

GENERAL NOTES

- TAX MAP DESIGNATION: SECTION 213, BLOCK 1, LOT 8
9 CAMPBELL ROAD, WARWICK, NY 10990
- RECORD OWNER / APPLICANT:
LAILA & PETER PROULX
17 SCENIC VIEW ROAD
MONROE, NY 10950
- PROPERTY AREA: 0.187 ± ACRES
- ZONING DISTRICT: RESIDENTIAL (R)
- PROPOSED WATER SUPPLY: VILLAGE OF WARWICK WATER SYSTEM
- PROPOSED SEWAGE DISPOSAL: VILLAGE OF WARWICK SEWER SYSTEM
- SURVEY AND TOPOGRAPHY INFORMATION PROVIDED BY JOHN A. MCGLOIN, P.L.S., DATED MARCH 17, 2023. TOPOGRAPHY INFORMATION TAKEN FROM ORANGE COUNTY IMAGE MATE.
- EXISTING USE: 939 SQ.FT. CAR GARAGE TO BE REDUCED TO 688 SQ.FT. WITH AN ATTIC STUDIO TO REMAIN.
- PROPOSED USE: EXISTING GARAGE TO BE MADE SMALLER AND A PROPOSED 1,980 SQ.FT. 3-BEDROOM DWELLING.

ZONING DATA :

ZONING DISTRICT: RESIDENTIAL (R RESIDENTIAL)			
ITEM	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	20,000 SQ.FT.	8,125 SQ.FT.(*)	8,125 SQ.FT.(*)
MIN. LOT WIDTH	100 FT.	65 FT.(*)	65 FT.(*)
MIN. LOT DEPTH	125 FT.	125 FT.	125 FT.
MIN. FRONT SETBACK	35 FT.	-- FT.	31 FT.(*)
MIN. REAR SETBACK	35 FT.	-- FT.	52 FT.
MIN. SIDE SETBACK	20 FT.	-- FT.	12 FT.(*)
TOTAL SIDE SETBACK	50 FT.	-- FT.	32 FT.(*)
MAX. BLDG. HEIGHT	35 FT.	-- FT.	28 FT.
DEVELOPMENT COVERAGE	35%	28%	40%
TOTAL FOOTPRINT	2,031 SQ.FT.	939 SQ.FT.	1,938 SQ.FT.
FLOOR RATIO	25%	12%	24%

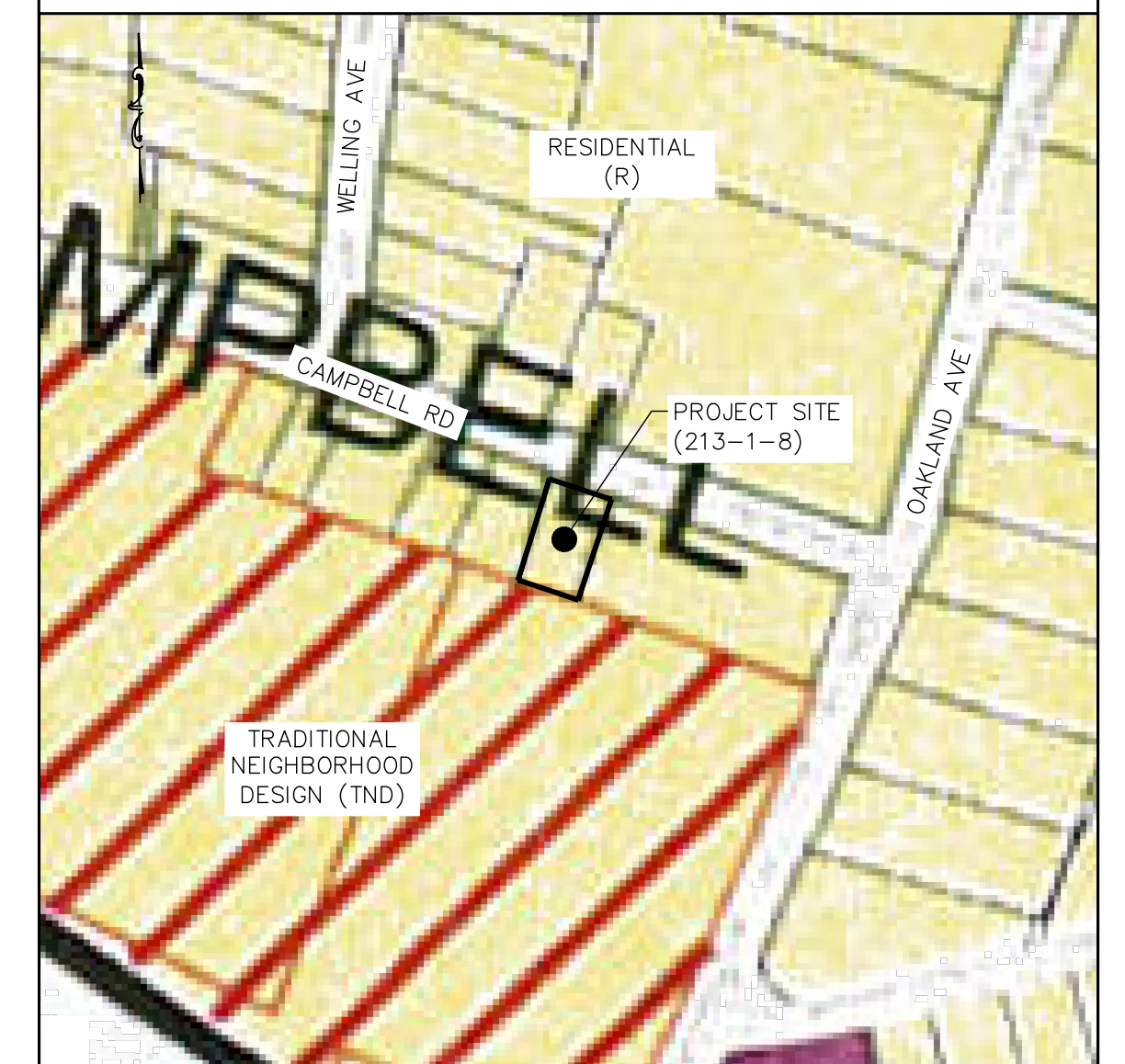
(*) ZBA DETERMINATION FILED IN THE OFFICE OF THE VILLAGE CLERK ON JUNE 6, 2024

PARKING NOTE:

