

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES MARCH 7, 2022**

APPROVED

CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. Michael Galbraith
Mr. Frank Rica
Mr. Donald Huber
Mr. Scott Bowen
Mr. Anthony Paolella
Mr. Foster Cooper
Mr. Mehul Desai Alternate # 1 (arrived at 7:05)
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 10, 2022.

FLAG SALUTE

MINUTES:

The minutes of the January 10, 2022 meeting were forwarded to members for review.

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

ROLL CALL

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

Against: None.

COMMUNICATIONS: none

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. Seeing no one come forward this portion of the meeting was closed.

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RESOLUTIONS:

CASE BA 20-05 Zhengyuan Education USA, LLC
Block 71 Lot 66
Minor Site Plan with Use Variance
(not meeting all conditions of conditional use)

Motion was made by Mr. Villani, seconded by Mr. Galbraith.

For: Mr. Villani, Mr. Galbraith, Mr. Rica, Mr. Huber, Mr. Cooper, Mr. Paoella.

Against: None.

AGENDA CASE APPLICATIONS:

CASE BA 19-07 Maddy Realty LLC
Block 212/lot 20.01
Variance Use—Hotel
Carried from September 21, 2020, November 2, 2020, and December 7,
2020, March 1, and April 5, 2021, June 7, and August 2 2021, October 4,
2021 meetings.

Mr. Jay Bohn, attorney for the applicant, came forward. There have been revised plans submitted and the witnesses will come back with regard to those changes. Mr. Frank Cretella, principal for the applicant; Mr. Jeff Fleisher, architect; and Chris Nusser, the engineer and planner. They have all been sworn.

Mr. Cretella came up and he is a principal of Landmark Hospitality and Maddy is one of the properties they have. The applicant has tried to address concerns. One floor has been removed and it appears as a two-story building from the front and is below the 25 ft limit. There is no parking deck under the building. There are rooms below and the driveway is eliminated in the rear of the building and the pedestrian path in the rear. The building sits as the lowest building on the property. It is not seen from behind the property. The building was slid up off the hillside and is up to the setback line and the building is extended back to the existing building, the Gallery, which is now right behind it and it is tied together. There is more interior travel for the hotel guests. The hotel is only open for event participants. The arrival of guests will be staggered, as well as guests leaving. They have worked with the Fire Marshall and they have come to agreements with him. There is a driveway in the front of the building and is more in the center of the property. The reflecting pond that is currently on the property will be eliminated. There was never a swimming pool or a rooftop bar included on the plans, although the paper had said there was. There are terrace gardens and more trees will be planted and buffering the roadway. Now there will be less trees that will be taken down from 50 trees with previous plan to about half that. The room count has gone up to 66. If two events at a time occur this will accommodate them. There are no balconies on the rooms.

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Mr. Cooper asked if the board had any questions. Mr. Huber was satisfied with the Fire Marshall responses. Mr. Chadwick asked about if someone was having dinner and wanted to stay over (not attended an event) and was it an option. Mr. Cretella said if the hotel was open for an event he would have said yes, but he will agree that it will only be for event guests. Mr. Chadwick asked about mechanicals possibly being on the roof. The design has not been completed for that. There is still a height variances with the rear height averaged.

Mr. Cooper opened to the public for any questions for Mr. Cretella. Mr. Dan Kline, from Herold Law, representing the objectors of the application came forward. Mr. Kline asked if since there are 16 additional rooms will they be hiring additional personnel. Mr. Cretella did not think so. The employees will park on site and those spaces have been taken into account. There is no kitchen in the hotel, but a continental breakfast will be offered and will be catered from the existing restaurant kitchen. Mr. Kline asked about guests and time of arrivals. Mr. Cretella said some guests might arrive the day before the event. They can check in at noon. Guests would pay for each night. Guests can use the restaurant and bar if desired. The restaurant and bar have capacity limits that won't change.

Mr. Kline asked about how many people attend events and it is about 165. Mr. Kline said with two events that is about 330 people. The hotel would be booked. Mr. Kline asked about the number of days a week events occur. Mr. Cretella said they have been doing a lot of events to catch up due to Covid on weekdays, Wednesday, Thursdays and Fridays. The guests of weddings will have access to reserve a room. Mr. Kline asked how to prevent the guests from using the outdoor patio area after the events are over. Mr. Cretella said they do have personnel to guide people exiting and they will also monitor the site. Mr. Kline asked about guests asking others to stay in their rooms, how can it be enforced that only guests of events stay over.

Mr. Kline asked about when the continental breakfasts would be prepared. They are prepared the day of the breakfast. They will dine in the lounge area. They have not done breakfast previously at this site.

No one else came forward and that portion of the meeting was closed.

