

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES February 6, 2023**

APPROVED

CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. Michael Galbraith
Mr. Frank Rica
Mr. Donald Huber
Mr. Scott Bowen (recused)
Mr. Anthony Paoella
Mr. Foster Cooper
Mr. Mehul Desai Alternate # 1 (excused)
Ms. Valentina Carleo Alternate # 2
Mr. Mark Peck, Esq.

ANNOUNCEMENT:

Adequate notice of this meeting has been provided by posting Public Notice on the Municipal Bulletin Board on the main floor of the Municipal Building, and sending a copy to the Star Ledger, and filing a copy with the Municipal Clerk, all on January 11, 2023.

FLAG SALUTE

MINUTES:

The minutes of the January 9, 2023 reorganization meeting were sent to the board for review.

Motion to approve was made by Mr. Villani, seconded by Mr. Huber:

ROLL CALL

All in favor.

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING:

Floor is opened to any member of the public wish to make a statement, which is unrelated to the meeting agenda.

CLOSE THE PRIVILEGE OF THE FLOOR PORTION OF THE MEETING

This portion of the meeting was opened and seeing no one come forward closed the portion.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 2

RESOLUTIONS:

BA 22-06 St. Augustine and Monica Coptic Orthodox Church
Block 70.03, lot 23, 145 Washington Valley Road
Preliminary and Final Site Plan

Motion was made by Ms. Carleo, seconded by Mr. Villani to adopt the resolution.

ROLL CALL

For: Mr. Villani, Mr. Galbraith, Mr. Rica, Mr. Huber, Mr. Paoletta, Mr. Cooper, and Ms. Carleo.

Against: None.

COMMUNICATIONS: None.

AGENDA CASE APPLICATIONS:

CASE BA22-08 Maddy Realty LLC
Block 212 lot 20.01, 50 Stirling Road
Use Variance
Carried from December 5, 2022

Mr. Jay Bohn came forward as the attorney for the applicant. At the meeting on December 5, 2022, Mr. Frank Cretella was unable to be present but was present for this meeting. The architect, Mr. Jeffrey Fleisher was also present. Both were sworn in by Mr. Peck, the board's attorney.

Mr. Bohn asked Mr. Cretella to explain his relationship with Maddy Realty. The Maddy Realty and the restaurant are owned by his wife and himself. They started the company about 25 years ago. There is a restaurant and a venue for events. There are two sides to the property. The left side is where the restaurant is and it also has a front patio. Behind that is a ballroom and there are function rooms. On the right side, there is a building that was existing (that they renovated) and they call it the Gallery and it has a front porch on it used for cocktail receptions. Behind that area is a space called The Lodge. It was built around seven years ago. They have other similar facilities; they operate close to 20 venues currently. The Ryland Inn is similar with multiple buildings on the same property. It has hotel rooms there now. They also have a property in New Hope, called Hotel DuVillage, and it has multiple buildings, with a venue and a hotel.

They are asking for a 40-room hotel only for event guests. More and more brides are looking for that. The average size parties now are 165 people. The average guest nights that a wedding generates is about 35. So they had asked for enough for two weddings previously.

There will be no sign promoting the hotel along the street, it is only for the event guests.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 3

Mr. Bohn mentioned that there was concern that day about trees being cut down on the property. Mr. Cretella said that he had been onsite the previous week and they were looking at where the fence line will be as they are proposing a fence. They want to match the fence to the fence that the neighbors have. Mr. Cretella said they needed to clean up out in that area. There were a lot of branches that would need to be cut and many vines.

Mr. Cretella also spoke about traveling within the property. There are paths/sidewalks. They also do use golf carts to carry people on the property for events. There is also handicap parking. They discussed adding landscaping along Stirling Road.

There is a maintenance company that handles the general landscaping, there is a facility manager on site that handles exterior maintenance.

