several occasions and I believe that is his report. If there were any large trees removed I believe he would have said so in his report.

Mr. Patterson – He does mention in the relative circumstances, that the applicant Mr. Christison has conceded to plant more trees.

Mr. Olsen – I have some questions about these photographs. Is this the basketball hoop here? It looks like it was under construction at the time.

Mr. Woodruff – Yes.

Mr. Olsen and Mr. Woodruff reviewed photos & site plan where the Board was seated.

Mr. Christison – The encroaching sheds have been moved off the property.

Mr. McKnight - There were allegations that some were removed but you are saying they weren't in the non-disturbance area.

Mr. Cappello – There were trees removed. The site was cleared and the foundation was built pursuant to the approved plans.

Mr. McKnight – How many trees do you think were removed even though they in the area that you were allowed to clear?

Mr. Cappello – I have no idea. The trees removed were in the approved area on the plan, we also have a landscaping plan where there are approved trees to plant in the buffer area.

Mr. McKnight – How many trees were agreed to re-plant in that buffer zone?

Mr. Cappello – Originally it was 16 and I think it went to 40 something.

Mr. Woodruff – The entire site will have 7 Deciduous trees and 14 Evergreens planted.

Mr. Cappello – That was part of the original plan.

Mr. Olsen – What kind of trees are between the new construction and the existing houses?

Mr. Woodruff – Eastern Dogwood, Bradford Pear, Pin Oaks, Norway Spruce and a Green Giant Arborvitae.

Mr. Olsen – Those are both visual and sound barriers?

Mr. Cappello – Yes.

Mr. Woodruff – There will also be a 6ft. high privacy fence along the property line.

Mr. Patterson – What about the Building Inspector's letter, any comments?

Mr. McKnight – From my perspective #2 regarding statutory or regulatory changes, I would not know that. Does anyone have an opinion on that?

Mr. Dickover – I am not aware of any statutory or regulatory changes that have occurred since the previous approval so I concur with the Building Inspector's conclusion on that.

Mr. Olsen – I did not see any changes in the neighborhood.

Mr. Patterson – I agree with the Building Inspector regarding no changes with the exception of the trees that Mr. Christison will add to the plan.

Mr. Olsen – How many more trees is more trees? Is it 21 more?

Mr. Woodruff – I believe it is at 21 at least.

Mr. Olsen and Mr. Woodruff reviewed the additional landscaping plan.

Mr. Olsen – Will there will standing water there?



Mr. Getz – From my point of view the plan is sufficiently complete.

Mr. Patterson – How about the garage elevations has that been done?

Mr. Getz – Yes.

Mr. Dickover – This project can not be approved by this Board until the Village Board adopts the zone change. However, you are the Lead Agency for environmental review purposes and you need to make an environmental determination before the Village Board can actually make the zone change. You have received a 239 from OCDP dated March 10 which reports local determination. I believe the application is complete and this Board could review the Long EAF as presented and perhaps make an environmental determination and if you do so you could also schedule a public hearing for site plan approval.

Mr. Patterson – Can we schedule the public hearing even though we do not have the zone change?

Mr. Dickover – Yes.

Mr. Getz – In 2020 Mr. Irace submitted a Flood Plain Permit application for development and as the Planning Board is the Flood Plain administrator for the Village so I believe it would be pertinent of the Board to do that also. The information provided at that time is still valid for his current application. This application provides information on the project, FEMA flood plain elevations and the proposed floor on his building. He shows that he complies with the Village and FEMA requirements.

Mr. Dickover – I would suggest that the Board review the EAF first.

The Board reviewed the Long EAF.

A MOTION was made by Bryan Barber, seconded by Jesse Gallo and carried to declare this a Negative Declaration under the SEQR process. (5 Ayes)

The Board reviewed the Flood Plain Permit.

A MOTION was made by Jesse Gallo, seconded by Bill Olsen and carried to approve the Flood Plain Permit. (5 Ayes)

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to schedule a public hearing for site plan approval on May 11, 2021. (5 Ayes)

WARWICK COMMONS

AMENDED SITE PLAN  
APPROVAL

WARWICK COMMONS  
STAGE 5

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Mr. Fetherstone – As the Board knows, SEQR has been completed, the public hearing was held, responses to the public comment has been done. We had 2 comment letters and responded to those along with comments on the landscaping which have been reviewed and we do not have any issues with that, we are happy to do all of those things. At this point we think that all of the issues have been addressed and we are asking the Board to consider approvals on project with conditions as the Board desires.