NO PARKING ON UNPAVED AREAS

VICINITY MAP

SCALE: 1" = 200'±



ISSUE	DATE	DESCRIPTION
1	07/17/24	VILLAGE OF WARWICK PLANNING BOARD REVIEW

SITE PLAN

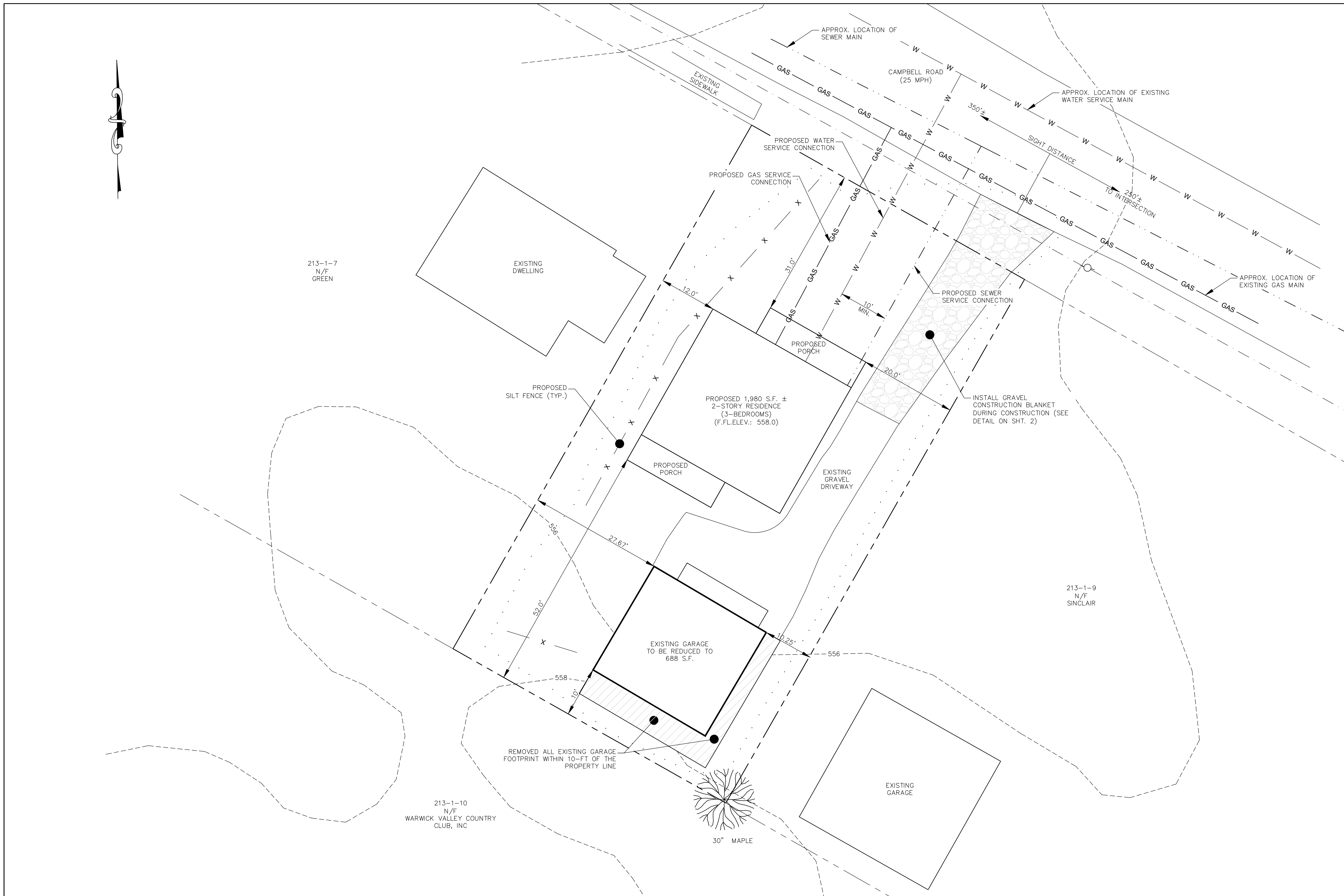
PROULX PROPERTY

SECTION 213 BLOCK 1 LOT 8
VILLAGE OF WARWICK
ORANGE COUNTY, NEW YORK

FRIEDLER ENGINEERING, PLLC

PH. 845.544.5662
9 LOCUST STREET WARWICK, NEW YORK 10990
FRIEDLERENGINEERING@OUTLOOK.COM

DRAWN BY	CHECKED BY	SCALE	JOB NO.	SHEET NO.
BjF	BjF	AS SHOWN	FE-24098	1 OF 3



LIST OF DRAWINGS:

- SITE PLAN
- DETAILS
- ZBA DETERMINATION

CONSTRUCTION NOTES:

- THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL EXISTING UTILITY LINES, WHETHER IN THE PUBLIC RIGHT-OF-WAY, IN EASEMENTS, OR IN PRIVATE PROPERTY PRIOR TO STARTING ANY EXCAVATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITY LINES THROUGHOUT THE COURSE OF CONSTRUCTION. PROJECT SAFETY SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
- CALL BEFORE YOU DIG UNDERGROUND FACILITIES PROTECTIVE ORGANIZATION 2 FULL WORKING DAYS BEFORE YOU DIG AT 1-800-962-7962.

LEGEND

	EXISTING PROPERTY LINE
	OVERHEAD UTILITY LINES
	PROPOSED SILT FENCE
	SETBACK REQUIREMENTS
	EXISTING CONTOUR
	PROPOSED GRADE

APPROVED FOR FILLING:

OWNER(S) _____ DATE _____

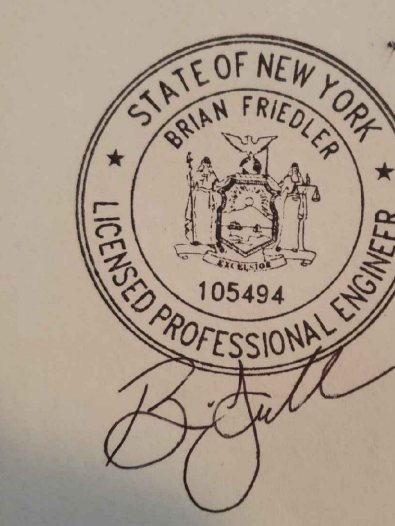
APPROVED AS A FINAL SITE PLAN BY A RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF WARWICK ON _____

CHAIRMAN _____ DATE _____

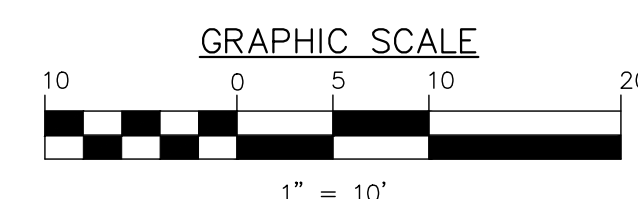
VILLAGE ENGINEER _____ DATE _____

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UNAUTHORIZED ALTERATIONS OR ADDITIONS TO THIS DOCUMENT BEARING THE SEAL OF A LICENSED PROFESSIONAL ENGINEER IS A VIOLATION OF SECTION 7209 SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW.



BRIAN FRIEDLER, P.E.
NEW YORK LICENSE # 105494



Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information

Name of Action or Project:
PROULX PROPERTY

Project Location (describe, and attach a location map):
9 CAMPBELL ROAD, WARWICK NY 10990

Brief Description of Proposed Action:
CONSTRUCTION OF A NEW 3-BEDROOM DWELLING AND THE REDUCTIN OF AN EXISTING 939 +/- SQ.FT. GARAGE TO 688 +/- SQ.FT.

