

*Village of Pawling
Planning Board
9 Memorial Avenue
Pawling, New York 12564*

Robert Pfister, Jr.
Chairman

Tel. (845) 855-1128
Fax (845) 855-9317

December 13, 2022

Diana Tomassetti
Main Corners Properties, LLC
85 Charles Colman Boulevard
Pawling, New York 12564

Re: Main Corners Properties, LLC, Project at 146 East Main Street, Pawling, NY 12564

Dear Ms. Tomassetti:

Enclosed please find a letter from the Village of Pawling Zoning Board of Appeals to the Planning Board regarding the Planning Board's resolution dated November 15, 2022 ("Resolution") to rescind the negative declaration issued on October 13, 2020 ("Negative Declaration") with respect to the application of Main Corners Properties, LLC for Site Plan Approval relating to its project at 146 East Main Street, Pawling, New York 12564 (the "Project").

As previously noticed, your comments on this matter must be submitted to the Planning Board on or before December 21, 2022.

This matter will also be on the Planning Board's agenda for its meeting on January 10, 2023.

Sincerely, 

Robert Pfister, Chairman
Village of Pawling Planning Board

*Village of Pawling
Zoning Board of Appeals
9 Memorial Avenue
Pawling, New York 12564*

Michael Keupp
Chairman

Tel. (845) 855-1128
Fax (845) 855-9317

December 13, 2022

Robert Pfister, Chairman
Village of Pawling Planning Board
9 Memorial Avenue
Pawling, New York 12564

Re: Village of Pawling Planning Board (“Planning Board”) resolution dated November 15, 2022 (“Resolution”) to rescind the negative declaration issued on October 13, 2020 (“Negative Declaration”) with respect to the application of Main Corners Properties, LLC for Site Plan Approval relating to project at 146 East Main Street, Pawling, New York 12564 (the “Project”)

Dear Mr. Pfister:

Please be advised that the Village of Pawling Zoning Board of Appeals (the “ZBA”), an involved agency under SEQRA, held a special meeting on December 7, 2022 to discuss the above Resolution. After careful consideration, including a public hearing and review of the potential significant adverse environmental impacts associated with the substantive changes to the Project proposed by the applicant that were not previously considered by the Planning Board or the ZBA, the ZBA unanimously voted in favor of a resolution supporting the Planning Board’s decision to rescind the Negative Declaration.

Sincerely,



Michael Keupp, Chairman
Village of Pawling Zoning Board of Appeals

Village of Pawling Planning Board
Notice of Rescission of Negative Declaration dated November 15, 2022

To: Village of Pawling Board of Trustees

From: Robert Pfister, Chairman of the Village of Pawling Planning Board

Re: Site Plan Applicant for Main Corners Properties LLC, 146 East Main Street Pawling, New York 12564

Date: November 21, 2022

Please take notice that on November 15, 2022, the Village of Pawling Planning Board (“Planning Board”) passed a resolution (“Resolution”) to rescind the negative declaration issued pursuant to the New York State Environmental Quality Review Act with respect to the application of Main Corners Properties LLC for Site Plan Approval to construct a building and other improvements (the “Project”) on premises located at 146 East Main Street, Pawling, New York (the “Premises”);

The Applicant and all involved agencies may submit any written comments with respect to this rescission of the negative declaration to the Planning Board Secretary at 9 Memorial Avenue, Pawling, New York 12564. **All such comments must be received on or before December 21, 2022 in order to be considered by the Planning Board.**

Following the expiration of such comment period, the Planning Board shall reconsider whether to rescind the negative declaration. If the Planning Board’s determines at that time to rescind the negative declaration, the Planning Board will prepare, file and publish a positive declaration in accordance with 6 NYCRR § 617.12



March 29, 2022

Mr. Robert Pfister, Chairman
Planning Board
Village of Pawling
9 Memorial Avenue
Pawling, NY 12564

RE: Restaurant
146 East Main Street

Dear Chairman Pfister and Members of the Board:

Enclosed please find architectural renderings and site details illustrating proposed revisions to the approved restaurant building located at 146 East Main Street. Specifically, these exterior building revisions include:

1. The renderings show the brick that was a previous Planning Board-approved change.
2. The roof material was changed from an asphaltic Fiberglas architectural roof shingle to a synthetic 'clay' roof tile. The color is currently terracotta. It is proposed to paint the roof with an appropriate coating in a bronze/brown color.
3. Columns will be installed at the main entry canopy (East Side) as previously approved
4. Additional columns will be added to the outdoor dining area along East Main Street, as previously approved
5. Due to grade, safety and privacy concerns, a brick half-wall has been installed at the exterior perimeter of the outdoor dining areas along East Main Street (both floors).
6. Stone veneer has been placed on the northerly/short wall of the outdoor dining areas. It is proposed to remove this veneer and replace with Hardie-board siding to match the rest of the building.
7. The easterly/long exterior building walls of the outdoor dining areas have been changed to a dimensional travertine stone veneer, to match the finish on the interior bar area.
8. The roof over the enclosed basement stairs on the north side of the building was modified and extended in order to locate required HVAC equipment. This area will have a 3' high railing, similar in style to the railing that will be used on the main entry canopy, as approved. The railing will screen the HVAC equipment, while provide for access for servicing.

63 East Main Street • Pawling, NY 12564 • T. 845-493-0235 • www.thejantilegroup.com

THE JANTILE
GROUP

JANTILE

JANTILE
CONCRETE

JANTILE
SPECIALTIES LLC

ZONCA
TERRAZZO & STONE LLC

JANTILE
CABINETS & COUNTERTOPS

GROUP
DESIGNS LLC
ARCHITECTURE • PLANNING • MANAGEMENT

9. Small areas of trim detail on the south and east sides of the first-floor exterior have been changed from white trim material to brick.

In addition to these building changes, we offer the following as they pertain to the site:

- NYSEG has installed a new pole and permanent electrical service/meter panel for the restaurant. The location (as dictated by NYSEG) of these items will require the elimination of one parking spot at the northwest corner of the site. This area will now become green space, curbing shall be modified and meter panel will be painted and screened with some plantings.

41 parking spaces were approved previously. The elimination of the aforementioned parking space will result in a total of 40 parking spaces on the site.

- The sign detail has been revised and is included in this submission. The sign location is in the same general location as previously approved.
- The installed Belgian block curbing within the Village ROW along East Main Street shall be removed and replaced with poured-in-place concrete curbing. The curbing within the site shall remain as Belgian block.

The applicant and/or myself can be available to meet with members of the Board to walk the site prior to the April 12th Planning Board meeting to discuss these items. Please let us know when may be convenient for you.

This concludes our response at this time. If you have any questions and/or require additional information, please contact our office.

Sincerely;

A handwritten signature in blue ink, appearing to read 'Curt M. Johnson', with a long horizontal flourish extending to the right.

Curt M. Johnson, RA

| DATE | DESCRIPTION | BY |
|-----------|---------------------------|----|
| 1/20/2022 | PLANNING BOARD SUBMISSION | AZ |
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PROJECT NAME

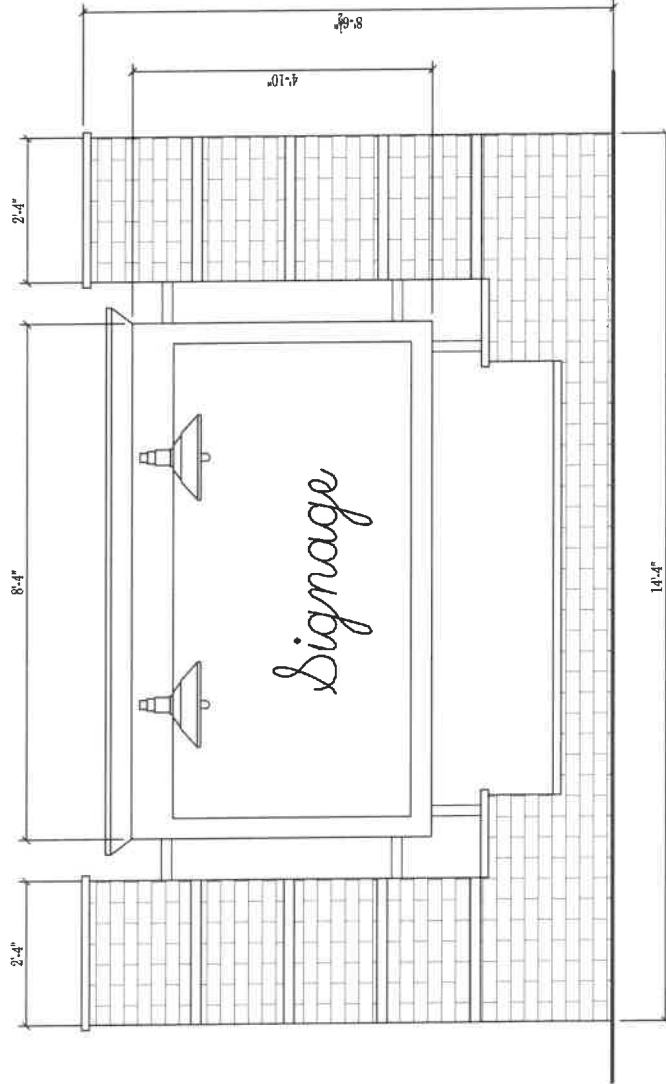
Restaurant
 144 East Main Street
 Pontiac, MI 48063

DATE: 2/20/22

PROPOSED EXTERIOR VIEWS

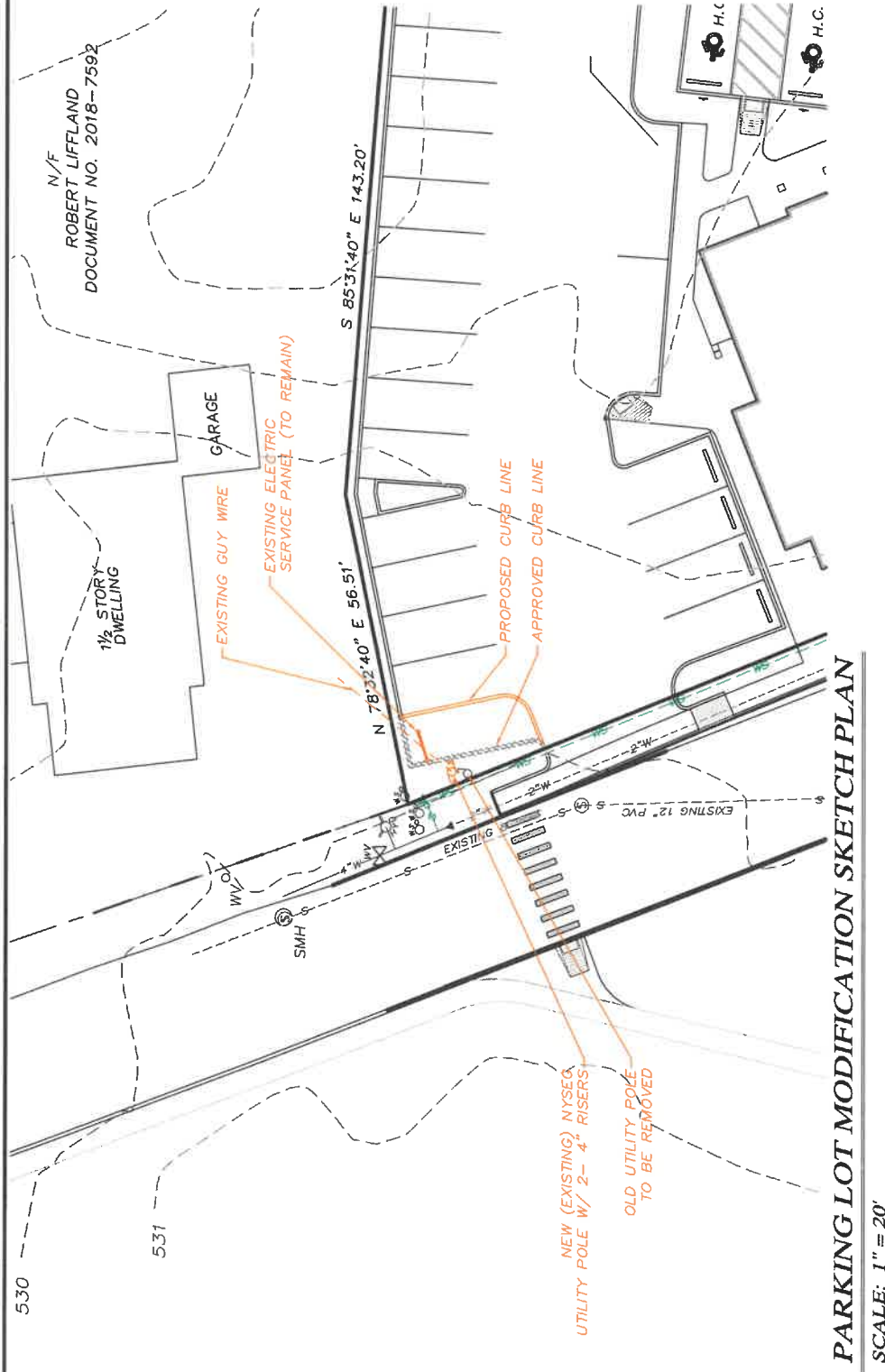
DRAWING NUMBER





SIGNAGE FRONT VIEW

SIGNAGE SIDE VIEW



PARKING LOT MODIFICATION SKETCH PLAN
 SCALE: 1" = 20'

DRAWING TITLE: PARKING LOT MODIFICATION SKETCH

| | | | | | |
|--|----------|--------------|----------|--------------|----------------|
| SCALE: | AS NOTED | DATE ISSUED: | 03-29-22 | PROJECT NO.: | 2019.034 |
| DRAWN BY: | GP | CHECKED BY: | RZ | APPROVED BY: | JZ |
| ZARECKI & ASSOCIATES, L.L.C. Consulting Engineers - Land Surveyors - Architects 843.853.3711 843.853.3772 (fax) | | | | DWG. NO. | SK-1 |
| | | | | | SHEET 01 OF 01 |

PROPOSED RESTAURANT
 PREPARED FOR
MAIN CORNER PROPERTIES, LLC
 146 EAST MAIN STREET
 VILLAGE OF PAWLING
 COUNTY OF DUTCHESS
 STATE OF NEW YORK



| ISSUE NO. | DATE | DESCRIPTION/COMMENTS |
|-----------|------------|--|
| 1 | 03/29/2022 | McCarthy - 146 East Main Street ALL RIGHTS RESERVED. COPY OR REPRODUCTION OF THIS DRAWING OR DOCUMENT WITHOUT THE EXPRESS WRITTEN PERMISSION OF ZARECKI & ASSOCIATES, L.L.C. IS PROHIBITED. THIS DRAWING OR DOCUMENT IS NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR ANY PURPOSE OTHER THAN THE SPECIFIC PROJECT AND SITE DESCRIBED HEREIN. THE USER OF THIS DRAWING OR DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL OTHER AGENCIES AND PROJECT OWNERS. THE USER OF THIS DRAWING OR DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL OTHER AGENCIES AND PROJECT OWNERS. THE USER OF THIS DRAWING OR DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL OTHER AGENCIES AND PROJECT OWNERS. THE USER OF THIS DRAWING OR DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL OTHER AGENCIES AND PROJECT OWNERS. |

Know what's below. Call before you dig.
 800-485-3982

JOSEPH ZARECKI, P.E.
 N.Y. LICENSE No. 61469

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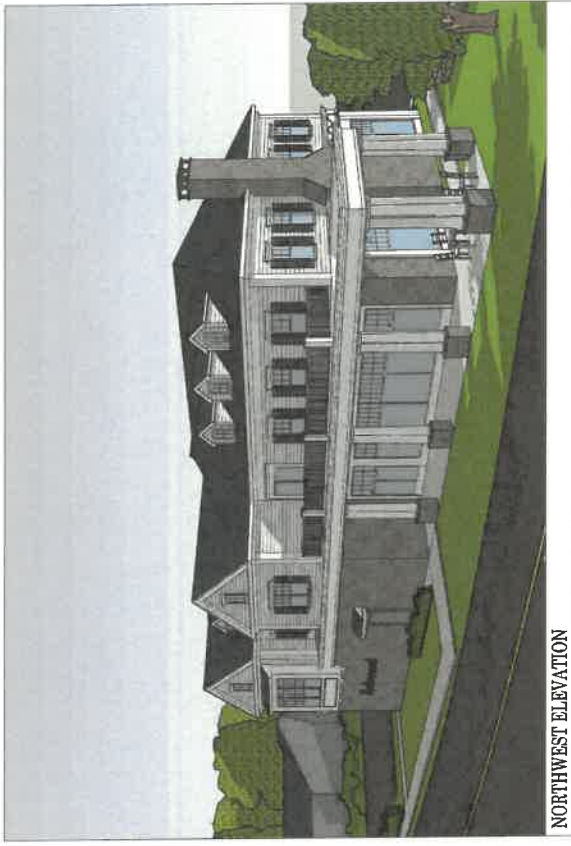


PROJECT NAME:
Restaurant
 148 West Street
 Farmingdale, NY 11737

DATE:
 01-24-2020

DATE PREPARED:
**PROPOSED
 EXTERIOR VIEWS**

DATE PLOTTED:
 01-24-2020



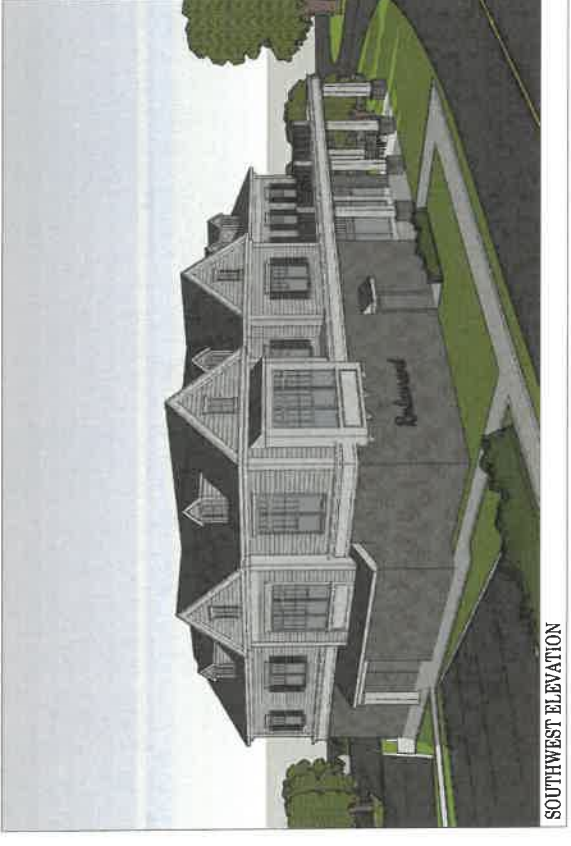
NORTHWEST ELEVATION



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION

PREVIOUSLY APPROVED RENDERING FOR REFERENCE ONLY

FILED WITH
NOV 16 2022
VILLAGE CLERK

At a Meeting of the Village of Pawling Planning Board held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 15th day of November 2022, at 7:00 PM

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF PAWLING

The meeting was called to order by Chairman Robert Pfister and the following were:

P R E S E N T:

Chairman Robert Pfister
 Lou Musella
 Adam Muroski (**Absent**)
 Peter Pennelle
 Michael Mersand

The following Resolution was proposed by **Chairman Robert Pfister**, who moved its adoption, and seconded **Member Peter Pennelle**.

WHEREAS, on or about **October 13, 2020**, the Planning Board issued a negative declaration (“Negative Declaration”) under the New York State Environmental Quality Review Act (“SEQRA”) with respect to the application of Main Corner Properties LLC (“Applicant”) for site plan approval to construct a building and other improvements (the “Project”) on premises located at 146 East Main Street, Pawling, New York (the “Premises”);

WHEREAS, on or about December 8, 2020 the Planning Board approved such site plan application, subject to certain conditions and limitations, one of which stated: [t]his approval is limited to and conditioned upon the plans specification and uses set forth in the application for site plan approval, as amended. and the reports of the Village Engineer and Village Planner submitted to and accepted by the Planning Board in review of the application;

WHEREAS, based on violations by the Applicant of certain of the foregoing conditions, on August 22, 2022, Hon. Christie L. D’Alessio, Justice of the Supreme Court of the State of New York, County of Dutchess issued a decision and order which granted the Village’s

application for a preliminary injunction enjoining the Applicant from performing any further work on the Premises unless and until proper permits are obtained from the Building Department for the Village of Pawling or the prior permit, which was revoked as of December 22, 2021, is restored by the Building Department for the Village of Pawling.

