

MEETING MINUTES

ZBA

Date: June 18th 2024

Time: 7:30 PM

Meeting called to order by: Bob Zimmer- Chair

IN ATTENDANCE

Chris Pavlacka- Attorney
Jamison Zajac- Village Engineer
Danielle Mulqueen- Secretary
Chris Watson- Building Inspector
Jenny Lyons- Board Member
Jack Sirios- Board Member
Eric Kelm- Board Member
Mark Palmieri- Board Member
Mariano Choconi- Alternate
Victor Ludmerer- Alternate

APPROVAL OF MINUTES

No minutes to approve

WORK SHOP

Board discussed future meeting dates and procedures for applications for the new combined board. Board requested the secretary to compose and send a letter to applicants for Cabin12 requesting that they clarify whether they are continuing with the application or withdrawing it.

RETURNING APPLICATIONS

1- **(PLANNING)** Benjamin's Steakhouse and Hotel- Located at 7 Waterstone Road.

Bob Zimmer- States that the applicants design team has submitted new plans for the board's review and invites the applicants to present the changes to the board.

Michael (Architect)- The only change to the architectural drawings is that we have labeled the proposed docs as a phase II item. We don't want to delay any approvals and it can be a condition of approval that once we receive the DEC permit and submit it to the Building Department and the Planning Board, if accepted after your review that the docks can be done at that time. No work would begin on the docks until we had all of the proper approvals. The problem is we have been quite delayed, we just on Friday heard back from the Army core of Engineers, it took them five months to respond to our application, it has just been a very slow process.

Bob Zimmer- I think all the board members are sensitive to your plight in getting that approval. I would just defer to the attorney to ask if they can defer the docks as a phase II as part of the application?

Chris Pavlacka- Sure, it would just be a conditional approval. They would only be able to build the docks once they have DEC and Army core necessary approvals.

Jamison Zajac- Just to be clear the docks as they are shown on the plans now is a part of SEQR review.

Bob Zimmer- Is what you have on the plans what you have proposed to these other agencies?

Michael- Exactly the same. And if we had to change the docks depending on their comments...

Chris Pavlacka- You would just come back for an amended site plan.

Dan Getz (Engineer)- We also did get DOH approval for the septic system.

Bob Zimmer- That's great. Is that unique that system, something you came up with on your own?

Dan Getz- No it is recommended in the state manual.

Bob Zimmer- So for anyone that doesn't know. The septic system that they are installing typically you need to put in the septic system and leave reserve space to build a second one if it fails. Their system builds the system in thirds, only two of which are functioning at a time. So, if there is ever a problem with one, they can switch over to another while that one is repaired.

Dan Getz- Right, and then over the course of the year they will be rotated so that each section will have a six-month period of rest.

Bob Zimmer- That is basically the two major changes. Does anyone else on the board have any questions? Otherwise, we will go to Jamie's (Village Engineer) comments.

Jamison Zajac- Water lines just need to match on drawings, review trees on the plans.

Bob Zimmer- Chris if you have Jamie's notes is that sufficient for you to write a resolution? Because those will be conditions.

Chris Pavlacka- Yes, absolutely.

Jamison Zajac- I can also go over the outstanding items for SEQR. Discusses the SWIPP required MS4 certificates that can be part of the conditions of approval. DOH approval that the applicant has now provided to the board. The DEC approval for the docks. Traffic study which was completed., conclusion of the study was that there was no significant impact.

Bob Zimmer- The one point on that, that I was interested in was making the stop sign, all ways stop. Was that something you were going to implement?

Michael- Yes

Bob Zimmer- Then I am happy with it.

Jamison Zajac- And the public hearing is still open for this project.

Bob Zimmer- Is anyone here from the public that would like to comment on this application?

Steve Gross, Town of Warwick resident- I have more questions than comment. Whatever happened with the Historic preservation of the Hotel?

Bob Zimmer- We got back correspondence from the state saying that the interior of the building was too damaged for them to consider listing it as a historical site. The interior is gutted down to the studs.

Steve Gross- Okay, so that ended that. The other question I have got, you were just talking about the docks and DEC approval and everything. I was wondering has anyone ever talked to the owner of the land that the docks would be over?