Mr. Cooper asked about the lower level in purple that says public, what is it? Flex space. Mr. Jeffrey Fleisher came forward and had been sworn before. He spoke about Exhibit A-1 with a revision of March 3, 2022. The first floor has 25 rooms and an entry way, the second floor has a lobby and 29 rooms, upper lobby level can go to the Gallery building. The lower level/basement has 12 rooms and some flex space. Mr. Fleisher went over the elevations and that the finished basement with rooms so it has three stories and hotel rooms on that side. West elevation has two stories,

The center of the building to the left has a secondary lobby that connects to the Gallery. Mr. Cooper asked about the spaces on the ground floor and they have no exterior exits. They have windows that look towards Stiles Road, and the windows do not open. Mr. Cooper asked about the anticipated use of the flex space on the lower-level floor. Mr. Cretella said if there had to be an indoor ceremony it could be used or it can be a breakfast room, or a breakout room for a corporate meeting. Mr. Fleisher went to sheet A-3, with revision dated 1/7/22 that showed 3-D images of views of the site. The building is made of stone. The drop off is at the main lobby. The roof is a low hip roof with large overhang, there are large windows.

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Mr. Cooper asked if any board members had questions. Mr. Chadwick asked about the view from Stiles and if it was photoshopped. It is, with the proposed landscaping, you would see the building from Stiles. He suggested adding more evergreens.

Mr. Kastrud asked about the mechanical units and they will be in the basement most likely. With some compressors perhaps tucked around the back of the building (towards Stiles). They agreed to have it in the basement. They have some generators that might need to be brought to the site or may have a permanent generator for the hotel.

Mr. Cooper opened up to the public for questions based upon the testimony just given. Mr. Kline, attorney for opposing residents, came forward. Mr. Kline referred to Exhibit A-1 dated March 3, 2022 and the number of stories at 2 stories. He asked how that was calculated. There are two stories from the front. It does not include the basement, or the upper lobby area. Mr. Kline asked if Mr. Fleisher had reviewed the township ordinance on stories. Mr. Kline read the ordinance. Mr. Chadwick said there is no longer a definition in the Uniform Construction code on a half story. The township has a definition that if a basement is 50% or greater below grade level (which this building is) it is not a floor.

Mr. Kline asked if there was a reason that the building height is not depicted at the corners now. Mr. Chadwick asked about the building data on architect plan and what is the height on the March 3, 2022 revised plan? The architect removed the height so the engineer could show it. The earlier version did not match the engineer height numbers.

Mr. Kline asked how much of an increase in size is the revised plan. It is about 8000SF in total. Mr. Kline asked a question as to what an item is on the plans and they are light monitors into the hallways and is not part of the height calculations. There were other questions on the roof and height measurements. The 27.5 ft. is for the first and second floor. The upper lobby attaches to the Gallery Building and is taller than that measurement. Mr. Kline went over the Exhibit A-2 views. There are hotel rooms in the lower level that face Stiles Road. Mr. Kline went to Exhibit A-3 Rendering and that the view would be in spring or summer. It can be seen from the road during those seasons and will be seen easier in the winter. They will be planting evergreens also. Mr. Kline said that you will be able to see all three levels with the lights on.

Mr. Kline asked about the design and size and it was not similar to the residential properties nearby. Guests of the hotel will go to the Gallery through the upper lobby and use steps or an elevator to get there. There were questions on the capacity for the hotel if it might be possible that there may be more than should be permitted in the hotel.

Mr. Cooper asked if any other members of the public had questions. Seeing no one come forward he closed this portion. Mr. Bohn asked Mr. Chris Nusser, engineer for the applicant, to come forward. Mr. Nusser had been previously sworn.

Mr. Nusser had another exhibit to bring in Exhibit E-1 (for engineer) with date March 7, 2022. It is a colorized landscape exhibit (from the site plan dated 2/21/22). He went over the entrance drive that has been put farther into the site and goes into a culdesac which has three accessible parking spaces. The hotel is closer to the Gallery building and has a connection to it. He showed the new plan without the sidewalk from the hotel to the Gallery building. It keeps guests indoors longer. There are still some walkways. There is a retaining wall along the rear of the

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hotel/Stiles Road side. This was to support a request from the Fire Marshall to get ladders in the rear on a stable area. The entry drive will be 24 ft wide also for the fire department. The Fire Marshall also asked for a reinforced area near Stirling Road for a ladder truck.

Mr. Cooper asked about the three ADA spaces near the hotel. In the previous plan they had taken five stalls and converted them to 3 ADA spaces. The 5 stalls will remain 5 now.

Mr. Nusser spoke about the earlier building height of 43 ft. (3 stories) and now the building height is 34.25 ft. It is in excess of the permitted height of 25 ft but it is typical of a residential dwelling which has height of 35 ft.

