

TOWN OF WARWICK PLANNING BOARD

October 16, 2019

Members present: Chairman, Benjamin Astorino
Dennis McConnell, Christine Little,
Bo Kennedy, John MacDonald, Alt.
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, October 16, 2019 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Other Considerations:

1. **NADA, LLC./Pulpit Rock Inn** – Planning Board to discuss adopting the Positive Declaration for the Pulpit Rock Inn.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.
Jane Samuelson from Engineering Properties & Surveyor

Mr. Astorino: I just want to inform the residents that are here this evening. That this is not a Public Hearing. This is Step 1 of a process that we are going to get started. Our Town Planner, Ted Fink will explain the process for the Positive Declaration. Ted, please explain the process.

Mr. Fink: Yes. The Positive Declaration is a determination by the Planning Board that the application must undergo an Environmental Impact Statement Process a/k/a (EIS). What that means is the first step in the process is to define what would exactly be in the content of the EIS. It is a detailed document. It begins with what the Applicant would be preparing which is The Draft Scoping Document. The Applicant has submitted the Draft Scoping Document to the Planning Board. That was submitted yesterday. The Draft Scoping Document is subject to review by the Planning Board, Town Professionals, other Involved Agencies, members of the Public and any Interested Agencies identified such as the Warwick Village Board of Trustees. There will be a Public Scoping Session. That is part of the plan in moving forward to have an opportunity for everyone that is interested in this project to come in front of the Planning Board to make comments on the Draft Scoping Document that was prepared by the Applicant. The Planning Board would then review any comments by Planning Board members, Professionals, Involved Agencies, Interested Agencies, and by members of the Public that take an interest. Then we would decide how to finalize that Scoping Document. Once that occurs, the Planning Board would take a formal action to adopt the Final Scoping Document. That document then is a very lengthy annotated table of contents for the Applicant to work from. Then they could go out and do all of the studies that are called for in the Scoping Document. The Applicant would then prepare a Draft Environmental Impact Statement a/k/a (DEIS).

The next step after that the Planning Board would be in receipt of that DEIS once it has been prepared by the Applicant. That document has to go through a completeness process to determine whether all of the issues that were determined by the Planning Board to be necessary for the EIS are in fact there. Once that has been done, there is a public comment process on the DEIS. There will be a public hearing on the DEIS. The written part of the public comment process would extend after the public hearing closes. The next step in the process then would be to examine all of the comments that are made on the DEIS. The next step after that would be to prepare a Final Environmental Impact Statement a/k/a (FEIS) that provides for any changes that are called for in the DEIS as well as a response to all of the comments that have been made on the DEIS. Once the FEIS is adopted by the Planning Board then the final process is a multi-step process. The final step in the process would be for the Planning Board to reach a finding. It would be a written document called the Findings Statement. That written document could go in one of two ways. It could be a Findings to approve or a Findings to deny the application. That is the way the SEQRA review process works. Once the Planning Board adopts the Findings Statement, then the environmental review process has been completed. Then, the application that has been made by the Pulpit Rock Inn for Site Plan Approval and Special Use Permit to the Planning Board could proceed to the next step, which is to review the application that has been provided to the Planning Board.

Mr. Astorino: Thank you Ted. Do any Board members or Professionals have any questions?

Mr. Fink: Just to let everybody know that this process is a multi-step process.

Mr. Astorino: If anybody wants a copy of this, you could go to the Planning office. With that, we are considering a Positive Declaration this evening. Dennis, please could you read the Positive Declaration in its entirety for the record?

Mr. McConnell reads the State Environmental Quality Review (SEQR) Positive Declaration into the record.

State Environmental Quality Review (SEQR)

Positive Declaration

Notice of Intent to Prepare a Draft Environmental Impact Statement Determination of Significance

Date: October 16, 2019

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Warwick Planning Board, as Lead Agency, has determined that the proposed action described below may have a significant effect on the environment and that a Draft Environmental Impact Statement will be prepared.

