

RECEIVED

JUN 09 2021

RESOLUTION OF APPROVAL

SITE PLAN

REAPPROVED

FOR

16 ELM ST. LLC

VILLAGE OF WARWICK
VILLAGE CLERKS OFFICE

Nature of Application

16 Elm St. LLC has applied for site plan approval allowing construction of a new restaurant establishment on one tax lot being a \pm 3.6 acre parcel upon which is 51,584 sq. ft. of useable area after deduction of flood plain area, all located within the village.

Property Involved

The property affected by this resolution is shown on the Tax Maps of the Village of Warwick as parcel 210-12-14.

Zoning District

The property affected by this resolution is located in the Light Industrial (LI) zoning district of the Village of Warwick.

Variance

All bulk area requirements are met by the existing lot except for street frontage for which a variance was previously granted by the Village of Warwick Zoning Board of Appeals pursuant to a Decision made March 26, 1990.

Plans

The Site Plan materials being considered consist of the following items which were previously submitted on the original application for site plan approval and all of which have been incorporated in the within application which is ostensibly one for "reapproval" of the previous site plan approval:

1. An eleven (11) sheet set of plans entitled "SITE PLAN ELM STREET RESTAURANT VILLAGE OF WARWICK ORANGE COUNTY, NEW YORK" first dated 01/05/16, last revised 01/24/18; inclusive of an overall Planting Plan by Landarch Studios, P.L.L.C. made 05/04/17, revised 12/18/17 consisting of pages 8- 11 thereof.
2. A Traffic Study by Maser Consulting made June 27, 2017.
3. A Long Form EAF revised 5/8/2017.
4. A Phase I Archaeological Investigation by Cammisa and Padilla of Tracker Archaeology Services made March 2017 and revised July 2017.
5. An Environmental Site Investigation by William Going & Associates made 08/03/17.
6. A set of plans sheets 1 – 3 entitled "Proposed Building for Yesterdays" dated Jan. 9, 2017, last revised 1/24/18 made by Greig Andersen Architect.
7. Permit Application for Development in Flood Hazard Areas dated 9/21/17.
8. Stormwater Pollution Prevention Plan made March 2017, revised May 2017.
9. Revised planting and landscaping plan dated March 8, 2019

History

Date of Application

An abbreviated history of the procedural aspects of this project follow:

An original application dated 1/5/2017 was filed with the Planning Board on or about January 6, 2017.

The Planning Board undertook its first review of the application on January 19, 2017. At that meeting the Board declared itself lead agency for the project and typed the action as Unlisted.

On February 16, 2017 the Board again reviewed the application.

On March 16, 2017, the Board again reviewed the application and renewed its previous intention to be lead agency and again typed the action as Unlisted.

On April 20, 2017 the Board again took up the application for its review. A site visit was schedule to take place on April 29, 2017.

On May 18, 2017 the Board again reviewed the application.

A revised long form EAF was presented and dated 5/8/17.

On June 15, 2017 the matter was again heard by the Board.

On September 21, 2017 the matter was again heard by the Board. At that meeting the Board undertook a review of the long form EAF including Part 2 and Part 3 at the conclusion of which a determination was made that no significant adverse environmental effects would result from the project and thereupon a resolution was made to adopt a negative declaration of environmental significance.

On October 19, 2017 the Board again convened a public hearing. A written elaboration of the negative declaration previously resolved was reviewed and approved by the Board. A public hearing was thereupon opened to members of the public and all interested persons therein were heard at the conclusion of which the public hearing was closed.

On January 18, 2018 the Board again convened to discuss the application and the additional materials received after the close of the public hearing. The matter was adjourned for further consideration.

Original approval was granted February 15, 2018. The site plan was signed by the

Planning Board Chair on May 24, 2018 to confirm that all conditions had been met.

A Building Permit was issued on August 28, 2018 and clearing and grading work and laying of the building foundation was completed.

This application for renewed approval was filed February 23, 2021.

SEQRA

Lead Agency & Type of Action:

The Village of Warwick Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on January 19, 2017. At that meeting the Board declared itself lead agency for the project and typed the action as Unlisted. On March 16, 2017, the Board again reviewed the application and renewed its previous intention to be lead agency and again typed the action as Unlisted.

Upon this application for reapproval the Planning Board reaffirmed its status as Lead Agency on March 9, 2021 and typed the action as an unlisted type project.

Declaration of Significance:

On September 21, 2017 The Village of Warwick Planning Board undertook a review and examination of the Long Form EAF provided by the applicant. The Planning Board determined that no significantly adverse environmental impacts would result from the project. Thereupon the Board resolved that a Negative Declaration be issued. A Public Hearing on the site plan application was thereupon scheduled for October 19, 2017. Prior to the opening of that meeting to the public, the Board reviewed and adopted a written elaboration of the reasons for issuing a Negative Declaration.

On this application for renewed approval, the Board again reviewed the EAF and supporting materials as revised February 22, 2021 and resolved to reaffirm its previous Negative Declaration.

FLOOD PLAIN DEVELOPMENT PERMIT

A portion of the premises are located in the 100 year flood plain and a flood plain development permit is required from the Planning Board.

On 9/21/17 the Board undertook a review of the submitted permit and the site plan information then available and thereupon resolved to issue any necessary flood plain development permit necessary for the project.

PUBLIC HEARING

A public hearing on this application was previously convened on October 19, 2017 and thereafter closed.

