

November 6, 2025

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 Leo Duklal – Ana Restuarant
22 Spring Street
207-5-35

I have reviewed the application of Leo Duklal of Ana Restuarant for a waiver of site plan approval pursuant to § 145-99 for a change of use to convert approximately 855 square feet of an existing mixed use (restaurant and residential apartments) to a 4th apartment. The subject property already contains 3 existing apartments. I offer the following comments:

Comment	Status
1. The Property is located in the CB zoning district. Apartments are permitted on the second and third floor subject to conditional use permit. ¹	For Information
2. The applicant seeks a waiver of site plan pursuant to 145-99. The proposed use, however, is a conditional permit use as set forth on the Use Table. See § 145-31. There is no authority in the Village Code for the Planning Board to waive conditional use approval. Pursuant to § 145-23(D), conditional permit uses are deemed prohibited until Conditional use approval is granted by the Planning Board.	

¹ The application identifies the proposed use as apartments which is subject to a special permit from the Village Board. The proposed use more closely aligns with residences on the second and third floor of an existing building. Either classification requires approval beyond a site plan.

Such approval shall be granted in accordance with Article XII of the Village's zoning code.	
I am of the opinion that a waiver of site plan cannot be issued for a conditional permit use.	