

RESOLUTION OF APPROVAL  
FOR AMENDED SITE PLAN AND SUBDIVISION APPROVAL  
FOR  
M & L EQUITY AUTO LLC  
VANESSA MANN  
SBL 210 – 11 – 5  
210-11-16.22

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**Nature of Application**

M & L EQUITY AUTO LLC and VANESSA MANN seek to alter the existing lot line between 18 Elm Street (SBL 210-11-16.22) and 42 Orchard Street (SBL 210-11-5). Such alteration consists of transferring 5,963 square feet from 42 Orchard Street to 18 Elm Street. The purpose of the project is to eliminate the existing encroachment of M&L Equity Auto facilities across the rear of the Mann property (42 Orchard Street). Other than the installation of additional screening in the form of landscaping and a fence, the application does not propose any new construction.

**Zoning District:**

The Mann property (42 Orchard Street) is located in the Residential (R) zoning district. The M&L Equity Auto property (18 Elm) Street is located in the Light Industrial (LI) zoning district. The application requires a zone change by the Village Board of Trustees, rezoning the transferred property from Residential (R) to Light Industrial (LI).

Gasoline service stations, Automobile sales and service, and car washes are conditional uses in the Light Industrial (LI) district as set forth in the Village of Warwick Zoning Code. The site last received site plan approval on August 2, 1990, subject to the terms and conditions of an area variance granted by the Zoning Board of Appeals.

**Plans**

The Subdivision Approval and Amended Site Plan application materials being considered consist of the following:

1. Application, dated May 8, 2023, submitted by letter dated July 20, 2023.
2. Subdivision Application, dated March 26, 2024
3. A three (3) sheet set of plans containing the following:
  - a. "Site Plan, M&L Equity Auto LLC Lot Line Change" prepared by Friedler Engineering, PLLC, dated June 26, 2023, last revised August 13, 2024 (Entitled "Subdivision Plan")

- b. Subdivision Plan, prepared by Schmick Surveying, Inc., dated March 10, 2023, last revised August 5, 2024
- c. Subdivision Plan, sheet 2, prepared by Schmick Surveying, Inc., dated March 10, 2023, last revised August 5, 2024, containing the Zoning Board of Appeals decision.

4. Short Form Environmental Assessment Form (SEAF) dated May 8, 2023.

## **History**

### Date of Application

The Planning Board initially received an application for a lot line change on or about July 20, 2023. By memorandum dated October 3, 2023, Planning Board Attorney Robert Dickover opined that the Village Code required that the project be treated as a subdivision application and not a lot line change application.

The Applicant submitted a subdivision application dated April 17, 2024, which was initially taken up by the Planning Board at its May 14, 2024 meeting.

By memorandum dated August 27, 2024, Planning Board Attorney Elizabeth Cassidy opined that in addition to subdivision approval, site plan approval was also required. The Planning Board took up site plan considerations at its September 10, 2024 meeting.

### GML 239 Referral

This application was not subject to review by the Orange County Planning Department.

### SEQRA

Lead Agency & Type of Action:

At its May 14, 2024, the Planning Board adopted a resolution declaring Lead Agency pursuant to the New York State Environmental Quality Review Act (SEQRA) and further declared that the proposed action was an Unlisted action, and that uncoordinated review was warranted.

### Zoning Board of Appeals

The Village of Warwick Zoning Board of Appeals, by decision signed April 25, 2024, granted an area variance reducing the minimum lot area 42 Orchard Street (SBL 210-11-5) from 20,000 square feet to 6,625 square feet. 42 Orchard Street was originally 12,589 square feet.

### Public Hearing

A public hearing was held on August 13, 2024, and held over until September 10, 2024 as to the Subdivision Application.

With respect to site plan, pursuant to its authority set forth the Village of Warwick Code § 145-96, the Planning Board resolved that given the nature of the amendments coupled with the fact that the subdivision application contained substantially similar information that a separate public hearing on the site plan would not be required.

On August 13, 2024, one neighbor spoke requesting the opportunity to review the revised plan. The public hearing was held open to accommodate that request. No further public comment was received.