They discussed the fence existing and they would continue the fencing along all the homes. Previously the neighbors wanted a fence and they had agreed. The neighbors changed their mind. They have mounded landscape along the boundary. Mr. Cooper spoke about the fence he saw at the property and they talked about adding to that for quite a ways. There was discussion on where the fence was and if Maddy's property went beyond and how far. It was unknown how far the property went beyond the existing fence.

Mr. Cooper asked if the board members had any questions for Mr. Cretella. Mr. Chadwick spoke about the plans that were submitted that showed a trellis and a covered walkway. That will not be included in this variance. Mr. Bohn agreed and that will require site plan.

Mr. Cooper opened the hearing to the public for questions only for the witness. Mr. Tom Young came forward from 7 Dillon Court and he asked about trees taken down that day. Mr. Cretella said there were vines taken off of trees and dead branches cut back. These were not in preparation for the fence. Mr. Young feels it makes the facility more visible to neighbors. There was further discussion on the decision previously at first to put a fence up and then some neighbors not wanting the fence. A survey showed that there were swing sets, a pool, and a sand box that were into the Maddy property.

Mr. Chadwick said the application is for the 40-unit hotel and the fence is a proposal to be included as part of that approval. The final location and exact location of the fence will be the next stage, at site plan.

Mr. Young asked about the location and continuing the fence that exists. Mr. Cretella said that they propose to continue the fence in one direction towards the greenhouse and garden. The existing fence is not on the property line. The fence will be addressed during site plan.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 4

Mr. Joe Farro, from 3 Sage Drive, came forward and had concerns with dead ash trees and asked if there were any on the Maddy property. It was unknown how many but there are some on the downhill side.

Ms. Michelle Messarosh from 3 Dillon Court came forward and said her house is affected by all this. She wants the fence on the mound and Mr. Cretella agreed. Ms. Messarosh said that the tree work started at 7:00 a.m. and now she can see into the property.

Ms. Lynne Mauro came forward from 5 Dillon court and spoke about the fence. It is her fence that exists. She put it up to protect herself and her property. People were coming onto her property and garbage and bottles were on her property. She said the fence is probably more than a foot into her property. She put it on the top of the mound. She asked about the plans for garbage, the dumpsters are constantly being moved and no real set place they are left. Mr. Cooper said again these items will be with the site plan. Parking will also be included in the site plan. Ms. Mauro also said she can now see into the parking lot. She said there were four truckloads of tree debris. Mr. Cretella also said that area of the parking lot is only used for valet parking. Ms. Mauro asked what are Maddy's plans for security. Mr. Cretella said they had gone over the police record during the earlier hearing and there was not much in the records. They had the windows out during covid and police came due to noise.

Ms. Mauro asked about security cameras. The facility has cameras but mostly interior. Mr. Cooper said that will also be during the site plan.

Mr. Cooper appreciates the public asking questions and giving comments. Ms. Mauro asked about fire hydrants on the property. Mr. Cretella stated they have two on the property and with the hotel another one would be added. She mentioned that there was a fire in town and there was not a hydrant nearby and had to call in a truck from another town. There is water capacity on the property.

Mr. Cooper closed the public question period of this witness.

Mr. Jay Bohn called up their architect, Mr. Fleisher. He gave his credentials and was accepted by the board. He brought in Exhibit A-2, which is sheet A-1 of the October 20, 2022 plans. It is a colorized floor plan. He went over the proposed floor plan. It is a one story building with 40 hotel units in it. There will be 15 in the basement area on the slope side, and the first floor has 25 units. There is a corridor in the center of the building. It will be sprinklered. The first floor has rooms, a lobby and a flex space.

He brought in Exhibit A-3, sheet A-3 of the plans dated October 10, 2022, a colorized renderings of different views and there are photographs enhanced to show the views. Exhibit A-4 is sheet A-2 of the submitted plans and shows the elevation from Stiles Road and other elevations.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 5

Mr. Cooper asked since the reduction in height will this hotel be visible from Dillon Court. It will not.

All the mechanicals will be in the basement so there should not be ambient noise.

Mr. Cooper asked if the board members had questions for the architect. Mr. Chadwick asked if from the exterior is there uniformity with the existing buildings. There is -- design and material are similar.