Bob Zimmer- That is part of the permits they need to get from DEC and Army core.

Steve Gross- Asserts that the state of NJ is the property owner and would need to be informed before closing SEQR.

Bob Zimmer- In twenty-five years I have never heard of someone working on the lake contacting the state of NJ. Chris do you think we can move on with SEQR review until we can verify this issue?

Chris Pavlacka- Sure.

Overlapping conversations...

Deborah Keyash?- I am a retired attorney, I actually used to be a Planning board and ZBA attorney for Greenwood Lake. When you bought the property, you must have a title search which should show you the entire chain of who owns what.

Bob Zimmer- Yeah, but this is the neighboring property, under the water.

Deborah- Oh. Is there somebody who owns the neighboring property that is actually terra firma?

Bob Zimmer- No, this property actually goes straight to the water and they are working with the DEC and Army core to get permits to construct those docks.

Chris Pavlacka- It doesn't even have a tax ID for me to look up.

Deborah- Never mind.

Chris Pavlacka- Ultimately if anyone is going to be liable for trespassing on the property it would be the Steakhouse not the Village.

Overlapping conversation...

Jack Sirios- So moving on, you want to start SEQR

Bob Zimmer- Yes, right now.

SEQR is laid out with basic questions that we answer yes or no, if we answer yes than we have to go into the details.

Questions:

1.Q: Will the proposed action involve construction that will involve physical alteration of the land?

A: Yes

Q: Does the proposed action involve construction where the water table is less than 3' deep?

A: No

Q: does the proposed action involve construction on slopes greater than 15%?

A: No

Q: Does the proposed action involve construction on land where bedrock is exposed?

A: No

Q: Does proposed action involve excavation removal of more than a thousand tons of natural material?

A: No

Q: Does the proposed action may involve construction that may be more than a year?

A: Yes

Q: Will the proposed action involve an increase of erosion from physical disturbances or vegetation removal?

A: Yes (small)

Q: Is the proposed action located within a coastal erosion zone?

A: No

2.Q: Does the proposed action involve modification or destruction or inhibit access to unique natural landforms such as cliffs or mineral deposits?

A: No

3. Q: Does the proposed action involve impacts to the surface water?

A: Yes

Q: Is the proposed action going to create a new water body?

A: No

Q: Is the proposed action going to result in an increase or decrease over 10% more than 10 acres?

A: No

Q: Does the proposed action involve dredging?

A: No

Q: Does the proposed action involve construction within or adjoining fresh water titled wetlands or water bank of a water body?

A: Yes

Q: The proposed action will cause turbidity in a waterbody either by runoff or disturbing bottom sediment?

A: No, the SWIPP is designed to avoid that and there is a maintenance agreement which includes yearly inspections to make sure they stay in place.

Bob Zimmer- I can't emphasize enough to the board that most places don't even have this even though it is a requirement almost everything is grandfathered and most places don't have it because they have been here forever. We really appreciate you going the extra effort to put in place these things to protect the water.

Q: The proposed action may include one or more intakes or withdrawals from the lake water?

A: No

Q: Will the proposed action include construction for outfalls of discharging waste water?

A: No

Q: The proposed action may cause soil erosion or otherwise create a source of stormwater discharge that may lead to the situation or other degradation of the receding waterbody?

A: No, the SWIPP is designed to avoid that and there is a maintenance agreement which includes yearly inspections to make sure they stay in place.

Q: The proposed action may affect the water quality of any waterbodies within the downstream of the site of the proposed action?

A: No

Q: The proposed action may involve the application of pesticides or herbicides in or around the waterbody?

A: No

Q: The proposed action may require the construction of new or expanding the existing waste water treatment facility?

A: Yes

4.Q: The proposed action may result in new or additional use of groundwater or may have the potential to induce contaminants into the ground water?

A: No

5. Q: The proposed action may result in the development of land subject to flooding?

A: Yes

Q: The proposed action may result in developing in a designated flood way?

A: No

Q: The proposed action may result in development within a 100-year flood plain?

A: Yes (small)

Q: The proposed action will result in or require modification of existing drainage patterns?

