

CHAIRMAN: JAMES PATTERSON

MEMBERS: WILLIAM OLSEN, JESSE GALLO, KERRY BOLAND & THOMAS McKNIGHT

Alternate: Bryan Barber

VILLAGE OF WARWICK
PLANNING BOARD MEETING
JUNE 8, 2021

The monthly meeting of the Village of Warwick Planning Board was held on Tuesday, June 8, 2021. Present were Jim Patterson, Jesse Gallo, Bill Olsen, Tom McKnight, Kerry Boland, Bryan Barber, Village Engineer, Dave Getz and Planning Board attorney, Robert Dickover. Others present were: John Cappello, John & Peggy Christison, Stephen Esposito, Robert Krahulik, Robert Schmick, Patrick Gallagher and others.

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

A MOTION was made by Bill Olsen, seconded by Jesse Gallo, and carried to accept the minutes of May 11, 2021 Planning Board meeting. (5 Ayes)

VILLAGE VIEW

EXT. OF SITE PLAN &
SUBDIVISION APPROVAL

VILLAGE VIEW

The Board reviewed a letter submitted by Kirk Rother, P.E. requesting a 90 day extension and a Motion declared by the Village Board to close the public hearing regarding the Special Use Permit being pursued by the applicant for this application.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to grant an extension for the Village View Site Plan and Subdivision approval until September 15, 2021. (5 Ayes)

16 ELM ST.

RE-APPROVAL OF SITE PLAN

16 ELM ST. LLC

Mr. Patterson – At the last meeting, the Board closed the public hearing but left open 10 days for comments. We received comments from the following people- John Christison, John Brozowski, Susan Gallagher, Elizabeth Paris, Tyler Carey, Taylor Sterling, Sue Garding, Marcia Wallace, Robert & Sally Scheuermann, Michele De Laura, Rick & Mary Zeedyk & David Gordon. Does anyone have anything else to add?

Mr. Cappello – Only that we stand by the record and our presentation along with my letter dated May 27, 2021, responding to Mr. Gordon’s comments, we believe that the circumstances have not changed since the original approval and the applicant has proceeded diligently including with the additional landscaping plan.

Mr. Patterson – Has the Board read all of the comments?

Board - Yes

Mr. Patterson – Does the Board have any further comments?

Mr. Olsen – Were all of the letters received within the 10 day time period?

Mr. Patterson – There was one that was received a few hours late, that was the one from David Gordon and the applicant did actually respond to that.

Mr. Dickover – I prepared a Resolution which was forwarded to the Board for review.

Mr. Patterson – Would you mind summarizing it for the Board.

Mr. Dickover read the prepared Resolution.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to adopt the Resolution prepared and read by the Planning Board attorney to grant re-approval of the site plan for 16 Elm St. (4 Ayes) { 1 Abstention – Kerry Boland }

104 MAIN ST.

AMENDED SITE PLAN APPROVAL

104 MAIN ST. LLC

Mr. Esposito – The last time we were here we were proposing to renovate the 2nd floor of the building from office space into 3 apts. The ground floor level will remain the same as service retail. 2 of the apts. did not meet the minimum sq.ft. required so we went to the ZBA and received relief to reduce the minimum floor area. The parking requirements for the site plan by code is the maximum required is 9 spaces and as previously approved we had 6 on-site spaces which are adequate for the proposed use. The retail service is during the day and there is on street parking available. There is no physical change to the building on the outside, it is just interior renovations.

Mr. Patterson – You mention that the ZBA granted relief for two out of the 3 proposed apts. So, the other is conforming?

Mr. Esposito – Yes, one is a 1-bedroom apt. and the other two are studios and below the 600sq.ft. required.

Mr. Getz – The applicant received a variance, and it should be added to the site plan and all of the other comments have been addressed.

The Board reviewed the Part 1 and 2 of the Long EAF.

A MOTION was made by Jesse Gallo, seconded by Tom McKnight and carried to declare a Negative Declaration under the SEQR process. (5 Ayes)

Mr. Esposito – In the code under 145-96 which addresses amended site plan, it provides the ability of the Board to grant a waiver to a public hearing to amendments if there are no substantial change to the previously approved plan. We had a public hearing where we sent out 14 certified mailings and no one showed up at the ZBA public hearing and since we are only modifying the interior of the building, we would like to request a waiver of the requirement of a public hearing.

A MOTION was made by Jesse Gallo, seconded by Tom McKnight and carried to waive a public hearing for amended site plan approval. (5 Ayes)

A MOTION was made by Tom McKnight, seconded by Jesse Gallo and carried to approve the amended site plan for 3 apartments on the 2nd floor of 104 Main St. (5 Ayes)

31 FORESTER AVE.

AMENDED SITE PLAN APPROVAL

JOHN LLC

Mr. Krahulik – During covid outdoor seating became a critical element of operations of survival for most restaurants. The applicant took advantage of the opportunity to create an outdoor seating area and because of the success we are seeking a modification of the existing site plan so we can permanently maintain the outdoor eating space. There is no new construction proposed, the size of the building will not be increased so the parking count does not change, they have 20 spaces and more parking available without painted lines and there is also street parking along Forester Ave.