WHEREAS, the Planning Board has discussed the fact that the Applicant's application for modifications to the site plan for the Project ("Modification Application") includes substantive changes that were not previously considered by the Planning Board;

WHEREAS, the nature of these substantive changes has been discussed by the Planning Board at this and prior meetings;

WHEREAS, 6 NYCRR 617.7(f) provides as follows:

Rescission of negative declarations.

- (1) At any time prior to its decision to undertake, fund or approve an action, a lead agency must rescind a negative declaration when substantive:
 - (i) changes are proposed for the project; or
 - (ii) new information is discovered; or
 - (iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that a significant adverse environmental impact may result.
- (2) Prior to any rescission, the lead agency must inform other involved agencies and the project sponsor and must provide a reasonable opportunity for the project sponsor to respond.
- (3) If, following reasonable notice to the project sponsor, its determination is the same, the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part.

WHEREAS, the Planning Board has received and evaluated the report from the Village Architect opining that the changes to the site plan proposed by the Applicant may have significant adverse environmental impacts relating to non-conformance with the Village's comprehensive plan, community character, and significant adverse visual and aesthetic impacts;

WHEREAS, the Planning Board has considered the Village Architect's report and has engaged in further discussion and consideration as to whether the Modification Application may result in a significant adverse environmental impact, including significant adverse impacts relating to non-conformance with the Village's comprehensive plan, community character, and significant adverse visual and aesthetic impacts;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Modification Application involves proposed substantive changes for the Project as well as changes in circumstances related to the Project that were not previously considered;
2. The changes proposed in the Modification Application may result in a significant adverse environmental impact result.
3. Prior to considering a resolution to rescind the Negative Declaration the Planning Board shall inform other involved agencies and the Applicant of its intent to rescind the Negative Declaration and will provide the Applicant and such agencies with a reasonable opportunity to respond;
4. Providing the Applicant a period of thirty (30) days to respond as provided above is deemed by the Planning Board to be a reasonable time period,
5. Following the receipt and consideration of responses from the Applicant and involved agencies and such other information deemed relevant by the Planning Board, the

Planning Board will thoroughly analyze any identified relevant areas of environmental concern and changes in circumstances related to the project that were not previously considered;


6. Following the actions described in section 5 above, the Planning Board will consider and vote on a motion to rescind the Negative Declaration;

The question of the foregoing Resolution was duly put to a vote, the Planning Board voting as follows:

| | <u>Aye</u> | <u>Nay</u> | <u>Absent</u> |
|-------------------------|------------|------------|---------------|
| Chairman Robert Pfister | <u>X</u> | — | — |
| Lou Musella | <u>X</u> | — | — |
| Adam Muroski | — | — | <u>X</u> |
| Peter Pennelle | <u>X</u> | — | — |
| Michael Mersand | <u>X</u> | — | — |
| TOTAL | <u>4</u> | — | <u>1</u> |

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Planning Board at a meeting held on **November 15, 2022**.

Date: November 16, 2022


Vivian Nikolatos
Planning Board Secretary

FILED WITH
FEB 10 2022
VILLAGE CLERK

Village of Pawling
Planning Board
Combined Application Form

| | |
|--------------------|----------------------------------|
| Fees Paid: _____ | Application Date: <u>2/10/22</u> |
| Escrow Paid: _____ | PB Meeting Date: <u>3/8/22</u> |

REQUEST FOR: (Check all that apply)

- | | | | |
|----------------------------------|-------|----------------------------|-------|
| Pre-Application Discussion | _____ | Lot Line Revision Approval | _____ |
| Preliminary Subdivision Approval | _____ | Final Subdivision Approval | _____ |
| Site Plan Approval | _____ | | |
| Architectural Approval | _____ | | |

Name of Project: Main Corner Properties LLC

Tax Map Number of all parcels: 7056-09-244711

Street Address of all parcels: 146 East Main Street Pawling NY 12564

Description of Proposed Activity: Site plan amendment, requesting approval of architectural elements and finishes

Name of Applicant(s): Diana Tomassetti

Address: 85 Charles Colman Blvd Pawling NY 12564

Telephone: (845) 855-1201 Email: DTomassettiD@gmail.com

Name and Address of Record Owner(s): _____

12) Have any permits affecting the property been issued by any other governmental agency?
No Yes _____. If yes, please list in detail (attach separate pages if necessary):

13) Has any application(s) for any other permit(s) for any activity affecting the property been submitted to any other governmental agency?
No Yes _____. If yes, please list in detail (attach separate pages if necessary):

14) Attach a copy of the current deed and any easements affecting the property. Previously submitted

15) The site contains a federal jurisdictional wetland: Yes _____ No . If yes, provide a copy of any applications and correspondence with the USACOE.

16) The site contains a state protected freshwater wetland: Yes _____ No . If yes, provide a copy of any applications and correspondence with the NYSDEC.

17) The areal extent of proposed disturbance to the wetland is: None

18) The areal extent of proposed disturbance to the wetland buffer area is: None

Name and Address of Professional Engineer: Zarecki & Associates

Telephone: 845 855-3771 Email: JoeZ@Zarecki.com

Name and Address of Licensed Land Surveyor: _____

Telephone: _____ Email: _____

Name and Address of Attorney: Ben Gailey Jacobowitz & Gubits

158 Orange Ave PO Box 367 Walden NY 12586

Telephone: 845 778-2121 Email: JBG@jacobowitz.com

Name and Address of Biology/Wetland Consultant: _____

Telephone: _____ Email: _____

PART "D"
DISCLOSURE OF BUSINESS INTEREST

State of NY }
County of Dutchess } ss:

Diana Tomassetti being duly sworn, deposes and says:

1. Pursuant to §803 of the General Municipal Law the following municipal officer(s) or employee(s), and any of their family members, outside employers, business associates, clients, or campaign contributors, have, or will later acquire, an ownership position, employment position, or other contractual interest in the proposed project: (Insert name, home address and municipal position held. Attach additional pages as necessary.)

2. That the interest of said municipal officer(s) or employee(s) is: (Detail the nature and extent of the interest. Attach additional pages as necessary.)

3. That he/she understands that the Village of Pawling Planning Board intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury he/she declares that he/she has examined this affidavit and that it is true and correct.

Diana Tomassetti
Agent/Owner

Agent/Owner

Sworn to before me this 10 day of February, 2022.

Laura M Chipps
Notary Public



PART "A"
OWNER AFFIDAVIT

State of NY }
County of Dutchess } ss:

Diana Tomasseth being duly sworn, deposes and says:

1. That I/we are the Owner(s) of the within property as described in the foregoing application for Subdivision / Lot Line Change / Site Plan / Land Contour / Aquatic Resource approval(s) and that the statements contained therein are true to the best of my/our knowledge and belief.
2. That I/we hereby authorize _____, to act as my/our representative in all matters regarding said application(s), and that I/we have the legal right to make or authorize the making of said application.
3. That I/we understand that by submitting this application for Planning Board approval that I/we expressly grant permission to the Planning Board and its authorized representatives to enter upon the property, at all reasonable times, for the purpose of conducting inspections and becoming familiar with site conditions. I/we acknowledge that this grant of permission may only be revoked by the full withdrawal of said application from further Planning Board action.
4. That I/we understand that by submitting this application that I/we shall be responsible for the payment of all application fees, review fees, and inspection fees incurred by the Village related to this application.
5. That I/we understand that I/we, and any of our contractors and representatives shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from non-compliance with the approved application, and with non-compliance with any provision of the Village Code. I/we acknowledge that approval of the plan and commencement of any work related to the approved application shall constitute express permission to the Planning Board, the Building Inspector, the Planning Department, the Zoning Administrator, and any duly authorized representative of the Village of Pawling, to enter the property for the purposes of inspection for compliance with the approved application and any provision of the Village Code, whether or not any other permits have been applied for or issued for the project. I/we acknowledge that by submitting this application, and by approval of said application, including the commencement of any work related to the approved plan is an express waiver of any objection to authorized Village official(s) entering the property for the purpose of conducting inspections.
6. That I/we understand that the Village of Pawling Planning Board intends to rely on the foregoing representations in making a determination to issue the requested applications and approvals and that under penalty of perjury I/we declare that I/we have examined this affidavit and that it is true and correct.

Diana Tomasseth
Applicant/Owner

Applicant/Owner

Sworn to before me this 16 day of
February, 2022.

Laura M Chipps
Notary Public



VILLAGE OF PAWLING

9 Memorial Avenue

Pawling, NY 12564

Tel: (845)855-1128

Fax: (845)855-9317

AFFIDAVIT

I hereby certify that to the best of my knowledge there are no outstanding fees owed to of the Village of Pawling regarding the property or person identified below. Furthermore, I hereby certify that to the best of my knowledge, no outstanding violation of local laws or ordinances of the Village of Pawling exists with respect to the property or any structure or use existing thereon.

Property tax identification please verify the section, block and lot number(s) provided are correct. (See tax bill or contact Town Assessor's Office)

Section 7056 Block 09 Lot 244711

Address of property subject to application: 146 East Main Street Pawling NY 12564

Type of Application: Site plan amendment

Identify Board or Department: BUILDING/ZONING DEPARTMENT/PLANNING

Diana Innes

Owner

Agent

Laura M Chipps

Notary

Notary



CONFIRMATIONS

Building Inspector

Date

Planning/Zoning

Date

PROPOSED CHANGES TO PROJECT

x owner

PLEASE INITIAL EACH PAGE

x Bldg Insp.

x



EAST MAIN STREET ELEVATION

50 YEAR ARCHITECTURAL DISTRICT

HARSE BOARD / WHITE AZEIL

BRICK / STONE

Xowner

XBig EWS

X



Cemetery - elevation
- 20 year architectural roof
- hard wood / white wood

x 0.1m

x Brick. Insp.

x

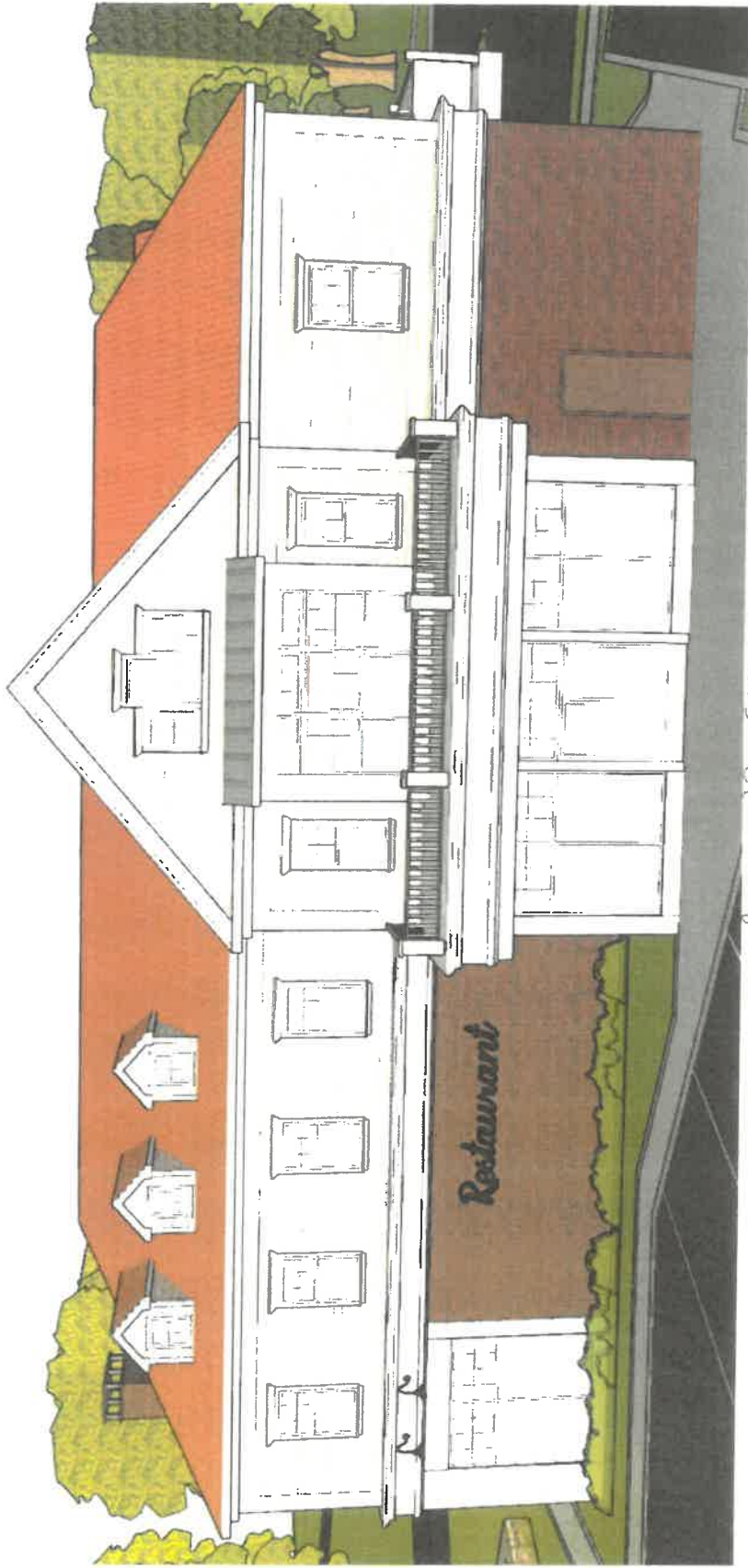


- Parking Lot Elevations
- 50 Year Architectural Roof
 - Hard Board Siding
 - White Airtex Siding
 - Bricks

x owner

x Brick Insp

x



Route 22 Elevations
20 year Architectural Roof
Have Board/White AZEK
Brick.



DOUBLE ROMAN

Composite Tile

Overview

Quarrix Double Roman composite tile delivers the same beautiful aesthetic look of traditional clay and concrete tiles but with half the weight and many more benefits. The synthetic composite material can be installed on existing homes and buildings without needing to make structural or roof modifications prior to application making it the perfect solution to remodeling older tile and concrete roofs. Because Quarrix composite tile can be installed in all cold and warm weather climates with no worries of cracking from freeze, frost or hail and its durability overtime delivers valuable savings, Quarrix composite tile is an excellent choice for any new construction project. Manufactured in the USA and backed by a 50-year warranty, Quarrix composite tile provides beauty and long-term superior performance with peace of mind for the life of the roof.



- **Lightweight Design Reduces Installation Costs**

67% less weight than traditional tile or concrete eliminating the need to reinforce roof structures.

- **Lasts for the Life of the Roof**

Backed by a 50-year warranty and Class 4 impact rating, Quarrix tile is extremely durable and will not chip or break from hail or when hit with golf balls. Tiles can be walked on and will not break during the installation process.

- **Approved for All Climates**

Deliver superior performance in all cold and warm weather climates. Tiles will not crack and are not susceptible to the freeze, thaw, mold, mildew, and sealing concerns associated with clay and concrete roofs.

- **Easy & Safe Installation**

Each composite tile weighs only 3.8 lbs and is lightweight, fast and easy to install. Feature interlocking design and are pre-drilled with easy-to-read alignment marks to speed installation. Tiles can be cut, drilled and fastened using standard tile roofing tools. Quarrix composite tile doesn't contain silica or lead for safe cutting and handling.

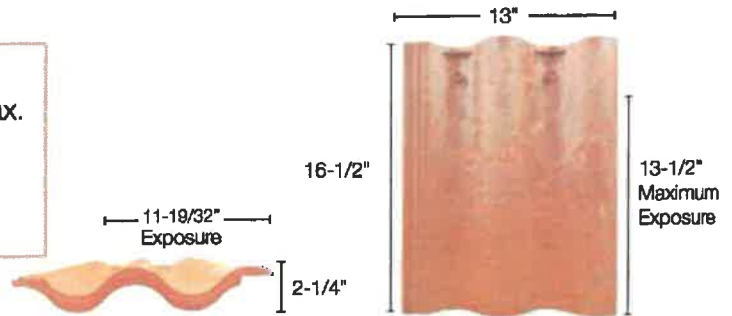
- **Complete System**

Quarrix created the System Advantage™, a line of high-quality roofing components that combat water drainage and poor air circulation in water shedding tile roofs. This full line of roofing accessories include: Tile Fasteners, Tile Battens, Universal Tile Flashing, Universal Tile Ridge Vent and more.



SPECIFICATIONS

| | |
|-----------------------------|--------------------------|
| Dimensions (overall) | 13" x 16-1/2" |
| Exposure | 11-19/32" x 13-1/2" max. |
| Tiles/Square | 92 |
| Weight/Square | 303.6 lbs. |
| Fire Rating | Class C |



| Part # | Description | Color | Weight/Tile | Weight/Square | Roofing Square |
|-----------|--|--------------|-------------|---------------|----------------|
| 2001BK | Double Roman Field Tile | Black | 3.3 lbs | 303.6 lbs | 92 pieces |
| 2001CE | Double Roman Field Tile | Canyon Earth | 3.3 lbs | 303.6 lbs | 92 pieces |
| 2001DR | Double Roman Field Tile | Desert Red | 3.3 lbs | 303.6 lbs | 92 pieces |
| 2001GR | Double Roman Field Tile | Goldenrod | 3.3 lbs | 303.6 lbs | 92 pieces |
| 2001SB | Double Roman Field Tile | Saddle Brown | 3.3 lbs | 303.6 lbs | 92 pieces |
| 2001SG | Double Roman Field Tile | Sage | 3.3 lbs | 303.6 lbs | 92 pieces |
| 2010BK | Hip/Ridge/Rake Tile | Black | 2 lbs | | |
| 2010CE | Hip/Ridge/Rake Tile | Canyon Earth | 2 lbs | | |
| 2010DR | Hip/Ridge/Rake Tile | Desert Red | 2 lbs | | |
| 2010GR | Hip/Ridge/Rake Tile | Goldenrod | 2 lbs | | |
| 2010SB | Hip/Ridge/Rake Tile | Saddle Brown | 2 lbs | | |
| 2010SG | Hip/Ridge/Rake Tile | Sage | 2 lbs | | |
| 2011BK | Starter Tile | Black | 1.9 lbs | | |
| 2011CE | Starter Tile | Canyon Earth | 1.9 lbs | | |
| 2011DR | Starter Tile | Desert Red | 1.9 lbs | | |
| 2011GR | Starter Tile | Goldenrod | 1.9 lbs | | |
| 2011SB | Starter Tile | Saddle Brown | 1.9 lbs | | |
| 2011SG | Starter Tile | Sage | 1.9 lbs | | |
| 2014SG/BK | Double Roman, Lower Metal Eave Closure | Black | | | |
| 2014CE | Double Roman, Lower Metal Eave Closure | Canyon Earth | | | |
| 2014DR | Double Roman, Lower Metal Eave Closure | Desert Red | | | |
| 2014GR | Double Roman, Lower Metal Eave Closure | Goldenrod | | | |
| 2014SB | Double Roman, Lower Metal Eave Closure | Saddle Brown | | | |
| 2015SG/BK | Double Roman, Upper Metal Closure | Black | | | |
| 2015CE | Double Roman, Upper Metal Closure | Canyon Earth | | | |
| 2015DR | Double Roman, Upper Metal Closure | Desert Red | | | |
| 2015GR | Double Roman, Upper Metal Closure | Goldenrod | | | |

CERTIFICATIONS & TESTING

Double Roman Composite Tile was tested for the following ICC-ES per AC-07 Acceptance Criteria for Special Roofing Systems:

ASTM G155 – 2000 Hours – Xenon Weathering

ASTM D638 – Tensile

ASTM D638 – Tensile – Weathered

Wind Resistance

Uplift Bend

Penetration

ASTM E108 – Class C Fire

ASTM D1929 – Ignition Temps

ASTM D1929 – Ignition Temps – Weathered

ASTM D635 – Rate of Burn

ASTM D635 – Rate of Burn – Weathered

ASTM D2843 – Smoke Density

Temperature Cycling

FM 4473 – Ice Hail Impact – Hail impact test for Class 4 Hail

*Not Florida or Miami Dade approved



Hip/Ridge/Rake Tile



Starter Tile



Metal Closures



Universal Tile Ridge Vent



Universal Tile Flashing



Tile Battens



Tile Fasteners



November 1, 2022

Mr. Robert Pfister, Jr, Chairman
Planning Board
Village of Pawling
9 Memorial Avenue
Pawling, NY 12564

RE: Restaurant
Architectural revisions
146 East Main Street

Dear Chairman Pfister and Members of the Board:

Enclosed please find updated architectural renderings for the restaurant building. Note that the site changes are same as previously submitted on 9-26-22. A synopsis of the proposed architectural revisions are as follows:

- Clad the existing brick chimney surface with natural stone veneer. Samples to be provided to the Planning Board at the 11/15/22 Planning Board meeting or before. It is the intent to select a stone that is similar in tone to the existing stone wall at the cemetery and secondary tones that tie to the roof color.
- It is proposed to cover some of the existing brick at south and east sides (main entry and south end of main dining area) of the building with a composite/PVC trim to better attain the design intent of the approved plans. The color of the trim shall be white. Existing corner boards on upper story to remain. The remaining exposed brick shall be painted a gray color, complementary to the stone selected for the chimney.
- It is proposed to cover the brick of the existing sign with the same stone veneer that is selected for the chimney.
- Windows on the second floor of the structure are double-hung function and of a scale, style and color similar to many of the houses in the vicinity of the project. These windows will have muntins and shutters, as per the approved plans.