There is not a connection of building to building of the proposed to existing buildings, there are walkways. Mr. Cooper asked about the set of stairs from the garden to the Gallery. Those stairs will remain. Mr. Paoella asked about the stairs also. They will remain. Mr. Cooper opened to the public for questions for the architect.

Mr. Brian Smith came forward from 10 Dillon Court. He asked how many beds were in the 40 bed units. Mr. Fleisher stated there are two rooms that have two beds. The lounge area could be used in the morning for the guests for breakfast. There is a reflection pool that will be removed. There will be enough room for ceremonies outdoors. Mr. Smith asked if the hotel had any residential characteristics. Mr. Fleisher said it has a sloped roof. Mr. Cretella says it has a contemporary house look.

Ms. Kim Callas came forward from 32 Stiles Road and asked about the trees on the plans. They discussed existing and proposed. Off of Stirling there are a lot of existing vegetation. They proposed trees (26) on the Stiles road side. Mr. Cooper reminded everyone that these are for site plan. Mr. Callas asked what the changes are that allow this applicant to come back to the board. Mr. Chadwick said it is under Res Judicata, it is significantly different. It was a two and a half story, and now a one story and cut back the number of rooms from 66 to 40.

Mr. Cooper closed out the public portion for this witness. Mr. Bohn brought Mr. Chris Nusser as engineer and planner for the applicant and was accepted by the board. Mr. Nusser referenced the plans that were submitted. Exhibit A-5 was brought in also, a one page parking usage summary dated February 6, 2023 and Mr. Nusser also had small plans for the board and public. Mr. Nusser went over the plans and the layout with roadways, exit etc. Access to the hotel is through a road/entrance from Stirling road and there is a small cul-de-sac road to the hotel. People with mobility issues may be shuttled via golf carts.

Mr. Nusser went to Exhibit A-5, Parking usage summary, dated February 6, 2023 prepared by Mr. Nusser's office. It showed different activities and parking requirements for each and shows they still have sufficient parking. The parking spaces for the hotel overlap with the banquet spaces as you have to be using the banquet facilities in order to stay at the hotel. They reduced the employee count on the parking schedule of the plan per Mr. Cretella's testimony anticipates having a staff of three for the hotel. Mr.

**BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 6**

Cooper asked about the employees for the banquet and restaurant. Mr. Chadwick stated that the retail space/restaurants is based on seats.

Mr. Nusser went over the fence and its location along the northern property line between the homes on Dillon Court and the Maddy property. They show the fence at six foot high solid fence to match the existing fence. The fence is on Ms. Mauro's property. It is into the Mauro property about a foot into the property. They want to avoid tree removal. The fence will go to eastern end of lot 20.04 near where 20.05 meets the lot (Mr. Young's property). They did not continue down the hill with the fence.

Mr. Cooper asked how far the fence will go in the other direction, it will go near the west edge of the property. Mr. Cooper asked if they could stipulate the fence go up right away if the variance is granted. Mr. Chadwick said it could and the applicant agreed to it. They can submit a fence permit to the zoning office.

Mr. Nusser went over the drainage towards Stiles Road and the grading in front of the hotel will go towards the Gallery building and head south. There will be a stormwater management system with site plan. The building height is 22.3 ft. and below the 25 ft zoning standard. Mr. Nusser went over the landscape plans and they will augment with mostly evergreens. It would be final with site plan application.

Mr. Nusser brought in Exhibit A-6, Site line exhibit dated December 16, 2022. It is a site line across the hotel towards Ms. Mauro's home. The site line shows the home at a higher elevation than the roof of the hotel and the hotel will not be seen from the home. Mr. Nusser picked this house/site line because it is the worst case scenario. The existing structures are taller than the hotel and will block the view. It is tucked into the site and reduces the visibility along with the landscaping proposed.

