

**PLEASE TAKE NOTICE** that the Town of Warwick will be holding a Public Hearing on Thursday, October 13, 2016 at 7:00P.M. at the Town Hall, 132 Kings Highway, Warwick, NY consider amendments to Chapter 164 of the Town Code entitled "Zoning".

All interested persons will be given the opportunity to be heard.

DATED: September 14, 2016

**BY ORDER OF THE TOWN  
BOARD OF THE TOWN OF WARWICK  
EILEEN ASTORINO  
TOWN CLERK**

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

TOWN OF WARWICK  
LOCAL LAW NO. 4 OF 2016  
A LOCAL LAW TO AMEND THE ZONING LAW

BE IT ENACTED by the Town Board of the Town of Warwick as follows:

**Section 1. Legislative intent.**

This local law amends Chapter 164 of the Town Code to provide amendments to the Town's Zoning Regulations governing historic resources, solar energy, agriculture, fences, bulk requirements, special permit uses, the zoning designations for two parcels of land, campgrounds, and previously approved applications. The amendments are proposed to address land use issues identified by the Town's Planning, Engineering, and Building departments. The Planning Board is to be authorized by the amendments to modify bulk requirements in cases where the preservation of a historic resource is involved. The amendments are proposed to begin implementation of the Town's adopted 2016 Comprehensive Plan Update as well as the adopted 2008 Comprehensive Plan.

**Section 2. Severability.**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

**Section 3. Terms defined**

***Section 164-22 of the Zoning Law entitled "Terms defined" is hereby amended by replacing the definitions for "RECREATIONAL VEHICLE" and "SOLAR ENERGY SYSTEM, LARGE-SCALE" with new definitions as follows:***

RECREATIONAL VEHICLE — A vehicular camping unit primarily designed as temporary living quarters for recreational, camping, travel or seasonal use that either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicles include, but are not limited to, camping trailers, fifth wheel trailers, travel trailers, and truck campers.

SOLAR ENERGY SYSTEM, LARGE-SCALE — An active solar energy system that occupies 40,000 square feet or more of surface area and produces energy primarily for the purpose of off-site consumption.

### Section 4. Zoning Map

**Section 164-32 of the Zoning Law entitled “Zoning Map” is hereby amended by adding a new parcel to the Agricultural Protection Overlay (AP-O) District Qualifying Area as follows:**

TAX MAP #(S)	OWNER	ADDRESS
Section 31 Block 2 Lot 91.2	Kurt Emmerich, Karen Emmerich	101 Sleepy Valley Rd.

**Section 164-32 of the Zoning Law entitled “Zoning Map” is hereby amended by re-designating a parcel in the Rural (RU) Zoning District with a new designation in the Agricultural Industry (AI) Zoning District as follows:**

TAX MAP #(S)	OWNER	ADDRESS
Section 6 Block 2 Lot 85	Albert Pawliczek	41 Schefflers Rd., Westtown NY

### Section 5. General Regulations

**Section 164-40.G of the Zoning Law entitled “Table of Use Requirements” is hereby amended by replacing Row 41 with a new Row 41 as follows:**

Business Uses	AI	RU	MT	CO	SL	SM	TN-O■	OI★	LB■	DS◆■	SH-F	LC	CB
41. Hotels and motels, health spas, health resorts, and tourist homes		S (j) (103)	S (j) (103)	S (j) (103)	S (j) (103)			S (j) (53) (81) (97) (103) (124) (127) (131- 137) (145)					

**Section 164-40.G of the Zoning Law entitled “Table of Use Requirements” is hereby amended by replacing Row 63 with a new Row 63 as follows:**

Business Uses	AI	RU	MT	CO	SL	SM	TN-O■	OI★	LB■	DS+■	SH-F	LC	CB
63. Large-Scale Solar Energy Installations	S (ll) (53) (81) (97) (124) (127) (131-137) (145) (154)	S (w) (53) (81) (97) (127) (154)						S (xx) (53) (81) (97) (124) (127) (131-137) (145) (154)					

**Section 164-40.N of the Zoning Law entitled “Table of Bulk Requirements” is hereby amended by replacing row “N” as follows:**

Use Group	Minimum Required										Maximum Permitted			
	Lot Area (acres)	Lot Area per Dwelling Unit (square feet)	Lot Width <sup>9</sup> (Feet)	Lot Depth <sup>7</sup> (feet)	Front Setback (feet)	Rear Setback (feet)	Side Setback (feet)	Both Side Setback (feet)	Yards Adjacent to Special Areas <sup>8</sup>	Livable Floor Area per Dwelling Unit (Square feet)	Floor Area Ratio	Lot Coverage (percent)	Building Height (feet)	Building Height (stories)
n <sup>10</sup>	45	15,000	100	100	30	30	18	45	200 (100)	600		30%	35	3

