

CHAIRMAN: JESSE GALLO

MEMBERS: WILLIAM OLSEN, KERRY BOLAND, BRYAN BARBER & T.SCOT BROWN

Alternate:

VILLAGE OF WARWICK  
PLANNING BOARD MEETING  
APRIL 12, 2022

The monthly meeting of the Village of Warwick Planning Board was held on Tuesday, April 12, 2022. Present were: Village Engineer, Dave Getz, Planning Board attorney, Robert Dickover, Bill Olsen, Kerry Boland, Jesse Gallo and Bryan Barber. Others present were: Kirk Rother, Bo Kennedy, Ray Mahr, Keith Yodice and others.

The meeting was held in the Village Hall.  
The Board recited the Pledge of Allegiance.

A MOTION was made by Bill Olsen, seconded by Kerry Boland and carried to accept the minutes of the March 8, 2022 meeting. (4 Ayes)

13 FORESTER AVE.

SITE PLAN APPROVAL

13 FORESTER AVE, LLC

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Mr. Rother – This application is situated at the corner of Church St. and Forester Ave. and it is currently a vacant parcel of land. It had at one time an O & R small brick building on it. The application is for an 8,000sq. ft. commercial building. It is proposed to be broken down into 4 spaces on the ground floor. 1) restaurant with approx. 3,000 sq. ft. and 2 stories high and the other 3 spaces will be for retail. The property is in the LI district where restaurants and retail are a permitted use. It does not appear to be in any of the Village’s overlay districts and the Historic District stops just at the line.

Secretary – This application will be reviewed by the ARB because it is contiguous, and it is new construction.

Mr. Rother – We have submitted a rendering that was done by Joe Irace. This does show a second story but there is no proposed use at this time. Perhaps in the future the second story

could be used as residential, but that use is not allowed at this time but at this time a portion of the second story is affiliated with the restaurant.

Mr. Olsen – The whole thing will be 16,000sq.ft. total?

Mr. Rother – Yes with an 8,000sq.ft. footprint. We will just be proceeding with a site plan approval for the commercial uses on the first floor and the second story of the restaurant and if and when residential is permitted in the zone will we come back with an amended site plan at that time, for now it will just be storage space. I don't believe we are in the 239 review and we don't have any other SEQRA agencies involved. We did submit a Long EAF to the Board to consider. There are some O&R utility easements on the plan that we are working to clean up because they are easements to nowhere. Mr. Myrow is working with us on it and we are going to propose to relocate the easements because it is an easier process.

Mr. Getz – Were they for electrical purposes?

Mr. Rother – It was all for the O&R building that was there but there is nothing in the ground.

Mr. Olsen – Is there any soil contamination because of that?

Mr. Rother – I don't know but I will look into it.

Mr. Gallo – I know from a previous experience that there was none found.

Mr. Kennedy – We have a Phase 1 and 2 environmental assessment and it was all clean and we can submit that.

Mr. Gallo – Was that performed by O&R or the applicant?

Mr. Rother – The applicant.

Mr. Getz – If they pursue the residential use, it would involve either a variance or a change in the zoning by the Village Board. Are you confident that the O&R easements are not going to prohibit any of the proposed construction?

Mr. Rother – There are several little ones and then there is one that juts into the middle of the property but as you can see on this layout we have the structure so that it just misses the easement and it may not be an issue that we have parking in that existing easement since the structure is not in it. We will have more answers the next time we are before the Board.

Mr. Getz – I realize you submitted just a sketch plan but I expect the future submittals will be more detailed with grading, stormwater, utilities and all. I believe with the site being 1.1 acre you plan to be under an acre of disturbance.

Mr. Rother – We do.

Mr. Getz – That simplifies the stormwater requirements significantly, if it is over 1 acre that is when the State and Village requirements kick in. They have shown a layout that includes a stormwater area.

Mr. Olsen – There was a house that used an access across here, will they lose that access?

Mr. Kennedy – Coquito's purchased that, and I do believe there are cross-easements, but I will have to look into that further.

Mr. Rother – We would think that we would just have an easement through our parking lot to get to that house. They have some rights because they have been using it for so long but...

Ms. Boland – Is now the time to talk to the Fire Dept. to see if there is anything obvious that could be an issue that could be cleared up now then further down the road? It looks like one of the accesses is on Church St. and if people are getting out of the parking lot and there is a fire, is that an issue for them? I know that at some point there will be a public hearing and this usually

happens at the end of the process, I would like to suggest that there could be a public discussion at the beginning of the process so that if there is something obvious or perhaps if there is another forum where concerns could be addressed now instead of waiting until there are unhappy neighbors hearing about this.

Mr. Gallo – Part of the process is that we will accept written correspondence from today onward so it is not like they have no opportunity to voice your opinion or views. It is too premature in the process, we don't even know what is going on yet, I think we would want to get a handle on what direction this project is going before we have anything specific from the public, but we do accept correspondence.