Name of Applicant or Sponsor: LAILA & PETER PROULX Telephone: E-Mail: pproulxlandscape@gmail.com

Address: 17 Scenic View Road

City/PO: Monroe State: New York Zip Code: 10950

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.

2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Village Planning & Zoning Board, Village Bldg. Dept.

3. a. Total acreage of the site of the proposed action? 0.187 acres
b. Total acreage to be physically disturbed? 0.16 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 0.187 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:
5. Urban Rural (non-agriculture) Industrial Commercial Residential (suburban)
 Forest Agriculture Aquatic Other(Specify):
 Parkland

5. Is the proposed action, a. Permitted use under the zoning regulations? NO YES N/A
b. Consistent with the adopted comprehensive plan? NO YES

6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? NO YES

7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? NO YES
If Yes, identify: _____

8. a. Will the proposed action result in a substantial increase in traffic above present levels? NO YES
b. Are public transportation services available at or near the site of the proposed action? NO YES
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action? NO YES

9. Does the proposed action meet or exceed the state energy code requirements? NO YES
If the proposed action will exceed requirements, describe design features and technologies: _____

10. Will the proposed action connect to an existing public/private water supply? NO YES
If No, describe method for providing potable water: _____

11. Will the proposed action connect to existing wastewater utilities? NO YES
If No, describe method for providing wastewater treatment: _____

12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? NO YES
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? NO YES

13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? NO YES
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? NO YES
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:
There are federal and state regulated wetlands located approx. 1,000-ft southwest of the property.

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:
 Shoreline Forest Agricultural/grasslands Early mid-successional
 Wetland Urban Suburban

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? NO YES
Indiana Bat

16. Is the project site located in the 100-year flood plan? NO YES

17. Will the proposed action create storm water discharge, either from point or non-point sources? NO YES
If Yes, a. Will storm water discharges flow to adjacent properties? NO YES
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? NO YES
If Yes, briefly describe: _____

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? NO YES
If Yes, explain the purpose and size of the impoundment: _____

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? NO YES
If Yes, describe: _____

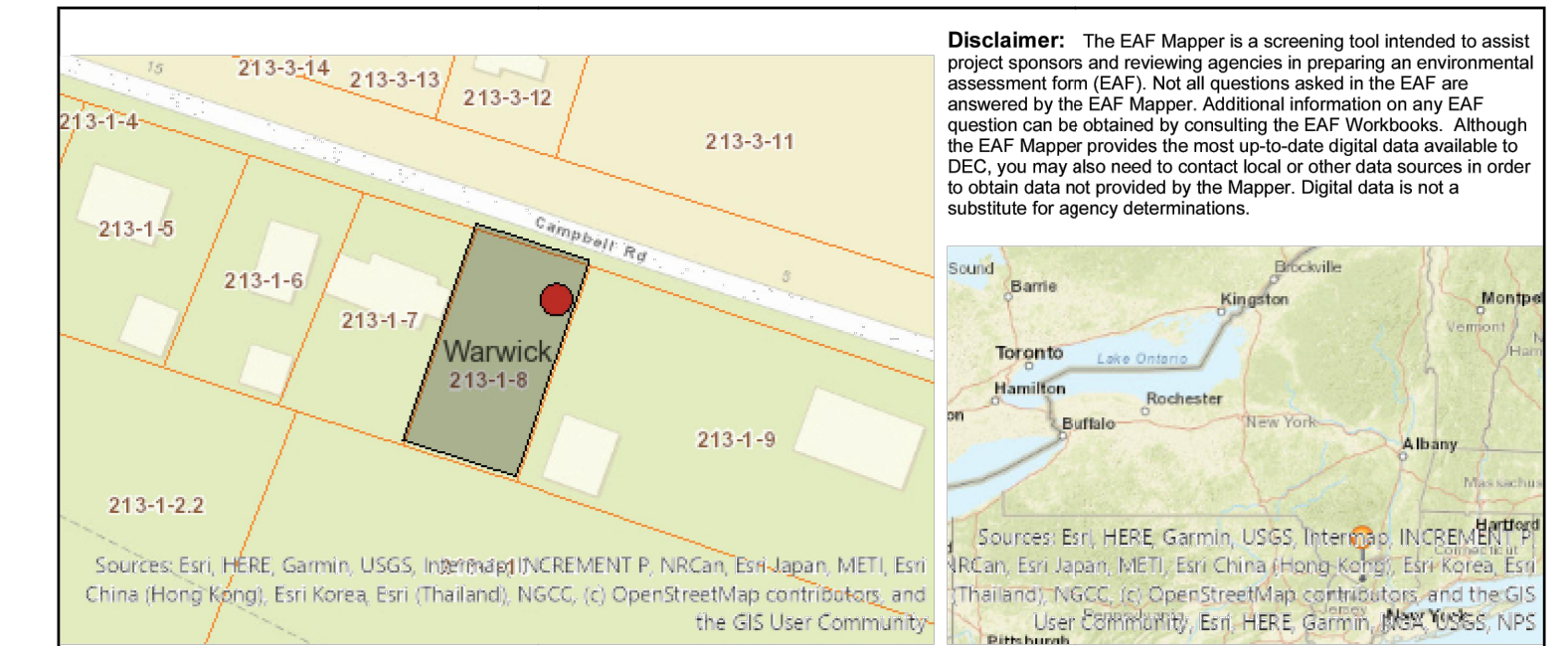
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? NO YES
If Yes, describe: _____

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

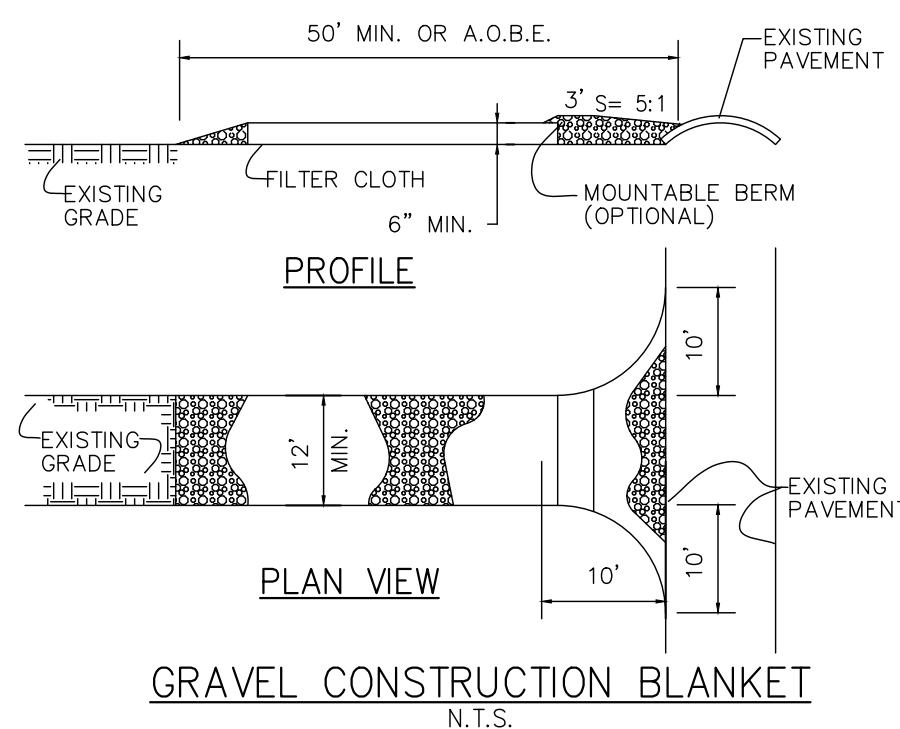
Applicant/sponsor name: Brian Friedler, P.E. Date: July 18, 2024
Signature: _____ Title: Project Engineer