## Section 6. Supplementary regulations for residence districts

**Section 164-41 of the Zoning Law entitled “Supplementary regulations for residence districts” is hereby amended by replacing Paragraph C(4)(f) with a new Paragraph C(4)(f) as follows:**

- (f) Fences or walls not over four feet in height may be erected anywhere on the lot, except as set forth in section 164-41B(1) of this section, which limits visibility at intersections. Fences or walls with a height in excess of six feet shall conform to the requirements set forth herein for buildings. Fences or walls not over six feet in height may be erected anywhere on the lot, provided that the fence or wall is beyond the required front yard setback. Paved terraces, steps and walks (other than those needed for access to the building lot) shall not project within 15 feet of a street or four feet of a property line.

## Section 7. Conservation density subdivisions

**Section 164-41.2 of the Zoning Law entitled “Conservation density subdivisions” is hereby amended by replacing Paragraph A with a new Paragraph A as follows:**

- (A) Purpose. Conservation density subdivisions encourage the preservation of large tracts of open space by affording flexibility to landowners in road layout and design. Such subdivisions preserve open space by creating lots that average at least two times the minimum size required in the zoning district. This lower density is maintained in perpetuity through the use of permanent conservation easements and other legally binding instruments, as described in

§§ 164-41.1.J, K, and L and running with the land. To encourage the establishment of these permanent low densities, the Planning Board may reduce road frontage requirements and may allow common driveways built to the specifications shown in Subsection K below. In order to approve a conservation density subdivision, the Planning Board must find that the proposed subdivision will maintain or enhance the rural quality of the area and will meet all of the requirements and conditions of this section and such other conditions as the Planning Board deems appropriate under the particular circumstances. Conservation density subdivisions are subject to the open development area requirements of § 280-a of the New York State Town Law.

## **Section 8. Supplementary regulations for nonresidential districts**

***Section 164-42.G of the Zoning Law entitled "Large-scale solar energy installations" is hereby amended by replacing Subsection 164-42.G(1) with a new Subsection 164-42.G(1) as follows:***

- (1) Large-scale solar energy installations are subject to the use requirements of § 164-40M, No. 63, of the Zoning Law.

***Section 164-42.G of the Zoning Law entitled "Large-scale solar energy installations" is hereby amended by adding a new Subsection 164-42.G(9) as follows:***

- (9) Large-scale solar energy installations are considered abandoned after 180 days without electrical energy generation and must be removed from the property. To ensure the proper removal of Large-scale solar energy installations, a Decommissioning Plan shall be submitted as part of the application. Compliance with this Plan shall be a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Large-scale solar energy installation can no longer be used, it shall be removed by the applicant or any subsequent owner. The Plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state, prior to construction. The Plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a licensed professional engineer. Cost estimations shall take into account inflation. Removal of Large-scale solar energy installations must be completed in accordance with the Decommissioning Plan. If the Large-scale solar energy installation is not decommissioned after being considered abandoned, the Town may remove the system, restore the property and impose a lien on the property to cover the costs or such removal and restoration to the Town.

## **Section 9. Special uses in historic structures.**

***Section 164-43.3 of the Zoning Law entitled "Special uses in historic structures." is hereby amended by replacing the entire Section 164-43.3 with a new Section 164-43.3 entitled "Preservation of Historic Structures." as follows:***

### **§ 164-43.3. Preservation of Historic Structures**

A. Purposes. Historic preservation is the physical and visual conservation of history. When historic structures and places are preserved, residents are able to experience the buildings and environments in which earlier generations lived. The Town of Warwick specifically finds that many of these vital and irreplaceable historic resources have been afforded recognition, but not protection, through their eligibility or placement on the National and/or State Registers of Historic Places or through their inclusion in the Town of Warwick Historic Resource Inventory. The Town of Warwick has an obligation to respect these community resources and to preserve them for future generations.

Historic preservation can also strengthen Warwick's future. The continued presence of historic buildings in the Town helps create vibrant cultural facilities that draw both tourists as well as new investments in the community, bringing about new revenue sources for the Town and economic growth for the community. Historic preservation also conserves natural resources. Restoration and redevelopment of existing buildings consumes less energy than demolition and new construction and it places a value on the use of past energy investments. Establishing Preservation of Historic Structures provisions in the Town Zoning Law address the following findings:

- (1) Studies conducted throughout the United States that have analyzed the economic benefits of historic preservation on property values, have consistently reported that properties in historic districts appreciate significantly faster than comparable properties not located in historic districts.
- (2) Economic activity invested in historic preservation has provided millions of dollars worth of sales and wages, supporting thousands of jobs.
- (3) Historic preservation promotes the general health, safety and welfare of the community by recognizing and protecting the integrity of historic resources in Warwick.
- (4) A clear process in which proposed land use changes affecting historic resources are reviewed and approved is necessary in order to accomplish the goals of the Town Comprehensive Plan.
- (5) To discourage the unnecessary demolition of historic resources, it is important to establish clear procedures in the Town Building Department so that alternatives can be evaluated.