Name of Action: Pulpit Rock Inn

Location: West Street Extension (SBL 43-1-48)

SEQR Status Type 1
 Unlisted

Description of Action: The proposed action involves Site Plan and Special Use Permit review and approval for a proposed 7,853 square foot hotel with 62 rooms, an outdoor pool, parking for an initial 94 spaces and potentially 120 spaces in total, six cottages consisting of 2,236 square feet and eight units in each for an additional 48 overnight units and an additional 13,416 square feet, all served by a sewage treatment facility, an individual well, and stormwater management facilities. The site consists of former farmland and contains freshwater wetlands, forested areas, and the Wawayanda Creek, a class "C(T)" protected stream. The site is within the Town of Warwick's Suburban Residential Low Density (SL) Zoning District as well as the Town's Aquifer Protection and Biodiversity Conservation Overlay (BC-O) districts. The site is also within the Town's Traditional Neighborhood Overlay (TN-O) Zoning District but the provisions of this Zoning District do not apply to the action.

Reasons Supporting This Determination:

1. The proposed action may require construction in areas where bedrock is at or near the surface and on steep slope areas. This has the potential to cause soil erosion and subsequent sedimentation of protected surface waters, including a C(T) Stream, the Wawayanda Creek, which has been designated by New York State as "Severely Impacted" in the vicinity of the site.
2. The proposed action includes construction activities adjacent to Federal Jurisdictional wetlands and "Probable Wetland Areas" identified by New York State. The discharge of stormwater runoff from the impervious surfaces and other developed areas on the site has the potential to impact surface waters including the Wawayanda Creek and freshwater wetlands.
3. The proposed action requires development of an on-site supply of potable water of at least 16,500 gallons per day for the 110 hotel rooms and the pool. The proposed action is located within the Town's Aquifer Protection Overlay (AQ-O) Zoning District and has the potential to affect groundwater resources. An approximately equal number of gallons of sanitary sewage per day will need to be treated prior to discharge on the site.
4. The site is located within the Town of Warwick's Biodiversity Conservation Overlay (BC-O) Zoning District and the site and surrounding areas may contain

habitats and/or plant and animal species identified as endangered or threatened. The site has also been identified on the Hudson River Valley Natural Resource Mapper as having “important habitat values and stormwater-related benefits” associated with the forested areas on the site.

5. The proposed action has the potential to impact traffic on Town, Village, and County roads and intersections as well as pedestrian and bicycle movements in the area.
6. The proposed action occurs in an area identified by the State of New York as sensitive for archaeological resources.
7. Removal of native vegetation along with excavation and grading of soils can impact groundwater recharge and the potential for contamination, increase stormwater runoff, soil erosion and sedimentation and remove valuable wildlife habitat.
8. The proposed action is likely to affect scenic views known to be important to the community and the State. Pulpit Rock, located on the site, is an aesthetic resource and is discussed in the Village of Warwick’s Comprehensive Plan as important to the community as well as the character of the neighborhood and surrounding gateway area.
9. Pulpit Rock has been identified by Warwick’s Conservation Board as a “significant open space feature” for both the Village and Town of Warwick.
10. The proposed action has the potential to affect community service providers including fire, ambulance, and police.

Public Scoping of the Draft GEIS will occur as follows:

Scoping of the Draft EIS will be conducted. The applicant will first submit a Draft Scoping Document. Such Document will then be forwarded to all Involved and Interested agencies, through publication of a “Notice of Project Scoping” in the official Town newspaper, and through availability of the Draft Scoping Document on the Internet for viewing or downloading at <http://www.townofwarwick.org>. The Draft Scoping Document, once submitted, will also be available for public review at the Town of Warwick Planning Board offices. A Public Scoping Session will be scheduled to discuss the Scoping Document and additional written comments will be accepted afterwards. Following the public Scoping Session, the Planning Board will prepare and distribute a Final Scoping Document.