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THE JANTILE
GROUP

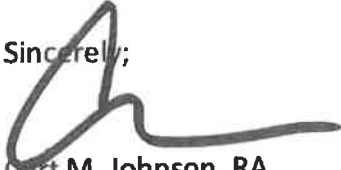


- The brick-faced half wall on the second-floor dining area will be covered with trim material on the exterior faces. The existing wall is structurally tied into the concrete slab of the outdoor dining area.
- The brick half wall that encloses the outdoor dining area on the ground floor level was installed as more of a safety and privacy feature. The wall will keep restaurant patrons within the outdoor dining area which is in close proximity to East Main Street. The brick face will be covered with trim material (white color) on the exterior faces. It is proposed to install an additional decorative column adjacent to each existing column along the ground-level outdoor dining area. Base and capital trim pieces shall be added to the columns. The cross-sectional shape of the columns shall be square to match the column enclosures already installed.
- Decorative columns with brick bases shall be placed at the main/east side entry per the approved design drawings.
- The roof was originally specified as composite roof shingles. A composite roof, similar in look to a traditional clay, was installed on the building and is fully completed. It is proposed to maintain this roof system.
- Shutters will be installed per the approved design plans.
- The cedar pergola structure shall be modified to set within the white 'entablature' that wraps the south end of the outdoor dining area, so that it will not be visible from the exterior of the building.
- It is proposed to remove the cultured stone on the second story (north end of outdoor dining area) and replace with composite horizontal lap siding to match existing second-story walls. The cultured stone on the lower-level outdoor dining area will be removed and replaced with travertine tile to match the adjacent wall.
- The bay at the northwest corner (facing East Main Street) of the building was modified in order to provide for a high window in the kitchen area. No change is proposed.
- The roof (over the basement-access stairs) configuration at the north end of the building was modified to accommodate required HVAC equipment. The flat roof shall be enclosed by railing similar to what will be installed at the front entry. The front entry covering was also extended to provide for better weather protection at the main building entrance.

- In addition to the items mentioned above, further discussion on the final color of the Hardieboard siding is offered. The Board may feel that a tone-on-tone (trim and siding) white color may work better in place of the beige color that is currently on the building. The owner is open to discussing this further.

Please review the submission at your earliest convenience. If you have any questions and/or require additional information, please contact my office.

Sincerely;

A handwritten signature in black ink, appearing to read 'Curt M. Johnson', with a long horizontal flourish extending to the right.

Curt M. Johnson, RA

| NO. | DATE | DESCRIPTION | BY |
|-----|------|-------------|----|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |



PROJECT NAME

Restaurant
146 East 19th Street
Parkville, NY 12846

DRAWING NO.

OPTION 2

DATE

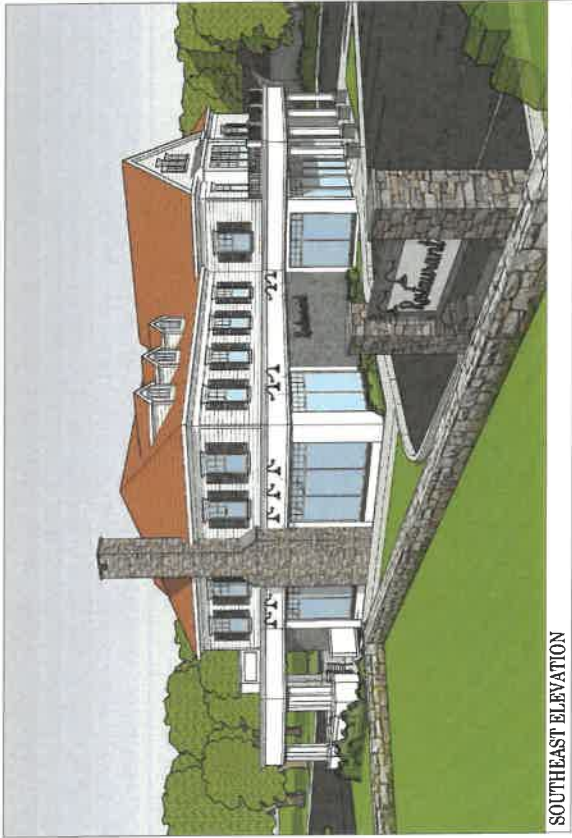
R-1



NORTHWEST ELEVATION



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION

| | |
|-------------|--|
| PROJECT NO. | 100001 |
| DATE | 01/15/2022 |
| BY | CLAYTON |
| DESCRIPTION | RESTAURANT |
| CLIENT | CLAYTON |
| LOCATION | 1445 EAST 17TH STREET, SUITE 100, MIAMI BEACH, FLORIDA 33139 |
| SCALE | 1/8" = 1'-0" |



PROJECT NAME
Restaurant
 1445 East 17th Street
 Miami Beach, FL 33139

DRAWING NO.
 100001

OPTION 1

DRAWING NAME
R-1



NORTHWEST ELEVATION



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION

| | | |
|------|-------------|----|
| DATE | DESCRIPTION | BY |
| | | |
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| | | |
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PROJECTIONS

Restaurant
146 East Main Street
Poughkeepsie, NY 12564

DRAWING NUMBER
100602

OPTION 2

DRAWING NUMBER

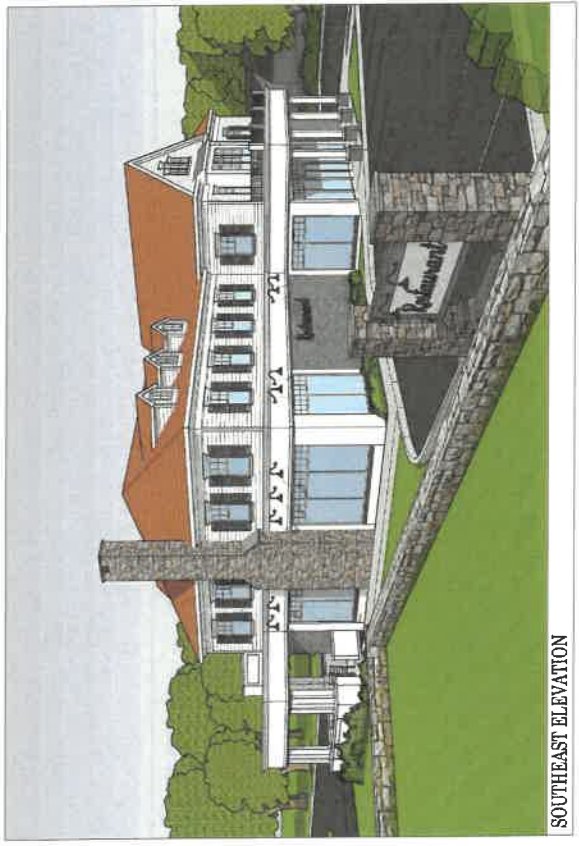
R-1



NORTHWEST ELEVATION



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION

MEMORANDUM

To: Village of Pawling Planning Board
From: LaBella Associates, Caren LoBrutto
Date: October 6, 2022
Re: 146 East Main Street, FKA McGraths
Project #: 81931.03, Task 0103

SUMMARY

The Applicant/Owner, Main Corner Properties, LLC, is seeking amended site plan approval from the Planning Board to account for changes made since site plan approval was granted. These changes include:

Site

- Parking
 - Loss of one parking space for NYSEG installation of pole and service/meter panel.
 - 41 spaces were approved. No area variance from the ZBA or waiver from the Planning Board for the approved number of parking spaces were required as part of the original approval. The parking was required to be compliant with the requirement for restaurants, which required 27 spaces (135 seats @ 1 parking space per 5 seats).
 - The amended design includes 40 spaces.
- Sign
 - The Applicant is proposing a revision to the approved sign.
 - The sign was previously approved as a monument sign facing Route 22.
 - The new proposed sign is on the building facing East Main Street
- Pavement/Curbing
 - The Applicant installed Belgian block in the Village ROW and will remove and replace with poured-in-place concrete curbing per the approved site plan.
 - The Applicant installed Belgian block at the entry apron to the site. This was not part of the approved site plan and will be removed.
 - The Applicant installed curbs and sidewalks that do not match the approved site plan. These will be removed.
 - The Applicant will remove sidewalk access to the outdoor dining area.
- Building Height
 - The Applicant raised the finished floor elevation (FFE) from 530.0 feet (approved) to 531.1 feet (constructed). A maximum building height of 2.5 stories and 35 feet is permitted in the R2 District.
- Landscaping
 - The Applicant proposes additional landscaping in Belgian block planting beds along the outdoor seating area with 3 – 4 foot high evergreen plantings for screening.
- Refuse
 - The refuse pad is larger than what was previously approved.

Building

21 Fox Street | Poughkeepsie, NY 12601 | p (845) 454-3980

www.labellapc.com

- The Applicant seeks approval for a larger building as it has been extended at the north end.
- The Applicant seeks approval for window wells, which have been added to provide light in the basement.
- The Applicant seeks approval for roof modifications to overhang the front entry.
- The Applicant seeks approval for the installation of a clay roof tile, which is proposed to be painted a color desired by the Planning Board. The original approved roofing was asphaltic fiberglass roof shingle.
- The Applicant seeks approval to allow the modified roof configuration at the north end of the building, which was modified to accommodate required HVAC equipment. The flat roof is proposed to be enclosed by railing similar to what will be installed at the front entry.
- Brick veneer was installed by the Applicant as opposed to natural stone. The Applicant proposes to have this approved as part of the amended site plan approval, but proposes to cover some brick at the south and east sides with a white composite/PVC trim.
- Cultured stone was installed by the Applicant, which is proposed to be approved with modifications under the amendment. The cultured stone on the second story (north end of outdoor dining area) is proposed to be replaced with composite horizontal lap siding to match existing second-story walls. The cultured stone on the lower-level outdoor dining area will be removed and replaced with travertine tile to match the adjacent wall. The travertine wall finish on the second floor shall remain.
- The Applicant seeks approval for the installation a high window in the bay at the northwest corner (facing East Main Street) of the building.
- Second floor windows were installed by the Applicant without mullions and shutters. The Applicant will install the mullions and shutters per the approved plan.
- The Applicant installed a brick-faced half wall on the second-floor, which will be removed and replaced with a painted metal and/or composite railing system per the approved plans. The railing will match the style of railing systems at the main entry roof covering as well as the railing that will surround the rooftop HVAC units on the north side of the building.
- The Applicant constructed and proposes to have approved a brick half wall that encloses the outdoor dining area on the ground floor level. The wall is proposed for safety.
- The Applicant proposes additional evergreen plantings and a decorative column adjacent to each existing column. Base and capital trim pieces are proposed to be added the columns. The cross-sectional shape of the columns are proposed be square to match the column enclosures already installed. Decorative columns with brick bases would be placed at the main/east side entry per the approved design drawings.
- The Applicant proposes to have a cedar pergola structure approved as part of the amended site plan which will be modified from its current appearance to be set within the white ‘entablature’ that wraps the south end of the building exterior. This is proposed to assist in making it look like part of the building.

Off Site – 140 East Main Street

- Landscaping
 - The Applicant is proposing vegetative screening on the adjoining property (140 E. Main Street) adjacent to the north end of the parking area at the location where the site abuts residences. The Applicant proposes to obtain an easement for installation and maintenance.
- Concrete Pad/Generator
 - A concrete pad was constructed previously by the Applicant on 140 E. Main Street for future use of a generator. No generator is proposed at this time.

Comments

1. An updated site plan set, including an elevation and building plans, should be obtained that includes and updated bulk table (e.g., height, parking, setbacks, total square feet, etc.). The Applicant previously obtained variances shown below. The Applicant should describe any changes to the conditions, which were the basis of these variance approvals.
 - Front yard
 - Side yard
 - Lot coverage
 - Parking stall size
 - Parking located in setback
2. Off Site/Concrete Pad: If the future generator is used by the restaurant, then this is part of the proposed action to operate a restaurant. The 140 E. Main Street property was not part of the approved Use Variance or the approved Site Plan. The Village attorney should be consulted as to whether the construction of the concrete pad for eventual operation of a generator for use by the restaurant is permitted under the existing use variance and the site plan.
3. The Planning Board should consider Robert Orr's (architectural consultant) comments and conclusions as they consider whether the proposed amendment includes architectural features and site design that is visually consistent or in sharp contrast with other buildings and structures in the area.

COUNTY REVIEW

A referral to the Dutchess County Department of Planning is required under General Municipal Law 239 because the site is located on a State road.

DOCUMENTS REVIEWED

- Village of Pawling Planning Board Combined Application Form
- Statement of Use
- Waiver request for size of parking spaces
- Full Environmental Assessment Form - Part 1 last revised 6/29/20
- Site Survey of existing conditions (reduced copy) as prepared by Robert V. Oswald, LS, dated 7 /8/19
- Aerial plan of existing site and surroundings
- Letter from Village of Pawling Building Inspector/Code Enforcement Officer, dated 12/17 /19 regarding use variance
- Village of Pawling Zoning Board of Appeals decision and minutes, date 11/29/94
- Site Plan (C100), Erosion and Sediment Control Plan (C101), Landscaping Plan and Details (C102), Lighting Plan and Details (C103) and Details (C500), prepared by Zarecki & Associates, LLC, dated 1-24-2020, last revised 11/30/2020
- Schematic building plans (A-1) and elevations (A-2), prepared by J Group Designs, LLC, dated 1/24/2020
- Letter from J Group Designs LLC dated 06-09-20 responding to Chazen Companies review of 02-10-20
- Letter from J Group Designs LLC dated 06-09-20 responding to Joseph P Berger P.E. of Berger Engineering and Surveying PLLC review letter of 01/10/20

- Letter from J Group Designs LLC dated 06-29-20 to Planning Board stating reduction in seats from 200 to 135.
- Watts and Quaker Hill Burial Ground information
- NYSOPRHP not eligible determination for the restaurant building on 2/26/2020
- NYSOPRHP 2/27/2020 letter requesting more information
- NYSOPRHP 3/6/2020 letter recommending Phase 1A
- Phase 1A Archaeological Sensitivity Assessment, dated June 2020, prepared by Strata Cultural Resource Management
- An End of Fieldwork (EOF) Letter (dated 9/25/2020) for the Phase IB Archaeological Field Investigation prepared by Strata Cultural Resource Management
- NYSOPRHP 9/30/2020 letter, conditional no concern letter
- Berger Engineering and Surveying Comment Letters, dated 1/10/2020 and 6/9/2020
- Dutchess County Department of Planning and Development 3/9/2020 Letter (Referral # 20-071)
- Final Full Environmental Assessment Form with notes dated 10/13/20
- Letter from J Group Designs LLC dated 11/23/20 responding to Chazen Companies review of 10/9/20
- 12/4/20 J Group Designs LLC letter to Planning Board response to County comments
- Amended Site Plan Application, dated 2/10/21
- Renderings, undated, received February 2021
- 3/29/2022 J Group Designs LLC letter to Planning Board describing exterior revisions
- Renderings, dated 3/29/2022, Sheet R-1, revised 4/8/2022, revised 7/20/2022, revised 9/27/2022
- Signage Detail, dated 3/28/2022, revised 7/20/2022
- Parking Lot Modification Sketch Plan, dated 3/29/2022
- Robert Orr and Associates LLC Aesthetic Review Letter, dated 7/11/2022
- 7/20/2022 Letter to the Planning Board from Applicant
- Full Environmental Assessment Form (FEAF), dated 8/30/22
- 9/26/2022 J Group Designs LLC letter to the Planning Board re: site plan and architectural revisions



August 30, 2022

Mr. Robert Pfister, Jr, Chairman
Planning Board
Village of Pawling
9 Memorial Avenue
Pawling, NY 12564

RE: Restaurant
Architectural revisions
146 East Main Street


Dear Chairman Pfister and Members of the Board:

Attached please find an updated Full Environmental Assessment Form (FEAF) prepared for the project as it pertains to the proposed architectural revisions for the project. We respectfully request to be placed on the September 13, 2022 Planning Board agenda.

If you require any additional information, please contact our office.

Thank you.

Sincerely,


Curt M. Johnson, RA

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GROUP DESIGNS LLC
ARCHITECTURE · PLANNING · MANAGEMENT

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

| | | |
|---|--------------------------------|---------------------------------------|
| Name of Action or Project: Main Corner Properties LLC Restaurant | | |
| Project Location (describe, and attach a general location map): 146 East Main Street, V/o Pawling; northwest corner of NYS Route 22/East Main Street/Quaker Hill Road intersection; TM 7056-09-244711-00 | | |
| Brief Description of Proposed Action (include purpose or need): Approval for architectural revisions to previously-approved and partially completed 2-story restaurant with full basement and related site improvements | | |
| Name of Applicant/Sponsor: Main Corner Properties, LLC | Telephone: 845-855-1201 | E-Mail: dtomassettid@gmail.com |
| Address: 23 East Main Street | | |
| City/PO: Pawling | State: NY | Zip Code: 12564 |
| Project Contact (if not same as sponsor; give name and title/role): Curt Johnson, RA (architect), J Group Designs, LLC | Telephone: 845-403-0235 | E-Mail: cjohnson@jantile.com |
| Address: 63 East Main Street | | |
| City/PO: Pawling | State: NY | Zip Code: 12564 |
| Property Owner (if not same as sponsor): -same as sponsor- | Telephone: | E-Mail: |
| Address: | | |
| City/PO: | State: | Zip Code: |

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

| Government Entity | If Yes: Identify Agency and Approval(s) Required | Application Date (Actual or projected) |
|---|---|--|
| a. City Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees | | |
| b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Amended site plan and Architectural approval | 1-25-22 |
| c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Pawling Joint Sewer Commission -upgraded sewer connection, V/o Pawling water connection | |
| e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Dutchess County Planning - GML-239 referral | |
| f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| i. Coastal Resources. <ul style="list-style-type: none"> i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No iii. Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? Yes No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part I

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) Yes No

If Yes, identify the plan(s):
 NYC Watershed Boundary, Greenway compact, Hudson River Valley National Heritage area

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? Yes No

If Yes, identify the plan(s):

C.3. Zoning

- a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
If Yes, what is the zoning classification(s) including any applicable overlay district?
R-2 residential (permanent use variance for restaurant granted in 1994)
- b. Is the use permitted or allowed by a special or conditional use permit? Yes No
- c. Is a zoning change requested as part of the proposed action? Yes No
If Yes,
i. What is the proposed new zoning for the site?

C.4. Existing community services.