- (6) To encourage historic preservation in the community, it is necessary to provide incentives for the continued use of historic resources and to facilitate their appropriate reuse.
- (7) Article XIV of the New York State Constitution establishes a State policy of preserving historic and aesthetic resources.

B. Applicability.

- (1) Historic Resource Inventory. The provisions of this chapter shall apply to Designated Historic Resources in Warwick, which shall constitute the Town of Warwick Historic Resource Inventory. Designated Historic Resources consist of the following:
  - (a) Any building, structure, or site listed on the National and/or State Register of Historic Places (Class 1);
  - (b) Any building, structure, or site that is eligible for the National and/or State Register of Historic Places as determined by the State Historic Preservation Officer and/or through inclusion in the Statewide Historic Resources Survey (Class 2);
  - (c) Any building, structure, or site that has been surveyed as an historic resource by the New York State Office of Parks Recreation and Historic Preservation including those listed in Appendix B of the Town of Warwick Comprehensive Plan, adopted August 19, 1999 and as amended from time to time (Class 2);
  - (d) Any building, structure, or site that is designated an historic building, structure or site by the Town Board upon recommendation of the Architectural Review Board after consultation with the Town Historian/Deputy Town Historian (Class 2).
  - (e) Additional buildings, structures or sites shall be eligible for designation as an historic resource upon application to the Town Board and upon recommendation of the Architectural Review Board in consultation with the Town Historian/Deputy Town Historian (Class 2).
- (2) Revisions to Historic Resource Inventory. Based on the criteria set forth in this Section, the Town of Warwick Historic Resource Inventory may be revised from time to time by legislative action of the Town Board following a public hearing, at which time the proposed changes shall be presented. Revisions may include additions or deletions to the Inventory or changes in the classification of such resources.
  - (a) Any proposed revision to the Historic Resource Inventory shall first be referred to, or proposed by, the Architectural Review Board, which shall submit a written recommendation to the Town Board. Routine Inventory maintenance or updating of information regarding individual resources included in the Inventory shall not be considered revisions for the purposes of this Section.

- (b) A resource shall be designated Class 1 (and to the Inventory if not already included) if it is found to meet the criteria for Class 1 (i.e., National and/or State Register listing or eligibility).
- (c) A resource shall be recommended for removal from Class 1 if it no longer meets the criteria for Class 1 (i.e., National and/or State Register listing or eligibility) in consultation with the Town Historian/Deputy Town Historian.
- (d) A resource shall be added to Class 2 (and to the Historic Resource Inventory if not already included) if it is found to meet the general definitional criteria for a Designated Historic Resource set forth in § 164-43.3.B.(2)(h).
- (e) A resource shall be recommended for removal from the Historic Resource Inventory if it does not currently meet the general definitional criteria set forth in § 164-43.3.B.(2)(h) below or is not deemed by the Architectural Review Board, Town Historian/Deputy Town Historian or Town Board to be of similar significance based on documentary evidence received by the Architectural Review Board.
- (f) Unless a resource is proposed for addition to or deletion from the Inventory or for reclassification by the owner(s) of the property upon which the resource is located, such owners(s) shall be notified upon receipt of a proposal affecting their property and shall be invited to respond to such proposal at or prior to the public hearing. The owner(s) of any property(ies) which are the subject of any such proposed legislative action shall be given written notice of the Architectural Review Board's recommendation to the Town Board at least ten (10) days prior to the public hearing.
- (g) Amendments, as needed, shall conform to all procedural requirements for an amendment to the Zoning Law.
- (h) The following general definitional criteria shall be considered when determining whether a resource should or should not be included on the Historic Resource Inventory or should be reclassified:
  - (1) Resources uniquely associated with historic events or persons that have made a significant contribution to local, state, or national history, culture and development.
  - (2) Resources of significant character, interest, or value as part of the historical, archaeological, architectural, economic, social, or cultural heritage of Warwick, Orange County, New York State, or the Nation.
  - (3) Resources possessing distinctive characteristics of an architectural style, type, specimen, period, method of construction, or innovation of design, or that exhibit a high degree of original architectural integrity from a recognized historical period.

- (4) Resources identified as the work of an outstanding architect or master builder.
- (5) Resources with a relationship to distinctive areas, buildings or structures that are eligible for preservation.

