

CHAIRMAN: JESSE GALLO

MEMBERS: WILLIAM OLSEN, KERRY BOLAND, BRYAN BARBER & SCOT BROWN

Alternate:

VILLAGE OF WARWICK
PLANNING BOARD MEETING
MAY 10, 2022

The monthly meeting of the Village of Warwick Planning Board was held on Tuesday, May 10, 2022. Present were: Village Engineer, Dave Getz, Planning Board attorney, Robert Dickover, Bill Olsen, Jesse Gallo, Scot Brown and Bryan Barber. Others present were: Kirk Rother, Bo Kennedy, Ron Charlton, Robert Krahulik, Jon Contreras and others.

The meeting was held in the Village Hall.
The Board recited the Pledge of Allegiance.

A MOTION was made by Bill Olsen, seconded by Bryan Barber and carried to accept the minutes of the April 12, 2022 meeting. (3 Ayes) {1 Abstention – Scot Brown}

13 FORESTER AVE.

SITE PLAN APPROVAL

13 FORESTER AVE, LLC

Mr. Rother – At the last meeting, the Board wanted to get comments from the Fire Dept. Secretary – The site plan with a cover letter requesting comments was sent to Fire Chief Contaxis and I have not had any response.

Mr. Olsen – It is not a major issue.

Mr. Rother – We have developed a set of site plans, grading, drainage design, with a conceptual landscaping plan. The applicant has hired a landscaping architect and should have more landscaping drawings for you next month. We are hoping to go before the ARB in June when we have the rest of the details chosen.

Mr. Getz – What about the 2nd floor?

Mr. Rother – The 2nd floor area, hopefully in the future, the Village will allow that floor for residential use but at this time we are not proposing anything. The 2nd floor is roughly 3,000 sq. ft. The restaurant is not entirely 2 floors of seating.

Mr. Gallo – What about the grading?

Mr. Rother – We will have about 6ft. of grading for the parking lot. There will be 4ft. of fill down at the bottom and the slope will be 5%.

Mr. Olsen – What about that gravel driveway? Is that on or off the property?

Mr. Rother – The driveway access is to the adjoining land owner and the question came up with this Board and on the applicant's end as far as the rights. They had a Title Search done and there is nothing evident as far as a formal right of way to that property owner. There was a note on the survey map that referred to a filed map and that map which created all of these lots showed a paper street but according to Mr. Myrow, and unimproved paper street does not vest any rights to someone but having said that we have no objection to them continuing to use that to get on their property. Coquito's now owns that property.

Mr. Getz – The owner is aware of the project?

Mr. Rother – Yes.

Mr. Dickover – How do they otherwise get out to Forester Ave.? Do they use that driveway?

Mr. Rother – They can use their other property. The previous owner did use this as the driveway.

Mr. Gallo – Is there any resolution on the utility easements?

Mr. Rother – Since last month we pushed the building back a little bit from the setback line which improves site distance a little and we stopped right at the easement so that this building is not on the easement.

Mr. Getz – Are there any other legal obstacles developing the site? Is there anything that says you can't trench or re-grade?

Mr. Rother – Not that we are aware of and there is nothing in these easements anymore.

Mr. Getz – Do we need something on the legal end about that?

Mr. Dickover – They are not encroaching on it. Who is the easement if favor of?

Mr. Rother – O&R for the old building that was there and now the building does not exist.

Mr. Getz – It makes sense that they are not needed.

Mr. Rother – From what I understand, to extinguish the easement to a utility company is not an easy process. We prepared a plan where we proposed to re-locate this easement along the propertyline which is an exercise in futility, but this is Mr. Myrow's idea to possibly being able to extinguish the easement that juts into the middle of the property.

Mr. Dickover – What does he say about presenting the proposed plan and asking them to consent to the construction that is not encroaching on the easement. It would be easier than getting it extinguished. But it is really at your risk. Whatever this Board does you can not adversely affect the rights of O&R with respect to this utility easement. Just like you can't affect the neighbors right to use the driveway if they have such a right. It is really at the applicant's risk and a concern to the Board but ultimately whatever this Board might do it does not protect the applicant if they get sued by the person they have adversely affected.

