

TOWN OF WARWICK PLANNING BOARD
February 16, 2022

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, John MacDonald,
Rich Purcell, Alt.
Laura Barca, HDR Engineering
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, February 16, 2022 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.

Review of Submitted Maps:

Mission Land Farm, LLC

Application for Site Plan Approval and Special Use Permit for the use and construction of an agricultural manufacturing operation of a woodworking business within an existing building, situated on tax parcels S 3 B 1 L 23.22 and L 69; project located on southern side of Mission Land Road 2500 feet west of C.R. 1 (93 Mission Land Road), in the AI zone, of the Town of Warwick.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Neil Kasparsons, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – pending comments
6. TW Building Department – 01/26/22 no violations
7. ZBA: For Ag Use 24, an area variance would be required as well as an interpretation of §164-42.E(2).
8. Planning Board may wish to schedule a site inspection.
9. Water use calculations must be provided and a dye test must be conducted to demonstrate that the existing septic system is adequate and functioning.
10. Applicant must update the plan with 911 address (Sheet C-1, note 4).
11. A letter to the Town Assessor is required to combine the two lots.
12. The proposed dumpster requires screening; please add vegetative screening to the plan.
13. To comply with §164-46J(85), please state the type of source(s) of fuel to be used.

14. Applicant to show any proposed sign in accordance with §164-43.1.
15. Please update Sheet C-1, note 15 to state that Applicant will comply with the Town's Performance Standards §164-48.
16. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet C-1, Note 13
17. The declaration information for the Aquifer Overlay and Aquifer Protection Notes must be added to the plans.
18. The surveyor must sign and seal the plan.
19. Surveyor to certify that iron rods have been set at all property corners.
20. Payment of all fees.

The following comment submitted by the Conservation Board:

Mission Land Farm, LLC – None submitted.

The following comment submitted by the ARB:

Mission Land Farm, LLC – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: As per Mr. Ted Fink's email, dated 2/15/22, he has stated the following SEQRA comment: *"Mission Land Farm will go to the ZBA and when they come back, they will need to answer a question I raised at the Workshop meeting about whether they were allied with a farm operation. Their answer will determine how the application is classified under SEQRA, which the Board can do after they get the variances they need."*

Comment #2: Applicant to discuss project.

Dave Getz: Mr. Kasparsons has a woodworking business located on Transport Lane. He has purchased this property on Mission Land Road. There is an existing Pole Barn building on the property that was built for agricultural purposes. It was never used for agricultural purposes. He purchased the property and building last year. He would like to relocate his business into this vacant building. It is located on Mission Land Road. It is across the street from the black dirt. It is not located in a flood plain. The building was originally intended for agricultural/warehouse use.

Mr. Astorino: As we had discussed at the Work Session, it would make more sense to do the adaptive reuse process. John, is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: It is an agricultural building. In the AI zone, an adaptive reuse makes sense. But the adaptive reuse Code as it is written now, only allows for buildings to be built prior to when the Code was written. John, is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: With that being said, I believe the Town Board is looking at some Zoning changes soon possibly in March some time.

Laura Barca: Mr. Chairman, I thought we were going to refer them to the ZBA for an interpretation of that section of the Code.

Mr. Astorino: We will be doing that.

Mr. Bollenbach: Yes.

Mr. Showalter: Does a woodworking business have anything to do with agricultural woodworking such as making onion crates?

Mr. Astorino: No. That was why I had said adaptive reuse. It was a building intended for agricultural use. The adaptive reuse is what it is there for. If we send them to the ZBA for the interpretation of that, I believe the Town Board is looking to do some Zoning revisions.

Laura Barca: Ted Fink is drafting that.

Mr. Astorino: Ok. Ted is drafting that up. We will see that. Hopefully one of them would be to change that section of the Code for the AI zone.

Mr. McConnell: What is the business that you do?

Neil Kasparsons: Design and build special interiors.

Dave Getz: He does custom woodworking. He is an Artist.

Neil Kasparsons: I do like sculptural interior work.

Mr. McConnell: Ok. Thank you.

Mr. Astorino: There was a note or section of the Code on the plan. In my interpretation, it puts it to the agricultural side of it. Maybe an interpretation from the ZBA and the Zoning change from the Town Board could make this work? We will see about that.

Mr. McConnell: The name that you chose for your entity references farm.

Neil Kasparsons: We purchased the building with that LLC.

Mr. McConnell: Ok.