## **Findings**

The Planning Board has determined that final approval of the amended site plan and subdivision approval will substantially serve the public convenience, safety and welfare in that the proposed project better screens the existing Light Industrial Use from the adjoining residential properties. The purpose of the instant application is to conform the documents on file with the Village of Warwick with what exists on site and has been developed overtime.

The Planning Board discussed at length various options for screening the light industrial uses from the adjoining residential properties. The applicant will extend the existing fence line which runs in a East-West direction parallel to Orchard Street through 42 Orchard Street. The western most property line will be shielded with a series of Arbor Vitae planted in two offset rows. The Board finds that planted screening on this property line will have less impact on the floodplain and allows flood water to travel through the natural trees compared with a fence.

## **Resolution of Approval,**

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to grant final approval to the amended site plan application and subdivision applications of M&L Equity Auto LLC and Vanessa Mann as depicted on the plans identified above upon conditions outline below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

## **General Conditions**

1. This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, as required to the Village of Warwick Planning Department.
2. This approval is further conditioned upon the applicant paying or depositing into escrow all applicable review, inspection and any other applicable fees.
3. This approval is further conditioned upon the applicant delivering (prior to signing the plans) proof, in writing, that all fees - engineering, legal and otherwise - in regard to this project have been fully paid.
4. The plans shall not be signed until proof satisfactory to the chair, has been presented showing that all conditions of this approval have been fulfilled or otherwise satisfied.
5. All conditions of this conditional approval shall be fulfilled within twelve (12) months from the date of the Village Board approval of the zone change as required by Specific Condition 11 unless the applicant shall, within said twelve (12) month period and prior to expiration of said time, file with the Planning Board a request for an extension of this conditional approval and prove to the satisfaction of the Planning Board that such extensions is justified based upon such matters as are outside the control of the applicant. Upon expiration of said twelve (12) month period without an extension having been granted this conditional approval shall lapse.
6. All conditions precedent to this approval shall be satisfied prior to issuance of a Building Permit for the new fence.
7. No approval is intended to be given or is given by this resolution for site plan elements depicted on adjoining properties.

8. Construction hours at the project site shall be limited to the hours of 7:00 am and 7:00 pm on weekdays and 8:00 am and 7:00pm on Saturdays. There shall be no construction on Sundays.
9. The Chairman shall be authorized to sign the site plan and subdivision plat upon receipt of written confirmation from the Village Engineer and Planning Board Attorney that the final site plan and subdivision plat conform to the terms of this approval.

### Specific Conditions

10. This approval is subject to a zone change by the Village Board of Trustees within 12 months of this approval. In the event such zone change is not granted, M&L Equities shall return to the Village Planning Board for amended site plan approval.
11. This approval is subject to the terms and conditions of the Decision of the Village of Warwick Zoning Board of Appeals dated April 25, 2024.
12. Prior to signing the plat, applicant to file an easement in favor of the Village of Warwick confirming and restating the sewer easement given by Booker J. Smith Enterprises, Inc. to the Village of Warwick, dated August 14, 1998, and recorded in the Orange County Clerk's office on September 18, 1998 in Liber 4874 at Page 46.
13. Prior to signing the plat, applicant to locate existing sewer easement on plan.
14. Prior to signing the plat, applicant to address all outstanding comments as set forth in the memorandum of Keith Woodruff, Engineering & Surveying Properties, dated September 4, 2024.
15. Landscaping to be maintained in perpetuity.
16. Applicant to submit site plan application materials together with the applicable fee to reflect the inclusion of site plan approval.
17. Applicant to remove gravel area to the extent it encroaches on SBL 210-11-4.
18. The proposed fence shall be constructed to a height of six feet to be consistent with the existing privacy fence.
19. Subdivision Plat to be filed in the office of the Orange County Clerk within sixty-two (62) days from the map signature date, with a copy to be furnished to the Village of Warwick Clerk.

In Favor      5      Against      0      Abstain      0      Absent      0

Dated: September 10, 2024

  
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JESSE GALLO, Chairman  
VILLAGE OF WARWICK PLANNING BOARD

Filed in the Office of the Planning Board Clerk on this 19<sup>th</sup> day of September 2024

  
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Kristin Bialosky  
Planning Board Secretary

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 September 20, 2024

A handwritten signature in black ink, appearing to read 'Raina', written over a horizontal line.

Raina Abramson, Clerk  
Village of Warwick