Mr. Rother – We have a proposed parking lot over a utility easement that has no utilities.

Mr. Olsen – You indicated that there are no dangerous chemicals in the soil.

Mr. Rother – Yes, they did a Phase 1 Environmental Assessment.

Mr. Getz – I saw the report from William Going Associates and they found no PCB's. There are a few things that should be added to the plan, there are other zones nearby besides the LI and those should be added to the vicinity map or plan for reference, the driveway entrance off of Forester conflicts with a utility pole...

Mr. Rother – Yes, we are aware and we have looked at options and the problem is keeping the building out of this easement and keeping it the same size and so that is where the entrance needs to be.

Mr. Getz – It is on the corner and we are not objecting to it, it is just something that should be noted.

Mr. Rother – Yes, and it is quite an expense to move them.

Mr. Getz – The EAF picked up the fact that there is potential for an Indiana Bat habitat in some of the trees so, can you add the time of year restriction to the notes on the plan.

Mr. Rother – I think there is only one tree, the driveway is lined with cedar trees and then there is one huge significant tree which is across from the Fire Dept.

Mr. Getz – In the LI zone, the requirement for the front yard setback in the Code is tied into the front yard setback of buildings near by on the same side of the road, I don't think there is a problem with the proposal but if you could add or present some supporting information to support the proposed setback...

Mr. Rother – We can but just so you know, we looked at that when we were placing this building and that is why we placed the aerial photo on the map.

Mr. Getz – The existing sidewalk along Forester in front of the property is in poor condition and we would like that to be replaced. They are showing a reasonable system for Stormwater with a couple of catch basins and discharge is towards the back and they are providing a rain garden...

Mr. Rother – It is intended to capture roof run-off, send it into a culvert that goes under the road.

Mr. Getz – It is technically not required since the disturbance is under one acre and we appreciate those types of measures but if you could provide us with some calculations for support that would be great. At one of your entrances, you show a spot grade 6" higher than the floor, is that...

Mr. Rother – No, I think we are going to raise the building 6" and that might lower the spot elevation.

Mr. Getz – I think it is a good layout.

The Board reviewed the Short EAF submitted by applicant.

A MOTION was made by Bryan Barber, seconded by Bill Olsen and carried to declare a Negative Declaration under the SEQR process. (4 Ayes)

A MOTION was made by Bill Olsen, seconded by Scot Brown and carried to schedule a public hearing for the June 14, 2022 Planning Board meeting. (4 Ayes)

Mr. Rother – As far as the plans, we have not made any changes since last month. I know Mr. Getz had some minor comments regarding typo's, etc. and I think the only thing of substance that I need to get to Mr. Getz is an updated SWPPP which is really just going to show a lesser impact across the Board. We are here tonight because we had to circulate for Lead Agency and I think we have heard back from most agencies, OCDP...

Secretary – OCDH, Town of Warwick, Village Board.

Mr. Rother - We have not heard from the Army Corp. of Engineers, which we will not get, they do not respond to anything, they will just let it time out. The DEC typically does respond but they do not seem able to adhere to the 30 days clock.

Mr. Gallo – When is the 30 days period up?

Secretary – The 30 days will be up on May 13.

Mr. Rother – We know what their response is going to be, this is our 4th time, I think. Our purpose tonight is really to discuss SEQR and how we keep this going forward.

Mr. Getz – I have no comments. They are at the stage where once they get our approval, they will be off to the other agencies.

Mr. Dickover – We still have to wait to finalize the status of Lead Agency and that will presumably happen in June. This project is headed for a Consistency Statement which is basically saying that there are no greater environmental impacts than the prior ones that were identified and discussed in your prior Findings Statement. We did a similar statement for the Warwick Commons application. If your Lead Agency status is finalized in June, we could start preparing the Consistency Statement which may be available to approve in June, which is required before we get to the public hearing and if that happens, we maybe could schedule the public hearing for July for a Conditional Approval.