Secretary – Yes and it indicates that on the website where the Planning Board projects are listed.

Mr. Gallo – And they would be part of the record.

Mr. Dickover – There are no other involved agencies, so for SEQR purposes the Board could declare itself Lead Agency and type this as an Unlisted and we will conduct an uncoordinated review.

A MOTION was made by Bryan Barber, seconded by Bill Olsen and carried to declare the Planning Board Lead Agency with an Uncoordinated review in an Unlisted Action under SEQR (4 Ayes)

Mr. Dickover – The applicant did submit a Long Form EAF, and the Board can request a Short Form which can be used for Unlisted purposes. If you want to use the Long Form, you can do that but if you would like to abbreviate the process you can ask for a Short Form. There is no #239 referral required, a public hearing will be required when the materials are complete, and an environmental determination has been made. This there a Bulk Table on the plan to see if any variances are needed?

Mr. Getz – Yes and there is need for variances. Parking, if you add residential in the future that would bump up the numbers, but the Village Code indicates the parking tables really reflect the maximum as opposed to minimum. Based on this layout it appears your numbers are sufficient.

Mr. Rother – For this use with the 3,000sq. ft. restaurant and the balance being retail, 53 spots are required, and we have 54.

Mr. Getz – If you add another use upstairs, residential or not, you wouldn't meet the requirements, but we have the flexibility to consider on-site parking, so my reaction is that it is plenty of spaces for the proposed uses.

Mr. Gallo – There is also off-site parking on the streets.

Mr. Rother – At this point we will submit a plan with a design for the next meeting. Should I submit to the Fire Dept. for review? What about the ARB?

Secretary – I will send it tomorrow and if you can submit the drawing via e-mail I will have the ARB Board review and schedule a meeting.

Mr. Rother – This Board granted preliminary cluster subdivision approval, went through a DEIS, Supplemental EIS, FEIS, the Village Board granted a Special Use permit with a density bonus and then some of the neighbors filed an Article 78 against the Village and the applicant and all of those things came together plus the fee that we ended up having to pay for the 2 family units on the reduced scale alternative resulted in the applicant reaching a settlement with the Village and the neighbors in the Article 78. Exactly where it is in the process, I am not sure but I believe it is headed toward a conclusion and as a part of that stipulation we are going back to 28 lots and keeping in the form of a cluster subdivision and the Robin Brae pump station is still on the table. We just really eliminated the loop road that had the 5-2 family buildings on it and some of the lots. The alignment of that main road and the road connecting through to the Town is identical and has not changed, the lots are identical, and the annexation piece is identical, the open space is the same, my client asked if we could make the lots a little bit wider but I can say the road is identical. We subtracted 14 dwelling units. From a SEQR perspective all of the impacts are lower, less water, less sewer, less area disturbance, traffic, stormwater run-off...

Mr. Gallo – It looks like the driveway and the garage are more in the rear.

Mr. Rother – Yes, that stayed the same, the garages are in the back, they are cottage styled homes, we have 4 models that the Board reviewed and that is the same.

Mr. Gallo – And Robin Brae is still included.

Mr. Rother – Yes a complete replacement of the sewer pump station.

Mr. Gallo – And you will still include the traffic engineer's suggestions?

Mr. Rother – Yes, there was striping and solar powered reduce speed sign on Locust.

Mr. Gallo – So nothing from the subsequent approval has changed other than reduction of lots.

Mr. Rother – Yes, the reduction of 14 dwelling units.

Mr. Gallo – And increase of open space.

Mr. Rother – Correct.

Mr. Getz – There is a long list of government approvals needed and I just request that I get an update on the status of those. Some maybe approvals that were granted in the past while others you would be applying for.

Mr. Rother – We have not done any. The Health Dept., water main ext., DEC, all of those things don't start until we get preliminary approval and weeks after we got preliminary approval we were served with the Article 78 so knowing everything is up in the air, we were not going to make a submittal to the agencies.

Mr. Getz – I assume the Army Corp. wetland delineation is still valid.

Mr. Rother – Yes, we had just gotten a Jurisdiction Determination for the original, we got a new JD for this and I believe it is valid for 5 years but now we have no impacts to the wetland.

Mr. Getz – I totally agree that the new layout will have equal or less impacts but we do lose a little bit of an interest, the reduced scale alternative created a little pocket park that we have now lost even though we have more open space so are there ways we can make this open space a little more interesting for the local residents that will be there.

Mr. Rother – Like a walking path...

Mr. Olsen – It is not a playground...

Mr. Getz – It's natural, I don't think we want to build a playground.

Mr. Rother – The intent on this plan is just open space, so now you have that it is just behind the houses instead of the front. This will all be owned by the HOA and they can do whatever they want with it, there will be By-Laws.