Mr. Patterson – I have a question regarding the minutes from the last meeting and the number of parking spaces. Based on what was said at the last meeting, the total was 244 spaces but when it is broken down, it actually adds up to 250. I would just like to verify how many parking spaces there are.

Mr. Fetherstone – It is on page 3 of the map and I will review it and get back to the Board.

Mr. Getz – 1 (h) - Near Sheffield Dr. and the existing culvert a lot of work is proposed very close and apparently into the small portion into the existing wetlands and the applicant has said all along that there would be no wetland disturbance. We recommend that the proposed construction pull back away from that end.

Mr. Patterson – Does it indicate how far back?

Mr. Fetherstone – We do not have any problem with that. Pulling farther away from the wetlands, we do not have any problem with that.

Mr. Getz – That includes the silt fence during the construction.

Mr. Fetherstone – Yes, there is no buffer on the Federal wetlands but we are going to pull that back to the satisfaction of your engineer.

Mr. Getz – 4 (a) – The basement for one of the proposed residential buildings there is a bioretention stormwater basin proposed and the elevations of the building versus the basement floor elevation made it appear that the basement would be subject to flooding. Will you be eliminating the basement in that part of the building?

Mr. Fetherstone – We will be lowering that basin so there is no flood danger.

Mr. Getz – Ok. We are looking for some more SWPPP calculations and just as a reminder it is important that we have a good operation and maintenance plan in effect before we sign the plans. We want to make sure that the owner and the Village have a very clear document about what needs to be inspected and maintained over time to be sure the stormwater measures function as designed.

Mr. Fetherstone – We have an Operation and Maintenance plan in the SWPPP. Are there changes to it that you are looking for?

Mr. Getz – I just want to make sure that the attorneys get a chance to review but you are right you have a good framework that we can work with. We had a second letter dated April 6, 2021 with comments on landscaping plans and I would like to highlight a couple of those. Per Sec. 131-7 requires that street trees should be planted at 40 ft. on center along Village streets. The submitted plans show the streets a greater spacing than that and from your comment earlier you are planning to increase the number of street trees, is that correct?

Mr. Fetherstone – The landscape architect spoke with Steve Esposito went over all Steve's comments and we do not have any problems addressing his comments. We will get more trees and close up that space.

Mr. Getz – 2) Trees for the private driveways or private roads, is that something you are willing to increase?

Mr. Fetherstone – We can certainly work with your office or Steve's office but the problem is the closeness of the driveways, you would not want to have the roots pull up the driveways and you also have the sidewalk but I am sure we can find something that will work and add some additional trees to those streets.

Mr. Getz – 9) There is a note on their plans stating that “all vegetation shown on this plan will be maintained in a healthy and vigorous growing condition throughout the duration of the proposed use.”

Mr. Olsen – That means forever.

Mr. Getz – The Code requires that we have a maintenance agreement that assures a long term liability so let’s work out the language. We will be looking for a landscaping bond and a guarantee for the plants that are young, but I don’t think we can expect the plants to live as long as the proposed use.

Mr. Dickover – With regard to the landscaping bond, we have been working on a draft resolution and I don’t recall that being there but if the Board thinks it appropriate, we can certainly add it.

Mr. Fetherstone – With regard to that note, the HOA will be responsible for taking care of the landscaping throughout the project site, but whatever language you feel is appropriate is fine.

Mr. Getz – In response some other comments regarding soil testing, they had proposed an infiltration area where they had not done sufficient testing and they have now modified their design to reduce the number of underground infiltration basins and instead proposed more above ground bioretention basins which are dry most of the time and temporarily wet during a storm and we have no objections to that and in some ways they are easier to inspect and maintain and they look very attractive so I believe that was a good change.

Mr. Olsen – Will there be plantings in those basins?

Mr. Getz – Yes, there are specific plants that they listed on their plans that are suitable for those types of conditions.

Mr. Patterson – So you have had a chance to review this plan?