For Further Information:

Contact Person: Connie Sardo, Planning Board Secretary
Address: Town of Warwick Planning Board
 132 Kings Highway
 Warwick, NY 10990
Telephone: 845-986-1120

A Copy of this Notice Filed With:

- NADA LLC, Applicant
- Town Supervisor Michael Sweeton & Town Board of the Town of Warwick
- Town of Warwick Planning Board
- Town of Warwick Architectural Review Board
- Town of Warwick Conservation Advisory Board
- Village of Warwick Board of Trustees
- Orange County Department of Health
- Orange County Department of Planning
- New York State Department of Environmental Conservation
- United States Army Corps of Engineers

- 2. Planning Board Minutes of 6/19/19, 7/17/19, & 8/21/19 for Planning Board approval.

Mr. McConnell makes a motion for the Positive Declaration.

Seconded by Ms. Little. The following Resolution was carried 5-Ayes.

617.7
 State Environmental Quality Review (SEQR)
Resolution Adopting Positive Declaration

Name of Action: Pulpit Rock Inn Development

Whereas, NADA LLC (hereafter referred to as the “applicant”) submitted an application for Site Plan Review and Approval and an application for a Special Use Permit to the Town of Warwick Planning Board (hereafter referred to as the “Planning Board”), to develop a ± 9.022 acre parcel of land located on West Street Extension 1000 feet east of County Route 1, identified as Section 43, Block 1, Lot 48; and

Whereas, the Planning Board, has been designated as the SEQR Lead Agency for conducting the environmental review of this Type 1 Action following a Coordinated Review with other Involved Agencies; and

Whereas, the Planning Board has reviewed the Full Environmental Assessment Form (FEAF) for the proposed project, the Criteria For Determining Significance contained in 6 NYCRR 617.7(c), and the applicant's proposed Conceptual Site Plan dated May 29, 2019; and

Whereas, the Planning Board has determined that the proposed project has the potential to have a significant adverse impact on the environment and has set forth the potential impacts that may reasonably be expected to result from the proposed action in a Positive Declaration attached to this Resolution.

Now Therefore Be It Resolved, that the Planning Board hereby adopts the attached Positive Declaration; and

Be It Further Resolved, that the Planning Board hereby authorizes its Chairman to circulate the attached Positive Declaration to all other involved and interested agencies and to discharge any other SEQR responsibilities as are required by 6 NYCRR 617 in this regard.

Mr. Astorino: I know that we received the Scoping Document yesterday. Connie sent out numerous letters to the Applicant to replenish the escrow account. I am not comfortable with setting a date on this until the escrow account has been replenished.

Karen Emmerich: He is out of the Country at the moment. I believe he will be returning next week.

Mr. Astorino: This is my issue. The Board could do whatever they want at this point. Once we set a date for this it is set. Ted, is that correct?

Mr. Fink: Yes.

Mr. Astorino: I would like to have the escrow and everything in order as per the Town of Warwick's policy before we set a date. That is my opinion.

Mr. McConnell: This will cause quite a bit of work by our Professionals.

Mr. Astorino: Right. The Professionals are not supposed to review when it goes below 40%.

Mr. McConnell: Right.

Mr. Astorino: That is the way the letter reads.

Mr. McConnell: I think we should hold off setting a date until the escrow account has been replenished. That way we are not putting a burden or pressure on our Professionals.

Mr. Astorino: If that is the Board's decision which I think is a valid one at this point in time, then we will do that. We have done the Positive Declaration. Ted, the shot clock won't start on the Scoping Document. Is that correct?

Mr. Fink: The Regulations provided for the 60-day period for the Scoping process to occur that would be the review of the Draft Scoping Document and then the preparation of the Final Scoping Document that 60-day clock would begin at the time when the Draft Scoping Document is submitted. If there is a problem with the escrow account, the SEQRA Regulations are pretty clear that the Applicant is responsible for funding the SEQRA review process.