- a. In what school district is the project site located? Pawling Central
- b. What police or other public protection forces serve the project site?
Dutchess County Sheriff, NYS Police
- c. Which fire protection and emergency medical services serve the project site?
Pawling and municipally-contracted medical transport
- d. What parks serve the project site?
various parks (Lakeside, Murrow, Dutcher Golf course) within the Village and Town of Pawling

D. Project Details

D.1. Proposed and Potential Development

- a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? commercial
- b. a. Total acreage of the site of the proposed action? 0.59 acres
b. Total acreage to be physically disturbed? 0.59 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 1.11 acres *see ends notes
- c. Is the proposed action an expansion of an existing project or use? Yes No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____
- d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
ii. Is a cluster/conservation layout proposed? Yes No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____
- e. Will the proposed action be constructed in multiple phases? Yes No
i. If No, anticipated period of construction: 3 months
ii. If Yes:
• Total number of phases anticipated _____
• Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
• Anticipated completion date of final phase _____ month _____ year
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

| | <u>One Family</u> | <u>Two Family</u> | <u>Three Family</u> | <u>Multiple Family (four or more)</u> |
|---------------|-------------------|-------------------|---------------------|---------------------------------------|
| Initial Phase | _____ | _____ | _____ | _____ |
| At completion | _____ | _____ | _____ | _____ |
| of all phases | _____ | _____ | _____ | _____ |

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures 1
 ii. Dimensions (in feet) of largest proposed structure: 35' (max) height; 42' width; and 100' length
 iii. Approximate extent of building space to be heated or cooled: 12,000 square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: _____
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____
 iii. If other than water, identify the type of impounded/contained liquids and their source. _____
 iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
 v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
 If Yes:

i. What is the purpose of the excavation or dredging? _____
 ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
 • Volume (specify tons or cubic yards): _____
 • Over what duration of time? _____
 iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

 iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____
 v. What is the total area to be dredged or excavated? _____ acres
 vi. What is the maximum area to be worked at any one time? _____ acres
 vii. What would be the maximum depth of excavation or dredging? _____ feet
 viii. Will the excavation require blasting? Yes No
 ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No

If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No

If Yes:

i. Total anticipated water usage/demand per day: _____ 3350-4725 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No

If Yes:

- Name of district or service area: Village of PAwling water district #1 (see endnotes)
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No

If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No

If Yes:

i. Total anticipated liquid waste generation per day: _____ 3350-4725 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No

If Yes:

- Name of wastewater treatment plant to be used: Village of Pawling
- Name of district: Village of Pawling Sewer District #1
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

- Do existing sewer lines serve the project site? Yes No
- Will a line extension within an existing district be necessary to serve the project? Yes No

 If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No
 If Yes:

- i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or _____ acres (impervious surface)
 _____ Square feet or _____ acres (parcel size)
- ii. Describe types of new point sources. _____
- iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

 - If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? Yes No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No
 If Yes, identify:

- i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)
 construction equipment _____
- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)
 temporary heating (if necessary) _____
- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)
 cooking facilities, building heating and cooling _____

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No
 If Yes:

- i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
- ii. In addition to emissions as calculated in the application, the project will generate:
 - _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 - _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 - _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 - _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 - _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
 - _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____
one

iii. Parking spaces: Existing 30-35 (partially-defined) Proposed 40 Net increase/decrease 5 +

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____
400,000 kW

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):
grid/local utility _____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

| | | | |
|--------------------------------|------------------|-------------------------------|---------------------------|
| <i>i. During Construction:</i> | | <i>ii. During Operations:</i> | |
| • Monday - Friday: | _____ 8-5 _____ | • Monday - Friday: | _____ 11 am - 11 pm _____ |
| • Saturday: | _____ 8-5 _____ | • Saturday: | _____ 11 am - 1 am _____ |
| • Sunday: | _____ none _____ | • Sunday: | _____ 11 am - 10 pm _____ |
| • Holidays: | _____ none _____ | • Holidays: | _____ 11 am-10 pm _____ |

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No
 If yes:
 i. Provide details including sources, time of day and duration:
periodic increases due to construction activity (excavation, building construction) during building and site construction

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: _____

n. Will the proposed action have outdoor lighting? Yes No
 If yes:
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:
building and site lighting (shielded from off-site locations)

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:
potential for periodic emissions due to normal cooking and food preparation associated with restaurant use

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No
 If Yes:
 i. Product(s) to be stored Liquid Petroleum (LP)
 ii. Volume(s) 2000 per unit time permanent (e.g., month, year)
 iii. Generally, describe the proposed storage facilities:
Two 1,000 gallon underground tanks

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No
 If Yes:
 i. Describe proposed treatment(s):
routine lawn care and landscape maintenance, pest maintenance

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No
 If Yes:
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:
 • Construction: 5 tons per month (unit of time)
 • Operation: 12 tons per month (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: recycle of construction waste, as applicable
 • Operation: recycle of food preparation and food service materials, as applicable

iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: dumpster to local carter to landfill/recycling center
 • Operation: dumpster to local carter to landfill/recycling center

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

- Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): recreation (municipal golf course) and cemetery

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

| Land use or Covertypes | Current Acreage | Acreage After Project Completion | Change (Acres +/-) |
|--|-----------------|----------------------------------|--------------------|
| • Roads, buildings, and other paved or impervious surfaces | 0.48 | 0.47 | -0.01 |
| • Forested | 0 | 0 | 0 |
| • Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural) | 0 | 0 | 0 |
| • Agricultural (includes active orchards, field, greenhouse etc.) | 0 | 0 | 0 |
| • Surface water features (lakes, ponds, streams, rivers, etc.) | 0 | 0 | 0 |
| • Wetlands (freshwater or tidal) | 0 | 0 | 0 |
| • Non-vegetated (bare rock, earth or fill) | 0 | 0 | 0 |
| • Other Describe: <u>lawn/landscaping areas</u> | 0.11 | 0.12 | +0.01 |

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
If Yes,
i. Identify Facilities: _____

e. Does the project site contain an existing dam? Yes No
If Yes:
i. Dimensions of the dam and impoundment:
• Dam height: _____ feet
• Dam length: _____ feet
• Surface area: _____ acres
• Volume impounded: _____ gallons OR acre-feet
ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
If Yes:
i. Has the facility been formally closed? Yes No
• If yes, cite sources/documentation: _____
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____
iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
ii. If site has been subject of RCRA corrective activities, describe control measures: _____
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ 3'-8'+ feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

| | | |
|---------------------------|-------|------|
| Farmington-Galway complex | _____ | 40 % |
| Galway-Farmington complex | _____ | 60 % |
| | _____ | % |

d. What is the average depth to the water table on the project site? Average: _____ 6'+ feet

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: 100 % of site
 Poorly Drained: _____ % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: 100 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:

i. Name of aquifer: Principal Aquifer _____

| | |
|--|--|
| <p>m. Identify the predominant wildlife species that occupy or use the project site: _____ none (site is developed) _____ _____</p> | |
| <p>n. Does the project site contain a designated significant natural community? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes: i. Describe the habitat/community (composition, function, and basis for designation): _____ Red Maple-Hardwood Swamp ii. Source(s) of description or evaluation: <u>existing site is fully developed (see end notes)</u> iii. Extent of community/habitat: • Currently: _____ 1858.3 acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres</p> | |
| <p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes: i. Species and listing (endangered or threatened): _____ Bog Turtle , Indiana Bat</p> | |
| <p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: i. Species and listing: _____</p> | |
| <p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, give a brief description of how the proposed action may affect that use: _____</p> | |
| E.3. Designated Public Resources On or Near Project Site | |
| <p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide county plus district name/number: _____</p> | |
| <p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____</p> | |
| <p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> | |
| <p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: i. CEA name: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____</p> | |

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Yes No

If Yes:

i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District

ii. Name: Kane, John, House

iii. Brief description of attributes on which listing is based: _____

see end notes

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? Yes No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No

If Yes:

i. Identify resource: Wonder Lake, NYSDEC lands, Lakeside/Murrow Parks

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): state and/or Town properties

iii. Distance between project and resource: _____ 1+ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Diana Tomassetti for Main Corner Properties Date 8-30-22

Signature _____ Title owner

[Handwritten Signature]
 CAPT JOHANSEN, PA FOR
 DIANA TOMASSETTI

Main Corner Properties, LLC Restaurant

Full Environmental Assessment Form

END NOTES 8-30-22

- C.3.a. Site was granted a permanent use variance in 1994 to permit continued restaurant occupancy of the site
- D.1.g.iii Proposed building is approx. 8100 sf for main/ground floor and second floor. The full basement is an additional approx. 3900 sf of potentially conditioned/partially conditioned space.
- D.1.b Although the project site consists of 0.59 acres, the adjacent lot (known as 140 East Main Street) is owned by an entity associated with the applicant. The 140 East Main Street site is not part of this application.
- D.2.c.i proposed water usage is based on NYS Design Standards for Intermediate sized wastewater Treatment Systems (3/5/2014)
- | | |
|--|----------------|
| <u>Minimum usage</u> | |
| Restaurant: 80 seats @35 gpd/seat | 2,800 GPD |
| Banquet/catering: 55 seats@10 gpd/seat | <u>550 GPD</u> |
| | 3,350 GPD |
| <u>Maximum usage</u> | |
| Restaurant: 135 seats @35 gpd/seat | 4,725 GPD |
- D.2.c.ii. The Village of Pawling has secured additional sources of potable drinking water.
- D.2.d. SEE ABOVE CALCULATION included in D.2.c.i.
- D.2.j The site has been historically used as a restaurant for many years. Based on ITE, Use classification 831 – Quality Restaurant (1991 Edition), it can be anticipated that the new restaurant will generate approximately 64 to 88 trips per hour during peak use (weekday and Saturday, early evening). Estimated trips based on restaurant square footage (8000 sf).
- D.2.r. solid waste generation based on 1.5 lbs/meal (*Source: National Solid Waste Management Association*)
Assuming as average of 500 meals per day, waste generation would be approximately (500 meals x1.5 lbs x 30 days= 22,500 lbs) or approx. 12 tons
- E.2.n. The existing site is fully developed. Erosion and Sedimentation Control measures utilized at the site will meet or exceed NYSDEC and/or best management practices, to the best extent possible. This methodology will mitigate any

potential off-site impacts to the potential 'Significant Natural Community: Red Maple Hardwood Swamp'.

- E.2.o. There are no wetlands located on the project site and the existing site is fully developed. Furthermore, areas immediately adjacent to the site are not anticipated to be suitable habitat for Bog turtle and/or Indiana bat.
- E.3.e. The Kane House is not contiguous to the project site and is located approximately 500' away.
- E.3.f./g. A Phase 1A and 1B Archeological Study was performed by the applicant and it was determined by NYSOPHP that no significant archeological resources were encountered and no further testing would be necessary.

ROA

ROBERT ORR & ASSOCIATES LLC
ARCHITECTURE, LANDSCAPE, AND TOWN DESIGN

Thursday, July 11, 2022

Mr. Robert Pfister,
Chairman, Planning Board
Village of Pawling
9 Memorial Ave.
Village of Pawling, NY 12564

Cc. Ms. Lauri Taylor, Mayor

Re: New construction at 146 Main Street, Village of Pawling.
Aesthetic Review.

Dear Mr. Pfister,

As you know, I have been engaged by the Village of Pawling ("The Village") Planning Board ("The Board") to perform an architectural design conformance review of the above referenced project. In connection with this engagement, I reviewed the architectural design features of the perspective renderings submitted to The Board, which were approved December 8, 2020 ("Approved Defining Features") against the architectural design features of the project as actually constructed on the property to date ("As Constructed Design Features").

The Village's Comprehensive Plan.

From the Village's Comprehensive Plan ("The Voice of the Community"), filed and approved by the State of New York March 24, 1995, provides clear guidelines for development of The Village.

The Voice of the Community derived out of what's called a Charrette - an intense week-long iterative process involving all stakeholders (residents, for-profit and non-profit interests, public uses, and municipal leadership), facilitated by a team of professionals with the full complement of needed expertise.

In no way is the output of a public Charrette a "one size fits all" document, imposed on municipalities based on abstract national standards. Rather, through a process of constant refinements through an iterative process of listening and representing several times, an onsite public Charrette establishes a vetted consensus for establishing guidelines for future development tailored to each existing municipality. The deliverable of the Charrette was, indeed, the Voice of the Community.

The Architectural Regulations for New Construction ("The Architectural Guidelines").

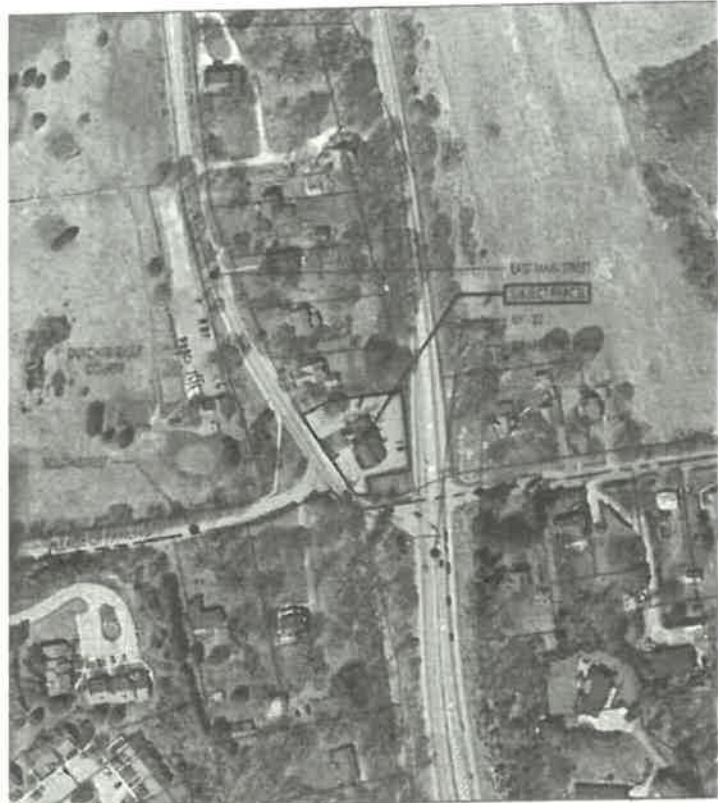
Amongst many concerns, such as traffic, economic development, and residential/commercial interests, the public Charrette establishes Architectural Guidelines.

The Architectural Guidelines for The Village set down details of proportions of windows and doors; roof pitches; length of overhangs; spacing of clustered buildings; types of columns; porches or other encroachments into setbacks or yards; and preferred building materials, finishes, and construction techniques.

In the abstract, the Architectural Guidelines are not mandatory, but they illustrate clearly how and why the citizenry expect building designs to reflect the ambience of The Village ("Ambience"). In essence, the Ambience translates into the desirability of the community ("Demand").

The much-discussed Ambience is determined by incremental minor decisions made by a myriad of property owners over years and years. This long-evolved development defines how the Village looks and why its influence brings out a strong neighborliness of residents' lives. To ignore the Ambience is to diminish the strong neighborliness of residents' lives. The respectful use of these guidelines will, over time, reflect and strengthen The Village's design Ambience.

Rather than "regulatory," the Architectural Guidelines are meant to assist applicants in shaping their designs, so their buildings are distinguishable in reflecting the unique Ambience of The Village.



Site Context



Prior Route 22 Gateway Experience. View Over Watts-Slocum Burying Ground, Defined by Fieldstone Walls, to Fieldstone Chimney and Residential-Scale of McGrath Restaurant's Exemplary Introduction to Village Ambience.

The urgent message of the Architectural Guidelines is that any new development must look as though it's always been there.

The Village Gateways.

The public process identified five Gateways into the Village. The Gateways are important because they express a sense of arrival from the outside world into a special place with unique Ambience, which the citizens prize highly.



Route 22 Gateway Illustrative Image from Comprehensive Plan. 4 Pilons Mark Important Entry to City, Without Overpowering Scale of Surrounding Residential Neighborhood. Respectful of Context.

At the intersection of five roads, the Route 22 Gateway was identified as the most important Gateway. One of the few pictures in the Voice of the Community illustrates what the Route 22 Gateway should look like – two stone pilons bracketing a view over an ancient burying ground, defined by a low fieldstone wall, to a charming residentially-scaled landmark building with stone accents, which introduced the Ambience of The Village to first time visitors and a welcome home to residents.

Participants at the Charrette took no exception to the continued use of a non-conforming restaurant on the site but felt strongly that the building should reflect the residential character of its surroundings, that it expresses a sense of arrival, and that it "looks as though it's always been there."

It should be noted that the Approved Defining Features, approved by The Board, are defining elements to which the new

construction must conform. Any variances from the Approved Defining Features must be submitted to and approved by The Board in advance of constructing the non-conforming feature(s).

It also should be noted that my review is limited to attachments below.

Attached below are:

1. Approved Defining Features.
2. As Constructed Design Features. Photographs furnished by the applicant.
3. The Comprehensive Plan's section on The Architectural Guidelines. The Architectural Guidelines are not binding, but, since The Approved Defining Features so closely mirror the The Architectural Guidelines, the The Architectural Guidelines offer verbal descriptions of The Approved Defining Features.
4. Link to *The American Vignola* referenced in the Voice of the Community.



Large Scale Overpowers Context of Residential Neighborhood

Non-conformity between Approved Defining Features and As Constructed Design Features (note: some titles of perspective renderings are confusing, such as "Southwest" and "Northwest" Elevations, which cause the façade facing the street to face both East and West. Therefore, list below uses titles below each perspective rendering rather than true cardinal points):

- a. Non-conformance of Roof material with Approved Defining Features (asphalt shingles).
- b. Non-conformance of Brick Material with Approved Defining Features (stone shown on all masonry faces).
- c. Non-conformance of all window and dormer sizes, proportions, and/or muntin patterns with Approved Defining Features.



Travertine and Cultured Stone Siding in Non-Conformance With Approved Defining Features.

- d. Non-conformance of corner boards with Approved Defining Features (narrower).
- e. Non-conformance of doors with Approved Defining Features (glass panel instead of plain – but looks/works better).
- f. Non-conformance of trim detail over some windows with Approved Defining Features (missing)
- g. Non-conformance of roof eave consistency with Approved Defining Features (aligned around entire building).
- h. Non-conformance of columns and their orders (entablatures, base, etc.) with Approved Defining Features (Tuscan or Doric according to *The American Vignola*). Entablature is significantly too large.
- i. Non-conformance of chimney material with Approved Defining Features (stone).
- j. Non-conformance of 1st floor brick wall at arcade on "Northwest Elevation" with Approved Defining Features (stone under columns only).
- k. Non-conformance of 1st floor brick wall around open porch with chairs on "Southeast Elevation" with Approved Defining Features (stone under columns only).
- l. Non-conformance of travertine and cultured stone on "Southwest Elevation" with Approved Defining Features (stone around entire 1st floor and chimney).
- m. Non-conformance of 2nd floor deck brick railing on "Northwest Elevation" with Approved Defining Features (wood balusters).
- n. Non-conformance of bay above word "restaurant" on "Southwest Elevation" with Approved Defining Features (doesn't break through entablature below. Windows instead of brackets support bay).
- o. Non-conformance of gable end on one of 2 gables on "Northwest Elevation" with Approved Defining Features (horizontal entablature



Floor Framing Style Pergola Inappropriate for Doric or Tuscan Oder per *The American Vignola*.



Synthetic Faux Spanish Barrel Tile Roof in non-conformance with Approved Design Features. Non-Approved Brick.

- across bottom missing and brick instead of clapboard on upper portion).
- p. Non-conformance of flat roof, width of roof, and mechanical systems on "Northeast Elevation" with Approved Defining Features (smaller sloped roof without exposed mechanical systems).
 - q. Non-conformance of Route 22 street sign with Approved Defining Features.
 - r. Not a non-conformance issue, but it would be nice if there was some acknowledgement of the Watts-Slocum Burying Ground.

The Architectural Guidelines. Below are pertinent parts, which describe the Approved Defining Features:

- a. Walls shall be clad in wood clapboard, wood shingles, wood drop siding, wood board & batten, Wolverine premium vinyl, or brick selected from the Village Architect's list; finished in stucco, Dryvit or equivalent; and trimmed in fieldstone or cast stone.
- b. Roof shall be clad with wood shingles, composite shingles (from the Village Architect's list); gutters made of galvanized steel, wood, copper, or painted aluminum.
- c. Columns, posts, balconies, porches, and bay windows shall be wood; stoops from brick from Village Architect's approved list, concrete, or wood; railings made of wood or painted aluminum; and signs made of painted wood or metal.
- d. Columns and their orders shall be Tuscan or Doric.
- e. Columns and their orders and openings shall be proportioned and detailed according to *The American Vignola*.
- f. Spindles and balusters on balconies shall not exceed 5" on center.