C. Special provisions for properties designated as a Class 1 historic resource.

- (1) Additional use opportunities. Subject to obtaining special use permit approval from the Planning Board in accordance with § 164-46.J of the Zoning Law, as well as the requirements and procedures set forth in this § 164-43.3, additional use opportunities may be permitted on properties designated as a Class 1 historic resource. The following use opportunities listed in Subsections (a) through (m) may be available as a principal or accessory use in addition to, or in place of, any current use of the property or use permitted in the Zoning district. Where such uses are already permitted by-right or by special use permit in the Zoning district, they shall not be subject to the provisions of this § 164-43.3, but shall meet all other applicable requirements of the Zoning Law. However, if the use is proposed in addition to a principal use already on the property (i.e., a second principal use), or is otherwise not permitted in the Zoning district, such use shall be subject to the provisions of this § 164-43.3.
  - (a) Tourist Home (Bed & Breakfast), subject to the provisions of § 164-46.J(103).
  - (b) Business and Professional Offices employing not more than five (5) persons.
  - (c) Art and craft studios employing not more than three (3) persons. Where instructional classes are provided, the use shall be limited to one (1) class at a time with not more than five (5) students in the class and not more than two (2) instructors.
  - (d) Art galleries of five thousand (5,000) square feet or less of gross leasable floor area.
  - (e) Antique shop, rare book, and coin or stamp shops of fifteen hundred (1,500) square feet or less of gross leasable floor area.
  - (f) Multifamily residential use in single-family districts, but not to exceed four units within the principal residential structure, contingent on the continuing residency of the owner of the building within one of the dwelling units.
  - (g) Conversion of a nonresidential structure to a residential use, in any Zoning district, subject to the provisions of § 164-46.J(53) and (145) and not to exceed four (4) dwelling units within one structure.
  - (h) Eating and drinking places but excluding drive-in restaurants and fast food restaurants.
  - (i) Repair services including small scale uses such as small appliances, watches, household furnishings, shoes, bicycles, locks, but shall not include automobile, truck, motorcycle,

or lawnmower repair, and shall be limited to one (1) employee per five hundred (500) square feet of gross leasable floor area devoted to this repair service use, up to a maximum of fifteen hundred (1,500) square feet.

- (j) Conference center as a principal use in Class 1 historic resources only, where located on tracts exceeding 10 acres and subject to the provisions of § 164-46.J.(53) and (138)(g).
  - (k) Customary accessory uses to any permitted principal use.
  - (l) Institutions of higher learning, public libraries, museums, state-accredited private schools of five thousand (5,000) square feet or less of gross leasable area.
  - (m) A combination of two or more of the above uses in the same structure.
- (2) Modification to the Table of Bulk Requirements. The Planning Board, through the granting of a special use permit, is authorized to approve requested modifications to applicable lot area, lot width, or yard requirements or any other applicable area and bulk requirements or design standards otherwise applicable in the zoning district for plans affecting Class 1 historic resources, in accordance with the provisions of § 164-46.J of the Zoning Law and the requirements and procedures for special use permit approval of this Section. In all cases, such modifications may be permitted to reduce otherwise applicable requirements to the minimum degree necessary to accommodate proposed plans, and to allow for the preservation and rehabilitation and/or reuse of the historic resource. For residential lots, where a historic resource exists on a site that is to be subdivided or developed, there shall be included a lot area of sufficient size to preserve those portions and features of the historic resource which are historically and architecturally significant.
- (3) Requirements for special use permit approval. In addition to the special use permit standards and provisions set forth in this § 164-43.3 and in § 164-46.J, the following requirements shall apply where additional use opportunities and/or modification to applicable area and bulk regulations for historic resources are permitted:
- (a) The modification shall have the effect of encouraging the continued protection or reuse of the historic resource.
  - (b) The approval of the special use permit is deemed by the Planning Board to be necessary for the preservation of the historic resource.
  - (c) The approval of the special use permit is deemed by the Planning Board to have no significant adverse impact on adjoining properties, as determined through the SEQOR review process.
  - (d) Where plans involving historic resources under this § 164-43.3 result in all or portions of any such resource remaining unoccupied, the Town of Warwick may require that

such unoccupied resource shall be tightly sealed and barred off in a manner not jeopardizing historical integrity, and the utilities turned off for safety.

