

Memo

To: Village of Warwick Planning Board-Maureen Evans via email: villageplanning@warwick.net
From: Robert J. Dickover
CC: David A. Getz, P.E. via email getz@lehmangetz.com
Date: 2/23/2023
Re: Patrick Corcoran Site Plan / Application for construction of one (1) two-story multiple residence / 43 Wheeler Avenue

I offer the following comments on the above captioned application submission.

1. This is a Site Plan application seeking approval for construction of a single two-story multiple residence containing three (3) living units on the site at 43 Wheeler Avenue.

The Property:

Address: 43 Wheeler Avenue

Tax Map: Section 207, Block 1, Lot 5

Zoning District: Central Business (CB) Zoning District

Size: .156 +/- Acres

Zoning:

In the CB zoning District permitted uses include:

Multiple Residences ¹ as a Special use permitted on approval of the Village Board in accordance with Article XVI of the Code and subject to Site Plan approval by the Planning Board and subject to special conditions of §145-127. The text of 145-127 is reproduced within the endnotes. It appears that this project does not meet the requirements of 145-127 in several respects.¹

The Board and Applicant should review the provisions of 145-127.

¹ Multiple Residence is defined by Sec. 145-181 as: **RESIDENCE, MULTIPLE** - An arrangement of a building or buildings, the occupancy of which is intended for three (3) or more families living independently of each other in separate dwelling units with a floor or ceiling common to other dwelling units.

- It appears that multiple variances will be required with respect to the requirements of 145-127 as well as other bulk area requirements.

2. **GML Sec. 239-m & n.**

It appears that this project does not require referral to the Orange County Planning Department.

3. **SEQRA:**

Adherence to the State Environmental Quality Review Act (SEQRA) is required.

The applicant has provided a Short Form EAF. The Board should declare itself Lead Agency. Pursuant to N.Y. Comp. Codes R. & Regs. Tit. 6 § 617.5(c) (11) the "construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance or upgrade of a drinking water well or a septic system, or both, and conveyances of land in connection therewith" is a Type II action. As such no further environmental review is required.

4. **SITE PLAN REVIEW:**

In considering and acting upon Site Plans, the Planning Board and the AHDRB (if applicable) shall take into consideration the Public Health, Safety and Welfare, the comfort and convenience of the public in general and of the prospective occupants of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order to further the expressed intent of this chapter and accomplish the objectives set out in Section 145-91 of the ZO including consideration of:

- the Environment;
- the Site Plan elements;
- Compatibility with the surrounding neighborhood;
- Pedestrian circulation;
- Landscaping and screening;
- Traffic access; Circulation and parking;
- Architecture;
- Design Standards;
- Site Layout and Design Considerations;
- Relationship of Buildings and Site to Adjoining Areas;
- Building Design;
- Parking and Loading Facilities;

- Access;
- On-site Circulation;
- Drainage; Signs;
- Lighting;
- Trails; and
- Noise.

The site plan elements that are required under the ZO should be placed upon the plat or consideration be given to the grant of waivers.

ZO Section 145-99 entitled "Waivers" states that: "The Planning Board may waive any specific requirements set forth in Article IX (*Note: this is a reference to the Site Plan Article*) of this Zoning Law for the approval, approval with modifications or disapproval of a Site Plan submitted for approval, including the submission requirements for activities deemed by the Planning Board to be minor. . . .".

Thus, the Board may waive the site plan detail requirements for any site plan applications, including those for activities deemed *minor*. In order to be in compliance with the "waiver" regulation the Board would have to be able to make a finding, reduced to writing, "that compliance with the requirement is either not requisite in the interest of the public health, safety and general welfare or [is] inappropriate to the particular Site Plan." (ZO 145-99).

At the next meeting the Board should review the application and site plan and determine what other site plan elements, if any, are required. As to those not deemed required consideration can be given to granting a waiver for the inclusion on the site plan.

5. Public Hearings.

The ZO requirements for site plan include the requirement for a Public Hearing on the site plan elements. (ZO 145-93.C.) That Public Hearing is to be scheduled within 62 days from the date a completed application is received. The Planning Board shall make its decision on the site plan within 62 days after close of the public hearing. (ZO 145-94.B.)

The Notice requirements for the Site Plan Public Hearing include:

6. Other Issues.

Variances: Examination is required to identify the necessary variances and a referral made to the zoning board.

7. Site Plan/Subdivision Elements/Technical Comments.

- The Village Engineer may have provided technical comments on the application that must be considered by the Board.

Respectfully,

Robert J. Dickover, Esq.

¹ 145-127 Multiple Residences

A. Multiple residences are subject to Special Use permit approval from the Village Board of Trustees in accordance with the general standards set forth in §145-120 and the special conditions described below.

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B. Multiple residences require a minimum lot size of 22,500 square feet.

C. Multiple residences shall be constructed to resemble a single-family dwelling.

D. Multiple residences shall be consistent with the character of the immediate surrounding neighborhood.

E. If there are multiple buildings proposed for a lot, the following shall apply:

1. The distance between principal residential buildings on the same lot must be equal to the length of the largest building or sixty (60) feet, whichever is greater.

2. There shall be no more than six (6) dwelling units per principal residential building.

3. No building shall exceed one hundred and twenty-five (125) feet in length.

4. The minimum distance between a principal residential building and an accessory building shall be twenty-five (25) feet.

5. There shall be provided on the same lot, a suitably fenced children's play area containing not less than one hundred (100) square feet of ground area for each dwelling unit therein.

6. There shall be no parking areas between the front lot line and a principal residential building.

7. The number of dwelling units shall be calculated in accordance with the residential density requirements of § 145-28.G(2)(a) of the Zoning Law.

8. Wherever space is provided for the parking of four (4) or more vehicles in the open, such spaces shall be individually identified by means of pavement markings. No parking space shall be located in any front yard or within ten (10') feet of any lot line in side or rear yards. The parking of motor vehicles within fifteen (15') feet of any wall or portion thereof is prohibited. No service of any kind shall be permitted to be extended to users of the lot, including automobile service, repair or fueling, and no gasoline, oil, grease or other supplies shall be stored or sold in any such lot or in any garage on such lot. Parking areas shall be screened by a substantial hedge, wall or fence with a height of not less than six and one-half (6 ½') feet, and approved by the Planning Board.