Mr. Cooper asked if there were any questions for the engineer. Mr. Chadwick asked about the selection of the location of the hotel relative to existing grades. Mr. Chadwick feels if it was pulled a little further into the property it would get a little away from the grade, it is pretty steep. Mr. Nusser spoke about the tiers on the property and it was thought to put the back of the hotel on the back tier so it was at the edge before it drops down. Mr. Cretella wanted to position the building to not block the Gallery building. And the entrance is a little longer this way for the hotel.

Mr. Peck asked if there was anything in the township professional memos that they disagreed with. There was not.

Mr. Nusser went on to planning testimony. They are seeking a d1 use variance to permit the use of the hotel on the property. From a surrounding use perspective, they include residential to the north and the west, there are commercial and industrial uses along Stirling Road, including directly across the street. They are in an NB zone, neighborhood business. The property is not zoned residential and it is not isolated as the only non-residential property in the area. The proposed use as described is accessory to the existing banquet facility. It is only for people attending events on site.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 7

The site has changed through the years. A hotel at banquet facilities has become common. The site is particularly suited for the use, the hotel will support the existing banquet facilities on the property. The proposal advances a number of the purposes of zoning. You keep people on the property, they may arrive the night before, and stay the night of the event, reducing traffic. Purpose h is improved transit routes. Mr. Nusser feels this use promotes purpose a, promoting the public health, safety, morals and general welfare. There are no substantial impacts to the public good with the stipulations agreed to. The hotel is tucked down lower using the existing landscaping and enhancing landscaping. The fence along the northern property line will help buffer the properties. Mr. Nusser said the enhanced burden of proof includes looking at why this use was not included in this zone. Hotels are permitted in the OR zone, generally along the interstate corridor. This is not specifically a hotel, as the ordinance specifies a hotel would have 100 units. It is a unique use as it complements this existing use. In summary, the proposal for the 40 unit hotel advances a number of the purposes of zoning. It is situated to reduce impacts and they will work to mitigate any concerns of the board and the public.

Mr. Cooper asked if the board had any questions. There were none. The public was invited to ask questions of the engineer and planner for the applicant. Mr. Brien Smith from 10 Dillon Court came up and asked about the drop off for the hotel. Mr. Cretella said they do have valet parking. The same person that might take the luggage out of the car would park it for the guest. Mr. Young asked about walking from the hotel to the banquet hall. There is a walkway out of the front and side door to the different facilities. Mr. Smith had concerns that some may go to the outdoor area directly but people need to go into the buildings to reach the outdoor areas easily. He asked about the number of employees. They first suggested 15 employees but five is a more realistic number. Someone will be at the hotel overnight and there are people that act as ushers to guide guests during events. Mr. Smith feels that guests may continue the celebration outdoors, especially with no security. The hotel/facility is not promoting anything outdoor after events. There will be 42 beds and only one room with have doubles. The parking standard meets the ordinance. Mr. Cretella's experience with hotels is that you have two adults per a double room or two children with parents.

Mr. Smith asked if there were concerns about guests leaving to go to Krausers to pick something up. They can do events any day of the week. They spoke about traffic for those events.

If there were two events the property would offer each couple 20 rooms. Mr. Smith asked why the town has the definition of a hotel with at least 100 rooms, this has to do with liquor licenses.

Mr. Smith asked about the site line and Mr. Nusser explained the exhibit and what will be seen. Mr. Smith asked about the lighting and asked about pine trees near them. They will be addressing lighting for the hotel at site plan.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 8

Mr. Cooper asked if there were any other questions. Mr. Thomas Young from 7 Dillon Court came forward and asked about the site line and diagram. He feels they should have done this from his property also. Mr. Young's kitchen faces the Maddy property.

The structure is at the same location as the previous application but is lower. At the site plan stage they will augment the landscape buffers where necessary. Mr. Nusser expects that they will look at Mr. Young's view. The hotel is shorter than the residences on Dillon. Mr. Young was upset his house was not included in a site line diagram.

Ms. Kim Callas, 32 Stiles Road, came up and asked about how the property has evolved, from the Chanticlear to the event and restaurant venue. She asked if they got this variance and if then would they be able to come back for more rooms or hotel space. It is very unlikely to be approved by a board with the existing issues.

