

October 2, 2024  
Revised December 10, 2024

## **MEMO**

TO: Village of Warwick Planning Board  
Applicant

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

FROM: Elizabeth K. Cassidy, Esq.

RE: Attorney comments on application of  
Feed and Grain LLC  
210-7-3

I have reviewed the application of Feed and Grain LLC seeking authorization to alter the grading that is located within the floodplain. The most recent submission includes an updated Short Form Environmental Assessment Form. I offer the following comments:

<b>Comment</b>	<b>Status</b>
1. The Property is located in the CB zoning district	For Information
2. Application Comments <ul style="list-style-type: none"><li>• Applicant seeks approval to create 2 berms for trees and plants, raising the grade by approximately 4 feet on average.</li><li>• The application is subject to amended site plan approval pursuant to § 145-90(B). See also § 145-90 (C)</li></ul>	
3. The Planning Board to determine whether amendment requires a public hearing. See § 145-96.	

<p>4. GML 239 – The site is within 500 feet of NYS Route 94 &amp; 17A requiring 239 review.</p>	<p><b>Planning Board is in receipt of letter dated October 4, 2024 – local determination.</b></p>
<p>5. SEQR:</p> <p>Applicant has submitted a short environmental assessment form dated July 10, 2024. It appears the action is an Unlisted action for purposes of SEQR.</p> <p>EAF Comments:</p> <ul style="list-style-type: none"> <li>• Applicant to utilize NYS DEC EAF Mapping tool.</li> <li>• Applicant to address impacts of proposed grading on Wawayanda Creek, Indiana Bat</li> <li>• NYSDEC is likely an involved agency. It appears the project would be subject to a Protection of Waters Permit.</li> <li>• Application indicates 10,000 square feet of disturbance while the EAF indicates 9,000 square feet of disturbance. Applicant to make consistent.</li> <li>• Site is not located in Critical Environmental Area (CEA).</li> </ul> <p><b>12-3-2024 – Applicant submitted revised short form environmental assessment form.</b></p> <ul style="list-style-type: none"> <li>• <b>I repeat Engineer Woodruff’s comment regarding altering the answers of the DEC Mapper tool. (See questions 12a, 12b, 20).</b></li> <li>• <b># 9 – should be amended to yes answer</b></li> <li>• <b># 17 – questions a and b to be answered.</b></li> <li>• <b>Applicant to address whether protection of waters permit is needed from NYSDEC.</b></li> </ul>	
<p>6. Plan Comments</p> <ul style="list-style-type: none"> <li>• Applicant to provide information on Future Townhouses. Planning Board must evaluate impacts of such townhouses to avoid impermissible segmentation. The applicant must identify any future phases</li> </ul>	

anticipated so that the totality of environmental impacts may be considered at this time. <ul style="list-style-type: none"><li>• Plan sets do not provide topographical data</li></ul>	
7. I note the comment memorandum of Keith Woodriff, P.E. dated September 4, 2024	For Information