A: Yes (small)

Chris Pavlacka- Can you confirm this is a type I action under your code?

Bob Zimmer- It is. That is what attorney Steve Honan said.

6. Q: The proposed action may include a state regulated emission source?

A: No

7. Q: The proposed action may result in a loss of flora or fauna?

A: No

8. Q: The proposed action will impact agricultural resources?

A: No

9. The proposed land use action are obviously different from or in sharp contrast to current land use patterns between the proposed project and scenic aesthetic resources?

A: No

10. Q: The proposed action may occur in or adjacent to a historic archeological resource?

A: No

11. Q: The proposed action may result in a loss of recreational opportunities or a reduction in open space resources as designated in the adopted municipal open space program.

A: No

12. Q: The proposed action may be located within or adjacent to a critical environmental area?

A: Yes

Q: The proposed action may result in a reduction in quality of the resource or characteristic of which the basis of this designation?

A: No

Q: The proposed action may result in the reduction in quantity of the resource or characteristic of which the basis of this designation?

A: No

13. Q: The proposed action may result in a change to an existing transportation system?

A: No

14. Q: The proposed action may involve an increase in the use of any form of energy?

A: Yes

Q: The proposed action will require new or upgrade to an existing substation?

A: No

Q: The proposed action will require creation or extension of the energy transmission or supply system serving more than 50 single family homes or residences?

A: No

Q: The proposed action may utilize more than 2,500 megawatts per year of electricity?

A: No

Q: The proposed action will utilize heating and cooling within a 100,000 sq ft?

A: No

15. Q: The proposed action will increase in noise, odor or outdoor lighting?

A: Yes

Q: The proposed action may produce sounds above established local rules or regulations?

A: No

Q: The proposed action may result in blasting within 1500' of a residence?

A: No

Q: The proposed action may result in routine odors more than one hour per day?

A: Yes

Q: The proposed action may result in light shining on to adjacent properties?

A: No

Q: The proposed action may result in lighting creating a sky glow brightening more than the existing area?

A: No

16. The proposed action may have an impact on human health from exposure to new or existing sources of contaminants?

A: No

17. Q: The proposed action is not consistent with adopted land use?

A: No

18. Q: The proposed action is inconsistent with the existing community character?

A: Yes

Q: The proposed may replace or eliminate existing facilities, structures or areas of historic importance to the community?

A: No

Q: The proposed action may create a demand for additional services?

A: No

Q: The proposed action may replace affordable or low-income housing in an area where there is a shortage of such housing?

A: No

Q: The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources?

A: No

Q: The proposed action is inconsistent with the predominate architectural scale and character?

A: No

Q: The proposed action is inconsistent with the character of the existing natural landscape?

A: No

Steve Gross- Transportation, there is one other section that says other impacts. You have it in your code that if it is a Type I action, that anything over 30 parking spaces, becomes a Type I action. That should be a yes.

Mark Palmieri- They did a traffic study.

Bob Zimmer- Thank you for that comment, we understand what you are saying. Question 13- The proposed action may result in the change to existing transportation systems. That is specifically what we employed the traffic engineers to look at, whose opinion was there was no significant change to the existing transportation systems.

Chris Pavlacka- So may result in a change, yes. But then it was explained that there way a traffic study done with no significant change.

Bob Zimmer- Okay, let's do it that way. So, we will say yes to Question 13 because it MAY result in a change.

Sub questions:

Q: The projected traffic increase may exceed the capacity of the existing road networks.

A: No

Q: The proposed action may result in the construction of the paved parking area for 500 or more vehicles.

A: No

Q: The proposed action will degrade existing transit access?

A: No

Q: The proposed action will degrade the existing pedestrian or bicycle accommodations?

A: No

Q: The proposed action will affect the current patterns of movement of people or goods?

A: No

Bob Zimmer- Motion to close public comment.

Mark Palmieri- Makes motion to close public comment.

Jenny Lyons- seconds motion.

All- Aye

Bob Zimmer- That is the full part II of EAF, part III is the determination of significance. Chris would you take us through part III?

Chris Pavlacka- We have to do a part III for any place that you have a moderate to large impact. You have three areas. Let's go through them. For each one.