Ms. Lynne Mauro came forward from 5 Dillon Court and asked about the stormwater management. Where are they going to put it. This will be at site plan and will be reviewed by the Township Engineer if this goes forward. She asked if they were asking for a height variance this time. They are not, the height complies at 22.3 ft. There will be rooms in the basement and mechanical space. She spoke about the lodge building and that it is pretty tall and it is glass and lights are on all day and night. She asked with the hotel lights that will also be on how will that be buffered. She felt those lights will be in everyone's site line. She mentioned the homes on Stiles and Carole Terrace and they will be impacted. She feels they should have been included in the site analysis.

Mr. Nusser spoke about the window at the end of the hallway but there are no windows that will face Dillon Court. They can check into timers on lights. Mr. Chadwick stated the board can dictate how the lighting is going to be on site. There won't be a spot light on anyone's yard. Hotels do have some requirements for outdoor lighting. They will address this at site plan and can require shields and downward lights with no bulb showing. No one else came forward and Mr. Cooper closed that portion of the meeting.

Mr. Peck went over what was going to be deliberated. The board has a d1 variance to consider, a use variance. The board is to determine whether or not the site is particularly well suited for the proposed use. Does it advance or are there some special reasons to advance the purposes of zoning. Conversely, the board should consider if the variance is granted, does it cause a substantial detriment to neighboring properties or to the Township zoning ordinances. You can require conditions, one was concerning the fence and it would be installed before any other construction, and the style and location will be to the satisfaction of the Board Planner and Engineer, and likewise with landscaping. Mr. Chadwick mentioned that the testimony has been based on the fact that the hotel is accessory to the principal function, catering. The hotel is only to be used by the event patrons, only the catered events not the restaurant.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 9

Mr. Cooper suggests the fence be installed immediately. Mr. Cooper opened the meeting to the public for comments. Mr. Brien Smith came forward from 10 Dillon Court and was sworn in by Mr. Peck. Mr. Smith said that on May 2, 2022 the board of adjustment denied an applicant for a hotel. The number of rooms is less. He feels the question to ask is if a variance is necessary or not. Some of the reasons the board voted this down is there is a lot going on at the site currently. It is an over-intensification use of the property. He feels the use it too intense for the site. It does not meet statutory requirements of the Master Plan. There are issues with parking now and this will add to it. The issues with the public have not changed. Mr. Smith read the NB ordinance and a hotel is not permitted and there are single family homes surrounding the property. There is the Stony Brook across from Stiles Road with a hiking trail easement. Across from Stirling Road there are non-residential uses. The ordinances mentions preserving steep slopes and woodlands. This will disturb the steep slopes and trees will be removed. This is suppose to keep a neighborhood feel. The hotel does not have residential characteristics. Hotels are not permitted. The zone that does permit hotels is by the interstate. Mr. Smith went on to say that the applicant is to show that there is some public purpose that is to advance. He feels it is not particularly suited to the property. There are hotels conveniently located, the closet being Embassy Suites in Berkeley Heights. There are no public purposes that are advanced. The outdoor dining is a concern of the governing body. He feels it will result in substantial detriment to the public. He feels the outdoor areas will be used by guests after events.

Mr. Thomas Young came forward from 7 Dillon Court and asked the board to reject this use and agrees with all Mr. Smith said. It intensifies activity and there is no benefit to this community. The owners don't live in town and probably most of the employees do not live in town. It is not appropriate and the neighbors are not happy with this possibility of a hotel. He asked that the board really think this over. They have lived there many years and have seen it get noisier.

Ms. Yucong Zhao from 12 Dillon court came forward and was sworn in. She told a story about a child who wanted to swim and the family wanted to put a pool in and there was a 2 foot variance requested and it was denied. She felt a hotel would not work and there will be more problems. She doesn't understand why this would be approved and the pool was not approved. The noise, light, and traffic will increase. She asked that the board think about what the neighbors feel.