Mr. Getz – The property is located in the LI zone and is not located in the Historic District. The property was involved in a lot line change in 2017 which cleans up the property lines. We attached the typical checklist for a site plan application and in a case like this where no construction is proposed most of the items do not apply. It is unusual that we have a site plan application and no drawing titled site plan. We have an as-built with existing conditions, but I believe it would be appropriate to have some typical site-plan elements such as a key map, bulk table, names and addresses of the applicant and owners. How does the outdoor dining space that was added affect parking at the site? Did that occupy a previously used parking spaces? How many more seats are provided in that dining area? What would that additional seating require in parking? These are items that need to be discussed.

Mr. Krahulik – The original site plan offered very limited parking. The lot line change increased the amount of parking but there has never been a Planning Board determination that designated a certain number of spaces. We have been fortunate to create more parking as a result of the lot line change and the improvements to the property but there has never been a minimum designation in the past. I think the proposed seating area consumes 3 parking spaces, so we may be taking away 2 or 3 available parking spaces, but they were never required parking spaces as part of the approval for the restaurant.

Mr. Getz – Do you expect you will have enough parking spaces post covid.

Mr. John – Yes and I also have a deal with the laundromat across the street if my lot is full.

Mr. Krahulik – There is also on-street parking on Forester Ave.

Mr. Patterson – I didn't think there was on-street parking on Forester.

Mr. McKnight – I didn't think there was parking on that street either.

Mr. Krahulik – On the south side of the street.

Mr. McKnight – Do the tables extend towards the back end of the building?

Mr. Krahulik – No, there are a number of parking spaces. There are 5 or 6 parking spaces still available between the dining area and the back of the building.

Mr. Olsen – You have an existing outdoor parking area now, is that pavement there?

Mr. John – Yes.

Mr. Olsen – What are you asking to do?

Mr. Krahulik – We want approval from the Planning Board to amend the site plan to allow outdoor dining in that space.

Mr. Olsen – But the space is already there.

Mr. Patterson – I believe they are asking for it to be permanent.

Mr. Krahulik – Yes.

Mr. Getz – Under the current regulations is it anticipated that these temporary dining areas would be revoked? Or limited in the future?

Mr. Krahulik – We have no idea. Which is why we are here before you, we want to avoid that situation. We don't want the Building Inspector to come along and tell us to pick up our table and chairs. Exactly what you see today is what we would like to maintain on a permanent basis.

Mr. Dickover – My real concern is that we have outdoor dining at other places in the Village that have never been formally approved yet they exist and as far as I know they have not been cited for any violations. I think Mr. Krahulik's reason for being here is that they would like to formalize this use and know that you have it by right by virtue of site plan approval.

Mr. Krahulik – Exactly.

Mr. Dickover – I don't know that we have any regulations or bulk regulations that address this which puts the Board in a bit of a quandary that when you review applications you do so under a set of Bulk Table regulations and other guidelines set forth in the Zoning Code and here there are none and I don't know that this Board has the legal ability to make up rules, I am troubled by the application because of that. I don't want the Board overstepping their bounds and legislating a use in the Village that is not otherwise legislated, that is a function of the Village Board. I understand the applicant's desire for the application. Rather than commenting any further this evening I would like to take the comments from applicant, Mr. Getz and anything that the Board might add and prepare a memorandum on this issue and maybe suggest the manner in which this Board should proceed. One of the things that this Board has done in the past when it was decided that site plan approval is not required is a Resolution that no, in this case, an amended site plan is required but I am not sure that gives Mr. Krahulik all of the certainty that he is looking for.

Mr. Krahulik – I would be happy with that.

Mr. Dickover – But at least they would know that their use currently is legal.

Mr. McKnight – Galloway Grill built a beautiful patio right outside on the property and I don't think anyone there has asked to take over a common sidewalk or street.

Mr. Dickover – This is not public property either, this is an improvement on the property and normally we would require that kind of development to come in for an amended site plan and here they have done it. Is it paved?

Mr. Krahulik – Black top.

Mr. Dickover – Is that a change to the existing approved site plan?

Mr. Krahulik – The existing approved site plan doesn't show any use for that particular space.

Mr. Dickover – Was it paved?

Mr. Krahulik – It shows a gravel parking area on the site plan.

Mr. Getz – With regard to the paving, the Building Inspector had me go out to the site with him to discuss the idea of paving and the ramifications and we did talk about a couple of issues, but the Building Inspector gave them approval.