EAF Mapper Summary Report

Wednesday, July 17, 2024 4:06 PM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	Yes
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Indiana Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

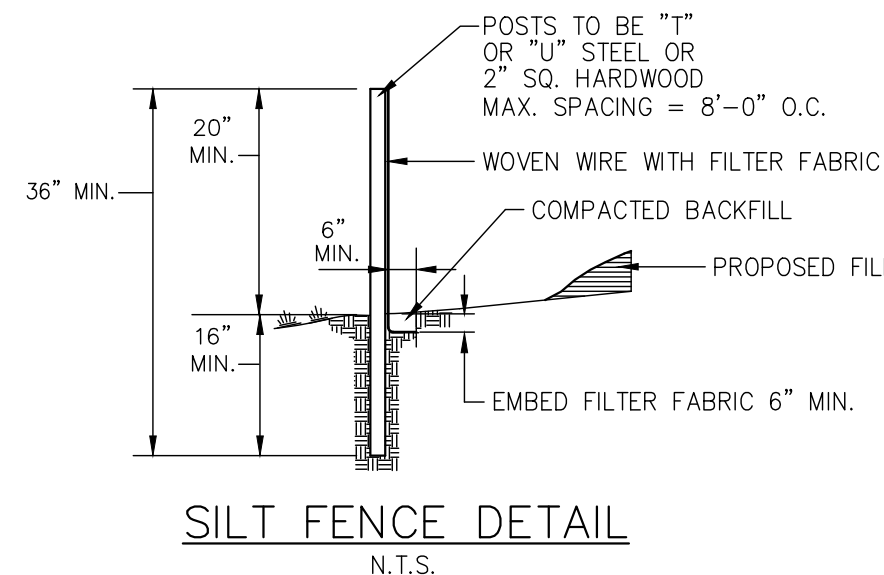


GRAVEL CONSTRUCTION ENTRANCE BLANKET SPECIFICATIONS:

- STONE SIZE - USE 1"-4" STONE AGGREGATE
- LENGTH - 50 FT.
- THICKNESS - 6" MINIMUM THICKNESS.
- WIDTH - TWELVE (12) FT. MINIMUM, BUT NOT LESS THAN THE FULL WIDTH AT POINTS WHERE INGRESS OR EGRESS OCCURS.
- FILTER CLOTH - WILL BE PLACED OVER THE ENTIRE AREA PRIOR TO PLACING OF STONE. FILTER WILL NOT BE REQUIRED ON A SINGLE FAMILY LOT.
- SURFACE WATER - ALL SURFACE WATER FLOWING OR DIVERTED TOWARD CONSTRUCTION ENTRANCES SHALL BE PIPED ACROSS THE ENTRANCE. IF PIPING IS IMPRACTICAL, A MOUNTABLE BERM WITH 5:1 SLOPES WILL BE PERMITTED.
- MAINTENANCE - THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHT-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING WITH ADDITIONAL STONE AS CONDITIONS DEMAND AND AND REPAIR AND/OR CLEAN OUT OF ANY MEASURES USED TO TRAP SEDIMENT. ALL SEDIMENT SPILLED, DROPPED, WASHED OR TRACKED ONTO PUBLIC RIGHT-OF-WAY MUST BE REMOVED IMMEDIATELY.
- WASHING - WHEELS SHALL BE CLEANED TO REMOVE SEDIMENT PRIOR TO ENTRANCE ONTO PUBLIC RIGHT-OF-WAY. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON A AREA STABILIZED WITH STONE AND WHICH DRAINS INTO A APPROVED SEDIMENT TRAPPING DEVICE.
- PERIODIC INSPECTION AND NEEDED MAINTENANCE SHALL BE PROVIDED AFTER EACH RAIN.
- ONCE ONSITE CLEARING, GRADING, AND EXCAVATION IS COMPLETE, THE DRIVEWAY SUBBASE (ITEM 4) CAN BE INSTALLED.