Bob Zimmer- The first moderate to large impact was under the question for impact on land.

Q: The proposed action may involve construction that will continue for more than a year?

Chris Pavlacka- So, we need to discuss the magnitude of it. How much construction? How many construction vehicles are going to be coming through? What is the impact on neighbors? What are the hours the neighbors are going to be impacted by the construction? Those are the factors.

Bob Zimmer- Would you like to start and give the board an overview of that?

Michael- The estimated time for construction is twelve to fourteen months. The hours would be normal working hours, no weekends.

Bob Zimmer- So, you are going over a year but only by like 10-15%?

Michael- Yes. All staging will be onsite, no use of the public streets for debris or the parking of trucks.

Overlapping conversation regarding working Saturdays and the affect that may have on finishing construction within the year mark.

Chris Pavlacka- So now we asses the importance of the impact and that is the geographic scope- which is limited here, single property, duration- slightly over the year mark, probability of the impact occurring- likely, number of people affected by the impact?

Michael- I assume the direct neighbors.

Bob Zimmer- It doesn't have neighbors on all four sides. It really only has neighbors on two sides.

Chris Pavlacka- Three adjoining properties. one being a church where presumably most of their activities would be on Sundays when no construction will be occurring.

Michael- There is one neighbor where their driveway to their home is through our property. We have designed to keep access for them at all times both during construction and after.

Chris Pavlacka- Have you granted them an easement yet?

Michael- No

Chris Pavlacka- Okay, I would consider making that a condition of the approval so that we make sure that they have access.

Bob Zimmer- Is that something you would have objection to?

Benjamin- So the easement he has, he has on the other side. So he could use the other side.

Overlapping conversation regarding the “red house”

Eric Kelm- They could stick closer to on their own property.

Jack Sirios- So, what they are trying to do is accommodate the gentleman that lives there no by giving him access to his property in the way that he is used to, but as far as granted him an easement, I don't think that is something they want to do.

Overlapping conversation...

Chris Pavlacka- The assessment should take into consideration any design element or project changes. I don't think that applies here.
So now we go to the next one.

Bob Zimmer- The next moderate or large impact was, Q: the proposed action may involve construction within fresh water titled wetland or within the banks of any water body?
This is waterfront property and they want to do a walkway that is fairly close to the banks of the lake.

Chris Pavlacka- So, first we discuss the severity of the construction next to the waterway.

Bob Zimmer- It is docks right now so keeping the docks the same and adding a walkway doesn't really constitute a big change I don't think.

Chris Pavlacka- Are there similar walkways on other properties in the village?

Overlapping conversation about the walkway and grading.

Chris Pavlacka- So, in other words where it is closer to the water there is less grading and in other areas it's maybe like 10-15'.
And then we discuss the size of the impact.

Bob Zimmer- I would say small.

Chris Pavlacka- And then the extent of the impact.

Jack Sirios- Minimal.

Chris Pavlacka- Then we discuss the importance of the impact. So, geographic scope.

Bob Zimmer- There is none really, geographically.

Chris Pavlacka- The scope is how many feet exactly?

Michael- About 300'

Chris Pavlacka- Duration- it's permanent. And probability- it will occur.
Number of people affected by the impact- None

Bob Zimmer- it will be an improvement.

Chris Pavlacka- Any additional environmental impacts- None.
And there is no additional runoff from the creation of the walkway?

Dan Getz- Technically there would be runoff from the walkway compared to the ground before. We took into consideration the overall project, and it was lower peak flows after compared to before. The village had us do a pollution calculation it came up with lower after compared with before. So technically yes, if you look at just the specific walkway but overall, on the site it will not.

Chris Pavlacka- Okay, on to the last one.

Bob Zimmer- The last one was odors. Q: the proposed action may result in routine odors for more than one hour per day.

Chris Pavlacka- So, we can go to severity, size and extent.

Bob Zimmer- Although it has not been in operation as of late, there used to be a restaurant there and there is one right across the arm of the lake from it.

Discussion about the venting and prevailing winds. Duration of cooking times.

Chris Pavlacka- Duration?

A: Operating hours plus prep. Approximately 2 PM – 11 PM, eight to nine hours per day.