Dave Getz: We also need from the ZBA under that same section for adaptive reuse requires 2 acres. We have 1.4 acres. We would also need a variance for lot width. On the plan that we submitted where we were proposing Ag Use #19, that required other variances that we won't need if we go under adaptive reuse. That would sort of help us at the ZBA.

Connie Sardo: When you make your submittal to the ZBA, please explain all of that in your cover letter to the ZBA.

Dave Getz: Ok.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – pending comments

Comment #6: TW Building Department – 01/26/22 no violations

Comment #7: ZBA: For Ag Use 24, an area variance would be required as well as an interpretation of §164-42.E(2).

Mr. Astorino: Add that and what other variance you would need in your cover letter.

Dave Getz: Ok. Would the Planning Board give a recommendation to the ZBA?

Mr. Astorino: Giving a recommendation for an interpretation does not make sense to do that. The ZBA is going to interpret. The Planning Board would look at the Zoning revisions as they are being drawn up as we speak. If the Zoning revisions coincide, then the ZBA would be a moot point for this one. If that gets changed in Zoning to “Adaptive Reuse”, then you might only need a variance for the acreage and not worry about the interpretation.

Dave Getz: Is it the fact that because the building is not old enough?

Mr. Astorino: John, that is the only thing in the Code that prohibits us right now is that one sentence in there. Is that correct?

Mr. Bollenbach: Yes. It is for structures that were in existence at the time. The original intent was for structures not to be built then all of a sudden be sold for commercial purposes. It was to try to help out the agricultural community.

Mr. Astorino: Ok. It makes sense to do that. We will list Comment #8 through Comment #20 for the record. Do any Board members or Professionals have any comments or concerns?

Dave Getz: Regarding Comment #9, water use, we had done a dye test. There was a septic system that had been installed. We had done a dye test. We based it on more employees than he would imagine to have. He based it on 5 employees. It is a very low impact business. There would not be a lot of traffic. There won't be any outdoor activities. It would be a quiet place. It would be a really good fit.

Mr. Astorino: When do you intend to go to the ZBA?

Dave Getz: In March.

Mr. Astorino: Ok.

Dave Getz: Could the Planning Board set this application for a public hearing?

Mr. Astorino: We could do that for the next available agenda once you get back from the ZBA.

Mr. McConnell makes a motion to set the Mission Land Farm, LLC application for a Site Plan & Special Use Permit Public Hearing at the next available agenda.

Seconded by Mr. Showalter. Motion carried; 5-Ayes and 0-Nays.

Dave Getz: Thank you.

Comment #8: Planning Board may wish to schedule a site inspection.

Comment #9: Water use calculations must be provided and a dye test must be conducted to demonstrate that the existing septic system is adequate and functioning.

Comment #10: Applicant must update the plan with 911 address (Sheet C-1, note 4).

Comment #11: A letter to the Town Assessor is required to combine the two lots.

Comment #12: The proposed dumpster requires screening; please add vegetative screening to the plan.

Comment #13: To comply with §164-46J(85), please state the type of source(s) of fuel to be used.

Comment #14: Applicant to show any proposed sign in accordance with §164-43.1.

Comment #15: Please update Sheet C-1, note 15 to state that Applicant will comply with the Town's Performance Standards §164-48.

Comment #16: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet C-1, Note 13

Comment #17: The declaration information for the Aquifer Overlay and Aquifer Protection Notes must be added to the plans.

Comment #18: The surveyor must sign and seal the plan.

Comment #19: Surveyor to certify that iron rods have been set at all property corners.

Comment #20: Payment of all fees.

Peter J. & Amanda E. Calabrese and Merton & Jacqueline Corn

Application for Sketch Plat Review and Final Approval of a proposed Lot Line Change, situated on tax parcels S 40 B 1 L 77.1 & 77.2; parcels located on the western side of Ryan's Way 350 feet south of Rutherford Road (16 Ryan's Way & 4 Ryan's Way), in the RU zone, of the Town of Warwick.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – pending comments
6. TW Building Department – 01/27/22 parcel 40-1-77.1 has an expired permit for a shed (#22023).
7. ZBA: Existing parcel 40-1-77.1 is currently non-conforming for the lot size; existing parcel 40-1-77.2 has three existing non-conformities (lot size, lot width, and one side setback). Proposed parcel 40-1-77.2 gains lot area (but not enough to be conforming) and remains the same for lot width and one side setback. Proposed parcel 40-1-77.1 loses lot area, which increased the non-conformity and will require a ZBA variance.
8. Planning Board to determine if site inspection is desired.
9. The parcels should be identified as Lot 1 and Lot 2.
10. If there is no land disturbance proposed, there should be a note added to the plan stating that no land disturbance is proposed as part of this application. Sheet 1, Note 7
11. The surveyor signature and seal must be included on the final drawing.
12. The Town of Warwick standard note for lighting shall be added to the plan.
13. Applicant to show the dotted line for the private road Ryan's Way so that tax map can be updated.
14. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Planning Board to discuss the home currently under construction. Sheet 1, Note 11
15. Surveyor to complete and submit Town of Warwick Certification of Iron Pins form.
16. The liber and page for the deed referencing the changes made to the lot lines must be added to the plan.
17. Payment of all fees.