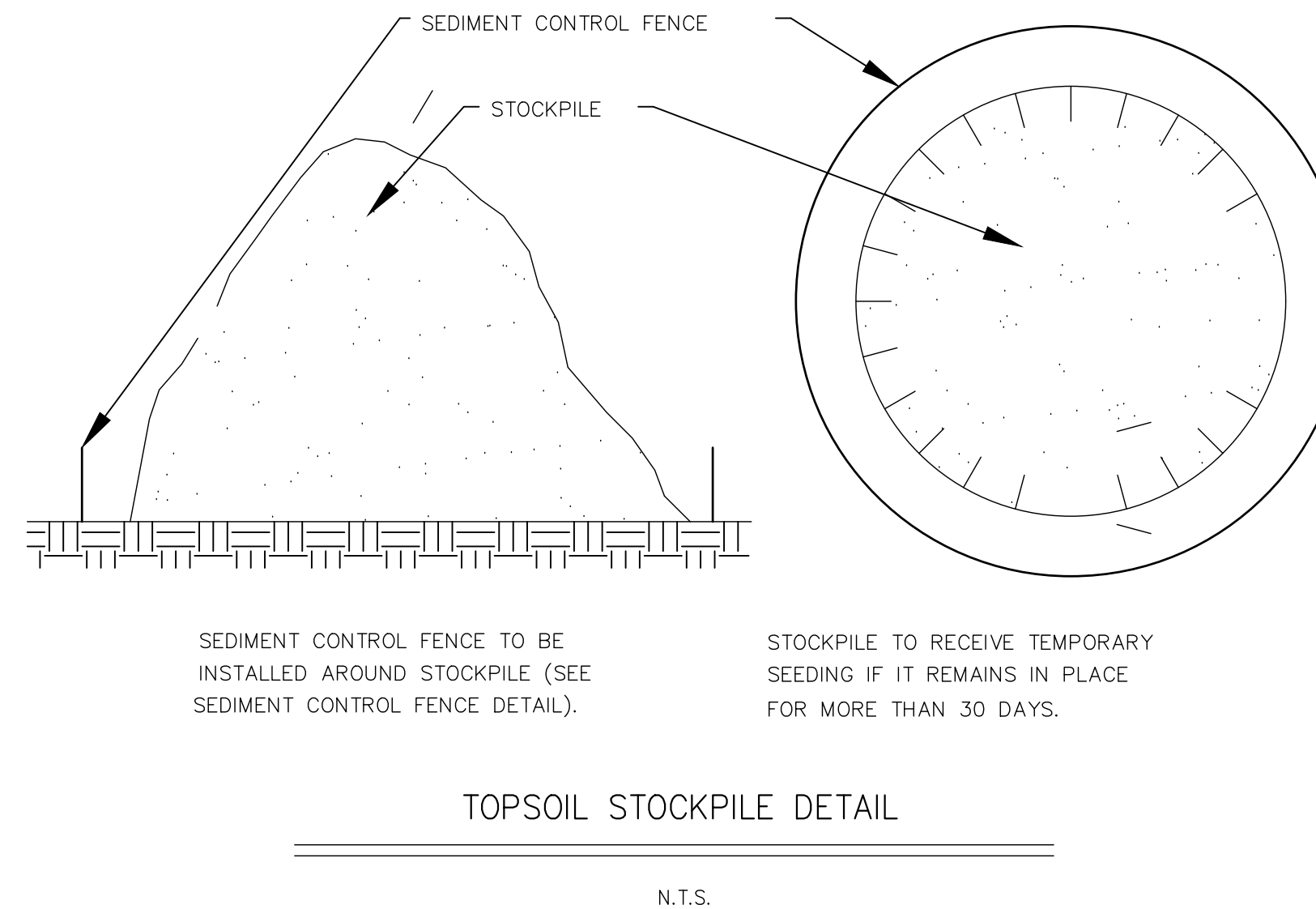
SOIL EROSION CONTROL NOTES

- SILT FENCE BARRIERS SHALL BE INSTALLED PRIOR TO CONSTRUCTION.
- DISTURBANCE TO BE LIMITED TO THE MINIMUM NECESSARY FOR THE GRADING AND CONSTRUCTION OF THE PROPOSED IMPROVEMENTS.
- TEMPORARY SEEDING WITH ANNUAL RYE GRASS OR OTHER RAPID GROWING MIXTURE SHALL BE PERFORMED ON DISTURBED SOIL REMAINING VACANT FOR MORE THAN ONE MONTH AS FOLLOWS:
 - LOOSEN SEEDS BY DISCING TO 4" DEPTH.
 - FERTILIZE AS PER SOIL TEST OR APPLY 5-10-10 FERTILIZER (20 lbs. per 1000 s.f.)
 - SEED WITH PERENNIAL RYEGRASS (20 lbs. per 1000 s.f.)
 - MULCH WITH STRAW MULCH (90 lbs. per 1000 s.f.)
- ALL DISTURBED AREAS TO BE MULCHED TO PREVENT EROSION. THE CONTRACTOR SHALL COMPLY WITH ALL REQUESTS OF THE TOWN ENGINEER OR BUILDING INSPECTOR DURING CONSTRUCTION WITH REGARD TO EROSION CONTROL DEVICES.
- EROSION CONTROL MEASURES SHALL REMAIN IN PLACE AND BE MAINTAINED BY THE CONTRACTOR UNTIL PERMANENT STABILIZATION HAS BEEN ESTABLISHED.



NOTES:

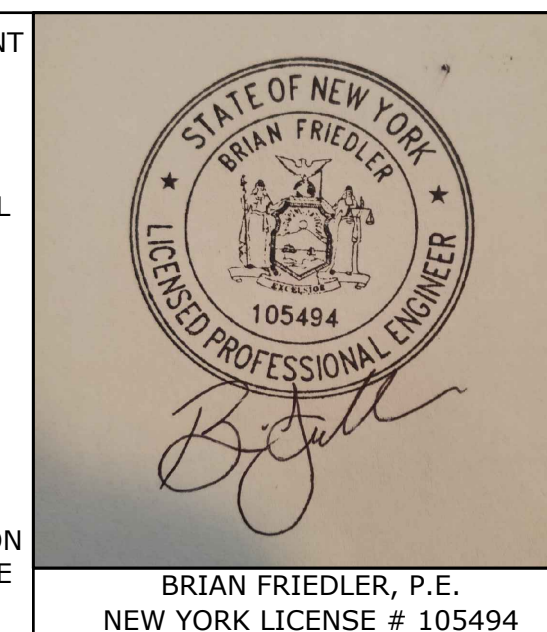
- WHERE TWO SECTIONS OF FILTER CLOTH ADJOIN EACH OTHER, THEY SHALL BE OVERLAPPED BY SIX INCHES AND FOLDED.
- MAINTENANCE SHALL BE PERFORMED AS NEEDED AND MATERIAL REMOVED WHEN "BULGES" DEVELOP IN THE SILT FENCE.
- SILT FENCE FABRIC TO BE MIRAFI 100X OR APPROVED EQUAL.
- WOVEN WIRE FENCE (MIN. 14.5 GAUGE, MAX 6" MESH SPACING)



CONSTRUCTION SEQUENCE:

- ERECT SNOW FENCING AROUND TREES, STRUCTURES, AND OTHER FEATURES TO BE PROTECTED.
- CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE.
- CONSTRUCT SILT FENCE BARRIERS DOWNSLOPE OF ALL AREAS TO BE DISTURBED.
- CLEAR AND GRUB VEGETATION IN AREAS TO BE REGRADED.
- PERFORM DRIVEWAY GRADING, EXCAVATION, CONSTRUCTION OF UTILITIES, PAVING, ETC.
- MAINTAIN SILT FENCE BARRIERS AND OTHER MEASURES IN PROPER CONDITION THROUGHOUT THE CONSTRUCTION PERIOD.
- AS CONSTRUCTION PROCEEDS, ALL DISTURBED AREAS SHALL BE PLANTED, SEED, OR PAVED IN A TIMELY MANNER TO PREVENT UNNECESSARY EROSION. ONCE DISTURBED AREAS HAVE BEEN PROPERLY STABILIZED, SILT FENCE, TEMPORARY BERMS, TEMPORARY SWALES, ETC., SHALL BE REMOVED.
- SILT FENCE BARRIERS, STABILIZED CONSTRUCTION ENTRANCES, AND OTHER EROSION AND SEDIMENT CONTROL MEASURES AS DEEMED NECESSARY BY THE TOWN ENGINEER SHALL BE IMPLEMENTED.