Mr. Getz – The reduced scale plan had water quality basins and detention basins to meet both the Village and State standards and to be clear your plan is to keep those detention basins the same size as before so in effect it may be overdesigned a little bit and a little safety factor, is that your intent?

Mr. Rother – Yes.

Mr. Dickover – The prior project had the townhouses with the thought that they would be sold at a lower market value and then the single-family homes. Is there any proposal for that kind of thing in this plan?

Mr. Rother – On this plan we varied the lot sizes a little bit but I don't think you will have as much price variability as you did when we had the 2 family.

Mr. Dickover – The replacement of the Robin Brae pump station is still on the table and that is important because that was a fairly large component of your SEQR review and your Finding Statement so if there is no change that makes the SEQR issue significantly less. The HOA will own the open space and all of the houses will be members?

Mr. Rother – Yes.

Mr. Dickover – The concern for the Village is that if the property doesn't get taken care of and in particular the drainage pond, the cost of that may fall upon the Village and if it does we would have in the Dedication documents a statement that the Village can charge the costs back to the 28 lot owners.

Mr. Rother – We do show and continue to show drainage easements to the benefit of the Village for access if they need to.

Mr. Dickover – This project is subject to SEQR review and for those purposes the applicant has submitted a new Long Form EIS. Mr. Getz and I both agree that this project reduces the environmental impacts from the previous plan rather significantly and when we get a full plan, I think, what the Board will end up doing is issuing a Consistency Statement, meaning that this project and its impacts are no greater than and in fact probably less than the prior project and therefore, the prior Findings are consistent with this plan and that will be your Environmental Review and Determination.

A MOTION was made by Bill Olsen, seconded by Bryan Barber and carried to Re-Establish Intent for Lead Agency in an Unlisted Action under SEQR. (4 Ayes)

A copy of this Intent to be mailed out to all involved agencies.

A MOTION was made by Bryan Barber, seconded by Kerry Boland and carried to send application to the OCDP for #239 referral. (4 Ayes)

Mr. Kennedy – We have been talking for a few years about the need for more outdoor seating and rooftop decks seem to be popular. We don't know if it will structurally work yet but we do have a contract for structural engineer to look and once we determine that it is possible, the idea would be to then come forward and present it to the Board.

Mr. Gallo – Is that just for Warwick Thai or the building?

Mr. Kennedy – Not for the whole building but Warwick Thai and Craft Beer would be 2 separate applications. Warwick Thai would have its own entrance and exit on to the roof or staircase and he has plenty of room on his patio and Craft Beer is trying to figure out how to do it from the interior and if it doesn't work that way, I think it is difficult to make it happen.

Mr. Olsen – Is there anything on the roof up there now?

Mr. Kennedy – Yes, there is HVAC and things of that nature so they would probably be improved with screening, etc. and make it a more attractive roof from at least the streetscape.

Mr. Getz – It sounds like you have the room for the stairs and would not need the variance. Is there more than one access need per code?

Mr. Kennedy – I don't know.

Mr. Dickover – That is really a Building Dept. question.

Mr. Kennedy – We installed access on the exterior by Taco Hombre, so we called install something like that, but I don't know if it would be code. But most of the mechanicals would be on the opposite side of the stairwell.

Mr. Getz – Would there be any type of roof top over the seating?

Mr. Kennedy – The pergola was the only design we have seen so far from the Craft Beer store and I would assume something similar would be warranted here.

Mr. Gallo – I don't think having umbrellas is a good idea.

Mr. Kennedy – I agree with that, and I think that is something the Board can dictate to.

Mr. Getz – If you go forward, we will want to see how many seats you are talking about and more details on the layout. It is in the CB district which allows 40ft. in height, we would be concerned about noise, lighting, and impacts like that because there are a lot of residential properties nearby.

Mr. Olsen – I know the parking is tight.

Mr. Kennedy – It is, and we have spoken to Warwick Thai about the employees parking there but it does work and there are times I will park on Wheeler because it is easier, but I have never had trouble parking or have had to go to CVS to park.

Mr. Dickover – I did not prepare a memo because the Code does not talk about roof top dining or even outdoor dining. It is a nice concept but I think it presents some issues with respect to noise and how that impacts residences and we are going to have to be careful on what sort of structures are allowed up there and anything up there is going to have to be nailed down one way or another, personal safety issues, etc.

The Board reviewed the application to change the use on the second floor of 17 Main St. otherwise known as the Masonic Temple from a Yoga studio to an eating and drinking establishment.

The Board determined that although this is a change in use, it is a permitted use in the CB district and the existing building is the site therefore, there is no real site plan to review, and the property is located within 300ft. of a municipal parking lot.

Chairman Gallo signed the application to approve a Change in Use/Site Plan waiver.

Respectfully submitted;

Maureen J. Evans,  
Planning Board secretary