

## RESOLUTION OF CONDITIONAL APPROVAL

### FOR AMENDED SITE PLAN

#### FOR

16 Elm Street – Yesterday's Restaurant

SBL 210-12-14

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#### **Nature of Application**

The owner is seeking amended site plan approval to address field changes made during construction, including amendments to proposed stormwater management facility plantings, reconfiguration of several improvements including HVAC units, dumpster enclosure, parking and replacement and relocation of part of the proposed fire access road with compacted gravel instead of asphalt pavement.

#### **Zoning District**

The property is located in the Light Industrial (LI) zoning district. The proposed use is a permitted use falling under Use Group K.

#### **Plans**

Application Materials being considered consist of the following:

1. Application and cover letter dated September 17, 2024
2. Site Plan prepared by Friedler Engineering, dated September 17, 2024, last revised April 24, 2025
3. Full Environmental Assessment Form dated December 20, 2024, last revised April 24, 2025.
4. Materials considered as part of the prior approval were incorporated by reference.

#### **History**

##### Date of Application

Yesterday's Restaurant received site plan approval for the construction of an eating and drinking establishment together with related site improvements in February of 2018. The project received reapproval in 2021. An application for amended site plan approval was received on September 19, 2024 and first heard by the Planning Board at its October 8, 2024 meeting.

### GML 239 Referral

The application is not subject to review pursuant to GML 239 et seq.

### SEQR

The project was previously reviewed as an Unlisted Action. The Planning Board conducted an uncoordinated review; held a public hearing on October 17, 2017; and issued and adopted a negative declaration. Upon review of the instant application, the Planning Board finds that the amendments are consistent with the Planning Board's 2017 negative declaration and hereby reaffirms those prior SEQR findings.

### Public Hearing

Given the nature of the improvements, the Planning Board waived the public hearing pursuant to § 145-96 by resolution dated December 8, 2024.

### **Findings**

The Planning Board has determined that approval of the amended site plan is consistent with the Village's code and comprehensive plan and that the amendments to the site do not negatively affect the public convenience, safety and welfare of the community.

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to grant the amended site plan application of 16 Elm Street Realty, LLC as depicted on the plans identified above upon the conditions set forth below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below which are noted as 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 of 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 written confirmation by the Village Engineer 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 set forth at the foot of this resolution 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 any new structure.
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.

#### **Conditions Precedent to Signing of the Plan:**

1. Applicant to Revise Environmental Assessment Form (Item E.1.b., E.3.e.i and E.3.h) as per May 13, 2025 memorandum of Pitingaro and Doetsch Engineers
2. Gravel areas to be removed shall be identified on the plan.
3. Note 14 to be updated to read "No generator shall be permitted to be installed on-site without obtaining a building permit."
4. Applicant to correct parking lot striping on plan as per May 13, 2025 memorandum of Pitingaro and Doetsch Engineers
5. Applicant to add two additional canopy trees and 20 additional shrubs to landscaping plan.

#### **Conditions Precedent to Issuance of Certificate of Occupancy**

1. Relocate sign. In the alternative, applicant shall provide documentation that the rail road authorizes the sign. In the event the railroad withdraws consent in the future, applicant shall relocate sign onsite.
2. Landscaping to be installed as per landscaping plan.
3. "As-built" plans shall be provided to the Village Engineer for review and approval upon completion of the improvements.
4. Applicant is to prepare and submit to the attorney for the Planning Board an offer of dedication and deed in recordable form for an easement running to the Village for an existing drainageway to allow for entry upon, repair, maintenance and replacement as deemed necessary by the Village. See Condition 8 of the February 15, 2018 approval.
5. The issuance of a certificate of occupancy for the restaurant structure to be built within the project area is conditioned upon the applicant installing all site plan improvements inclusive of the privacy fencing and landscaping as provided for on the site plan. See Condition 14 of the February 15, 2018 approval.
6. Prior to and as a condition of the issuance of a certificate of occupancy for the restaurant facility, the applicant shall first post with the Village Clerk a

maintenance bond or surety, cash or certificate of deposit, or an irrevocable letter of credit in an amount to be recommended by the Village Engineer and fixed by the Village Board in order to secure maintenance of the site plan landscaping improvements. Such bond or security agreement shall be satisfactory to the Village Board, Village Attorney and the Village Engineer as to form, sufficiency, manner of execution and surety. All such bonds, sureties, letters of credit issued in furtherance of this condition shall provide for at least 45 days prior notice to the Village of Warwick clerk of any due premiums, invoices, or other payment due thereon. A failure to maintain such bond, surety, letter of credit, shall result in the forfeiture of the approval demonstrated by this resolution and thereupon no certificates of occupancy shall be effective until the maintenance bond is reestablished to the satisfaction of the Village Engineer, or such security, bond, letter of credit is replaced to the satisfaction of the Village Attorney and Village Board. See Condition 15 of the February 15, 2018 approval.

7. The certificate of occupancy to be issued upon completion of the improvements shall be specifically conditioned upon and subject to the provisions of General Note No. 12, 12.1, and 12.2 as same appear on the site plan. In furtherance thereof, in the event that the noise levels generated by the restaurant cannot be attenuated to satisfy the applicable Village of Warwick law(s), the use of the porch area as an area for the service and/or consumption of food and/or drink shall cease to be a permitted use thereof and the certificate of occupancy shall be suspended until such use is discontinued, or the appropriate mitigation measures discussed above are installed and the Applicant demonstrates the porch area is in compliance. See Condition 17 of the February 15, 2018 approval.

### **Specific Conditions**

1. Landscaping to be maintained in perpetuity.
2. Installation of fill shall be limited to the areas depicted on the site plan identified above. Further installation of fill beyond that depicted shall be subject to an amended application before the Planning Board.
3. The terms and conditions of the prior site plan approval dated February 15, 2018 and June 8, 2021 shall remain in full force and effect unless expressly superseded by this amendment.

Motion by Member Scot Brown, Second by Member Bryan Barber

In Favor      5      Against      0      Abstain      0

Resolution vote: May 13, 2025

  
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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 May 2025.

  
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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

May 19, 2025.

  
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Raina Abramson, Clerk  
Village of Warwick