Chris Pavlacka- Probability of the impact occurring?

Bob Zimmer- It is going to occur.

Chris Pavlacka- Number of people affected?

A: Minimal.

Chris Pavlacka- Additional environmental consequences of the impact?

Bob Zimmer- None.

Chris Pavlacka- Important to note that this is a food odor, not phosphorus, ammonia, etc.

And there are multiple other restaurants in the area.

So, we have repeated this process where the impacts have been identified as potentially moderate to large. Now it is time for the board to determine to provide why the impacts may not result in a significant adverse effect on the environment.

Bob Zimmer- For odors we will say that it is for food and there are multiple other restaurants and so consistent with the existing conditions. For the walkway along the shoreline, there is no design to change the waterfront bank other than the addition of the walkway which will have no significant negative impact, because the runoff will not be significant. Duration of construction will not have a significant adverse impact because of the measures put in place such as SWIPP and traffic control measures which has DEC involvement and oversight as well.

Chris Pavlacka- It is now time for the board to vote on a negative declaration.

Bob Zimmer- Can I have a motion to declare a negative declaration on this project?

Jenny Lyons- I make a motion to take a vote to declare a negative declaration on this project.

Mark Palmieri- I second the motion.

All in favor? All Aye

Chris Pavlacka- NESDEC is passed.

Bob Zimmer- I will briefly open back up public comment. Is there anyone from the public that has comments?

Public hearing is closed again.

Can I have a motion to approve this application?

Jack Sirios- I would like to make a motion to approve this application with the conditions that we have previously discussed. Phase II for the dockage, DEC approval, proposed waterline service sheet, that sheets C A 102 should match C104, the tree proposed at the southwest corner of the site may conflict with the proposed bioretention basin and the applicant should review and revise as needed, the stormwater maintenance agreement, the M4, payment of all fees owing the Village.

Mark Palmieri- I second the motion.

All in favor? All Aye

Chris Pavlacka- I suggest you make a motion and authorize me to draft a resolution substantially the same as what we just discussed and authorize the chairman to sign it.

Bob Zimmer- Can I have a motion for what Chris just stated?

Jack Sirios- I make the motion.

Mark Palmieri- I second the motion.

All in favor? All Aye

Chris Pavlacka- Lets do a roll call for this please.

Danielle Mulqueen- Calls roll for vote:

Jack Sirios- Aye

Eric Kelm- Aye

Mark Palmieri- Aye

Jenny Lyons- Aye

Bob Zimmer- Aye

Overlapping conversation discussing demo permitting.

Bob Zimmer- I can't sign before they make those two changes to the plans and the SWIPP maintenance agreement is approved. Thank you.

NEW APPLICATIONS

- 1- **(ZONING)** 20 Division St.- Area Variance to allow garage to be placed forward of the principal structure.

Bob Zimmer- Reads application into the record.

Jeffrey Lynn residing at 20 Division St, appealing written disallowance of Building Inspector dated 01/11/2024 whereby petitioner was not permitted to build a garage forward facing of the primary structure (home). Street address of property is 20 Division St., Tax Map Designation 313-3-30.31, Class of District R-40, Present Use is Single Family Residence. Application was received May 15th 2024. Application includes Notice of Public Hearing to Property Owners, Legal Notice that was posted in the Warwick Dispatch, Signed Notice to Applicant dated 05/03/2024 and the petition for a variance:

Dimensions: Width at Front: 438', Depth at longest side: 157', Area of Lot: 87,120 (sq ft), Is the property sloped greater than 15%? Back Part, Is the property located in the flood zone? No, Is the property located within 500' of any of the following: Village or Town: No, The boundary of any state park or other recreational area: No, The right of way of any stream or drainage channel owned by the county or for which the county has established channel lines? No, The right of way of any county or state parkway, thruway, expressway or other controlled access highway? No, The boundary of any county or state owned land on which a public or institution is located? No, Is the property located in a flood hazard or flood plane zone? No, Is the property or structure registered as a historical place? No, Are the property taxes paid currently? Yes.