Ms. Lynn Mauro from 5 Dillon Court came forward and was sworn in. She said a good neighbor should follow the ordinances that are in place. Even if a fence is put up, it won't protect the neighbors from fire works that go off in the parking lots. She wanted to know why the site does not comply with the ordinance. There is a town ordinance for noise, which is 11 p.m. Ms. Mauro said the events often go to 11:30 or midnight. That is not a good neighbor. A fence will not protect from fireworks, light pollution, and noise. It is an ongoing issue. The police might be tired of investigating. She was concerned with the water issue and piping, and if there is enough water supply. She asked about security overnight with a hotel. It is the owner's responsibility to ensure no one gets hurt.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 10

Mr. Cooper responded that he knows the police well and they don't get upset if residents call. They go out and sometimes people say they have called the police but the police don't have those records. The police do their job and do it well.

No more member of the public came forward and that portion of the meeting was closed. Mr. Bohn asked if they could respond. Mr. Cretella said there has been a business there since the 50s. He does respect that people have lived there many years. Businesses evolve and change and this addition of the hotel reflects that. It is not an intensification; it is the same people on the property. They did check police reports during the last hearing and were present within five minutes after a call and he felt the noise complaint was only during covid with the windows out. He spoke about the company party with at least 300 people attending and dancing and inside it was loud but towards the back of the property the noise was below required levels. He said they do not permit fireworks and suggested it wasn't guests and it was a neighborhood issue. He agrees with the fence and it will be a safe operation and they do man the hotels 24 hours a day when in use. Managers are there to guide people.

Mr. Cooper started with Mr. Villani for deliberations. Mr. Villani listened to all the comments from the public and most of these items will be addressed with site plan. The site has always been a restaurant. He believes the use fits into the zone and it is suitable for that location, it will be safer, and meets the positive and negative criteria, and he would be in favor of it.

Ms. Carleo thanked all that came to the meeting and sharing their perspective. She is in favor of the use and feels it will improve overall traffic and safety.

Mr. Galbraith said that the one story and reduction in rooms makes a big difference and it will fit in and was in favor. Site plan will address the resident's issues.

Mr. Huber was happy that the public came out and gave their thoughts. This application has evolved from the previous proposal. The applicant has tried to consider the board's comments. Mr. Huber said that if they get the approval from the board, the applicant has to submit plans for the site plan, and if approved, submit plans to the construction officials' office. It is reviewed and the Uniform Construction Code and the Uniform Fire Code and the plans have to meet those codes. Then after construction, it is inspected to ensure all the codes are met. The Fire Marshall is required to inspect all the facilities on a cyclical basis to ensure the fire code is sustained. He has been to this facility many times and he has not seen any code issues. He also said that a lot of the concerns brought up already exist with or without the hotel. Mr. Huber feels there is public good, it helps the local economy. Public safety is important and 40 rooms is better than no rooms, it gives people a choice.

Mr. Paolella felt the applicant took the comments of the board and public and made adjustments. He was in favor of having hotels with event venues.

BOARD OF ADJUSTMENT
MEETING Minutes
February 6, 2023
Page 11

Mr. Rica did say it has been there a long time and it is a high end operation and it run well. He feels the fence will be beneficial and they can work on the details during the site plan.

Mr. Cooper appreciated all the public input. With the issues and complaints from residents he feels things do need to be fixed and the owner should really take this into account. It is concerning the existing operation. All the times the applicant has come in for variance relief he has heard the same comments. You want the neighbors to be content. Mr. Cooper suggest that neighbors talk with Mr. Cretella with issues.

Motion was made to approve the d1 use variance by Ms. Carleo, seconded by Mr. Huber with conditions.

Mr. Cooper mentioned that the fence should go up as soon as possible. Mr. Cretella agreed.

ROLL CALL

For: Mr. Villani, Mr. Galbraith, Mr. Rica, Mr. Huber, Mr. Paolella, Mr. Cooper, and Ms. Carleo

Against: None.

Next meeting will be March 6, 2023

Motion was made to adjourn. All were in favor

MEETING ADJOURNED: approximately 10:00 P.M.