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BRIAN FRIEDLER, P.E.
NEW YORK LICENSE # 105494

ISSUE	DATE	DESCRIPTION
1	07/17/24	VILLAGE OF WARWICK PLANNING BOARD REVIEW

DETAILS

PROULX PROPERTY

SECTION 213 BLOCK 1 LOT 8
VILLAGE OF WARWICK

FRIEDLER ENGINEERING, PLLC

PH. 845.544.5662
9 LOCUST STREET WARWICK, NEW YORK 10990
FRIEDLERENGINEERING@OUTLOOK.COM

DRAWN BY BjF	CHECKED BY BjF	SCALE AS SHOWN	JOB NO. FE-24098	SHEET NO. 2 OF 3
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VILLAGE OF WARWICK, NEW YORK
ZONING BOARD OF APPEALS
.....X
In the Matter of the Application of
LAILA AND PETER PROULX,
Designated as Tax Map Section 213, Block 1, Lot 8
For Eight Area Variances from the
Village of Warwick Zoning Board Of Appeals.
.....X

DECISION

THIS APPLICATION of Laila and Peter Proulx (hereinafter the "Applicants") comes before the Village of Warwick Zoning Board of Appeals ("Board") as a request for eight (8) area variances from the bulk requirements of the Zoning Code applicable to properties containing single-family dwellings and from the required setback distance between a principal and accessory building. The variances are sought to allow for the construction of a 1,980 square foot single-family residence and to retain an existing nonconforming garage that was constructed without approval from the Village. See Village Code §§ 145-41, 145-62.B, and Table of Bulk Requirements.

PRELIMINARY STATEMENT

The Applicants are the owners of a parcel of land located at 9 Campbell Road, Warwick, New York, and shown on the Village tax maps as Section 213, Block 1, Lot 8. The property consists of approximately 8,125 square feet located in the Residential (R) District and contains a nonconforming garage located within the side and rear yard that was built without the necessary approvals from the Village (the "garage"). The existing garage is not a permissible use of the property as it constitutes an accessory structure without a principal use on the property.

The application before this Board, received on or about February 14, 2024, originally sought twelve (12) area variances to allow for the construction of a 2,500 square foot single-family residence and to maintain the existing 939 square foot garage. Specifically, the original application requested area variances to: (1) reduce the minimum lot area from 20,000 square feet to 8,125 square feet; (2) reduce the minimum lot width from 100 feet to 65 feet; (3) reduce the front yard setback from 35 feet to 31 feet; (4) reduce the side yard setback for the proposed residence from 20 feet to 12 feet; (5) reduce the side yard setback for the proposed residence from 20 feet to 18 feet; (6) reduce the total side yard setback for the proposed residence from 50 feet to 30 feet; (7) reduce the side yard setback for the garage from 10 feet to 6 feet, 7 inches; (8) reduce the rear yard

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setback for the garage from 10 feet to 5 feet; (9) reduce the street frontage from 80 feet to 65 feet; (10) increase the maximum development coverage from 35% to 43%, (11) increase the floor area ratio from 0.25 to 0.27; and (12) reduce the required setback distance between a principal and accessory building under Village Code § 145-62.B from 22 feet to 16 feet.

During the course of proceedings, the Applicants revised their plan at the request of the Board to present a project that was in greater conformity with the Village Zoning Code and neighborhood, particularly with respect to the size, location and appearance of the garage. The application presented before this Board, as revised by the site plan prepared by Irace Architecture, last revised April 15, 2024, proposes to construct a 1,980 square foot single-family residence and to reduce the size of the existing nonconforming garage to 688 square feet. The revised application requests eight (8) area variances to: (1) reduce the minimum lot area from 20,000 square feet to 8,125 square feet; (2) reduce the minimum lot width from 100 feet to 65 feet; (3) reduce the front yard setback from 35 feet to 31 feet; (4) reduce the side yard setback for the proposed residence from 20 feet to 12 feet; (5) reduce the total side yard setback for the proposed residence from 50 feet to 32 feet; (6) reduce the street frontage from 80 feet to 65 feet; (7) increase the maximum development coverage from 35% to 40%; and (8) reduce the required setback distance between a principal and accessory building under Village Code § 145-62.B from 22 feet to 16 feet.

PUBLIC HEARING AND SEQRA

The public hearing on this Application, upon a notice duly published, was held on March 26, 2024, April 23, 2024, and May 28, 2024, when it was closed. In accordance with the State Environmental Quality Review Act ("SEQRA"), the Board determined that this application was a Type II action, requiring no further environmental review. 6 N.Y.C.R.R. §§ 617.5(c)(16) and (17).¹

COUNTY GML § 239-J, -m or -n REPORT

This application has been referred to the Orange County Planning Department for review and report. The Board received the Planning Department's report, dated March 19, 2024, which stated that it did not appear that intermunicipal or countywide impacts would result if the Board found that granting relief was warranted in this matter and recommended this matter be a local determination.

¹ Under 6 N.Y.C.R.R. § 617.5(c)(16) and (17), the following are considered Type II actions under SEQRA: "granting of individual setback and lot line variances and adjustments" and "granting of an area variance for a single-family, two-family or three-family residence."

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2009 DECISION

On August 17, 2009, the Board issued a decision granting the prior owners of the property variances from the minimum lot area, lot width, side setback for both sides (reducing the side yard setbacks from 20 feet to 17.5 feet ± 6 inches), total side yard setbacks (reducing the total side yard setback from 50 feet to 35 feet) and street frontage in connection with the proposed construction of a 30 ft. x 44 ft., two-story single-family dwelling in the center of the lot ("2009 Decision"). As set forth in the 2009 Decision, the prior owners initially sought to convert the existing garage to a single-family dwelling, and the application evolved as meetings progressed to leaving the garage as is and constructing a single-family dwelling in the approximate center of the property. (See 2009 Decision at p. 1). The 2009 Decision explains that "[u]ltimately the Board, applicant and concerned neighbors appeared to agree that the best plan would be to either remove garage entirely and construct a sfd [single-family dwelling] in the approximate center of the lot or move the garage to the approximate center of the lot and convert it to a sfd [single-family dwelling] and perhaps expand it." (Id.). Additionally, "[t]he maximum footprint of the building was to be not more than 30 feet X 44 feet and a 2-story sfd [single-family dwelling] was thought to be the best configuration." (Id.).

The Board's grant of variances in the 2009 was "conditioned upon (1) the sfd [single-family dwelling] having a footprint of not larger than 30 feet X 44 feet and being a 2-story building, and the side setbacks being 17 ½ (+/- 6 inches) feet on both sides and (2) the applicants razing the garage or moving it to the approximate center of the lot and converting it to a sfd [single-family dwelling], and thoroughly removing the concrete pad and restoring that area to its natural condition, and no CO shall be granted before the condition is satisfied." (Id. at p. 3). The 2009 variances expired by the prior owners not commencing and diligently constructing the single-family dwelling within twelve months. The Applicants have now applied for approval of similar relief.²

The Board's prior grant of area variances to allow the construction of a single-family dwelling on the property constitutes precedent that should be followed unless there are changed circumstances or another rational basis for not following it. See, e.g., *Margulies v. Town of*

² This application is not eligible for a "rehearing" of the prior lapsed approval decision of this Board. A rehearing, which must be a unanimous vote of the Board to occur, can only be used if the request is to "reverse, modify or annul" the prior decision. See Village Code § 145-152(K); Village Law § 7-712-a(12). The Applicants are not requesting that the 2009 Decision approving the prior owners' application be reversed, modified or annulled and cannot make such request as those variances have long since expired. Therefore, it is appropriate to treat this application as a new application.