Mr. Olsen – Have any applications gone to the Town?

Mr. Rother – There is an application for the thru road connection and no application for subdivision.

Mr. Dickover – Apparently the plan currently is to develop this project with the same sewer pump proposal as the prior approval, the common areas are proposed to be owned by an HOA with all of the properties participating. For the Village's and this Board's purposes the concern is that if the HOA did not maintain the common areas, the Village would have the right to enter upon the property and impose the cost of that onto the HOA and that is part of the Offering Plan. Also, the OCDP comments came back with a Local Determination with a number of recommendations which are not binding to the Board but one of them was that the Board should impose affordable housing provisions, I did prepare a memorandum and the conclusion, basically, is that this is not a Conditional Use Permit and that is one of the triggers for imposing the affordable housing, so in my opinion the affordable housing does not apply regardless of what the County may have said and again, they are not binding recommendations.

Mr. Dickover – Are there drainage areas?

Mr. Rother – There will be drainage easements, specifically to the benefit of the Village...

Mr. Dickover – The Village will probably not maintain them.

Mr. Rother – I know, and as far as the rest of it, it will just be left in it’s natural state. Robin Brae will get a new pump station. We will still do the striping on Locust St., the speed limit sign, etc, that will all stay the same.

Mr. Krahulik – The applicant is proposing an accessory apt. This is an existing single-family house located on Maple Ave., it is the last house on the right as you exit the Village. The house is situated on a slope so there is easy access to the basement to the rear of the house. There is a certain amount of paved parking already on site. She was cited for allowing motor vehicles to park on areas that were not paved but it was really just a matter of traffic control to make sure that people park where they are supposed to park. I believe we are going to be able to meet the code requirements but after reviewing the comments I know a more formal site plan is required for review.

Mr. Getz – 145-120.4 specifically lays out all of the requirements for an accessory apt., so we will need more information on the plan for the site and also, the layout in the house to show where the apt. will be, the size, how many bedrooms, etc. Is it true that there is no site disturbance proposed?

Mr. Krahulik – None whatsoever. We also believe that there is adequate parking but if the Board disagrees, we could put pavement down, but we think we can comply with the code the way it is but if there are future violations, we could put some black top down.

Mr. Olsen – It is going to be a one-bedroom apt?

Mr. Krahulik – I need to speak with my client. She has a young son but as I understand the code requires one-bedroom and if we were going to purpose 2, we may need to get a variance, but that decision has not been made yet.

Mr. Olsen – So only one car.

Mr. Krahulik – I can’t promise you that there would be only one car, I don’t know. The code does not dictate how many cars just that the cars must be parked on blacktop.

Mr. Getz – Will there be architectural changes?

Mr. Krahulik – I don’t know but if there were it would be in the rear of house for ingress and egress. There will be no architectural changes in the front of the house.

Mr. Barber – So you are finishing the basement.

Mr. Krahulik – Yes.

Mr. Dickover – The one bedroom versus 2-bedroom issue raises the question whether the ZBA has the power to vary the requirements of a Conditional Use permit so you may want to research that.

Mr. Dickover read and asked the applicant to review sec. 145-120.4 M regarding finished grade, no habitable space for accessory apt. shall be in cellars, depth of habitable space, etc.

Mr. Dickover - When you modify the drawing just show the calculations and dimensions and show its conformity. This application needs to be referred to OCDP for (GML) 239-1.