Mr. Getz – Yes, Mr. Esposito helped us review it.

Mr. Olsen – In your memo is plantings along the backs of the apartments, particularly in the backs along Brady Rd. I think that is very critical.

Mr. Patterson – It was also mentioned about the sight distance along Brady Rd.

Mr. Fetherstone – You will not have much of a backyard if you put a lot of plantings. We are trying to give at least 15ft. of backyard. We could put plantings there but if it takes away from the backyard for those folks.

Mr. Patterson – Those are 2 story?

Mr. Fetherstone – Yes.

Mr. Patterson – The renderings that you displayed obviously was when it is unoccupied but once people move in that might be unpopular especially coming out...

Mr. Barber – The owners will have the ability to plant whatever....

Mr. Fetherstone – They could plant something with the approval of the HOA. You need to keep in mind that this whole community is going to be governed by Deed Restriction that are posed by the HOA. People will not be allowed to do whatever they want to do, and the Board will see the restrictions on the HOA documents before they get finalized. One of the things that they do is make sure that things are not unsightly in the community and there is a laundry list of the different types of restrictions.

Mr. Gallo – What about fencing? There could be children playing and running out there near that road.

Mr. Olsen – You could have a 4 ft. privacy fence here.

Mr. Fetherstone – If the Board thinks that the fence would look better in the back of the units fine.

Mr. Patterson – Is the sight line correct? It seems to be drawn way over.

Mr. Getz – Yes and that is because you have to go a certain distance up Brady Rd. because of the curve in the road.

Mr. Fetherstone – It is the same as the approved plans.

Mr. Olsen – Is the speed limit 30 or 35mph.

Mr. Patterson – I believe it is 30mph.

Mr. Olsen – The sight distance has to be 300ft.?

Mr. Fetherstone – I don't recall now but it is hundreds of feet.

Mr. Getz – It is probably more than 350ft.

Mr. Fetherstone – The site lines were talked about in that particular area at the public hearing so this should clean that up and make it safe and compliant with the traffic standards.

Mr. Olsen – The drainage does not go into the back of the houses does it?

Mr. Fetherstone – No, it does not, absolutely not. The lowest point stays away from the houses.

Mr. Olsen – Are there outside stairs going down?

Mr. Fetherstone – There are stairs in the front and there maybe a step or two in the back.

Mr. Olsen – What about a fence?

Mr. Getz – A fence could also be a sound buffer too.

Mr. Barber – What is a fence going to do at that point?

Mr. Fetherstone – Nothing, you are 10ft. up from the road.

Mr. Barber – I can see a small fence to keep a ball from rolling out.

Mr. Fetherstone – How far would you want the fence?

Mr. Olsen – Behind this building?

Mr. Getz – What building number is that?

Mr. Fetherstone – Building 6 and what height is the fence?

Mr. Barber – What is the purpose of the fence?

Mr. Olsen – It is a privacy fence.

Mr. Barber – But there is a 6ft. elevation.

Mr. McKnight – Or 8ft.

Mr. Barber – I can see a lower fence just to keep from rolling or moving into traffic or the road.

Mr. McKnight – Is there a guardrail or anything out there? I mean from safety perspective. My concern would be separating from the road. We have a number of those drop-offs in the Village. I am not as worried about something getting away from the house as much as something coming from the road.

Mr. Patterson – I agree, there should be something there to stop it.

Mr. Barber – What about rock?

Mr. Fetherstone – We had a traffic engineer do these plans so I can have him look at it. There are design guidelines for guardrails and rocks would not stop a vehicle we would put something like a guardrail, a rock could kill someone.

Mr. McKnight – People fly down that road, it is easy to go very fast down that road and especially when there are sight limitations, I don't think that a fence or shrubs are going to do anything. I think a guardrail on top, god forbid a car goes over and falls on a child.

Mr. Fetherstone – Agreed. We were talking about shrubbery and it leads to a car going off the road.

Mr. McKnight – There is a lot of drop offs and especially on the back roads so that is a concern.

Mr. Gallo – Sight distance is a concern.

Mr. Getz – You have an experienced traffic dept. can you...

Mr. Fetherstone – The original concern was the view of the back.

Mr. Olsen – Right.