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Ramapo, 2024 WL 1545457, at *2 (2d Dept. 2024); *Monte Carlo I, LLC v. Weiss*, 142 A.D.3d 1173, 1175-76 (2d Dept. 2016). Here, the present application is not identical to the prior owners' application. This application seeks additional variances for the front yard setback, development coverage, and required setback distance between a principal and accessory building under Village Code § 145-62.B, and also seeks larger variances for the side yard setback and total side yard setback, although it complies with the side yard setback for one side yard. Additionally, the Applicants have proposed a different size and configuration for the dwelling and seek to retain and modify the garage, specifically, to reduce its size from 939 square feet to 688 square feet, relocate it outside of the side and rear yards, and replace the Gambrell style roof with a simple farmhouse style gable roof. The Applicants' home will not have a basement and they have requested the garage be permitted to remain in order to provide necessary storage space.

Here, the Board is not obligated to grant only the same relief that was granted in 2009. Although the 2009 Decision does constitute precedent, the Applicants' plan and requested variances are different from the prior application, and the Board must consider the Applicants' plan and the particular variances requested in evaluating the present application. With respect to the condition in the 2009 Decision that required the garage to be either removed or moved and converted to a single-family dwelling, the Applicants are not seeking to keep the existing garage "as is" in its present location as had been requested at some point by the prior owners, and the Applicants do not agree that removing the garage is the best plan as the prior owners had agreed. Instead, the Applicants have proposed to reduce the size of the garage, relocate it outside of the side and rear yard, and modify its design to better fit with the neighborhood. The Applicants have also proposed a different footprint for the dwelling; specifically, 33 feet by 30 feet for the main structure, with a front porch and back porch (the length when measured to include the porches the width would be up to 42 feet; the porches do not extend the entire length of the home). The Board may consider the new configuration proposed as well as the Applicants' desire to keep and the garage and proposed modifications to the garage. The Board is not required under the 2009 Decision to require the removal of the garage or the same exact building footprint approved at that time. Rather, the Board can find that the Applicants' new plan is just as appropriate as the prior owners' plan.

4

DECISION

Village Code § 145-41, Bulk Table, Table of Bulk Requirements

- Minimum Lot Area: Area Variance**
- Minimum Lot Width: Area Variance**
- Minimum Front Yard Setback: Area Variance**
- Minimum Side Yard Setback: Area Variance**
- Minimum Total Side Yard Setback: Area Variance**
- Minimum Street Frontage: Area Variance**
- Maximum Development Coverage: Area Variance**

Village Code § 145-62.B, Distance Between a Principal Building and an Accessory Building: Area Variance

Village Code § 145-41 contains a Table of Bulk Requirements that sets forth the bulk regulations applicable to uses within each use group as designated in the Use Table. Pursuant to the Use Table – the Table of Use Requirements – one-family residences are in Use Group "b." See also Village Code § 145-23.1(A)(1). The Applicants are requesting seven (7) area variances from the bulk requirements applicable to Use Group "B" to allow construction of a 1,980 square foot single-family residence and to reduce and keep the existing nonconforming garage. Specifically:

- (1) Variance of 11,875 square feet from the required minimum lot area of 20,000 square feet to allow a lot area of 8,125 square feet.
- (2) Variance of the 35 feet from the required minimum lot width of 100 feet to allow a lot width of 65 feet.
- (3) Variance of 4 feet from the required minimum front yard setback of 35 feet to allow a front yard setback of 31 feet from the porch.
- (4) Variance of 8 feet from the required minimum side yard setback of 20 feet to allow a side yard setback of 12 feet on the eastern property line.
- (5) Variance of 18 feet from the required total side yard setback of 50 feet to allow a total side yard setback of 32 feet.
- (6) Variance of 15 feet from the required street frontage of 80 feet to allow street frontage of 65 feet.
- (7) Variance of 5% from the maximum permitted development coverage of 35% to allow development coverage of 40%.

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Additionally, Village Code § 145-62.B provides that "[t]he distance between a principal building and an accessory building shall be no less than the height of the accessory building but in no event less than fifteen (15) feet." The existing nonconforming garage has a height of 22 feet, and the Applicants are seeking to construct the proposed residence approximately 16 feet from the garage. The Applicants are thus requesting a variance of 6 feet from the required distance between the residence and accessory garage.

Consistent with its statutory obligations under New York State Village Law § 7-712-b when considering an area variance, the Board balanced the benefit to the Applicants as weighed against the detriment to the health, safety and welfare of the neighborhood or community if the requested variances were granted. Further, as also required by statute, the Board took into consideration the following five issues in its balancing test:

1. Whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties would be created, by the granting of the requested area variances.
2. Whether the benefit sought by the Applicants could be achieved by some method, feasible for the Applicants to pursue, other than area variances.
3. Whether the requested area variances were substantial.
4. Whether the requested area variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the difficulty claimed by the Applicants was self-created.

The Board was also aware of its obligation to grant the minimum variances that it deemed necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Board began by discussing whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties would be created, by the granting of the requested area variances, and whether the requested area variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board considered the character of the neighborhood, which is residential, and consists of single-family dwellings on similarly sized lots, some of which have accessory garages. The Board noted that the existing nonconforming garage is an eyesore and conflicts with the architectural style and aesthetics of the community. The Board discussed how the Applicants have revised the project to reduce the size of the garage from 939 square feet to 688 square feet, relocate

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the garage outside of the side and rear yards, replace the Gambrell style roof of the garage with a simple farmhouse style gable roof, reduce the size of the proposed home from 2,500 square feet to 1,980 square feet, increase the side yard setbacks for the house, and reduce the development coverage variance. The Board further noted that the Applicants have included an image of the proposed home and modified garage which demonstrates how the structures will be designed to complement the architecture and aesthetics of the neighborhood. The Board found that the proposed dwelling will be similar to others in the area in terms of scale, architecture and front yard setback. The Board determined that with the revisions, and provided the design of the dwelling and modified garage be consistent with the image on the plan, the project will not alter the character of the neighborhood. Additionally, the Board acknowledged that the Applicants have a landscaping business and that use of the garage in connection with such business could impact the character of the neighborhood, as could use of the garage as a second dwelling unit. The Board thus found it was appropriate to restrict the use of the garage as an accessory garage to the single-family dwelling only and provide that the garage shall not be used for residential or business purposes.