- (e) In granting special use permit approval in accordance with this § 164-43.3, the Planning Board shall be satisfied that adequate water supply and sewage disposal can be provided for all permitted uses.
- (f) In granting a special use permit approval in accordance with this § 164-43.3, the Planning Board may require as a condition of approval the establishment of a façade easement, conservation easement, historic conservation easement, or other means to guarantee permanent protection of the historical integrity of the subject resource.
- (g) Except where clearly detrimental to the historical integrity and where public health, safety, and welfare are otherwise adequately provided for, all other applicable standards contained in this Zoning Law shall be complied with, including, but not limited to, requirements for buffering, landscaping, lighting, storage, loading, parking, noise, and signage.
- (h) The Architectural Review Board in consultation with the Town Historian/Deputy Town Historian shall review all requests for special use permit approval regarding historic resources related to requested area and bulk modifications and evaluate whether the requested modifications are necessary for the preservation, and are compatible with maintaining the historical integrity of the historic resource. Recommendations shall be in a written report to the Planning Board in accordance with Chapter 5, Section 6 of the Town Code.
- (i) Plans involving any rehabilitation, alteration, or enlargement of a Designated Historic Resource proposed as part of the special use permit application shall use as a guideline the Secretary of the Interior's Standards for Rehabilitation of Historic Properties, as follows. Such plans shall be reviewed by the Architectural Review Board in consultation with the Town Historian/Deputy Town Historian, which shall submit a written review to the Planning Board, and the plans submitted shall be in sufficient detail to allow a determination of their compliance with the Standards below. In approving the special use permit, the Planning Board may set reasonable conditions requiring compliance with the Secretary of the Interior's Standards for Rehabilitation, as applicable.
  - (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
    - (a) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

- (b) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  - (c) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  - (d) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize an historic property shall be preserved.
  - (e) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities to the greatest extent practicable and, where possible, shall be substantiated by documentary physical or pictorial evidence.
  - (f) Chemical or physical treatments, such as sandblasting, that can cause damage to historic materials, shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
  - (g) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken in consultation with the New York State Office of Parks Recreation and Historic Preservation or other similar historic preservation authority.
  - (h) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
  - (i) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (4) Application procedures for special use permit approval regarding Class 1 historic resources:
- (a) An applicant seeking special use permit approval regarding a historic resource shall submit the appropriate application to the Town Planning Department pursuant to § 164.46.C. The application shall include, in addition to that which is required under § 164.46.C, where relevant, the following:
    - (1) A detailed depiction of the proposed use(s).

- (2) Any physical changes proposed for the affected historic resources(s) and their surrounding context.
  - (3) Any proposed modifications to the otherwise applicable area and bulk regulations.
- (b) Upon receipt by the Planning Department, the complete application shall be forwarded to the Architectural Review Board in consultation with the Town Historian/Deputy Town Historian and Planning Board. Upon receipt of a complete application by the Planning Board, the Architectural Review Board and Planning Board shall, at a regular or special meeting, review the application for special use permit approval prior to the required public hearing. The applicant will be notified of such meetings at least ten (10) days prior to the scheduled dates and shall have the opportunity to present reasons for filing the application. In reviewing the application the following shall be considered as well as the requirements of this Section.
- (1) In reviewing the application, the Architectural Review Board shall consider:
    - (a) Regarding proposed requested modification of area and bulk, the Architectural Review Board shall evaluate whether the proposed modifications are necessary to preserve the affected historic resources(s).
    - (b) Where the application involves physical changes to historic resources and /or the surrounding context, the Architectural Review Board shall review the proposed changes and make recommendations as to their appropriateness.
  - (2) The Planning Board shall review the application under the State Environmental Quality Review Act, assuming that it has been duly designated Lead Agency for purposes of such SEQR review.
- (c) Recommendations, if any, of the Architectural Review Board shall be in a written report to the Planning Board and shall include any suggestions for specific changes to proposed plans. If no recommendation is submitted to the Planning Board by the date of the public hearing to consider the application, then it shall be considered that the Architectural Review Board recommends approval of the application.
- (d) The Planning Board, after review by the Town Historian, shall act on the special use permit application in accordance with the provisions of § 164-46 of the Zoning Law.

#### D. Demolition of Class 1 historic resources

- (1) No Class 1 Designated Historic Resource shall be demolished, in whole or in part, whether deliberately or by neglect, including removal or stripping of any historically or architecturally significant exterior or interior features, unless a permit is obtained from the Code Enforcement Officer in accordance with the requirements of this § 164-43.3 and other applicable standards and procedures of the Town of Warwick Building and Fire

Codes. Temporary removal of architectural features or structural members for purposes of maintenance, repair or restoration shall not constitute demolition.