Mr. Fetherstone – Do we want a fence there?

Mr. Olsen – I didn't think about the swale there but across the street on the other side of Brady Rd. there are fences all along there for privacy.

Mr. Gallo – But they are much higher up in elevation.

Mr. Olsen – That is correct. I don't know just see what you can come up with.

Mr. Fetherstone – If we seek approval of our site plan this evening with a condition that we meet the attempt of the Board by satisfying your engineer would that...

Mr. Getz – I think you should check the full length of Brady Rd. for the safety concerns. For any potential locations where the guardrail would be warranted.

Mr. Fetherstone – We can do that.

Mr. Getz – Are there standards for guardrails?

Mr. Fetherstone – Yes, it should be tied to the safety standards. We will do a check for this topography, the speed and the alignment of the road and see if any of it merits putting in guardrails and we will show the engineer that. Would that be satisfactory? Please understand that we do not want to come back for a fence. But if the concern is vehicles, we can do that as opposed to visual or landscaping.

Mr. Olsen – My concern was the visual and landscaping.

Mr. Fetherstone – We will just add a fence, a 4ft. fence along Building 6 and we will check Brady Rd. to see if guardrails are necessary based upon the Traffic & Engineering Standards to the satisfaction of Mr. Getz.

A MOTION was made by Tom McKnight, seconded by Bryan Barber and carried to adopt the Resolution prepared, read and amended by the Planning Board attorney. (5 Ayes)

104 MAIN STREET

AMENDED SITE PLAN APPROVAL

104 MAIN ST. LLC

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Mr. Esposito – This application is for the second story of the office building. The current market is not a strong market for a second story offices so the owner, Mr. Riehle, would like to convert the second floor to apts. We are proposing 3 studio apts.

Mr. Getz – The property is in the Historic District and in the CB zone which does allow apts. on the second and third floor. They are proposing 3 apts. but I do not think that they have 1,800 sq. ft. The minimum size the code requires is 600 sq. ft. per dwelling unit.

Mr. Patterson – How many sq. ft. are you proposing per studio?

Mr. Esposito – One is 600 sq. ft. but 2 of the proposed are not, 500 sq. ft. studio's are not uncommon so we will be seeking a referral to the Zoning Board of Appeals requesting relief from that Bulk Requirement.

Mr. Getz – There are two doors on the side of the building so the plan should be updated to show both of them.

Mr. Patterson – Which side are they on?

Mr. Getz – The driveway side. Parking calculations were provided, and the calculations yield 4 spaces for the first-floor use and 5 spaces for the apts. for a total of 9 spaces where only 6 spaces are available. In the existing parking lot, it is not feasible to expand it beyond that, but I will say that with this application there is really no proposed site construction on disturbance or even changes to the exterior.

Mr. Esposito – With regard to the parking, the original application had a number of variances and when we looked at parking under the original you were required to have 8 spaces and we provided 6 parking spaces. In this instance depending on where you ramp up it will either be 8 or 9 spaces so we would include to ask for an interpretation during the Board of Appeals for that as well. Right now, it is a mixed-use building, an optometrist opened from 9am to 6pm, Mon-Fri and to 5pm on Sat. and closed on Sundays. In most buildings the renters are usually out while the retail service and when they are closing the renters are coming back. There is also off-street parking. The Village of Warwick has the unique provision in their code is that the parking requirements are actually the maximum, there is an intention of minimizing impervious surface.

Mr. Dickover – Our code allows this Board the ability to dictate the number of parking spaces up to a maximum. So, going to the ZBA for an interpretation is probably not necessary, this Board had a similar application on Railroad.

Mr. Patterson – Obviously, the apts. are the issue as far the parking is concerned, and I agree the persons visiting the store or office would park on the street so it would not be an issue.

Mr. Dickover indicated that this application be forwarded to the OCDP.

The Board agreed to refer this application to the ZBA.

Mr. Dickover – We should wait to declare the Planning Board Lead Agency so that the Zoning Board for their purposes declare themselves Lead Agency on an uncoordinated basis. Then they can make their zoning determination and then come back to this Board and at that point you would then declare yourselves the Lead Agency on an uncoordinated basis also.

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

Respectfully submitted;

Maureen J. Evans,  
Planning Board secretary