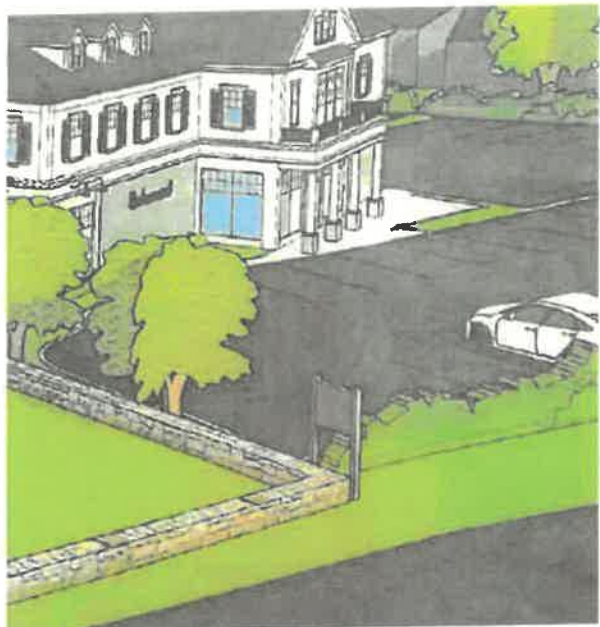


Non-Conforming Brick Siding and Railing on 2nd Floor Deck. Billboard Interpretation of Doric or Tuscan Order in Non-Conformance with Approved Design Features.



Proportions Non-Conforming with Approved Defining Features, Which Followed *The American Vignola*.

- g. Chimneys shall be finished in brick from Village Architect's approved list, fieldstone, stone, or stucco.
- h. Windows and doors, including screen doors, shall be made of painted wood or vinyl-clad wood; glazed with clear glass with no more than 10% daylight induction; shutters made of wood; and awnings made of canvass.
- i. Shutters shall be half the width of window or door openings to which they are attached.
- j. Bays shall be habitable spaces carried to the ground or supported by visible brackets.



Proposed Sign.

Summary.

Based on my review of the materials above, it is my professional opinion that (I) the As Constructed Design Features do not conform, in a number of significant respects, with the Approved Defining Features submitted by the applicant and approved by The Board December 8, 2020; (II) such non-conformities are not compatible with the Voice of the Community; (III) the non-conformities, if left uncorrected, will have a perceptible negative impact on the long-established Ambience of the Village. Social and economic value can increase or decrease depending on Demand; (IV) the non-conformities express no sense of arrival or Route 22 Gateway, which was considered the most important entrance by the Voice of the Community; (V) and, by its prominence as the first building one encounters entering The Village, the non-conformities will have a significant long-term adverse aesthetic and visual impact on the



Built Sign Non-Conforming with Approved Defining Features.



Bold Structure of Restaurant Sign Competes with Welcome Sign to the Village.

community, especially as they set glaring precedent for ignoring Board approvals and for disrespecting the Voice of the Community by future applicants.

Based on the considerable list of non-conformities and on the disrespect for the Voice of the Community, it is my professional opinion that the applicant must undertake those changes necessary to comply with The Approved Defining Features and to win respect for meeting the clear objectives expressed by the Voice of the Community. Of all projects, this is the one most important in setting exemplary standards for applicants that follow.

Please let me know of any questions or comments.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert Orr", written in a cursive style.

Robert Orr, FAIA, FCNU

RO/mf

ATTACHMENTS

1. Perspective Rendering Plans Presented and Approved by The Board, December 8, 2020.



NORTHWEST ELEVATION



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION

2. New construction built showing violations in nonconformities of design approved by The Board, December 8, 2020. No prior submittal of any requests for variances.



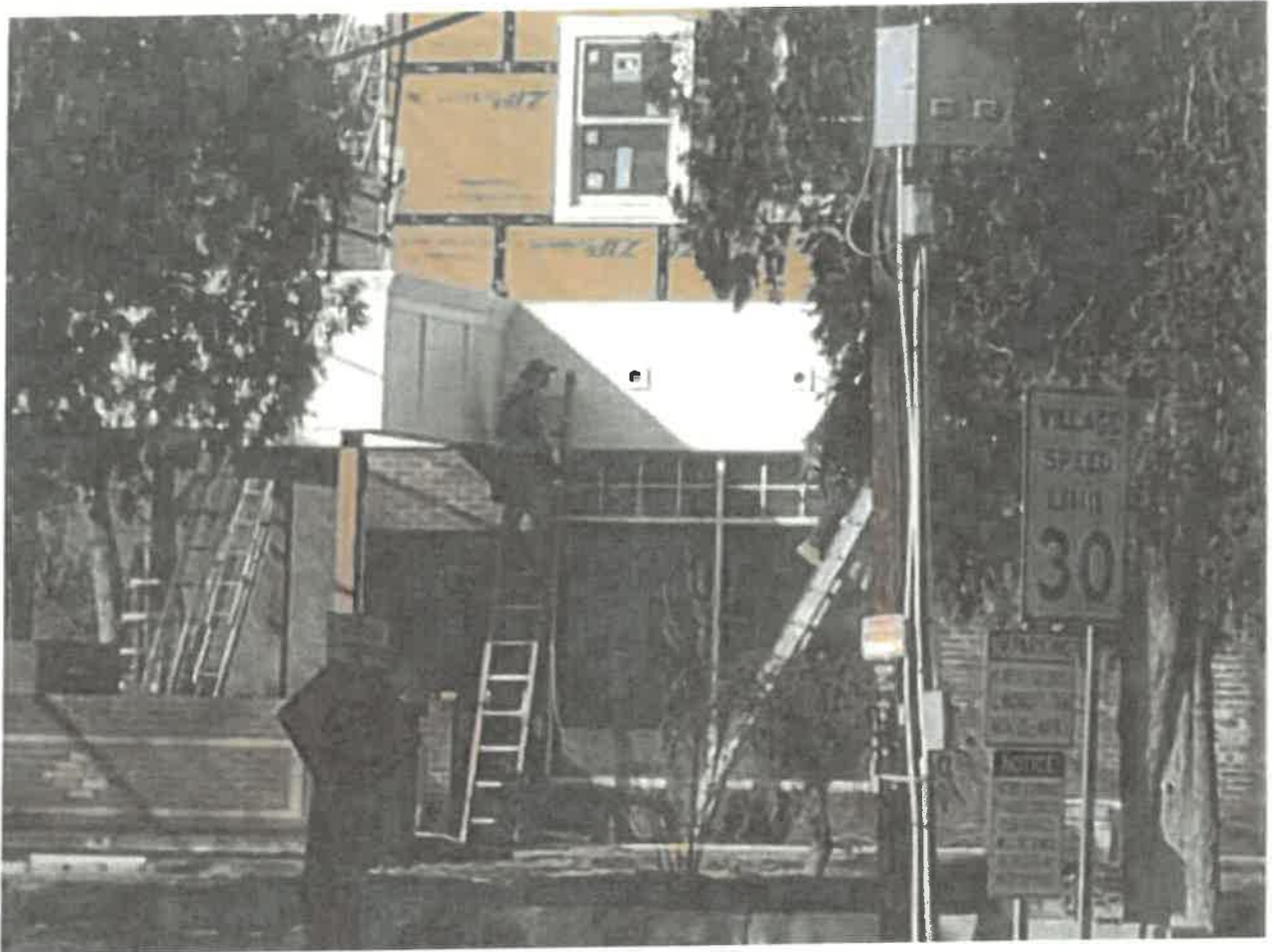




Photo 3

Brick knee walls in place of metal railings on outdoor dining, 1st and 2nd level



Photo 6
Large brick structure to support sign



Photo 5

Flat roof with roof mounted mechanical equipment on northern face of building

4. Link to the book, *The American Vignola*, referenced in *The Voice of the Community*.

https://www.amazon.com/American-Vignola-Making-Classical-Architecture/dp/0486283100/ref=sr_1_1?crid=144JHE4BLWTW0&keywords=the+american+vignola&qid=1655303012&s=books&prefix=the+american+vi-gnola%2Cstripbooks%2C79&sr=1-1

Diana Tomassetti
Main Corner Properties, LLC
80 Charles Colman Boulevard
Pawling, NY 12564

July 20, 2022

Mr. Robert Pfister, Chairman
Planning Board
Village of Pawling
9 Memorial Avenue
Pawling, NY 12564

FILED WITH
JUL 26 2022
VILLAGE CLERK

RE: Restaurant
146 East Main Street

Dear Chairman Pfister and Members of the Planning Board:

We are in receipt of an Aesthetic Review letter prepared by Robert Orr, FAIA, dated July 11, 2022. As discussed throughout the construction process, there were material/design changes made, many of which stemmed from supply chain issues associated with COVID 19. We realize that these changes affect the overall appearance of the building as approved by the Planning Board during the site plan deliberations and approval. All work has ceased on the building for at least the last 4 months while these changes have been reviewed by the municipality. In an effort to mitigate the changes and be able to proceed with construction and occupancy of the building, we offer the following responses, as keyed to the 'Non-conformity between Approved Defining Features and as-constructed design features' section of Mr. Orr's review letter.

Item A: Non-conformance of roof material:

RESPONSE: The roof material and color to remain, as installed

Item B: Non-conformance of brick material

RESPONSE: the substitution of brick for the stone on the facade was previously approved by the Planning Board

Item C: non-conformance of all window sizes, proportions and/or muntin patterns

RESPONSE: the installed windows are generally per the approved plans with minor deviations due to field conditions. The operable (double hung) windows will have interior snap-in muntins (per the approved design plans) that have not been installed at this time due to the process of construction.

Item D: Non-conformance of corner boards

RESPONSE: It is proposed to cover some of the brick at south and east sides (main entry and south end of main dining area) of the building with a composite/PVC trim to better attain the design intent of the approved plans. The color of the trim shall be white. Existing corner boards on upper story to remain.

Item E: Non-conformance of doors

RESPONSE: exterior doors were modified slightly to address interior layout; no change proposed. The metal doors for the three stairwells and kitchen are currently primed and shall be painted a color similar to the brick so that they are less-noticeable.

Item F: Non-conformance of trim detail over some windows

RESPONSE: The trim over windows is similar to the general intent of the design drawings and proposed to remain. Shutters will be installed per the approved design plans.

Item H: Non-conformance of columns and their orders (entablatures, base, etc.)

RESPONSE: it is proposed to install an additional decorative column adjacent to each existing column along the ground-level outdoor dining area. Base and capital trim pieces shall be added to the columns. The cross-sectional shape of the columns shall be square to match the column enclosures already installed. Decorative columns with brick bases shall be placed at the main/east side entry per the approved design drawings.

The cedar pergola structure shall be modified to set within the white 'entablature' that wraps the south end of the outdoor dining area, so that it will not be visible from the exterior of the building.

Item G: Non-conformance of chimney material

RESPONSE: the substitution of brick for the stone was previously approved by the Planning Board

Item J: Non-conformance of 1st floor brick wall at arcade on 'northwest' elevation

RESPONSE: It is proposed to have the brick half wall in this location remain. A composite trim cap shall be placed at the top of the wall and shall incorporate enhanced base detail for the columns. All trim shall be white color.

Item L: Non-conformance of travertine and cultured stone on 'southwest elevation'

RESPONSE: it is proposed to remove the cultured stone on the second story (north end of outdoor dining area) and replace with composite horizontal lap siding to match existing second-story walls. The cultured stone on the lower-level outdoor dining area will be removed and replaced with travertine tile to match the adjacent wall. The travertine wall finish on the second floor to remain.

Item M: Non-conformance with 2nd floor deck brick railing on `northwest elevation`
RESPONSE: It is proposed to remove the brick half wall and replace with a metal or composite railing system that will be in the same general appearance as what was approved. These railing systems will be duplicated for the roof mechanical area along the north side of the building. The railing will be white in color.

Item N: Non-conformance of bay above word `restaurant` on `southwest elevation`
RESPONSE: The bay was modified in order to provide for a high window in the kitchen area. No change is proposed.

Item O: Non-conformance of 2 gables on `northwest elevation`
RESPONSE: the southerly gable shall be modified to match the horizontal trim detail that has been installed in the northerly gable.

Item P: Non-conformance of flat roof, width of roof, and mechanical systems on `northeast elevation`
RESPONSE: The modification of the roof over the stairwell on the northerly side of the building was necessary due to required spacing and location of some of the mechanical equipment. This roof configuration was included in the construction drawings approved by the Village of Pawling Building Department. The roof shall have a railing system installed similar to the railing that will be installed along the main entry roof and the second-floor outdoor dining area.

Item Q: Non-conformance of Route 22 street sign
RESPONSE: the sign will be enhanced per the attached drawing. The sign is in the same general location as was approved on the site plan.

This concludes our response at this time. We truly hope that we can come to a mutually-acceptable resolve with the Village so that construction can resume and a restaurant tenant/partner can be secured. We can be available any time to discuss further.

Sincerely;



Diana Tomassetti
Main Corner Properties, LLC

Cc: Lauri Taylor, Mayor

Dutchess County Department of Planning and Development

To Village of Pawling Date # p
 Dept Zoning From Jennifer Strehle
 Fax # 845-855-1128 Phone # 845-855-9317

239 Planning/Zoning Referral - Exemption Communities

Municipality: Village OF PAWLING - ZONING BOARD OF APPEALS

Referring Agency: Planning Board Zoning Board of Appeals Municipal Board

Tax Parcel Number(s): 7056-09-244711

Project Name:

Applicant: Main Corner Properties, LLC

Address of Property: 146 East Main Street

Please fill in this section

- Parcel(s) within 500 feet of:**
- State Road NYS Route 22
 - County Road
 - State Property (w/public building or recreation area)
 - County Property (w/public building or recreation area)
 - Municipal Boundary
 - Farm operation in an Agricultural District

- Actions Requiring 239 Review**
- Comprehensive/Master Plans
 - Zoning Amendments (standards, uses, definitions, district regulations, etc.)
 - Rezoning involving all map changes
 - Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)
 - Site Plans (all)
 - Special Permits for all non-residential uses
 - Use Variances for all non-residential uses
 - Area Variances for all non-residential uses

- Exempt Actions:***
239 Review is NOT Required
- Administrative Amendments (fees, procedures, penalties, etc.)
 - Special Permits for residential uses (accessory apt, home occupations, etc.)
 - Use Variances for residential uses
 - Area Variances for residential uses
 - Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals
 - Subdivisions / Lot Line Adjustments
 - Interpretations
- Exempt Action submitted for informal review

Date Response Requested (if less than 30 days): March 18, 2020

If subject of a previous referral, please note County referral number(s):

* These actions are only exempt in municipalities that signed an Intermunicipal agreement with Dutchess County to that effect.

FOR COUNTY OFFICE USE ONLY

Response from Dutchess County Department of Planning and Development

- | | |
|---|--|
| <p>No Comments:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Matter of Local Concern <input type="checkbox"/> No Jurisdiction <input type="checkbox"/> No Authority <input type="checkbox"/> Project Withdrawn <input type="checkbox"/> Exempt from 239 Review | <p>Comments Attached:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Local Concern with Comments <input type="checkbox"/> Conditional <input type="checkbox"/> Denial <input type="checkbox"/> Incomplete — municipality must resubmit to County <input type="checkbox"/> Incomplete with Comments — municipality must resubmit to County <input type="checkbox"/> Informal Comments Only (Action Exempt from 239 Review) |
|---|--|

| | | |
|-------------------------|--|--|
| Date Submitted: 3/4/20 | Notes: | <input type="checkbox"/> Major Project |
| Date Received: 3/6/20 | | Referral #: ZR20-086 |
| Date Requested: 3/18/20 | | |
| Date Required: 4/2/20 | <input type="checkbox"/> Also mailed hard copy | Reviewer: Brad Barclay |
| Date Response Faxed: | | |

MARCUS J. MOLINARO
COUNTY EXECUTIVE



Eoin Wrafter, AICP
COMMISSIONER

COUNTY OF DUTCHESS
DEPARTMENT OF PLANNING AND DEVELOPMENT

March 26, 2020

To: Zoning Board of Appeals, Village of Pawling
Re: Referral # Z0-086, Main Corner Properties Area Variances
Parcel: 7056-09-244711, 146 East Main Street

The Dutchess County Department of Planning and Development has reviewed the submitted referral for countywide and intermunicipal impacts as outlined in General Municipal Law (Article 12B, §239-l/m).

ACTION

The applicant is area variances to allow for the demolition of an existing restaurant and separate accessory residential structure to construct a new, two-story restaurant with related site improvements.

COMMENTS

In the referral response to the site plan application for the same proposal, the Department requested the inclusion of a sidewalk connection on this site between the Route 22/East Main Street/Quaker Hill Road Intersection and the sidewalk across the East Main Street frontage of this site, when the planned crosswalks are installed at that intersection.

This sidewalk connection would run along the north side of the cemetery, provide visual access to the cemetery, an additional buffer from the parking and patio and a safer pedestrian route.

RECOMMENDATION

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP, Commissioner

By

Brad Barclay
Brad Barclay
Senior Planner

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
21 South Platt Corners Road, New Paltz, NY 12561-1620
P: (845) 256-3054 | F: (845) 255-4659
www.dec.ny.gov



**Department of
Environmental
Conservation**

March 2, 2020

**Jen Strehle, Secretary
Village of Pawling Planning Board
9 Memorial Avenue
Pawling, New York 12564**

**FILED WITH
MAR 03 2020
VILLAGE CLERK**

**RE: Main Corner Properties LLC Restaurant – 146 East Main Street
Village of Pawling, Dutchess County
CH# 8682
SEQR Lead Agency Designation**

Dear Ms. Strehle:

The New York State Department of Environmental Conservation (Department or DEC) has reviewed the State Environmental Quality Review (SEQR) Notice of Intent to Serve as Lead Agency submitted by the Village of Pawling Planning Board for the above-referenced project. According to the submitted information, the applicant proposes to demolish the existing one-story restaurant and separate residential apartment to facilitate the construction of a two-story restaurant at the above-referenced location.

The DEC has no objection to the Village of Pawling Planning Board serving as lead agency for this project. Based upon our review of your inquiry received by this office on February 24, 2020, the Department offers the following comments:

PROTECTION OF WATERS

There are no waterbodies that appear on our regulatory maps at the project site you identified. Therefore, if there is a stream or pond outlet present at the site with year-round flow, it assumes the classification of the watercourse into which it feeds, and a Protection of Waters permit may be required. If there is a stream or pond outlet present at the site that runs intermittently (seasonally), it is not protected, and a Protection of Waters permit is not required.

If a permit is not required, please note, however, you are still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.



STATE-LISTED SPECIES

The DEC has reviewed the State's Natural Heritage records. We have determined that the site is located within or near records of the following state-listed species:

| <u>Name</u> | <u>Status</u> |
|--|---------------|
| Bog turtle (<i>Glyptemys muhlenbergii</i>) | Endangered |

A permit is required for the incidental taking of any species identified as "endangered" or "threatened," which can include the removal of habitat. Department staff have determined that the proposed project is not likely to have significant impacts on bog turtles or their habitat. Therefore, no further review regarding bog turtles at this site is necessary at this time.

For technical questions regarding these species and their associated avoidance and mitigation measures, please contact the NYSDEC Bureau of Wildlife at (845) 256-3098.

The absence of data does not necessarily mean that other rare or state-listed species, natural communities, or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

STATE POLLUTION DISCHARGE ELIMINATION SYSTEM (SPDES)

Since project activities will disturb over 5,000 square feet of land within the NYC Department of Environmental Protection East of Hudson Watershed, the project sponsor must obtain coverage under the current SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) and develop a Stormwater Pollution Prevention Plan (SWPPP) that conforms to requirements of the General Permit.

As this site is within a Municipal Separate Storm Sewer System (MS4) community, the municipality is responsible for review and acceptance of the SWPPP, and the MS-4 Acceptance Form must be submitted to the Department. For information on stormwater and the general permits, see the DEC website at <http://www.dec.ny.gov/chemical/8468.html>.

According to the Full Environmental Assessment Form (EAF), the proposed project site will generate up to approximately 7,000 gallons per day (gpd) of sanitary wastewater that will be discharged to the existing Village of Pawling Sewer District #1. Please be aware that an engineering report must be prepared to confirm the capacity of that wastewater facility to serve the proposed project and that our Department's Division of Water is required to review and approve plans for any proposed sewer extensions or facility expansions.