A MOTION was made by Bill Olsen, seconded by Bryan Barber and carried to declare the Planning Board Lead Agency and the application as a Type 2 Action under SEQR. (4 Ayes)

Mr. Contreras – We are in the process of purchasing the building and we are hoping to create a space for a dine-in market with an attached bistro as well as a 4-room boutique hotel. There is also a space that has been a dance studio and I don't plan on changing that, the thought is that it is a community space and has been for 20 yrs. We would like to be able to continue and extend that in maintaining that as a communal space. We won't be operating it as a dance studio, potentially it will be a leased space for events and performances. We would love to keep the Blackbox Theater. The proposed business plan to have off-set hours with the dine-in market operating during the day and the bistro in the evening and of course the hotel operating 7 days a week.

Mr. Olsen – How many hotel rooms will have on the second floor?

Mr. Contreras – We will start with 4.

Mr. Getz – The site is an unusual shape but it is about .5 acres with frontage on 3 streets located in the CB district and not located in the Historic District and the proposed uses are allowed in the CB zone. There are not proposed changes to the building footprint.

Mr. Contreras – Correct.

Mr. Getz – It looks like you made need variances for proposed parking. An aisle is supposed to be 12' to connect some parking spaces coming off McEwen St. and the parking area by Wheeler. Our code is 14' and that would involve an application to the ZBA. You are proposing a few parking spaces in the side yard so at the same time you would go for width variance. It would be helpful to the ZBA if you could show more detail on what is going on, on that property with the house to get a better understanding in case they want you to do some screening.

Mr. Olsen – Any changes to the outside of the building?

Mr. Contreras – Just new siding.

Mr. Getz – Some information needs to be added to the Bulk Table and although you are in the CB zone there are other zones near by so we would like those boundaries shown on the plan just to get an idea of the context. We would also like to see a floor-plan that shows the area, sizes, different uses, etc. If you are going to be changing the outside a rendering should be submitted.

Mr. Contreras – Since we are still in a very conceptual design stage all I can say now is that there will be some windows...

Mr. Olsen – A rendering would be good.

Mr. Getz – Just to give us an idea of the character.

Mr. Contreras – Today I am just here to hear the comments and basically find out what will be required.

Mr. Getz – The site came up positive on the potential of threatened or endangered species, like the Indiana Bat. Will you be clearing any trees as part of this?

Mr. Contreras – It is opened for discussion.

Mr. Getz – If you are, any significant trees will probably be restricted to wintertime between Nov. 1 and March 31, perhaps your landscape architect can identify them. Remediation will not

be as issue. Noise could be an issue, do you have any outdoor activities?

Mr. Contreras – None purposed at this time.

Mr. Getz – The Village has very specific requirements and limitations for signs, so we would need to see details of those too.

Mr. Dickover – I need clarification on the owner and the applicant. Who owns the property?

Mr. Contreras – As of now it is Jim and Cindy Henry that are the owners and the applicant is Shelly Gary and the LLC is Western Addition LLC.

Mr. Dickover – Is that going to be the owner when the project is done?

Mr. Contreras – Yes.

Mr. Dickover – What is the present use in the building?

Mr. Contreras – Presently but no longer operating was or is a dance studio, they are in the process of moving their things out and I believe they have been there for the last 20 yrs.

Mr. Dickover – That is all that was in there?

Mr. Contreras – Yes, to my understanding.

Mr. Dickover – I believe there is something in the code about screening commercial uses when they adjoin other premises in residential use. Because they need variances, this Board should forgo declaring Lead Agency so the ZBA is free to do that on an Uncoordinated basis, but this may be a Type 2 Action. The new Type 2 provision #18 speaks to re-use of a residential commercial structure containing mixed residential & commercial uses, so it may be a Type 2 Action under SEQR.

Mr. Getz – I just wanted to point out that the Village code for parking depending on the use is interprets that as the maximum so that if you can point out that there is on-street parking available in the vicinity of your site you do not need to provide the parking count that you might calculate.

Mr. Gallo – The Municipal lot on Spring St. might be within 300ft.

Mr. Getz – Yes.

A MOTION was made by Bryan Barber, seconded by Scot Brown and carried to adjourn the meeting. (4 Ayes)

Respectfully submitted,

Maureen J. Evans,
Planning Board secretary