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May 11, 2026

ADVISORY MEMO TO PLANNING BOARD

TO: Village of Warwick Planning Board
Applicant

CC: Kristin Bialosky, Planning Board Clerk
Keith Woodruff, Village Engineer

FROM: William A. Frank, Esq.
Brian M. Newman, Esq.

RE: Attorney comments on application of Prime 36/Alexander Raja
36 Oakland Avenue
SBL 213-3-11

We have reviewed the application of Prime 36/Alexander Raja for site plan approval to place outdoor seating on a patio adjacent to the already-approved restaurant. We offer the following comments:

Comment	Status
<p>1. The Property is located in the R zoning district. The Property is a non-conforming pre-existing use. The property is located in the Historic District.</p> <p>The Planning Board is permitted to approve an expansion of a nonconforming use provided that the expansion does not exceed 15% of the existing ground area and the</p>	For information

<p>most restrictive bulk requirements for the R District apply.</p>	
<p>2. Applicant appears to be subject to GML 239-m as distance to NYS 94 is under 500 feet.</p>	
<p>3. The application appears to comply with the bulk requirements for an Eating/Drinking Establishment. The Board and Engineer should confirm that the bulk requirements also apply to the most restrictive requirements in the R District.</p>	
<p>4. Application Comments.</p> <ul style="list-style-type: none"> • #2 to be corrected to say Lot 11 • #3 to circle the “R” zoning district • #5 should say “Eating/Drinking establishment” • #7 should circle “C*” • # 8 to be corrected to reflect use group “k” • #10, Conditional Use Permit is circled yes. At this time, our preliminary review does not indicate that based on the Code a Conditional Use Permit or Special Use Permit is required for site plan approval. During the time the AHDRB reviews the application, we will continue our review of the Code. 	
<p>5. As the Property is located in the Historic District, applicant must complete an AHDRB application and go before the AHDRB</p>	
<p>6. The existing use is “Eating/Drinking Establishments.” The applicant proposes to use an existing patio as an outdoor dining area for 14 tables, each table with 4 chairs, for total seating of 56 people. Provided that the area of patio used does not exceed 15% of the existing ground area of the current restaurant seating, this extension of the use is permitted</p>	

<p>under Code § 145-131(A)(1) and 145-132(D).</p>	
<p>7. A public hearing will be required.</p>	
<p>8. SEQR. No EAF is supplied. If the total area of what is to get site plan approval is less than 4,000 square feet, this would be a Type II Action pursuant to SEQRA Regulation 617.5(9). Otherwise, this would be an Unlisted Action.</p>	
<p>9. The Planning Board and Village Engineer should examine whether the increase of 56 approved outdoor seats will require an expansion of the parking space requirements for the Property, per Code § 145-70(A)(1)(c), as the relevant outdoor area has been operating without approval for the past several years with the current amount of parking spaces in place.</p> <p>Per the Schedule, 12 spaces are required per 1,000 square feet</p>	

These comments reflect the submitted materials only. Additional submissions may generate additional comments.