Mr. Astorino: Could we make a note of that. We have all of the correspondence. I want to have it that our Professionals have ample opportunity that we are not being rushed to review this.

Mr. Fink: At this point given that the escrow has not been replenished, maybe what you could do is set the date for initiating the Public Scoping Process at the date when the escrow account has been replenished.

Mr. McConnell: That is what would start the clock. Is that correct?

Mr. Fink: Yes.

Mr. Astorino: We would need a motion to set the Scoping Document review for the Scoping Session the next date that is available. I am trying to figure out the semantics here. I can't put a date out there until I know when we would receive a check. I don't know how we could do that.

Connie Sardo: Our next Planning Board Meeting would be November 20, 2019.

Mr. Bollenbach: Hold it off until November 20, 2019. Still in abeyance pending renewal of the escrow.

Mr. McConnell: And, recite the date November 20th.

Mr. Bollenbach: Correct.

Jane Samuelson: I represent the Applicant. We will be doing the EIS. You mentioned the next meeting would be November 20th. Could we tentatively set it for November 20th?

Mr. Astorino: I don't see how we could do that. We can't review it. What happens if we don't receive an escrow check 3 weeks from now?

Jane Samuelson: I understand that you can't review it until you receive a check. We will let the Applicant know that. We do have to do a public notice. People would have plenty of notice about the Public Scoping Session on November 20th.

Mr. Astorino: I got that part. That part is the easy part. My part is that our Professionals should not be reviewing this until we receive an escrow check. If we don't have a check, then we would be starting a "shot clock" on a project that we have not reviewed. Is that correct?

Jane Samuelson: Correct.

Mr. Astorino: That is my issue.

Jane Samuelson: I understand.

Mr. Astorino: The issue is the notification of the escrow was sent out according to Town Law. We did not receive any responses back from the Applicant.

Connie Sardo: I have sent out letters to the Applicant by regular mail, email and certified mail. I even made phone calls.

Mr. Astorino: Connie, we have a packet full of stuff here. We are not tracking people down in Europe in order to get money. They know the deal.

Mr. McConnell: Jane, what would you suggest?

Jane Samuelson: My suggestion would be to tentatively set the Public Scoping Session for November 20th assuming that you receive a check within a week.

Karen Emmerich: He is expected to be back sometime next week. We don't know the exact day.

Mr. McConnell: Monday will be October 21st. A week from today would be October 23rd. You figure out the date next week.

Mr. Astorino: I am still not comfortable with that.

Connie Sardo: We also need time to advertise the Public Scoping Session.

Mr. Astorino: Yes.

Mr. McConnell: Are you saying that we can't do anything until our next meeting?

Mr. Astorino: That is my point.

Mr. McConnell: Then say that.

Mr. Astorino: I did.

Mr. McConnell makes motion to Hold off on the Scoping document until the November 20, 2019 Planning Board Meeting.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Karen Emmerich: Thank you.

Jane Samuelson: Thank you.

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2. Planning Board Minutes of 6/19/19, 7/17/19, & 8/21/19 for Planning Board approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 6/19/19, 7/17/19, & 8/21/19.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

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3. Planning Board to discuss cancelling the 10/28/19-W.S. & 11/6/19-PB Meeting.

Mr. McConnell makes a motion to cancel the 10/28/19-W.S. & 11/6/19-PB Meeting.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Correspondences:

1. Letter from Jane Newman, dated 10/9/19 addressed to the Planning Board in regards to the Pulpit Rock Inn.
2. Letter from Tim Hull, dated 10/11/19 addressed to the Planning Board in regards to the Pulpit Rock Inn.
3. Email Supervisor Michael Sweeton, dated 10/15/19 in regards to a Solar Siting Support Tool Forum on 10/31/19.

Mr. Astorino: We have those correspondences in our packets.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion to adjourn the Planning Board Meeting of October 16, 2019.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.