Identify the structure utilized for the principal use: House
Dimensions at ground level: Width 50' Depth: 30'
Interior floor space: 900 (sq ft)
Height: 20'
Stories: 2
Number of bedrooms: 1 Number of Bathrooms: 1
Shortest side yard: 38' Total side yards: 1,6112'
Front yard: 200' to street

Date of original permit application: 01/03/2024
Nature of application disapproved: Building Permit
Date of written disapproval: 01/11/2024
Was there a stop work order issued? No
The reason for disapproval: Section 120-14 "No accessory building shall project nearer to that street on which the principal building fronts than the principal building"

This is a request for an area variance

Has there ever been any other appeal involving the property? No
Is there any appeal, application or request related to this property, that is presently pending before any municipal or governmental board or agency? No
Is the subject matter of this appeal required to be reviewed by other state, county, town or village department, board or agency? No
Describe your septic system (size, age, condition) Newer system from 2012, new condition.

I have read and completed the filing and mailing requirements: Initialed by applicant

Building Inspector's review filled out and complete.

Overlapping conversation...

Bob Zimmer- So you want to put a garage in front of your house.

Jeffrey Lynn- It is really because the rest of the property kind of goes like this and there is a creek back there.

Bob Zimmer- If you were to put the garage behind the house.

Jeffrey Lynn- Yes

Chris Pavlacka- clarifies the application is for an area variance.

Jack Sirios- Discusses with applicant locations on the drawings of property lines and where the structure will be.

Chris Pavlacka- Do you know the grade of it?

Jeffrey Lynn- Right there it is flat; it is the only place on the property that is flat.

Overlapping conversation...

Bob Zimmer- There is a list of questions that we need to go through to evaluate the area variance.

Chris Pavlacka- Yes, there are five of them.

So, question number one is whether an undesirable change in the characteristics of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

The board unanimously respond no, on the basis that there are no nearby neighbor that would be impacted.

Chris Pavlacka- The second question is, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance?

The board unanimously respond no, on the basis that there are slopes on the rest of the property and the location of the proposed garage is the only available flat surface.

Chris Pavlacka- Just looking at the drawings the variance is actually 70' from the road the principal building fronts. For the record I will state that setbacks for variances are SEQR Type II and we don't need to do anything further for SEQR review. The third question is, whether the variance is substantial?

Some board members respond no, on the basis that this is a common occurrence and a common approval granted. Some board members respond yes, on the basis that the actual footage of the variance constitutes it to be substantial. Discussion ensues. Consensus winds up that yes, the variance is substantial.

Chris Pavlacka- The fourth question is, whether the variance will have an adverse effect or impact on the physical or environmental conditions on the neighborhood or district?

The board unanimously respond no, on the basis that there are no nearby neighbors. It is flat ground so there are no runoff issues.

Chris Pavlacka- The fifth question is, whether the alleged difficulty was self-created?

The board determines that yes, it is self-created, but not significantly enough to not be granted.

Chris Pavlacka- Okay, we have gone through the factors now you can continue.

Bob Zimmer- Do you have pictures? Asks questions about the configuration of the garage and the doors, asks what will be kept in the garage.

Jeffrey Lynn- Motorcycles, shop to work on stuff.

Bob Zimmer- Asks the board if any have any further questions. Asks Chris how he would like the motion made.

Chris Pavlacka- Takes a straw poll. Everyone is in favor. Asks if there are any conditions.

I suggest that a condition is that the variance is specific for this building and that the building constructed otherwise complies with village code.

Bob Zimmer- Okay. So, I need a motion to authorize Chris to draft a resolution and approve the setback variance of 70' for the garage and pursuant to the conditions that we just discussed.

Jack Sirios- I will make that motion

Mark Palmieri- Seconds motion

All in favor? All Aye

Jack Sirios- Brings up the status of the past cell tower applications. And the status Cabin 12's application.

Board discusses the ZBA determination given to Cabin 12. Board feels strongly that they should continue with their Planning application. Board directs secretary Danielle Mulqueen to draft a letter to applicants asking of their intention to either continue or officially withdraw their Planning application.

Jack Sirios- Makes a motion to close the meeting.

Eric Kelm- Seconds the motion.

All in favor? All Aye

Bob Zimmer- Meeting closed at 9:50 PM