The following comment submitted by the Conservation Board:

Peter J. & Amanda E. Calabrese and Merton & Jacqueline Corn – None submitted.

The following comment submitted by the ARB:

Peter J. & Amanda E. Calabrese and Merton & Jacqueline Corn – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: As per Mr. Ted Fink's email dated 2/15/22, he has stated the following SEQRA comment: *"The Applicant has submitted a short EAF for the Planning Board's review. This application is for a proposed simple lot line change. There is no proposed construction. It meets the threshold for a Type 2 Action under SEQRA. I have prepared a Type 2 Action Resolution for the Planning Board's consideration."*

Mr. McConnell makes a motion for the Type 2 Action.

Seconded by Mr. Showalter. The following Resolution was carried 5-Ayes and 0-Nays.

617.6

State Environmental Quality Review (SEQR)

Resolution

Type 2 Action

Name of Action: Calabrese-Corn Re-Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of an application for Resubdivision approval by Peter J. and Amanda E. Calabrese and Merton and Jacqueline Corn for two parcels of land consisting in total of ± 5.077 acres, located at Rutherford Road and Ryans Way, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 1/26/22 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type II Action that meets the thresholds found in 6 NYCRR 617.5(c)(11) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is within a New York State Agricultural District or on property with boundaries within 500 feet of a farm within an Agricultural District and, therefore, the requirements of 6 NYCRR 617.6(a)(5) apply meaning that an Agricultural Data Statement must be filed with the owner(s) of farm operations identified in the Statement and the Planning Board must evaluate and consider the Statement to determine possible impacts the proposed project may have on the functioning of farm operations within the agricultural district, and

Whereas, after examining the EAF, the Planning Board has determined that the Town Zoning Board of Appeals is an involved agency, which will make its own SEQR determination; there are no federal agencies involved on this matter.

Now **Therefore Be It Resolved**, that the Planning Board hereby declares that no further review under SEQR is required.

Comment #2: Applicant to discuss project.

Dave Getz: The two families live next to each other on Ryan's Way. Both lots are a little over 2 acres in size. The Calabrese family would like to gain a sliver of land of approximately 1/10th of an acre adjacent to their driveway. They have spoken to the neighbor Mr. Corn. He is willing and made an arrangement to swell that land. There is no construction proposed. It is just changing the lines on paper. It doesn't affect any utilities or anything else physical nature.

Mr. Astorino: I want to jump to Comment #7 regarding the ZBA.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – pending comments

Comment #6: TW Building Department – 01/27/22 parcel 40-1-77.1 has an expired permit for a shed (#22023).

Comment #7: ZBA: Existing parcel 40-1-77.1 is currently non-conforming for the lot size; existing parcel 40-1-77.2 has three existing non-conformities (lot size, lot width, and one side setback). Proposed parcel 40-1-77.2 gains lot area (but not enough to be conforming) and remains the same for lot width and one side setback. Proposed parcel 40-1-77.1 loses lot area, which increased the non-conformity and will require a ZBA variance.

Mr. Astorino: You will need to go to the ZBA for those variances. Once you receive the variances, then you can come back to the Planning Board.

Mr. McConnell: Who gains what here? It doesn't make anything conforming.

Dave Getz: It gives them the ability when they get past their driveway, they would have some more yard to work with. They initially requested more land 100 feet wide. That was what they thought they had agreed on. Mr. Corn has said no and reduced it to 30 feet wide.

Mr. Astorino: It is very expensive for 30 feet. You will need to go to the ZBA. Then, you can come back to us.

Dave Getz: Yes. We plan to go to the ZBA.

Mr. Astorino: Ok. We will list Comment #8 through Comment #17 for the record. Do any Board members or Professionals have any comments?