The Board determined that the proposed dwelling and modified garage will not result in any no adverse visual or other impacts on physical or environmental conditions. Specifically, the Board found that the design of the proposed dwelling and modified garage is aesthetically pleasing and complements the neighborhood, and the additional traffic, water usage, and wastewater from one single-family dwelling in a residential district will be minimal. However, the Board acknowledged that the additional impervious surface area could impact drainage patterns in the neighborhood. The Board noted that the Applicants will be required to obtain site plan approval from the Planning Board and determined that the Applicants will need to provide adequate stormwater management measures to the satisfaction of the Planning Board. With this condition, the Board determined that there will be no adverse impacts from stormwater runoff. The Board concluded that with the aforementioned conditions – requiring the dwelling and/or garage to be constructed and modified consistent with the plan including the example of the proposed look, style, scale, color and shape shown on the plan, requiring the Applicants to obtain site plan approval from the Planning Board and to provide adequate stormwater measures to the satisfaction of the Planning Board, and restricting the use of the garage as accessory to the dwelling only and not for residential or business purposes – the variances requested would not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties and would

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not have an adverse impact on the physical or environmental conditions in the neighborhood. The Board weighed heavily that there was no undesirable change in neighborhood and no adverse impact on the physical or environmental conditions as their discussions continued.

The Board also weighed whether the variances requested were substantial. The Board determined that numerically, the variances were substantial, but this does not prevent the Applicants from obtaining a variance under the balancing test.

The Board also considered whether the alleged difficulty was self-created, and whether the benefit sought by the Applicants could be achieved by some alternative method feasible for the Applicants to pursue. The Board determined that the alleged difficulty was self-created, as the Applicants are seeking to construct a dwelling on a nonconforming lot that does not meet the zoning requirements and to modify and relocate an existing nonconforming garage that was constructed without approval, albeit not by the Applicants. In considering whether the benefit sought could be achieved by another method feasible for the Applicants to pursue, the Board noted that the nonconforming lot area, lot width and street frontage are existing conditions and there is no way to build on the existing lot without obtaining these variances. Additionally, the Board found that there is no way to construct the desired dwelling and keep the garage (as modified) without variances from the front yard setback, side yard setback, total side yard setback, development coverage and setback distance between a principal and accessory building. The Board noted that during the course of proceedings the Applicants revised the plans to eliminate the need for certain variances and reduce the size of the variances from the side yard setback, total side yard setback and development coverage. The Board found that the Applicants are proposing a modest size home that is consistent with the size of other homes in the area. The Applicants would be limited to a 15-foot dwelling if they were required to comply with the total side yard setback requirement. The Board acknowledged that the garage is needed for storage space as the dwelling will be constructed on a slab and will not have a basement. The Board noted that although the Applicants may be able to reduce the size of the dwelling and/or garage further to eliminate the variances for the front yard, development coverage and setback distance between the residence and garage, doing so would not result in the benefit desired, as it would not provide the Applicants with the amount of space desired. The Board concluded that there were no feasible alternatives for the Applicants to pursue to achieve the benefit sought. To the extent there may be any feasible alternatives for some of the variances that would allow the Applicants to construct a smaller dwelling and/or have a smaller garage, the Board found that this as well as the substantial and self-

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created nature of the variances were outweighed by the fact that there would be no change to the character of the neighborhood and no adverse impacts to the physical or environmental conditions.

CONCLUSION

As a consequence of the Board's discussions, the Zoning Board of Appeals hereby grants the requested area variances described and discussed above, to the extent noted above, conditioned upon the following:

- (1) the dwelling and garage shall be constructed and modified in compliance with the site plan prepared by Irace Architecture, entitled Proposed Residence for the Proulx Property, last revised April 15, 2024, including compliance with the example of the proposed look, style, scale, color and shape of the new home and reworked garage shown on the plan;
- (2) the Applicants shall obtain site plan approval from the Planning Board within six months of the date of this decision;
- (3) the Applicants shall have proper measures in place to handle the stormwater runoff from the additional impervious area to the satisfaction of the Planning Board;
- (4) the garage shall only be used as an accessory garage to the single-family dwelling and shall not be used for residential or business purposes;
- (5) the portion of the garage being removed shall include removing the concrete pad and restoring that area to its natural condition; and
- (6) the Applicants shall obtain building permits and commence and diligently pursue construction within six (6) months of the date of this Decision or the variances shall become null and void pursuant to Village Code § 145-152(L).

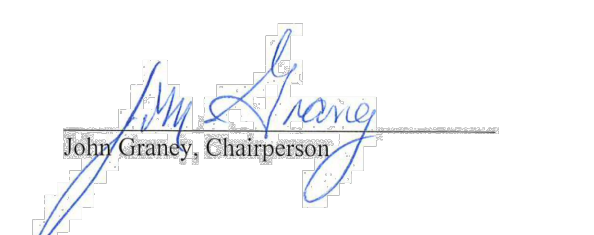
The Board hereby finds that the variances as granted are the minimum variances necessary and adequate and, at the same time, will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

On motion by Member John Prego, seconded by Member Jonathan Burley:

- Chairperson John Graney Aye
- Member John Prego Aye
- Member Margaret Politoski Aye
- Member Jonathan Burley Aye
- Member Wayne Greenblatt Absent

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Issued by Board: May 28, 2024
Written Decision Signed: May 29, 2024


John Graney, Chairperson

I, Raina Abramson, Village Clerk, do hereby certify that the foregoing Determination was filed in the Office of the Village Clerk on June 3, 2024, and copies provided to the Building Inspector and mailed to the Applicant.


RAINA ABRAMSON, CLERK
VILLAGE OF WARWICK, NEW YORK

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ISSUE	DATE	DESCRIPTION
1	07/17/24	VILLAGE OF WARWICK PLANNING BOARD REVIEW

ZBA DETERMINATION

PROULX PROPERTY

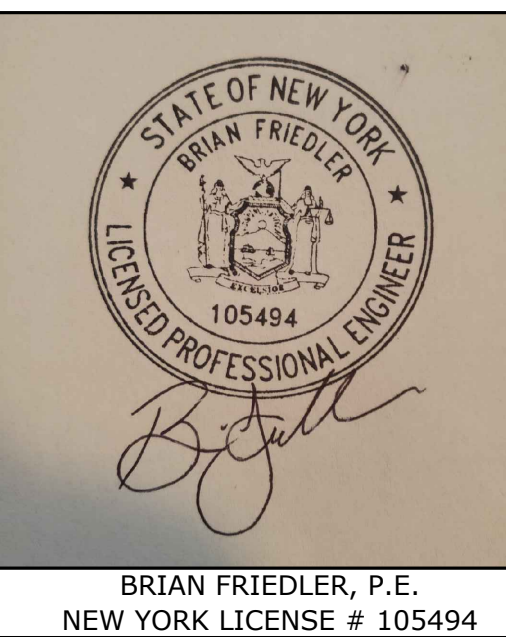
SECTION 213 BLOCK 1 LOT 8
VILLAGE OF WARWICK

FRIEDLER ENGINEERING, PLLC

PH. 845.544.5662
9 LOCUST STREET WARWICK, NEW YORK 10990
FRIEDLERENGINEERING@OUTLOOK.COM

DRAWN BY Buf	CHECKED BY Buf	SCALE AS SHOWN	JOB NO. FE-24098	SHEET NO. 3 OF 3
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BRIAN FRIEDLER, P.E.
NEW YORK LICENSE # 105494