WATER WITHDRAWAL

According to the EAF, the proposed project site will generate a demand for water of up to approximately 7,000 gpd, which will be served by the existing Village of Pawling Water District #1. Please note that additional Department approval may be required to ensure that the site is covered under an existing Water Withdrawal permit and does not exceed the authorized maximum taking of water into the existing water district or service area. For more information, please contact DEC Division of Water at (914) 428-2505.

AIR RESOURCES

If the project activities include the installation of a stationary or portable combustion system that exceeds one of the following thresholds, then an air facility registration may be required:

- A maximum rated heat input capacity less than 10 million British Thermal Units (Btu) per hour burning fuels other than coal or wood; or
- A maximum rated heat input capacity of less than 1 million Btu/hr burning coal or wood.

For more information, please contact the DEC Division of Air Resources at (845) 256-3185.

OTHER

Other permits from this Department or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and the project sponsor should, therefore, verify the need for permits if your project is delayed or postponed. This determination regarding the need for permits will remain effective for a maximum of one year. More information about DEC permits may be found on our website, www.dec.ny.gov, under "Regulatory" then "Permits and Licenses." Application forms may be downloaded at <http://www.dec.ny.gov/permits/6081.html>.

Please contact this office if you have questions regarding the above information. Thank you.

Sincerely,



Christina Pacella
Division of Environmental Permits
Region 3, Telephone No. (845) 256-2250

cc: Apama Roy, NYSDEC Division of Water
George Sweikert, NYSDEC Division of Air Resources
Lisa Masi, NYSDEC Bureau of Wildlife
Main Corner Properties, LLC, Applicant
Curt Johnson, J Group Designs, LLC, Project Contact



**Parks, Recreation
and Historic Preservation**

FILED WITH
MAR 09 2020
VILLAGE CLERK

ANDREW M. CUOMO
Governor

ERIK KULLESIED
Commissioner

ARCHAEOLOGY COMMENTS

Phase IA/IB Archaeological Survey Recommendation

Project: 148 East Main Street - restaurant

PR#: 20PR01343

Date: 6 March 2020

Your project is in an archaeologically sensitive location. An historic period cemetery, the Watts and Quaker Hill Burial Grounds, which has been given the Unique Site Number (USN) 02748.000021, is located immediately adjacent to the project area. Based on available information, the cemetery dates to at least as early as the late 18th Century and extending through the first half of the 19th Century. While the cemetery has been surrounded by a stone wall for at least a century, the date of its original construction is not known. Given the early date of the graves it is unknown whether this wall encompasses the entire extent of interments throughout its existence. Some graves may have been placed outside of the currently marked boundary before the wall was erected.

Therefore, the Office of Parks, Recreation and Historic Preservation (OPRHP) recommends a Phase IA/IB archaeological survey for components of the project that will involve ground disturbance, unless substantial prior ground disturbance can be documented. A Phase IA/IB survey is designed to determine the presence or absence of archaeological sites or other cultural resources in the project's Area of Potential Effects (APE).

We recommend that field methods specifically designed to determine the presence or absence of graves outside the current cemetery, such as ground penetrating radar (GPR) or carefully controlled topsoil stripping, should be employed.

Our office does not conduct archaeological surveys. A 36 CFR 61 qualified archaeologist should be retained to conduct the Phase IA/IB survey. If GPR is to be employed, we recommend that the investigation be conducted by a consultant with documented experience in the investigation of archaeological sites using this technique.

Please also be aware that a Section 233 permit from the New York State Education Department (SED) may be necessary before archaeological fieldwork is conducted on State-owned land. If any portion of the project includes the lands of New York State, you should contact the SED before initiating survey activities. The SED contact is Christina Rieth and she can be reached at (518) 402-5975 or christina.rieth@nySED.gov. Section 233 permits are not required for projects on private land.

If you have any questions concerning archaeology, please contact Philip Perazio at 518-268-2175 or philip.perazio@parks.ny.gov.

Building Department Secretary

From: Building Department Secretary
Sent: Tuesday, December 28, 2021 9:54 AM
To: 'Jonathan Bardavid'
Subject: RE: 146 East Main Street
Attachments: 146 E Main St SWO-Violation.pdf

12/28/2021 -
SENT TO Johnathan
PER EMAIL
REQUEST
S

12/28/2021

Good Morning Jonathan,

Per your request, please see attached stop work orders for 146 East Main Street as well as the violation for 140 East Main Street connecting property. (In case you needed that as well.)
This was all that was in the file at this time

Building Department
Village of Pawling
9 Memorial Ave.
Pawling, NY 12564
845-855-1128

From: Jonathan Bardavid [mailto:JMB@dpllawyers.com]
Sent: Thursday, December 23, 2021 10:57 AM
To: Building Department Secretary <bldgsecy@villageofpawling.org>
Cc: lauritaylor89 <lauritaylor89@gmail.com>
Subject: 146 East Main Street

Debbie,

When you have a moment are you able to scan and send me all the Stop Work Orders, except for the most recent one, that was issued on 146 East Main. No rush and next week is fine.

Thanks and Merry Christmas

Jonathan

Jonathan M. Bardavid, Esq.
Partner
Daniels, Porco and Lusardi, LLP
102 Glensida Avenue
Carmel, New York 10512
Phone: 845-225-8404
Direct: 845-206-4049
Fax: 845-225-4262
E-mail: jmb@dpllawyers.com
Web: www.dpllawyers.com

This e-mail and any files transmitted with it are confidential, and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient or the individual responsible for delivering the e-mail to the intended recipient, then please be advised that you have received this e-mail in error, and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have

received this e-mail in error, then please immediately notify us by telephone at (845)-855-5900. You will be reimbursed for reasonable costs incurred in notifying us. Thank you.

**BUILDING DEPARTMENT
VILLAGE OF PAWLING
STOP WORK ORDER**

Tax Map: Section: 7056 Block: 09 Lot: 244711-0000
Address: 146 East Main Street, Pawling, NY

Date: January 15, 2021

TO: Main Corner Properties, LLC
85 Charles Colman Blvd,
Pawling, New York

PLEASE TAKE NOTICE there exists a violation of: Village of Pawling Code §§ 98-29 through
98-35; 98-44 and 98-65,

at the premises described above in that foundation/excavation work is being perform outside the scope
of the Building Permit and the approved site plans.

YOU ARE THEREFORE ORDERED AND DIRECTED to cease and desist from performing
any work on the premises until further order of the Building Department.

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of the
law may subject you to fines and other penalties as set forth in Section 98-59 of the Code of the Village
of Pawling and others as provided under applicable law.


[Code Enforcement Officer/Building Inspector]

January 15, 2021

**BUILDING DEPARTMENT
VILLAGE OF PAWLING
STOP WORK ORDER**

Tax Map: Section: 7056 Block: 09 Lot: 244711-0000 and
Section: 7056 Block: 09 Lot 239724-0000

Address: 140 East Main and 146 East Main Street, Pawling, NY

Date: January 15, 2021

TO: Main Corner Properties, LLC
85 Charles Colman Blvd
Pawling, New York

-and-

Serafino Realty, LLC
456 Fifth Ave
Brooklyn, New York, 11215

PLEASE TAKE NOTICE there exists a violation of: Village of Pawling Code §§ 98-29 through
98-35; 98-44 and 98-65,

At the premises described above in that disturbance and other work is being performed to areas not covered under the SWPP Permit and beyond scope of the approved site plans.

YOU ARE THEREFORE ORDERED AND DIRECTED to cease and desist from performing any work on the premises until further order of the Building Department

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of the law may subject you to fines and other penalties as set forth in Section 98-59 of the Code of the Village of Pawling.


[Code Enforcement Officer/Building Inspector]

January 15, 2021

VILLAGE OF PAWLING

OFFICE OF BUILDING DEPARTMENT

**9 Memorial Avenue
Pawling, New York 12564
(845)855-1128**

NOTICE OF VIOLATION AND ORDER TO REMEDY SAME

Location: 140 East Main Street, Pawling, New York

Date: 8/12/2021

To: Diana Tomassetti - Serafino Realty, LLC

85 Charles Colman Blvd.

Pawling, NY 12564

PLEASE TAKE NOTICE THERE EXISTS A VIOLATION OF Section 98-29 (A) of the Code of the Village of Pawling at premises herein described in that
A concrete pad measuring approx. 9'x15' was installed in the backyard without a work permit.

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to

Remedy the conditions above mentioned on or before the

12th day of September, 2021

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

Robert Anic



Building Inspector

Village of Pawling
9 Memorial Avenue
Pawling, New York

Incorporated Feb. 9, 1893

Tel. (845) 855-1128 - Fax (845)
855-9317

STOP WORK ORDER

Owner: Main Corner Properties

Location: 146 East Main Street

Tax Map: 7056-09-244711

I have this day 11/23/2021 found the following violations of the Village of Pawling and or State Laws governing same:

Failure to comply with approved plans as per:

Village of Pawling Code 98-29 through 98-35; 98-44 and 98-65, and Local Law #1 of 2010 '77-4 and 77-8

at the premises described above in that the construction of the sign is being performed outside the scope of work and the approved site plans and without a Building Permit.

You are hereby notified that the Construction of the Sign shall cease on these premises until the necessary permits have been taken out and approved. You must contact the Building Dept. at 845-855-1128 immediately.

Failure to remedy the condition aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine, imprisonment, or both.


Code Enforcement Officer/Building Inspector

Village of Pawling
9 Memorial Avenue
Pawling, New York

Incorporated Feb. 9, 1893

Tel. (845) 855-1128 - Fax (845)
855-9317

STOP WORK ORDER

Owner: Main Corner Properties
Location: 146 East Main Street
Tax Map: 7056-09-244711

On this day 12/22/2021 the Building Inspector found the following violations of the Village of Pawling and or State Laws governing same:

Failure to comply with approved plans as per:

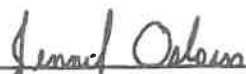
New York State Building Code 2020:[NY] 105.4
Village of Pawling Code: Section 98-65

at the premises described above in that the construction of the Architectural Finishes are being performed not in conformance with approved plans.

All work shall cease on these premises until all non-approved architectural elements have been corrected or approval has been granted by the Village.

YOU ARE HEREBY NOTIFIED that all work shall cease on these premises until all non-approved architectural elements have been corrected or approval has been granted by the Village. You must contact the Building Dept. at 845-855-1128 immediately.

Failure to remedy the condition aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine, imprisonment, or both.


Code Enforcement Officer/Building Inspector via Village
Clerk as authorized by local law.



**JACOBOWITZ
AND GUBITS LLP**
COUNSELORS AT LAW

December 7, 2022

Gerald N. Jacobowitz**
David B. Gubits**
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Jessica M. Mahoney
Michael Wagner*
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Krystle N. Butcher
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*Also admitted in NJ
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JACOBOWITZ.COM

Via Email Only: pbsecy@villageofpawling.org
Hon. Chairman and Zoning Board of Appeals
Village of Pawling
9 Memorial Avenue
Pawling, New York 12564

Re: 146 East Main Street
Our File No. 15188-001

Dear Chairman Keupp and Board Members:

This office represents Main Corner Properties, LLC, owner of the property and building located at 146 East Main Street. According to the notice published on the Village website, the ZBA will hold a special meeting and public hearing tonight "to discuss the notice of rescission of negative declaration issued by the Village of Pawling Planning Board for [this] project ..."

It does not appear that this public hearing is authorized by law. Section 7-712-a(7) of the state Village Law states that "[t]he *board of appeals* shall fix a reasonable time for the hearing of the appeal or other matter referred to it ..." (emphases added). Since the ZBA has not held a meeting since October 26, 2022, the ZBA could not have set this public hearing date. In addition, it is my understanding that the hearing notice was not mailed to neighboring properties, as required. Therefore, any public hearing must be scheduled for a later date.

The special meeting/hearing notice states that the purpose is to "discuss" the Planning Board's notice of rescission of the negative declaration. Therefore, what is the purpose a public hearing? I called your attorney, David Daniels, to ask that question and inquire whether the Board might take action tonight, but after a few questions, which he refused to answer, he hung up on me. These questions are the type of questions that are routinely discussed by an applicant's attorney and the board's attorney.

If the ZBA is commencing a process which is intended to result in revocation of the variances granted to this property and building, please note that because the property owner has constructed the building and associated site infrastructure in reliance on those variances, the property owner possesses a vested right in those variances, which precludes revocation of the variances.

Very truly yours,



J. Benjamin Gailey

JBG/ddx

cc: Client (via email only)

David Daniels, Esq. (via email only: ded@dpllawyers.com)

PB Secretary

From: Dave Daniels <ded@dpllawyers.com>
Sent: Monday, November 21, 2022 6:31 PM
To: Robert Pfister (gmail); Michael Keupp jmkeupp@hotmail.com; PB Secretary; Caren LoBrutto
Cc: lauritaylor89; Bob Lusardi; James McEleney
Subject: FW: 146 East Main Street - Rescission of Negative Declaration
Attachments: Daniels Ltr re 146 E Main St Application.pdf; 146 EMS 11.15.2020 Resolution-Filed 11.16.22.pdf

Fyi.
Dave

From: Dave Daniels
Sent: Monday, November 21, 2022 3:20 PM
To: Ben Gailey <jbg@Jacobowitz.Com>
Subject: 146 East Main Street - Rescission of Negative Declaration

Ben,

In response to your recent email attached is a copy of the Planning Board's resolution to rescind the negative declaration pertaining to your client's previously issued site plan approval.

Also, set forth below is our response to your November 10, 2022 letter challenging the Planning Board's authority to rescind the negative declaration.

Background

After receiving several variances from the ZBA and site plan approval from the Planning Board, your client willfully violated the conditions of those approvals and the building permit issued for the work. This led to the issuance of stop work orders and revocation of your client's building permits. As a consequence, the Dutchess County Supreme Court issued a preliminary injunction against your client performing further work at 146 East Main Street based on its findings that work had been performed at such premises in violation of Village Law §7-714 which provides:

[i]n case any building or structure is erected, constructed, reconstructed [or] altered . . . ; or any building, structure or land is used in violation of this act, or of any local law or other regulation made under the authority conferred thereby, the proper local authorities of the village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction [or] alteration . . . to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises (emphasis added).

More specifically, the court found that your client, by its own admission, had deliberately violated Village Law §7-714, by, inter alia, (i) repeatedly failing to comply with the conditions attached to the approved site plan and the directives in the 11/23/21 and 12/22/21 Stop Work Orders and (ii) continuing to engage in on-site construction activities after it received notice that its permit to do so had been revoked and that your client's defenses were "both unavailing and disingenuous". These violations are uncorrected "Violations" under Section 10-3 of Chapter 10A of the Village Code in that, inter alia, the work has been erected, constructed and maintained in violation of the Zoning Law and orders issued by the Village.

Based on these Violations, the Village has the right to pursue civil and criminal actions against your client, including under §10-18(C) of Chapter 10A of the Village Code and 19 NY ADC 1203). In addition, your client's violations constitute changed circumstances and new evidence which clearly would provide a basis for the Planning Board to consider revocation of your client's site plan approval (see, Matter of Marx v. Planning Bd. of Vil. of Mill Neck, 185 A.D.2d 348, 349, 586 N.Y.S.2d 807, appeal dismissed 80 N.Y.2d 970, 591 N.Y.S.2d 136,, lv. denied 81 N.Y.2d 710, 600 N.Y.S.2d 197) and for the ZBA to rehear your client's application for variances upon unanimous consent. See Village Law § 7-712-a

Your client has also submitted an application to the Planning Board seeking to substantially modify the site plan for the project. As you acknowledged at the Planning Board meeting on November 15, 2022, this application subjects your client's entire project to de novo review under SEQRA. See, E.F.S. Ventures Corp. v Foster, 128 A.D.2d 28, 39, 514 N.Y.S.2d 981, 989-90 (N.Y.A.D. 2 Dept., Apr. 20, 1987) (where a site plan is approved following issuance of a negative declaration, and an application for modification of a site plan is submitted, the entire project is subject to de novo review under SEQRA and may be the subject of a positive declaration); reversed on other grounds, 71 N.Y.2d 359, 372-73, 526 N.Y.S.2d 56, 63, (1988). (where a lead agency erroneously make a negative declaration and does not require the filing of an EIS *before action is taken*, when the developer seeks to take further action at the site, the lead agency is empowered to consider the environmental impact of the entire project and is not limited to the consideration of the effects of the specific permit application before it). See, also, In Matter of Town of Henrietta v Department of Env'tl. Conservation, 76 AD2d 215, 223 (SEQRA review conducted in connection with permit applications submitted after the Town's final site plan approval of a project must take into account the impacts of the entire project, not just the impacts of the permits under review).

Your client has no claim of vested rights or municipal estoppel because its construction activities on the site blatantly violated the conditions of the approved site plan and its building permit. Thus, as stated by the Dutchess County Supreme Court, any alleged hardship was entirely self created. See, C & B Realty #3, LLC v Van Loan, No. 2019-09903, 976/18, 173 N.Y.S.3d 637, 639, 2022 N.Y. Slip Op. 05036, 2022 WL 3640823 (N.Y.A.D. 2 Dept., Aug. 24, 2022); 33 Seminary LLC v. City of Binghamton, 120 F.Supp.3d 223, 247 (N.D.N.Y., 2015)(no vested rights for work performed which deviated from building permits); In re Exeter Bldg. Corp. v. Town of Newburgh, 114 A.D.3d 774, 780, 980 N.Y.S.2d 154 (2d Dept.2014) (claim of common-law vesting cannot be grounded upon reliance on permits that did not authorize work performed) and Town of North Elba v Grimditch, No. 520007, 13 N.Y.S.3d 601, 611, 2015 N.Y. Slip Op. 05740, 2015 WL 3998898 (N.Y.A.D. 3 Dept., July 02, 2015)(where structures were built in a persistent and calculated effort to circumvent and defy the Town's authority and efforts to enforce its zoning laws and procedures, it was a provident exercise of the court's discretion to require that defendants dismantle and remove the boathouses).

The Planning Board's right to rescind the negative declaration

As you know, at its meeting on November 15, 2022, the Planning Board resolved to rescind the negative declaration with respect to your client's project based on its finding that significant adverse environmental impacts may result from substantive changes proposed for and new information related to the project that was not previously considered. It further resolved, prior to making a final determination, to inform other involved agencies and your client and provide thirty (30) days for your client and involved agencies to respond.

The Planning Board's action as described above was taken pursuant to 6 NYCRR §617.7(f), which provides that at any time prior to its decision to undertake, fund or approve an *action*, a lead agency must rescind a negative declaration when substantive:

- (i) changes are proposed for the project; or
- (ii) new information is discovered; or
- (iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that a significant adverse environmental impact may result.

You contend that under §617.7(f) of the SEQRA regulations, it's too late for the Planning Board to rescind the negative declaration because the Planning Board's approval of your client's *site plan application* in 2020 constituted "a decision to approve an action" and thus the Planning Board's rescission of the negative declaration did not occur prior to such decision being made.

Your analysis of §617.7(f) is not correct. An "action" is defined not as an "application" but as a "*project or physical activities*" such as construction *that requires "one or more new or modified approvals from an agency"*. See §617.2. For example, construction of a non-residential facility is an "action" (see, 6 NYCRR §617.4). For purposes of interpreting the meaning of §617.7(f), the word "action" can be replaced with the synonymous phrase "project that requires one or more new or modified approvals from an agency". Making such replacement results in §617.7(f) reading in pertinent part as follows:

"At any time prior to its decision to... approve a "*project which requires one or more new or modified approvals*, "a lead agency must rescind a negative declaration when substantive... changes are proposed for the project; or changes in circumstances related to the project arise that were not previously considered and the lead agency determines that a significant adverse environmental impact may result".

Prior to your client's submission of an application to modify the site plan, the Planning Board may have lacked the authority to rescind the negative declaration. However, once this submission was made, it triggered the need for a modified approval of the project. Rescission of the negative declaration for the project is thus permissible, since it will occur prior to the Planning Board acting to approve or disapprove your client's modification request. to modify the project.

This interpretation of §617.7(f) is also completely consistent with §617.3(g) which states as follows:

(g) Actions commonly consist of a set of activities or steps. *The entire set of activities or steps must be considered the action, whether the agency decision-making relates to the action as a whole or to only a part of it...*(1) Considering only a part or segment of an action is contrary to the intent of SEQRA. ... Related actions should be identified and discussed to the fullest extent possible.