Mr. Bollenbach: Regarding Comment #13 to show the dotted line for the private road Ryan's Way, on the location map it spells out Ryan's Way. That is not located on the official tax map. It doesn't even show a Ryan's Way on the tax map. It was improperly delineated to begin with. You will need to show a dash line or dotted line to indicate where Ryan's Way is. Also include the turnaround or cul-de-sac.

Dave Getz: Ok. Will do. Thank you.

Comment #8: Planning Board to determine if site inspection is desired.

Comment #9: The parcels should be identified as Lot 1 and Lot 2.

Comment #10: If there is no land disturbance proposed, there should be a note added to the plan stating that no land disturbance is proposed as part of this application. Sheet 1, Note 7

Comment #11: The surveyor signature and seal must be included on the final drawing.

Comment #12: The Town of Warwick standard note for lighting shall be added to the plan.

Comment #13: Applicant to show the dotted line for the private road Ryan's Way so that tax map can be updated.

Comment #14: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Planning Board to discuss the home currently under construction. Sheet 1, Note 11

Comment #15: Surveyor to complete and submit Town of Warwick Certification of Iron Pins form.

Comment #16: The liber and page for the deed referencing the changes made to the lot lines must be added to the plan.

Comment #17: Payment of all fees.

Other Considerations:

- 1. Schutzman & Klein Lot Line Change** – Letter from Jessica Hoye/Dave Getz, Engineering Properties, dated 1/20/22 in regards to the Schutzman & Klein Lot Line Change – requesting “Re-Approval” of Final Approval of a proposed Lot Line Change; situated on tax parcels SBL #47-1-81 & 82.22; parcels located on the eastern side of Bellvale Lakes Road 11,500 feet north of Iron Forge Road (282 Bellvale Lakes Rd.), in the MT zone, of the Town of Warwick. Conditional Final Approval was granted on 1/20/21. *The Applicant has stated that the Re-Approval is needed due to Delays encountered in filing documents at the O.C. Clerk’s office.* Re-Approval of Final Approval becomes effective on 1/20/22.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying.

Dave Getz: We are still working with the attorneys on this. There was a typo when he tried to file. It has been a long ordeal to try and get that corrected. He is still in the midst of doing that.

Mr. McConnell: Don’t blame that on the O.C. Clerk’s office. Blame it on the attorneys.

Dave Getz: They didn’t make the typo. It just has been a long haul.

Mr. McConnell: John, what is the situation at the Clerk’s office? Are they catching up with filings?

Mr. Bollenbach: Yes. They have been doing electronic filings.

Mr. McConnell: There is no longer an issue with the County. Is that correct?

Mr. Bollenbach: No. They are still backlogged.

Mr. Showalter makes a motion on the Schutzman & Klein Lot Line Change application, granting Re-Approval of Final Approval for a proposed lot line, situated on tax parcels S 47 B 1 L 81 and L 82.22; parcels located on the eastern side of Bellvale Lakes Road 11,500 feet north of Iron Forge Road (282 Bellvale Lakes Road), in the MT zone, of the Town of Warwick, County of Orange, State of New York. Conditional Final Approval was granted on 1/20/21.

Re-Approval of Final Approval becomes effective on 1/20/22.

Seconded by Mr. McConnell. Motion carried; 5-Ayes and 0-Nays.

- 2. Planning Board Minutes of 1/19/22 for PB Approval.**

Mr. McConnell makes a motion to approve the Planning Board Minutes of 1/19/22.

Seconded by Mr. Showalter. Motion carried; 5-Ayes and 0-Nays.

3. Planning Board to discuss canceling the 2/21/22-Work Session & 3/2/22-PB Meeting.

Mr. McConnell Makes a motion to cancel the 2/21/22-Work Session & 3/2/22-PB Meeting.

Seconded by Mr. Showalter. Motion carried; 5-Ayes and 0-Nays.

Correspondences:

Mr. Astorino: Connie, do we have any correspondences this evening?

Connie Sardo: It is that time of year again where each Planning Board member needs to earn hours of credits this coming spring and fall for the year 2022-2023. Each Board member needs to earn a minimum of 5-Hours of Credits. I have to say that Roger has been very good with keeping up on his credits. The rest of the Board members need to do the same.

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 February 16, 2022 Planning Board Meeting.

Seconded by Mr. Showalter. Motion carried; 5-Ayes and 0-Nays.