The matters brought forth by the persons attending the meeting inclusive of persons

generally in favor and opposed to the project included comments concerning:

- Traffic impacts
- Noise impacts
- Lighting impacts
- Soil and groundwater impacts, and
- Mistaken zoning district classification of the property

Resulting from that hearing the Board ultimately determined to approve the project by Decision dated February 15, 2018.

On this application for reapproval, a public hearing was convened on May 11, 2021, concluded and closed on the same date. A period of ten (10) days was allowed for the receipt of further written comments and an additional ten (10) days thereafter for the applicant to make response to the comments received at the hearing and any additional written comments.

Since the date of said public hearing the Board received and reviewed numerous written materials both in favor and opposed to the project

The matters brought forth by persons opposed to the project included most of the same issues previously considered by the Board as well as new contentions primarily that:

1. Since the date of the first approval the applicant had cleared areas of "no disturbance" by the removal of trees therefrom and that same was in violation of the previously approved site plan and adversely affected noise mitigation that the Board had previously considered of importance in making its prior SEQRA determination. The further contention being that this disturbance constituted a "change of circumstances" with respect to the previously approved project.
2. A contention that the square footage of the building was misrepresented in the application materials and previous building permit that was issued.

With respect to these two issues the Board viewed numerous photographs both before and after the site disturbance and conducted a site visit. Resulting therefrom was the Board's conclusion that the "no disturbance" area was not disturbed. Further, the Board requested and received from the Building Inspector a determination that the square footage of the proposed building was correctly stated. Additionally, the plan set before this Board depicts all the improvements proposed.

Findings

SEQRA

Pursuant to the statutory procedure found at 6 NYCRR 617.7(f) the Board considered the information and comments received at and after the original public hearing in deciding whether a rescission of its previously issued negative declaration should be considered.

At that time, the Board reviewed the information and materials as presented by the "public" and the opponent's experts as well as the additional materials as submitted by the applicant and its consultants since the time of the first public hearing and thereupon determined that (i) no substantive changes were proposed for the project; nor had (ii) new information been discovered that would change the findings or conclusions of the Planning Board; nor have (iii) changes in circumstances related to the project arisen that were not previously considered whereupon the Board determined that no significant adverse environmental impact may result therefrom.

Based upon the foregoing determination the Board determined that the criteria for rescission of the previously issued negative declaration have not been met and the Board resolved to reaffirm its previously issued negative declaration.

On this application for renewal of the site plan approval the Board again considered whether there were any substantive changes proposed for the project; whether there was any new information discovered that would change the findings or conclusions of the Planning Board; and whether there had been any changes in circumstances related to the project.

With respect this inquiry the Board requested and received from the Building Inspector a determination that there had been no changes in zoning regulations; no changes in the neighborhood; and no changes with respect to the project site.

Based upon the foregoing, the Planning Board has determined that final reapproval of the site plan will substantially serve the public convenience, safety and welfare in that the permitted construction of the proposed restaurant facility is in the best interest of the applicant and the Village.

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to grant final approval to the site plan application of 16 Elm Street, LLC as depicted on the plans identified above upon the conditions as set forth in the original Site Plan resolution of approval the terms of which are incorporated herein together with the following conditions as outlined below and the Chairperson's signature on this Resolution shall be deemed sufficient evidence of said approval.

General Conditions

1. This approval is conditioned upon the applicant paying or depositing into escrow prior to reissuance of the building permit all applicable review, inspection and any other applicable fees.
2. This approval is further conditioned upon the applicant delivering (prior to reissuance of a building permit) proof, in writing, that all fees—engineering, legal and otherwise—in regard to this project have been fully paid.
3. The issuance of a certificate of occupancy for the restaurant structure to be built within the project area is conditioned upon the applicant installing all site plan improvements inclusive of the privacy fencing and landscaping as provided for on the site plan and on the Revised planting and landscaping plan dated March 8, 2019.

In Favor 4 against 0 Abstain | Absent

Dated: June 8, 2021


James Patterson, CHAIRMAN
VILLAGE OF WARWICK PLANNING BOARD

NOTE: The owner of the premises which is subject to this approval, their successors, heirs, and assigns, are hereby advised to apprise themselves of the provisions of Village Code Section 145-98 which provides for the expiration of approved site plans. The provisions of Section 145-98 provide in part that:

A. Every Site Plan approval shall expire if the work authorized has not commenced within twelve (12) months from the date of its approval, subject to any extension or has not been completed within twenty-four (24) months from the date of Site Plan approval unless the applicant has requested and been granted a phased construction schedule.

B. If construction has not been commenced within one (1) year from the approval of the Site Plan or phased construction schedule has not been completed, the holder of the approval may apply to the Planning Board for an extension not to exceed one (1) additional year and such application for extension must be filed prior to the end of the one-year period. Upon the payment of one-half (1/2) of the application fees required for the original Site Plan approval and any professional review fees incurred, the Planning Board may, in its discretion and for due cause, extend the approval for a period not to exceed one (1) additional year from the date of its expiration.

C. Failure to receive an extension or complete work within the time prescribed, if any specified in the approval, shall require that a new Site Plan approval application be filed, and a new approval issued before any work may commence or continue.

STATE OF NEW YORK)


) ss:

COUNTY OF ORANGE)

I, MAUREEN EVANS, Secretary of the Planning Board of the Village of Warwick, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on June 8, 2021.


MAUREEN EVANS, SECRETARY
VILLAGE OF WARWICK PLANNING BOARD

I, RAINA ABRAMSON, Clerk of the Village of Warwick, does hereby certify that the foregoing Resolution was filed in the Office of the Village Clerk on June 9, 2021.


RAINA ABRAMSON, Village Clerk