Once the application to modify the project was submitted by your client to the Planning Board, it became part of the "*set of activities or steps*" that "*must be considered the action*". Accordingly, until the modified approval is acted upon by the Planning Board, it has not made a decision to approve the action and thus is permitted to rescind the negative declaration under §617.7(f).

You have cited delay in support of your argument against rescission. However, it is your interpretation of §617.7(f) that would create unnecessary delays because, absent a rescission of the negative declaration, processing your client's current application would require that SEQRA be done from scratch, including designating a lead agency, conducting a coordinated review and giving appropriate notice to all involved agencies. See §617.6(b). By contrast, considering rescission of the negative declaration pursuant to §617.7(f) avoids the need for various preliminary steps, since the Planning Board retains its status as lead agency and the only steps required prior to determining significance is providing requisite notice to, receiving comments from the project sponsor and involved agencies and deliberating prior to determining whether to affirm the rescission. See §617.7(f)(3). The Planning Board's actions are thus also consistent with §617.3(h) which requires that Agencies carry out the terms and requirements of SEQRA "with minimum procedural and administrative delay,... avoid unnecessary duplication of reporting and review requirements by providing, where feasible, for combined or consolidated proceedings, [and] ... expedite all SEQRA proceedings in the interest of prompt review. It also must be noted that any delays to date have arisen from your client's failure for many months to submit a complete application and your unfounded objections to the SEQRA process.

Interpreting the SEQRA regulations to prohibit rescission of a negative declaration in connection with a project modification sought after the initial approval is granted could also lead to an absurd and mischievous result of having two (2) inconsistent SEQRA determinations with respect to the same project. This would violate rules of statutory construction that laws be construed to avoid absurd or mischievous consequences. See, NY STAT §§ 145, 148.

David E. Daniels, Managing Partner
(he/him/his)
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From: Ben Gailey <jbg@Jacobowitz.Com>
Sent: Thursday, November 10, 2022 10:52 AM
To: Dave Daniels <ded@dpllawyers.com>
Cc: Robert Pfister <robertpfisterjr@icloud.com>; pbsecy@villageofpawling.org; Joy Baldwin <jb@jacobowitz.com>
Subject: Rescission of Negative Declaration (15188-001)

Dave. Please see attached letter with attachments. Ben.

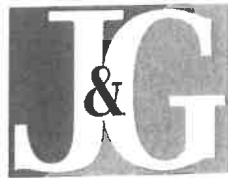


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From: Joy Baldwin <jb@jacobowitz.com>
Sent: Thursday, November 10, 2022 10:46 AM
To: Ben Gailey <jbg@Jacobowitz.Com>
Subject: Daniels Letter (15188-001)

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AND GUBITS^{LLP}**
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November 10, 2022

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Krystle N. Butcher

Via Email Only ded@dpllawyers.com

David E. Daniels, Esq.
One Memorial Avenue
Pawling, New York 12564

Re: 146 East Main Street Application
Supplemental Environment Impact Statement
Our File No. 15188-001

Dear Dave:

This letter pertains to the draft resolution considered by the Planning Board at its October 11, 2022, meeting that would have rescinded the SEQR negative declaration issued by the Board with respect to the approvals granted by the Board on December 8, 2020, to Main Corner Properties, LLC, to re-develop the property located at 146 East Main Street. That draft resolution, if adopted, would also have commenced a process that would result in the Planning Board requiring my client to prepare a supplemental environmental impact statement (SEIS).

As I stated at that meeting, the Planning Board does not possess legal authority to rescind a negative declaration after the Board has granted land use approvals. The SEQR Regulations §617.7(f)(1) state: "At any time *prior to its decision to undertake, fund or approve an action*, a lead agency must rescind a negative declaration [under certain circumstances] ..." (copy attached). The words are clear: Since the Planning Board already granted approval of my client's prior application on December 8, 2020, the Planning Board cannot rescind the negative declaration it issued on those approvals.

Your colleague Robert Lusardi, at the October 11 meeting, cited the case of *Leonard v. Planning Board of Town of Union Vale* as support for the rescission of that prior negative declaration. However, that case does not support your position. To the contrary, the case supports the applicant's position. *Leonard* is actually two cases which make the same ruling and using the same words. The cases are cited at 164 AD3d 662 (2nd Dept. 2018) and 136 AD3d 868 (2nd Dept. 2016) (copies attached).

In those cases, the planning board had issued a negative declaration for a proposed subdivision and approved only a first phase of the subdivision.

*Also admitted in NJ
**OF COUNSEL.

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When the property owner applied 15 years later to subdivide the remainder of the parcel, the court, after quoting the SEQR provision, ruled that the planning board did have legal authority to rescind the negative declaration because “the Planning Board has never given final approval for subdivision of the entire parcel or for subdivision of the portion of the parcel the plaintiffs/petitioners now seek to develop.” 164 AD3d at 664 and 136 AD3d at 872. Since rescission of that negative declaration would have been made prior to the board’s decision to approve the subdivision of the entire or remainder of the parcel, the board possessed legal authority to do so. Such is not the case here, because the final approvals for redevelopment of 146 East Main Street were granted on December 8, 2020. That approval process is completed.

Rescission of that negative declaration is not only unlawful and without authority, but it would also commence a process which would cause needless delay and fail to provide additional information to the Planning Board or further the Board’s review of the pending application. The SEQR Regulations 617.7(f)(2) and (3) state that prior to rescission of a negative declaration, the lead agency must inform other involved agencies and the applicant and provide a reasonable opportunity for the applicant to respond, and then following such time period, if the Board’s determination remains the same, the Board must issue a SEQR positive declaration, which would require the applicant to prepare a supplemental environmental impact statement (SEIS). Such unlawful delay and preparation of an SEIS would not further the Board’s review of the pending application or assist in the resolution of this matter.

Very truly yours,



J. Benjamin Gailey

JBG/jb
Attachments

cc: Client (via email)
Hon. Chairman and Planning Board (via email to pbsecy@villageofpawling.org)
Hon. Robert Pfister, Chairman (via email to robertpfisterjr@icloud.com)

6 CRR-NY 617.7
NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW
YORK

TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CHAPTER VI. GENERAL REGULATIONS
PART 617. STATE ENVIRONMENTAL QUALITY REVIEW

6 CRR-NY 617.7
6 CRR-NY 617.7

617.7 Determining significance.

(a) The lead agency must determine the significance of any Type I or Unlisted action in writing in accordance with this section.

(1) To require an EIS for a proposed action, the lead agency must determine that the action may include the potential for at least one significant adverse environmental impact.

(2) To determine that an EIS will not be required for an action, the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.

(b) For all Type I and Unlisted actions the lead agency making a determination of significance must:

(1) consider the action as defined in sections 617.2(b) and 617.3(g) of this Part;

(2) review the EAF, the criteria contained in subdivision (c) of this section and any other supporting information to identify the relevant areas of environmental concern;

(3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and

(4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation.

(c) Criteria for determining significance:

(1) To determine whether a proposed Type I or Unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in this subdivision. The following list is illustrative, not exhaustive. These criteria are considered indicators of significant adverse impacts on the environment:

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial

increase in potential for erosion, flooding, leaching or drainage problems;

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

(iii) the impairment of the environmental characteristics of a critical environmental area as designated pursuant to section 617.14(g) of this Part;

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

(vi) a major change in the use of either the quantity or type of energy;

(vii) the creation of a hazard to human health;

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

(x) the creation of a material demand for other actions that would result in one of the above consequences;

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

(2) For the purpose of determining whether an action may cause one of the consequences listed in paragraph (1) of this subdivision, the lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:

(i) included in any long-range plan of which the action under consideration is a part;

(ii) likely to be undertaken as a result thereof, or

(iii) dependent thereon.

(3) The significance of a likely consequence (*i.e.*, whether it is material, substantial, large or important) should be assessed in connection with:

(i) its setting (*e.g.*, urban or rural);

(ii) its probability of occurrence;

(iii) its duration;

- (iv) its irreversibility;
- (v) its geographic scope;
- (vi) its magnitude; and
- (vii) the number of people affected.

(d) Conditioned negative declarations.

(1) For Unlisted actions involving an applicant, a lead agency may prepare a conditioned negative declaration (CND) provided that it:

- (i) has completed a full EAF;
- (ii) has completed a coordinated review in accordance with section 617.6(b)(3) of this Part;
- (iii) has imposed SEQR conditions pursuant to section 617.3(b) of this Part that have mitigated all significant environmental impacts and are supported by the full EAF and any other documentation;
- (iv) has published a notice of a CND in the ENB and a minimum 30-day public comment period has been provided. The notice must state what conditions have been imposed. An agency may also use its own public notice and review procedures, provided the notice states that a CND has been issued, states what conditions have been imposed and allows for a minimum 30-day public comment period; and
- (v) has complied with subdivision (b) of this section and section 617.12(a) and (b) of this Part.

(2) A lead agency must rescind the CND and issue a positive declaration requiring the preparation of a draft EIS if it receives substantive comments that identify:

- (i) potentially significant adverse environmental impacts that were not previously identified and assessed or were inadequately assessed in the review; or
- (ii) a substantial deficiency in the proposed mitigation measures.

(3) The lead agency must require an EIS if requested by the applicant.

(e) Amendment of a negative declaration.

(1) At any time prior to its decision to undertake, fund or approve an action, a lead agency, at its discretion, may amend a negative declaration when substantive:

- (i) changes are proposed for the project; or
- (ii) new information is discovered; or
- (iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that no significant adverse environmental impacts will occur.

(2) The lead agency must prepare, file and publish the amended negative declaration in accordance with section 617.12 of this Part. The amended negative declaration must contain reference to the original negative declaration and discuss the reasons supporting the amended determination.

(f) Rescission of negative declarations.

(1) At any time prior to its decision to undertake, fund or approve an action, a lead agency must rescind a negative declaration when substantive:

(i) changes are proposed for the project; or

(ii) new information is discovered; or

(iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that a significant adverse environmental impact may result.

(2) Prior to any rescission, the lead agency must inform other involved agencies and the project sponsor and must provide a reasonable opportunity for the project sponsor to respond.

(3) If, following reasonable notice to the project sponsor, its determination is the same, the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part.

6 CRR-NY 617.7

Current through April 30, 2021

END OF DOCUMENT



As of: October 12, 2022 9:35 PM Z

Leonard v Planning Bd. of Town of Union Vale

Supreme Court of New York, Appellate Division, Second Department

February 17, 2016

2013-04268

Reporter

136 A.D.3d 868 *; 26 N.Y.S.3d 293 **; 2016 N.Y. App. Div. LEXIS 1159 ***; 2016 NY Slip Op 01156 ****

[****1] E. Deane Leonard et al., Respondents, v Planning Board of Town of Union Vale, Appellant. (Index No. 2621/12)

Prior History: *Leonard v Planning Bd. of Town of Union Vale*, 136 AD3d 866, 25 NYS3d 319, 2016 N.Y. App. Div. LEXIS 1157, 2016 NY Slip Op 1155 (N.Y. App. Div. 2d Dep't, Feb. 17, 2016)

Core Terms

planning board, negative declaration, plat, subdivision, rescinded, declaring, cross motion, full force, petitioners', summary judgment, seek review, inter alia

Case Summary

Overview

HOLDINGS: [1]-The supreme court did not err in reaching the merits of the complaint seeking review of another resolution without giving the planning board an opportunity to answer the complaint because the planning board's decision in the resolution was arbitrary and capricious since it was based on faulty premises; [2]-The planning board erroneously concluded that the amendment and rescission provisions were, by their terms, inapplicable; [2]-The planning board had never given final approval for subdivision of the entire parcel or for subdivision of the portion of the parcel the citizens sought to develop, and thus, it was still authorized to assess possible adverse environmental impacts with respect to the proposed subdivision pursuant to 6 NYCRR 617.7(e) and (f).

Outcome

Order affirmed.

LexisNexis® Headnotes

Real Property Law > Zoning > Judicial Review

HN1 [] Zoning, Judicial Review

Under Town Law § 282, a party seeking review of a decision of a planning board concerning a plat is required to commence a CPLR art. 78 proceeding within thirty days after the filing of the decision in the office of the town clerk. Section 282 refers to judicial review of any decision of the planning board' concerning a plat Town Law § 282.

Administrative Law > Judicial Review > Standards of Review > Abuse of Discretion

Administrative Law > Judicial Review > Standards of Review > Unlawful Procedures

Administrative Law > Judicial Review > Standards of Review > Arbitrary & Capricious Standard of Review

HN2 [] Standards of Review, Abuse of Discretion

Review of an agency determination that was not made after a quasi-judicial hearing is limited to consideration of whether the determination was made in violation of lawful procedure, was affected by an error of law, or was arbitrary and capricious or an abuse of discretion. CPLR 7803(3).

Environmental Law > General Overview

HN3 [] Environmental Law

136 A.D.3d 868, *868; 26 N.Y.S.3d 293, **293; 2016 N.Y. App. Div. LEXIS 1159, ***1159; 2016 NY Slip Op 01156, ****1

The provisions of 6 NYCRR 617.7(e) and (f) specifically authorize an agency to take into account changes in projects, new information, and changed circumstances affecting a project.

Environmental Law > Administrative Proceedings & Litigation

HN4 Environmental Law, Administrative Proceedings & Litigation

Rescission and amendment are authorized at any time prior to the lead agency's decision to approve an action. 6 NYCRR 617.7(e), (f).

Headnotes/Summary

Headnotes

Municipal Corporations—Planning—30-Day Limitation Period for Judicial Review of Preliminary Plat Approval Challenged on Environmental Grounds—When Proceeding Must be Commenced

Administrative Law—Judicial Review

Counsel: [***1] Steven Habiague, Poughquag, NY (E. Deane Leonard of counsel), for respondents.

Judges: RUTH C. BALKIN, J.P., THOMAS A. DICKERSON ROBERT J. MILLER, SYLVIA O. HINDS-RADIX, JJ. BALKIN, J.P., DICKERSON, MILLER and HINDS-RADIX, JJ., concur.

Opinion

[**295] [*868] In a hybrid action for a judgment, in effect, declaring that a certain negative declaration issued pursuant to the State Environmental Quality Review Act (*ECL art 8*) remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f), and to recover damages pursuant to 42 USC § 1983, and proceeding pursuant to *CPLR article 78* to review determinations of the defendant/respondent dated March 21, 2012, and April 18, 2012, inter alia, rejecting, as incomplete, the application of the plaintiffs/petitioners for preliminary plat approval, the defendant/respondent appeals, as limited by its brief, from so much of an order of the Supreme

Court, Dutchess County (Rosa, J.), dated March 12, 2013, as [*869] denied those branches of its motion which were pursuant to *CPLR 3211 (a)* and *7804 (f)* to dismiss so much of the action/proceeding as sought a judgment declaring that the negative declaration remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f) and review of its determinations dated March [***2] 21, 2012, and April 18, 2012, and granted those branches of the plaintiffs/petitioners' cross motion which were for summary judgment annulling the determinations dated March 21, 2012, and April 18, 2012, and for a judgment declaring, in effect, that the negative declaration remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f).

Ordered that the notice of appeal from so much of the order as denied those branches of the defendant/respondent's motion which were pursuant to *CPLR 3211 (a)* and *7804 (f)* to dismiss the causes of action asserted, in effect, pursuant to *CPLR article 78*, and granted those branches of the plaintiffs/petitioners' cross motion which were for summary judgment on those causes of action, is deemed to be an application for leave to appeal from those portions of the order, and leave to appeal is granted (see *CPLR 5701 (c)*); and it is further,

Ordered that the order is modified, on the law, by deleting the provision thereof denying that branch of the defendant/respondent's motion which was pursuant to *CPLR 3211 (a)* and *7804 (f)* to dismiss, as time-barred, so much of the action/proceeding as sought to review its determination dated March 21, 2012, and substituting therefor a provision granting that branch of the motion, [***3] and by deleting the provision thereof granting that branch of the plaintiff/petitioners' cross motion which was for summary judgment annulling that determination, and substituting therefor a provision denying that branch of the cross motion; as so modified, the order is affirmed, without costs or disbursements, and the matter is remitted to the Supreme Court, Dutchess County, for the entry of a judgment, inter alia, declaring that a negative declaration issued pursuant to the [****2] State Environmental Quality Review Act to the plaintiffs/petitioners E. Deane Leonard and Steven Habiague by the Planning Board of the Town of Union Vale, in 1987, remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f).

In 1987, in connection with a proposal to subdivide a 950-acre parcel of real property [**296] then owned by

136 A.D.3d 868, *869; 26 N.Y.S.3d 293, **296; 2016 N.Y. App. Div. LEXIS 1159, ***3; 2016 NY Slip Op 01156, ****2

the plaintiffs/petitioners E. Deane Leonard and Steven Habiague in the Town of Union Vale, the Planning Board of the Town of Union Vale (hereinafter the Planning Board) issued a negative declaration [*870] pursuant to the State Environmental Quality Review Act (ECL art 8 [hereinafter SEQRA]). Those plaintiffs/petitioners thereafter sought and received approval from the Planning Board to subdivide [***4] a portion of the property, which was developed. In 2012, Habiague, Leonard, and the plaintiff/petitioner Robert O. Dryfoos, to whom a portion of the property had been sold, applied for preliminary plat approval to subdivide the remainder of the parcel, deemed the East Mountain North subdivision. The 2012 preliminary plat application relied upon the 1987 negative declaration.

On March 21, 2012, the Planning Board adopted a resolution rejecting the preliminary plat application on the ground that it did not include all of the required information. On April 18, 2012, after the plaintiffs/petitioners had supplemented their application, the Planning Board adopted a resolution again rejecting the application as incomplete. The Planning Board based its rejection of the application upon its determination that the 1987 negative declaration was not operative with respect to the instant application, which the Planning Board found to be a new action requiring SEQRA review.

The plaintiffs/petitioners then commenced this hybrid action/proceeding seeking, inter alia, review of the March 21, 2012, and April 18, 2012 resolutions, and a judgment, in effect, declaring that the 1987 negative declaration [***5] remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f). The Planning Board moved pursuant to CPLR 3211 (a) and 7804 (f) to dismiss the complaint/petition, and the plaintiffs/petitioners cross-moved for summary judgment, inter alia, on so much of the complaint/petition as sought review of the two resolutions and the aforementioned declaration. The Supreme Court denied the Planning Board's motion and granted those branches of the plaintiffs/petitioners' cross motion.

The Supreme Court erred in denying that branch of the Planning Board's motion which was to dismiss, as time-barred, so much of the complaint/petition as sought review of the March 21, 2012, resolution. HN1 Under Town Law § 282, a party seeking review of a decision of a planning board concerning a plat is required to commence a CPLR article 78 proceeding "within thirty days after the filing of the decision in the office of the

town clerk." "Section 282 refers to judicial review of 'any decision of the planning board' " concerning a plat (Matter of Long Is. Pine Barrens Socy. v Planning Bd. of Town of Brookhaven, 78 NY2d 608, 613, 585 NE2d 778, 578 NYS2d 466 [1991] [emphasis omitted], quoting Town Law § 282). Here, since the plaintiffs/petitioners sought review [*871] of the March 21, 2012 resolution concerning their preliminary plat application, which resolution was filed with the office of the Town Clerk on March 26, 2012, so much [***6] of the action/proceeding, commenced in May 2012, as sought review of that resolution is time-barred (see Town Law § 282; see also Matter of Rose Woods, LLC v Weisman, 85 AD3d 801, 802-803, 924 NYS2d 574 [2011]).

Contrary to the Planning Board's contention, under the circumstances of this case, the Supreme Court did not err in reaching the merits of so much of the complaint/petition as sought review of the April 18, 2012 resolution and for a declaratory judgment, without giving the Planning Board an opportunity to answer the second amended complaint/petition. The [***297] dispositive facts relevant to the limited issue presented in this action/proceeding were undisputed and the arguments of the parties with respect to the merits of that issue were fully set forth in the motion papers (see Matter of S & R Dev. Estates, LLC v Feiner, 112 AD3d 945, 947, 977 NYS2d 377 [2013]; Matter of Rizvi v New York Coll. of Osteopathic Medicine of N.Y. Inst. of Tech., 98 AD3d 1049, 950 NYS2d 754 [2012]; see generally Matter of Nassau BOCES Cent. Council of Teachers v Board of Coop. Educ. Servs. of Nassau County, 63 NY2d 100, 102, 469 NE2d 511, 480 NYS2d 190 [1984]).