Mr. Dickover – And there was no impact on stormwater run-off with impervious surface changes?

Mr. Getz – Those were the things we discussed, and they were able to remove some gravel from down closer to the stream, it was a give and take situation so that it was an acceptable plan.

Mr. Dickover – I stand by my previous statement to contemplate this and prepare a memorandum.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to table the application until the July 13, 2021, meeting. (5 Ayes)

13 ELIZABETH ST.

LOT LINE CHANGE

ERIK RYLE

Mr. Schmick – We are here for a lot line change at the north end of Elizabeth St. for about a .283 acres piece of property to be added from a 3.32-acre parcel which is now the Sandford Family Trust.

Mr. Getz – Both lots are located in the R zone and not in the Historic District. No construction or land disturbance is proposed it would just be rearranging property lines. The think the biggest issue is the use groups that apply in terms of the zoning requirements. The house at 17 Elizabeth is clearly used as a single family residential in the R district and would be use group b with a minimum requirement of 20,000 sq. ft.. I interpret the property in the Family Trust as being an active farm and therefore under agricultural use which is permitted in the R zone but is use group a and has much different bulk requirements which has a minimum of 4.5 acres and with the proposed lot line change it would be subtracting about 3/10th of an acre from the farm property which starts out with 3.3 acres and would end up with about 3 acres and while it is already non-conforming and this would be making it more non-conforming. If my interpretation is correct, it appears they would need to go before the ZBA. The property in the Village is connected to additional agricultural land in the Town, correct?

Mr. Schmick – Yes.

Mr. Getz – To me that is the most important aspect. Because there is no construction proposed there are no real environmental impacts that I know of that are of concern. In the code for a lot line change it states that topography does not need to be shown on a lot line change map if it is not a significant issue. If the grades are not in excess of 10% then they do not need to be shown on the plan. My view from Elizabeth St. it is fairly level and no steep slopes...

Mr. Schmick – That is correct. The steepest part of the property would be the first 40ft. parallel to Maple Ave.

Mr. Getz – So I don't see a reason to require a topo. Can you explain the new boundary you selected?

Mr. Ryle- We are basically matching up the existing fence line. When you look at the property these are natural barriers.

Mr. Getz – Is the area that will be added to your property, is that used actively now for farm purposes?

Mr. Ryle – No, not at all.

Mr. Dickover – This application is considered a Type 2 action under the SEQR process and requires a review from the OCDP. We will eventually need the deeds and if the lot line is approved, we will need the proposed legal description. Public hearings for lot line changes may be required by the Planning Board so the Board will have to decide whether to hold it or waive it. Is the larger parcel farmed?

Mr. Schmick – Part of it may have been but that would be the north end of the property, but this part has not been used for agriculture for 30 years.

Mr. Dickover – But part of it still is?

Mr. Ryle – For a while they had a horse but not anymore.

Mr. Schmick – They are not currently using it for agriculture.

Mr. Dickover – There are 2 things 1) the lot line code provisions say that a lot line change can not create a new non-conforming and that is what would be happening here if the larger parcel is in agricultural use. If that is the case the application may have to go before the Planning Board for an area variance and I don't know whether they have the jurisdiction to do that or not. 2) If the agricultural use were to be abandoned for the larger parcel, then I think the bulk table requirements for agricultural use are no longer an issue, but that is a question for the current owner.

Mr. Schmick – What if we were to supply a letter for the next meeting stating that this is no longer used for agriculture.

Mr. Getz – That was signed by the present owner and the future owner?

Mr. Schmick – I don't think the future owner needs to sign it at this point.

Mr. Dickover – That would be up to the current owner as to whether or not they want to go ahead and abandon the agricultural use in the Village with the understanding that if they ever want to use it again as an agriculture purposes, they don't meet the bulk area.

Mr. Schmick – Then they would have to come back and get a variance.

Mr. Dickover – They would have to seek a variance.

Mr. Schmick – Would that satisfy what you would need for next month?

Mr. Dickover – To my mind that would address the concern that we would no longer be creating a non-conforming because it is no longer an agricultural use.

Mr. Patterson – Could they go to the Town for a lot line change to increase the parcel?

Mr. Dickover – They could go to the Town, increase the size of the current 3.3-acre parcel to make it 4.

Unapproved June 8, 2021 Planning Board minutes

Mr. Schmick – They are not going to do that.

Mr. Dickover – But that would be something they could do. You have some options.

A MOTION was made by Bill Olsen, seconded by Jesse Gallo and carried to table the application until the July 13, 2021 meeting. (5 Ayes)

A MOTION was made by Jesse Gallo, seconded by Kerry Boland and carried to adjourn the meeting. (5 Ayes)

Respectfully submitted,

Maureen J. Evans,
Planning Board secretary