

# Memo

**To:** Village of Warwick Planning Board  
c/o Maureen Evans via email at: Planning@VillageofWarwick.org

**From:** Robert J. Dickover

**CC:** David Getz via email to: dave@ep-pc.com

**Date:** 9/19/2023

**Re:** Shelly Garry (Applicant) / Western Addition LLC Site Plan Application

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

**1. Introduction.**

This is a Site Plan application which was previously introduced to the Board in approximately May of 2022. The project now returns with revisions and necessary variances having been granted by the Village ZBA.

The project seeks approval to convert an existing building last used for and as a dance studio. The proposed use is now for a mixed uses including a dine-in market, bistro, and a four (4) room boutique hotel. The remainder of the building will be used for non-commercial storage purposes of the property owner. The proposal also seeks to renovate the existing parking areas, install landscaping and property lighting.

**2. The Property.**

The property consists of .549 acres +/- as shown by the Site Plan drawn by MJS Engineering & Surveying, PC dated 04/25/22 and last revised 07/21/23 entitled "Western Addition LLC". The Plan set now consists of seven(7) sheets together with elevations and prospective pictures of the completed building after renovation.

The property is shown on the tax maps as Section 210, Block 5, Lot 3.

The property is presently zoned CB (Central Business).

At the time of initial submission the applicant was Shelly Garry and the property owner was James and Lucinda Henry. At that time the applicant and her husband contemplated a purchase of the premises at which time the owner would be Western Addition LLC. An Owner's consent to the initial application is in the Board's file on this matter.

- Inquiry should be made as to who the current owner is.

**3. Zoning**

In the CB zoning district, the proposed uses are permitted.

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

It does not appear that this project requires referral to the Orange County Planning Department.

5. **SEQRA:** Adherence to the State Environmental Quality Review Act (SEQRA) is required however this project appears to be a Type II action.

At the initial submission the Planning Board forewent declaring itself as Lead Agency pending the Zoning Board's action on the matter.

At this time the Planning Board may declare itself Lead Agency for SEQRA review.

Pursuant to Section 617.5 "Type II Actions" subsection (c ) this action appears to be a Type II action in that the project is one for "(18) Reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part".

If the Board agrees with this description of the action the project should be typed as a Type II action upon which no further environmental review will be required.

**6. SITE PLAN REVIEW:**

In considering and acting upon Site Plans, the Planning Board 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 the Zoning Ordinance and to 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 plans or consideration be given to the grant of waivers.<sup>1</sup>

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.

➤ I suggest that the Board give due consideration as to whether screening from adjoining properties that are in residential use should be required.

➤ I also suggest that if not already shown on the plans that the existing and any proposed utility service lines be shown.

## 7. **Public Hearings.**

The ZO requirements for site plan approval 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:

- The applicant shall send by certified mail notice of the hearing to all property owners within 300 feet of the property lines;
- The applicant shall give public notice in a newspaper of general circulation in the Village at least 5 days prior to the hearing (ZO 145-93.C.)
- At least 10 days before the Public Hearing the Board shall mail notice to the Orange County Planning Board (citing GML 239M. GML does not require this 10-day mailing of the public notice. Therefore, this is a notice requirement in addition to the general GML 239-m referral);
- The Public Notice must be posted in one or more designated public locations. This posting must occur at least three days before the Public Hearing [Public Officers Law Sec. 104]
- Website Publication: (Public Officers Law Sec. 104.5): If the Planning Board has the ability to do so, notice of the time and place of the Public Hearing shall also be conspicuously posted on the Village's internet website.
- N/A - At least 10 days before the PH, the Board shall mail notice to the Town of Warwick Planning Board for any properties lying within a distance of 500 feet from any municipal boundary of the Village and Town. (ZO 145-93.E.)

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<sup>1</sup> 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).

- N/A - At least 10 days before the PH on a site plan or subdivision, the Board shall mail notice to the Town of Warwick Town Clerk for any properties lying within a distance of 500 feet from any municipal boundary of the Village and Town. (GML 239-nn);
- The Public Notice must be posted in one or more designated public locations. This posting must occur at least three days before the Public Hearing [Public Officers Law Sec. 104]
- Please be reminded that if the Village is maintaining a website that there is a requirement that any materials to be reviewed by the Board be made available on the website to the extent reasonably practical.

**8. Site Plan Elements/Technical Comments.**

- It is expected that the Village Engineer will provide technical comments on the application that must be considered by the Board.
- I suggest that the Board give due consideration as to whether screening from adjoining properties that are in residential use should be required.
- I also suggest that if not already shown on the plans that the existing and any proposed utility service lines be shown.

Respectfully,

Robert J. Dickover, Esq.