HN2 "[R]eview of an agency determination that was not made after a quasi-judicial hearing [***3] is limited to consideration of whether the determination was made in violation of lawful procedure, was affected by an error of law, or was arbitrary and capricious or an abuse of discretion" (Matter of Drumm v Cassano, 129 AD3d 957, 958, 10 NYS3d 633 [2015]; see CPLR 7803 (3)). Here, as the Supreme Court correctly concluded, the Planning Board's determination in the April 18, 2012, resolution that the application regarding the East Mountain North subdivision constituted a new action, [***7] requiring de novo SEQRA review, was arbitrary and capricious. The Planning Board's determination was based on faulty premises, among which was the erroneous legal conclusion that the 1987 negative declaration had expired. Additionally, although there were certain changes made to the East Mountain North project from when the subdivision was first proposed in 1987, those changes did not support the Planning Board's

136 A.D.3d 868, *871; 26 N.Y.S.3d 293, **297; 2016 N.Y. App. Div. LEXIS 1159, ***7; 2016 NY Slip Op 01156, ***3

conclusion that the East Mountain North subdivision is now a new action under SEQRA (see 6 NYCRR 617.2 [b]; *Matter of Monteiro v Town of Colonie*, 158 AD2d 246, 250, 558 NYS2d 730 [1990]).

Nevertheless, the fact that the East Mountain North subdivision is not a new action under SEQRA does not fully resolve the matter. Instead, in light of, among other things, the changes to the project, the Planning Board has the responsibility [*872] to assess whether the 1987 negative declaration should be amended (see 6 NYCRR 617.7 [e] [1]) or "must" be rescinded (6 NYCRR 617.7 [f] [1]) under the standards set forth in 6 NYCRR 617.7 (e) and (f) (cf. *Matter of Riverkeeper, Inc. v Planning Bd. of Town of Southeast*, 9 NY3d 219, 228-230, 881 NE2d 172, 851 NYS2d 76 [2007]; *Boyles v Town Bd. of Town of Bethlehem*, 278 AD2d 688, 691, 718 NYS2d 430 [2000]; *Greenwich Citizens Comm. v Counties of Warren & Washington Indus. Dev. Agency*, 164 AD2d 469, 473, 565 NYS2d 239 [1990]). **HN3** [↑] The provisions of 6 NYCRR 617.7 (e) and (f) specifically authorize an agency to take into account changes in projects, new information, and changed circumstances affecting a project.

The Planning Board erroneously concluded that the amendment and rescission provisions were, by their terms, inapplicable. **HN4** [↑] Rescission and amendment [***8] are authorized "[a]t any time prior to [the lead agency's] decision to . . . approve an action" (6 NYCRR 617.7 [e], [f]). Here, the Planning Board has never given final approval for subdivision of the entire parcel or for subdivision of the portion of the parcel the plaintiffs/petitioners now seek to develop. Accordingly, contrary to its conclusion otherwise, the Planning Board is still authorized to assess possible adverse environmental impacts with respect to the proposed East Mountain North subdivision pursuant to 6 NYCRR 617.7 (e) and (f).

The Planning Board's remaining contentions are without merit.

Accordingly, the Supreme Court correctly granted that branch of the plaintiffs/petitioners' cross motion which was for summary [***298] judgment annulling the April 18, 2012 resolution determining that the subject preliminary plat application was incomplete because the 1987 negative declaration was not valid with respect to East Mountain North and new SEQRA review was required. Further, the court properly concluded that the Planning Board was required to consider the plaintiffs/petitioners' preliminary plat application on the

basis of the 1987 negative declaration, unless it decides to amend or rescind the negative declaration pursuant [***9] to 6 NYCRR 617.7 (e) or (f).

Since this is, in part, a declaratory judgment action, the matter must be remitted to the Supreme Court, Dutchess County, for the entry of a judgment, inter alia, declaring that a negative declaration issued pursuant to SEQRA to the plaintiffs E. Deane Leonard and Steven Habiague by the Planning Board of the Town of Union Vale, in 1987, remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f). Balkin, J.P., Dickerson, Miller and Hinds-Radix, J.J., concur.

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As of: October 12, 2022 9:16 PM Z

Leonard v Planning Bd. of the Town of Union Vale

Supreme Court of New York, Appellate Division, Second Department

August 15, 2018, Decided

2015-11316

Reporter

164 A.D.3d 662 *; 83 N.Y.S.3d 241 **; 2018 N.Y. App. Div. LEXIS 5693 ***; 2018 NY Slip Op 05757 ****; 2018 WL 3863279

[****1] E. Deane Leonard et al., Appellants, v Planning Board of the Town of Union Vale, Respondent. (Index No. 4528/13)

Subsequent History: [Amended by 2018 NY App Div LEXIS 9004, 2018 NY Slip Op 90766(U)].

Modified by, On rehearing at Leonard v. Planning Bd. of the Town of Union Vale, 2018 N.Y. App. Div. LEXIS 9004 (N.Y. App. Div. 2d Dep't, Dec. 13, 2018)

Appeal dismissed by E. Deane Leonard v. Planning Bd. of Town of Union Vale, 32 N.Y.3d 1184, 2019 N.Y. LEXIS 124, 95 N.Y.S.3d 137, 119 N.E.3d 777 (Feb. 14, 2019)

Leave to appeal denied by Leonard v. Planning Bd., 2019 N.Y. LEXIS 2546 (N.Y., Sept. 5, 2019)

Prior History: Leonard v. Planning Bd., 154 F. Supp. 3d 59, 2016 U.S. Dist. LEXIS 478 (S.D.N.Y., Jan. 4, 2016)

Core Terms

negative declaration, rescinded, changes, hybrid, parcel, amended petition, lead agency, environmental, petitioners', subdivision, subdivide, significant adverse environmental impact, opportunity to be heard, environmental concerns, portion of property, new information, project sponsor, proposed action, public hearing, inter alia, circumstances, rescission, quotation, assess, marks, plat

Case Summary

Overview

HOLDINGS: [1]-The order denying the second amended petition challenging a town planning board's

rescindment of a negative declaration was affirmed as the record supported the planning board's conclusion that changes in the regulatory landscape for environmental matters constituted new information or a change in circumstance, its procedures were lawful, and it identified the relevant areas of environmental concern, took a hard look at them, and made a reasoned elaboration of the basis for its determination.

Outcome

Order affirmed.

LexisNexis® Headnotes

Administrative Law > Judicial Review > Standards of Review

Business & Corporate
Compliance > ... > Environmental Law > Assessment & Information
Access > Environmental Impact Statements

Environmental Law > Administrative Proceedings & Litigation > Judicial Review

HN1 [] **Judicial Review, Standards of Review**

It is not the role of the courts to weigh the desirability of any action or choose among alternatives, but to assure that the agency itself has satisfied the State Environmental Quality Review Act, ECL art 8, procedurally and substantively. The court's review is limited to whether the agency procedures were lawful and whether the agency identified the relevant areas of environmental concern, took a hard look at them, and made a reasoned elaboration of the basis for its determination.

Headnotes/Summary

Headnotes

Environmental Conservation—Environmental Quality Review—Rescission of Negative Declaration—Change in Circumstances

Counsel: [***1] Steven Habiague, Poughquag, NY, appellant, Pro se.

For appellants: E. Deane Leonard and Robert O. Dryfoos.

For respondent: Sokoloff Stern LLP, Carle Place, NY (Brian S. Sokoloff of counsel).

Judges: JOHN M. LEVENTHAL, J.P., JEFFREY A. COHEN, SYLVIA O. HINDS-RADIX, FRANCESCA E. CONNOLLY, JJ. LEVENTHAL, J.P., COHEN, HINDS-RADIX and CONNOLLY, JJ., concur.

Opinion

[**241] [*663] In a hybrid action for declaratory relief and proceeding pursuant to CPLR article 78 to review a determination of the defendant/respondent dated June 19, 2013, rescinding a negative declaration issued pursuant to the *State Environmental Quality Review Act (ECL art 8)* in 1987, the plaintiffs/petitioners appeal from a judgment of the Supreme Court, Dutchess County (Maria G. Rosa, J.), dated October 15, 2015. The judgment denied the second amended petition and, in effect, dismissed the proceeding.

[**242] Ordered that the judgment is affirmed, with costs.

In 1987, in connection with a proposal to subdivide a 950-acre parcel of real property then owned by the plaintiffs/petitioners E. Deane Leonard and Steven Habiague in the Town of Union Vale, the Planning Board of the Town of Union Vale (hereinafter the Planning Board) issued a negative declaration pursuant to the State [***2] Environmental Quality Review Act (*ECL art 8* [hereinafter SEQRA]), stating that an environmental impact statement was not required (see *Leonard v Planning Bd. of Town of Union Vale*, 136 AD3d 868, 869-870, 26 NYS3d 293 [2016]; 6 NYCRR 617.2 [y]). Leonard and Habiague thereafter sought and received approval from the Planning Board to subdivide a portion of the property, which was developed (see

Leonard v Planning Bd. of Town of Union Vale, 136 AD3d at 870). In 2012, Habiague, Leonard, and the plaintiff/petitioner Robert O. Dryfoos, to whom a portion of the property had been sold (hereinafter collectively the petitioners), applied for preliminary plat approval to subdivide the remainder of the parcel, known as the East Mountain North subdivision (see *id.*). The 2012 preliminary plat application relied upon the 1987 negative declaration (see *id.*).

On April 18, 2012, after the petitioners had supplemented their application, the Planning Board adopted a resolution rejecting the petitioners' application as incomplete (see *id.*). The Planning Board based its rejection of the application upon its determination that the 1987 negative declaration was not operative with respect to the application, which the Planning Board found to be a new action requiring SEQRA review (see *id.*).

The petitioners commenced a hybrid action and proceeding seeking, inter alia, review of the [***3] April 18, 2012, resolution and a judgment, in effect, declaring that the 1987 negative [****2] declaration remains in full force and effect unless amended or rescinded pursuant to 6 NYCRR 617.7 (e) or (f) (see *id.*). The Supreme Court found, in effect, that the Planning Board had [*664] not afforded the petitioners sufficient notice and an opportunity to be heard and directed the Planning Board to hold a public hearing and afford the petitioners the opportunity to be heard regarding rescission or amendment of the negative declaration. The Planning Board appealed and, insofar as relevant here, this Court affirmed that determination (see *Leonard v Planning Bd. of Town of Union Vale*, 136 AD3d at 869).

As directed, the Planning Board conducted the public hearing on May 15 and June 19, 2013. After the hearing, in a resolution dated June 19, 2013, the Planning Board rescinded the negative declaration pursuant to 6 NYCRR 617.7 (f). The petitioners then commenced this hybrid action and proceeding seeking, inter alia, review of the June 19, 2013, resolution. The Supreme Court denied the second amended petition and, in effect, dismissed the proceeding. The petitioners appeal.

Section 617.7 of the SEQRA regulations addresses the process and criteria for determining whether a proposed action is environmentally significant. *Subdivision (f)* provides, [***4] in part, "(1) At any time prior to its decision to undertake, fund or approve an action, a lead

164 A.D.3d 662, *664; 83 N.Y.S.3d 241, **242; 2018 N.Y. App. Div. LEXIS 5693, ***4; 2018 NY Slip Op 05757, ****2

agency must rescind a negative declaration when substantive: (i) changes are proposed for the project; or (ii) new information is discovered; or (iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that a significant adverse environmental impact may result. (2) Prior to any rescission, the lead agency must inform other involved agencies and the project sponsor [**243] and must provide a reasonable opportunity for the project sponsor to respond." *Subdivision (c) of section 617.7* sets forth the criteria an agency must consider in determining whether a proposed action will have a significant adverse impact on the environment.

In our decision in the prior hybrid action/proceeding, we found that, "in light of, among other things, the changes to the project, the Planning Board has the responsibility to assess whether the 1987 negative declaration should be amended (see 6 NYCRR 617.7 [e] [1]) or 'must' be rescinded (6 NYCRR 617.7 [f] [1]) under the standards set forth in 6 NYCRR 617.7 (e) and (f)" (*Leonard v Planning Bd. of Town of Union Vale*, 136 AD3d at 871-872). Contrary to the petitioners' contention, the Planning Board has never given final approval for subdivision of the entire [***5] parcel or for subdivision of the portion of the parcel the petitioners now seek to develop and, accordingly, the Planning Board remains free to assess possible adverse environmental impacts (see *id.* at 872; see also *Matter of Global Cos. LLC v New York State Dept. of Env'tl. Conservation*, 155 AD3d 93, 101, 64 NYS3d 133 [2017]; [**665] *Matter of Pittsford Canalside Props. LLC v Village of Pittsford*, 137 AD3d 1566, 1568, 29 NYS3d 709 [2016]).

The record supports the Planning Board's conclusion that changes in the regulatory landscape for environmental matters constituted new information or a change in circumstances (see 6 NYCRR 617.7 [c], [f] [1] [ii]-[iii]). Moreover, in determining that the project may result in significant adverse environmental impacts, the Planning Board identified specific environmental concerns relevant to the criteria for determining significance (see 6 NYCRR 617.7 [c] [1] [xi]).

The petitioners argue that the Planning Board's conclusion was incorrect. However, *HN1* [↑] "it is not the role of the courts to weigh the desirability of any action or choose among alternatives, but to assure that the agency itself has satisfied SEQRA, procedurally and substantively" (*Matter of Youngewirth v Town of Ramapo Town Bd.*, 155 AD3d 755, 757, 65 NYS3d 540 [2017] [internal quotation marks omitted]; see *Akpan v*

Koch, 75 NY2d 561, 571, 554 NE2d 53, 555 NYS2d 16 [1990]; *Matter of Jackson v New York State Urban Dev. Corp.*, 67 NY2d 400, 416, 494 NE2d 429, 503 NYS2d 298 [1986]; *Matter of Village of Kiryas Joel, N.Y. v Village of Woodbury, N.Y.*, 138 AD3d 1008, 1012, 31 NYS3d 83 [2016]; *Matter of Saint James Antiochian Orthodox Church v Town of Hyde Park Planning Bd.*, 132 AD3d 687, 687-688, 17 NYS3d 481 [2015]). Our review is limited to "whether the agency procedures were lawful and whether the agency identified the relevant areas of environmental concern, took a hard look at them, and made a reasoned elaboration of the basis for its determination" (*Matter of Youngewirth v Town of Ramapo Town Bd.*, 155 AD3d at 757 [internal quotation [***6] marks omitted]; see *Matter of Riverkeeper, Inc. v Planning Bd. of Town of Southeast*, 9 NY3d 219, 231-232, 881 NE2d 172, 851 NYS2d 76 [2007]; *Matter of Shapiro v Planning Bd. of the Town of Ramapo*, 155 AD3d 741, 743, 65 NYS3d 54 [2017]; see also *Matter of Perez v Rhea*, 20 NY3d 399, 405, 984 NE2d 925, 960 NYS2d 727 [2013]; *Matter of Davis v Mills*, 98 NY2d 120, 125, 778 NE2d 540, 748 NYS2d 890 [2002]; [****3] *Flacke v Onondaga Landfill Sys.*, 69 NY2d 355, 363, 507 NE2d 282, 514 NYS2d 689 [1987]). Here, the Planning Board satisfied this standard.

The petitioners' remaining contention is without merit.

[**244] Accordingly, we agree with the Supreme Court's determination to deny the second amended petition and, in effect, dismiss the proceeding. Leventhal, J.P., Cohen, Hinds-Radix and Connolly, JJ., concur.

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FILED WITH
NOV 16 2022
VILLAGE CLERK

At a Meeting of the Village of Pawling Planning Board held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 15th day of November 2022, at 7:00 PM

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF PAWLING

The meeting was called to order by Chairman Robert Pfister and the following were:

PRESENT:

Chairman Robert Pfister
 Lou Musella
 Adam Muroski (Absent)
 Peter Pennelle
 Michael Mersand

The following Resolution was proposed by **Chairman Robert Pfister**, who moved its adoption, and seconded **Member Peter Pennelle**.

WHEREAS, on or about **October 13, 2020**, the Planning Board issued a negative declaration (“Negative Declaration”) under the New York State Environmental Quality Review Act (“SEQRA”) with respect to the application of Main Corner Properties LLC (“Applicant”) for site plan approval to construct a building and other improvements (the “Project”) on premises located at 146 East Main Street, Pawling, New York (the “Premises”);

WHEREAS, on or about December 8, 2020 the Planning Board approved such site plan application, subject to certain conditions and limitations, one of which stated: [t]his approval is limited to and conditioned upon the plans specification and uses set forth in the application for site plan approval, as amended. and the reports of the Village Engineer and Village Planner submitted to and accepted by the Planning Board in review of the application;

WHEREAS, based on violations by the Applicant of certain of the foregoing conditions, on August 22, 2022, Hon. Christie L. D’Alessio, Justice of the Supreme Court of the State of New York, County of Dutchess issued a decision and order which granted the Village’s

application for a preliminary injunction enjoining the Applicant from performing any further work on the Premises unless and until proper permits are obtained from the Building Department for the Village of Pawling or the prior permit, which was revoked as of December 22, 2021, is restored by the Building Department for the Village of Pawling.

WHEREAS, the Planning Board has discussed the fact that the Applicant's application for modifications to the site plan for the Project ("Modification Application") includes substantive changes that were not previously considered by the Planning Board;

WHEREAS, the nature of these substantive changes has been discussed by the Planning Board at this and prior meetings;

WHEREAS, 6 NYCRR 617.7(f) provides as follows:

Rescission of negative declarations.

- (1) At any time prior to its decision to undertake, fund or approve an action, a lead agency must rescind a negative declaration when substantive:
 - (i) changes are proposed for the project; or
 - (ii) new information is discovered; or
 - (iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that a significant adverse environmental impact may result.
- (2) Prior to any rescission, the lead agency must inform other involved agencies and the project sponsor and must provide a reasonable opportunity for the project sponsor to respond.
- (3) If, following reasonable notice to the project sponsor, its determination is the same, the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part.

WHEREAS, the Planning Board has received and evaluated the report from the Village Architect opining that the changes to the site plan proposed by the Applicant may have significant adverse environmental impacts relating to non-conformance with the Village's comprehensive plan, community character, and significant adverse visual and aesthetic impacts;

WHEREAS, the Planning Board has considered the Village Architect's report and has engaged in further discussion and consideration as to whether the Modification Application may result in a significant adverse environmental impact, including significant adverse impacts relating to non-conformance with the Village's comprehensive plan, community character, and significant adverse visual and aesthetic impacts;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Modification Application involves proposed substantive changes for the Project as well as changes in circumstances related to the Project that were not previously considered;
2. The changes proposed in the Modification Application may result in a significant adverse environmental impact result.
3. Prior to considering a resolution to rescind the Negative Declaration the Planning Board shall inform other involved agencies and the Applicant of its intent to rescind the Negative Declaration and will provide the Applicant and such agencies with a reasonable opportunity to respond;
4. Providing the Applicant a period of thirty (30) days to respond as provided above is deemed by the Planning Board to be a reasonable time period,
5. Following the receipt and consideration of responses from the Applicant and involved agencies and such other information deemed relevant by the Planning Board, the

Planning Board will thoroughly analyze any identified relevant areas of environmental concern and changes in circumstances related to the project that were not previously considered;


6. Following the actions described in section 5 above, the Planning Board will consider and vote on a motion to rescind the Negative Declaration;

The question of the foregoing Resolution was duly put to a vote, the Planning Board voting as follows:

| | <u>Aye</u> | <u>Nay</u> | <u>Absent</u> |
|-------------------------|------------|------------|---------------|
| Chairman Robert Pfister | <u>X</u> | — | — |
| Lou Musella | <u>X</u> | — | — |
| Adam Muroski | — | — | <u>X</u> |
| Peter Pennelle | <u>X</u> | — | — |
| Michael Mersand | <u>X</u> | — | — |
| TOTAL | <u>4</u> | — | <u>1</u> |

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Planning Board at a meeting held on **November 15, 2022**.

Date: November 16, 2022


 Vivian Nikolatos
 Planning Board Secretary