(2) Demolition by Neglect

- (a) No Class1 Designated historic resource shall be demolished by neglect as defined herein.
  - (b) Demolition by neglect shall not be used as an automatic excuse by the applicant as justification for an active demolition application.
  - (c) Demolition by neglect does not apply to ruins, such as partially roofed structures, wall remains, remaining foundations, or other structures which are clearly in ruins and missing a substantial portion of the structural mass, existing at the time of adoption of Local Law No. 4 of 2016 creating this § 164-43.3 or permitted to remain as ruins pursuant to this Section.
  - (d) These regulations are meant to protect historic resources from parties who by ordinary negligence or willful neglect allow those resources, which are in usable condition on a property at the time of adoption of Local Law No. 4 of 2016 creating this § 164-43.3, or at the time a new owner purchases a property, to deteriorate or become unusable and a liability to the point of needing to be demolished for safety reasons. An example of this would be a party purchasing a property containing a historic resource listed on the Town Historic Resource Inventory in usable condition and/or previously being used prior to the sale of the property, and, in order to avoid having to undergo the historic review process, as outlined in this Section, said party allows that historic resource to become so deteriorated that the resource would qualify immediately for a demolition permit due to the unsafe or hazardous condition of the resource.
- (3) The structural integrity of both occupied and unoccupied Class1 historic resources should be achieved through proper maintenance of all structural, architectural and other critical elements.
- (4) Application requirements for demolition of Class 1 historic resources
- (a) The applicant for demolition of a Designated Historic Resource shall submit to the Town Building Department an application for a demolition permit. All applications for demolition shall be reviewed against the Historic Resource Inventory and in consultation with the Town Historian/Deputy Town Historian. If the application concerns the demolition of a Class 1 Designated Historic Resource, the Code Enforcement Officer shall be directed not to issue the permit and shall inform the applicant to comply with the following procedures and requirements of this Section, as applicable.

- (b) In addition to the applicable requirements under Chapter 82 of the Town Code, the Town Fire Prevention and Building Code, any applicant seeking a permit to demolish a Designated Historic Resource shall submit the following information regarding that resource:
  - (1) Owner of record.
  - (2) Classification of historic resource on the Designated Historic Resource Inventory.
  - (3) Recent photographs of the resource proposed for demolition.
  - (4) A site plan showing all buildings and structures on the property.
  - (5) Reasons for demolition.
  - (6) Method of demolition.
  - (7) Proposed use for the site, timeline for implementation of proposed use for the site, and proposed disposition of materials from the demolished site.
  - (8) Alternatives which the applicant has considered prior to demolition.
- (5) Review process for demolition permits.
  - (a) The Code Enforcement Officer shall notify the Architectural Review Board and the Town Historian/Deputy Town Historian of the application for demolition upon acceptance of a properly completed application, including the necessary filing fee, and shall forward such application to the Planning Board within ten (10) days of receipt.
  - (b) Within thirty-five (35) days of receipt of a complete application for demolition from the Code Enforcement Officer, at its next regular meeting or a special meeting, the Architectural Review Board after consultation with the Town Historian/Deputy Town Historian shall review the application for demolition. The applicant will be notified of the meeting and encouraged to present evidence or testimony pertaining to the demolition. In reviewing the application, the Architectural Review Board shall take into account the following:
    - (1) The effect of demolition on the historical significance and architectural integrity of the historic resource in question and neighboring historic resources, and on the historic character of the neighborhood, district or vicinity in which the resource is located.
    - (2) Economic feasibility of continuing the existing use or of adaptively reusing the resource proposed for demolition.
    - (3) Alternatives to demolition of the resource.

- (4) Whether the applicant has demonstrated that he or she has considered alternatives to demolition.
  - (5) Whether the retention of the resource would represent an unreasonable economic hardship.
  - (6) Whether the resource has been intentionally neglected.
- (c) Recommendations of the Architectural Review Board. The Architectural Review Board after consultation with the Town Historian/Deputy Town Historian shall make its written recommendation to the Planning Board either recommending approval of the demolition application as submitted, recommending approval of the application with conditions, or alternatively, the Architectural Review Board may recommend to use the following time period to provide adequate opportunity for documentation of the resources as set forth below, for the applicant to prepare a financial analysis as set forth below, and/or to engage in discussion about alternatives to demolition with the applicant. The Architectural Review Board shall make every effort to communicate to the applicant the historical significance of the historic resource, its significance to the Town, and alternatives to its demolition.
- (1) Class1 historic resources. A period not to exceed ninety-five (95) days.
- (d) Approval of the Planning Board. Within thirty-five (35) days of receiving the recommendation from the Architectural Review Board, the Planning Board shall consider the application at a public meeting, together with the recommendations from the Architectural Review Board, and vote either to approve the application as submitted, approve the application with changes, or defer their decision affording a delay of demolition for up to the periods specified above. The applicant shall be notified at least ten (10) days prior to the date of the public meeting, and shall have the opportunity to present reasons for filing the application. Within five (5) days of making its decision, the Planning Board shall provide written communication of its decision to the applicant, the Architectural Review Board, and the Code Enforcement Officer.
- (e) Issuance of a Demolition Permit. Where the Planning Board acts to approve the application, it shall authorize the Code Enforcement Officer to issue the permit. Where the approval is authorized to be granted with conditions, the Code Enforcement Officer shall be authorized to issue a permit upon receipt from the applicant of written acceptance of those conditions.
- (1) Documentation. Prior to the issuance of a demolition permit, the applicant may be required at the discretion of the Planning Board to provide documentation of the Class1 historic resource proposed for demolition. Such documentation may include:

- (a) Historical data, survey information, and other data provided by local, state, and federal historic preservation organizations and other agencies.
  - (b) Photographs. A complete photographic survey of the building interior and exterior.
  - (c) Floor plans.
  - (d) Measured drawings.
  - (e) Archeological survey, if appropriate.
  - (f) Other available comparable documentation.
- (2) Financial Analysis. In cases where there is claim that demolition of a Class I historic resource is necessary due to financial hardship or the lack of an economically reasonable alternative for reuse, the applicant may be required at the discretion of the Planning Board, during the period of the delay of demolition, to prepare a financial analysis, which may include any or all of the following information:
- (a) Amount paid for the property, date of purchase and party from whom purchased.
  - (b) Assessed value of the land and improvements thereon, according to the most recent assessment.
  - (c) For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
  - (d) All appraisals obtained by the owner in connection with the purchase or financing of the property, or during ownership of the property.
  - (e) Bona fide offers of the property for sale or rent, price asked, and offers received, if any.
  - (f) Any consideration by the owner as to profitable, adaptive uses for the property, and any other practical uses, as well as incentives which could be offered by the Town to preserve the historic resource and any input from preservation organizations.
  - (g) Where relevant, written estimates of the cost of rehabilitation from a professional restoration contractor.
- (f) Final recommendation on demolition by the Architectural Review Board. Prior to or at the end of the expiration of the ninety-five (95) or sixty-five (65) day review period, the Architectural Review Board may recommend approval of the demolition permit, or

where the Architectural Review Board does not believe that the applicant has proven hardship, may recommend denial of the application. In such cases, the Architectural Review Board shall make a written report to the Planning Board setting forth reasons for its recommendation and the evidence considered.

- (g) Final decision on demolition by the Planning Board. The Planning Board shall act upon the application for demolition within or at the ninety-five (95) or sixty-five (65) day review period, whether or not it receives a recommendation from the Architectural Review Board, and shall vote either to approve the application, to approve the application with changes, or to deny the application. Within fourteen (14) days of making its decision, the Planning Board shall provide written communication to the applicant, Architectural Review Board, and Code Enforcement Officer.
- (h) Any costs incurred by the Architectural Review Board, as agreed to by the applicant, to review plans or studies submitted by the Architectural Review Board's consultant specifically retained for this purpose, shall be reimbursed to the Town by the applicant in accordance with Chapter 75 of the Town Code.

E. Enforcement. Any person who demolishes a Class 1 Designated Historic Resource in violation of the provisions contained herein shall be subject to the Penalties for offenses imposed in § 164-54 of the Zoning Law.

- (1) The Code Enforcement Officer shall withhold issuing a building permit for a property that, at the date of enactment of Local Law No. 4 of 2016 creating this Section, was occupied by a Class 1 Designated Historic Resource that was subsequently demolished in violation of this Zoning Law, until the appropriate review is completed.
- (2) In addition to the above remedies, the Town Board may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Section.
- (3) Appeals to this process shall be made in accordance with Article 78 of the New York State Civil Practice Law and Rules.

## Town of Warwick Designated Historic Resource Inventory

### Class 1 Historic Resources:

Jeremiah Morehouse House, 11 Hathorn Road, Warwick, NY 10990

Coordinates: 41° 14' 42" N | 74° 22' 08" W

General John Hathorn Stone House, Hathorn Road, Warwick, NY 10990

Coordinates: 41° 14' 48" N | 72° 22' 16" W

The Boulders AKA Homer A. Norris House, 99 Shore Avenue, Greenwood Lake, NY 10925

Coordinates: 41° 11' 18" N | 74° 18' 46" W

**Class 2 Historic Resources:**

Buildings, structures, or sites listed in Appendix B of the Town of Warwick Comprehensive Plan, adopted August 19, 1999 and as amended from time to time.

**Section 10. Site plan and special permit approval**

***Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing section 164-46.J(16) with a new subsection 164-46.J(16) as follows:***

- (16) Accessory to a residential use, not more than one bitch and two other dogs over six months old nor more than one litter under six months of age; livestock and bees [according to the limitations and requirements of Subsection J(101) of this section] and not more than 10 fowl, rabbits, or other small domesticated animals shall be permitted; and no animals, bees, or fowl shall be housed within 100 feet of any lot line, except where livestock animals are housed, then such housing shall be set back 150 feet from any lot line. Any penning area less than one acre in size shall be set back 50 feet from any lot line. No storage of manure or other odor- or dust-producing substance or use shall be within 150 feet of any lot line. See also special condition in Subsection J(101) for large animals and bees.

***Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing section 164-46.J(101) with a new subsection 164-46.J(101) as follows:***

- (101) Keeping of livestock accessory to a residence requires three acres for the first large livestock animal, such as horses, cattle, or bison, and one acre for each additional large livestock animal. Keeping of livestock accessory to a residence requires three acres for the first two medium livestock animals, such as goats, sheep, ponies, or llamas, and one acre for each two additional medium livestock animals. To protect public health, a beehive accessory to a residence shall require three acres for the first two hives and one acre for each additional hive.

***Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by adding a new Subsection 164-46.J(138)(g) as follows:***

- (138)(g) Conference Center in a Class 1 Designated Historic Structure.
  - (1) A minimum lot area of 10 contiguous acres is required for a Conference Center in a Class 1 Designated Historic Structure.
  - (2) The maximum number of guest rooms in a Conference Center in a Class 1 Designated Historic Structure shall be twelve (12).

- (3) Accessory recreational uses may include tennis, swimming pool, hiking trails, and similar low impact facilities, such recreational facilities limited to guests of the Center.
- (4) Access to a Conference Center in a Class 1 Designated Historic Structure shall be from a State, County or through Town road.

**Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing the entire section 164-46.J(154) with a new subsection 164-46.J(154) as follows:**

- (154) Solar energy installations are subject to § 164-41.E of the Zoning Law for small and medium solar energy installations or § 164-42.G of the Zoning Law for large-scale solar energy installations. Solar panels are encouraged to be placed on building roofs or as solar carports covering designated parking areas and when constructed in this way, they shall be included within the calculation of building and/or parking area coverage. Where solar panels are used independently of a building or parking area, the entire square footage covered by the solar panels, including the area between the panels, shall be included in the determination of total lot coverage and shall not exceed the maximum lot coverage permitted by § 164-40.N, Table of Bulk Requirements. In no case shall solar panels where used independently of a building or parking area, exceed a maximum of 15 acres or a maximum of 60% lot coverage, whichever is less on parcels in existence on the date of adoption of Local Law No. 4 of 2016, except where applications have been filed with the Planning Board prior to this date.

## **Section 11. Campgrounds**

**Section 164-49.2 of the Zoning Law entitled "Campgrounds" is hereby amended by replacing Subsection 164-49.2.A in its entirety with a new Section 164-49.2.A as follows:**

- A. Special permit use. Campgrounds are a special permit use consisting of a tract of land designed exclusively for overnight and temporary vacation camping, providing facilities for tents, camp trailers, travel trailers, recreational vehicles, recreation activities, administration, public health and safety.

**Section 164-49.2 of the Zoning Law entitled "Campgrounds" is hereby amended by replacing Subsection 164-49.2B in its entirety with a new Section 164-49.2B as follows:**

- B. Density. Campgrounds shall not exceed an average gross density of one and one-half (1½) campsites per acre, as approved by the Planning Board.

**Section 164-49.2 of the Zoning Law entitled "Campgrounds" is hereby amended by replacing Subsection 164-49.2.V in its entirety with a new Section 164-49.2.V as follows:**

- V. Occupancy. Occupancy by an individual or group of individuals in any form of permitted temporary, movable or portable shelter or recreational vehicle shall be for a period of not longer than 210 days in any twelve-month period, provided the following conditions are met and maintained on a continuing basis:
- (1) Annual renewal of the campground permit shall be subject to the occupancy limitations stated herein and compliance with the quarterly record of occupancy to be filed with the Town Building Department.
  - (2) A quarterly record of occupancy for each campsite shall be submitted to the Town Building Department no later than April 30<sup>th</sup>, July 31<sup>st</sup>, October 31<sup>st</sup>, and January 31<sup>st</sup> of each year of operations, such records to be on forms specified by and maintained by the Building Department.
  - (3) The quarterly record of occupancy shall include a map showing the location of each campsite and its occupancy during the quarterly period.

## **Section 12. Applications submitted and permits issued before adoption of chapter**

**Section 164-73 of the Zoning Law entitled "Applications submitted and permits issued before adoption of chapter" is hereby amended by replacing Subsection 164-73.C with a new Section 164-73.C as follows. Subsections (1) and (2) of Section 164-73.C remain the same:**

- B. Filing deadline. The terms of the 2002 Zoning Law of the Town of Warwick, New York in effect at the time of acceptance of any final conditionally approved subdivision, site plan or special use permit application that is still pending before the Planning Board under the provisions of this section must receive complete approval by the Planning Board and have a map filed, as the case may dictate, in the Town Clerk's office or the Orange County Clerk's office by January 1, 2019. After such time, all such applications shall be subject to the Zoning Law then in effect, unless the Planning Board shall find:

## **Section 13. Effective Date.**

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.