Mr. Nusser spoke about the additional evergreens and will require the township approval. From a Stiles Road perspective Mr. Nusser feels they will be able to provide a very substantial buffer. The upper lobby is there to get to the height of the existing lobby for the Gallery building. The Gallery building will block view from Dillon Road.

Mr. Nusser opined that they still meet all the criteria in the same way (for the variances) that they did before. Except with the revisions there is a better job controlling the circulation on the site, the noise on the site, better operation of the site by bringing the building down in elevation.

Mr. Cooper asked for any board member questions. Mr. Kastrud mentioned that the site plan will address stormwater management. He did asked about it and if they had considered ideas. Mr. Nusser believed there could be a surface basin to control the entry drive and the building with a subsurface/below the building drywell system. Mr. Chadwick asked if they had done any site soil investigation. They have not. There will be some areas they will be digging into the ground and areas where they will not. There may be rock but they had not needed to blast in the past. Mr. Chadwick has concern with basins under the building and issues with that possibly.

Mr. Kastrud suggests a railing will be installed along the new retaining wall around the back. He asked that they consider the color of the wall since it will be seen from Stiles Road. Mr. Kastrud suggests beautifying the court yard area now with plantings.

Mr. Cooper opened up the the public for the applicant's engineer. Mr. Kline came forward and asked about the calculation of the height at 34.25 ft. and asked about the height of each corner of the building. Mr. Nusser said the low side (closest to the corner of Stirling and Stiles) is 40.5 ft. The other rear corner is 37.5 ft.(closer to the Gallery Building). The front of the building closest to Stirling Rod is 31.5 ft. and the left corner front is 27.5 ft. It is measured from the ground to the median roof elevation. Mr. Kline asked what the height of the roof is. Mr. Klein asked why the upper lobby area was not included in the height calculation. Adding that to the calculation it might be a higher number. Mr. Chadwick stated that the roof height is calculated correctly.

Mr. Kline asked that the new exhibit be sent to Mr. Kline (Exhibit E-1). Mr. Kline asked what the total number of parking spaces is without the parking garage. Mr. Nusser said in July 2021 they proposed 205 spaces and now they are proposing 206 spaces. The garage had been eliminated prior to July 2021. There are 209 spaces required. They can comply with that since they will require 3 electric vehicle space and it gets a bonus space for each electric vehicle spots. There was no traffic study done.

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Mr. Kline asked about any increase in steep slope disturbance. They do not have a calculation on steep slope. There are some steep slopes where the elevator is proposed for the upper lobby.

Mr. Kline asked if there are any issues with increase of rooms from 50 to 66 and sewerage area waiting list. It will still keep them in the same waiting list. Mr. Kline asked about the removal of 26 trees where it was 22 trees previously. The building is shifted closer to the Gallery Building and some trees are there currently. They will still be replacing 41 trees 6 to 8 feet high. There will be native trees and shrubs. Adjustments can be made for additional trees. There was further discussion on trees and how soon will they be mature. Some trees may take 30 years.

Mr. Kline asked by relocating the hotel closer to the existing buildings –how will that better block sound then the previous location. Mr. Nusser said because the guests will stay inside more by using the upper lobby entrance directly into the Gallery. The building is closer and the existing building buffers the sounds.

Mr. Cooper asked if any other public had questions. Mr. Joe Farro came forward from 3 Sage Drive and he asked about trees. The total number of trees proposed as a base is 41 trees, plus any that are deemed necessary by the township planner or engineer.

Maddy will need to carry to April 4, 2022 with no further notice and Mr. Bohn agreed on an extension to act through April 2022

CASE BA 22-01 OptoElectronic Devices, Inc.
Block 78 lot 18.01
Variance- Use: Outdoor storage of Equipment, Parking,
prohibited trailer

Mr. Richard Schkolnick , attorney for the applicant, came forward and introduced the case. The applicant, Opto, is a current tenant at 141 Mount Bethel Road and has been there for over 20 years. The property is block 78, lot 18.01 and is in the GI, general industrial, zone. The existing use is a permitted use. The application is for a minor site plan approval so that Opto electronics can install some outdoor gas storage tanks that are necessary for its current and future operations. They make semi-conductors and microchips. There is a variance for parking. There are over 400 parking spots with a maximum number of employees 122. They will be losing 11 spaces so it increases a parking variances. The tanks are on interchangeable trailers. The ordinance does not permit that, it is a d variance. The equipment will be in a fenced compound. There will be three witnesses, including Mr. Zach Blazak, the clients representative, he is a consultant to the client. Mr. Jason Tenant is a health and safety expert. They also had Mr. Terry Coombs who is a planner and will cover the engineering information.

They will all sworn in and Mr. John Chadwick, the Township Planner, and Mr. Christian Kastrud, the Township Engineer, were also sworn in by the board attorney, Mr. Mark

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Peck. Mr. Scott Bowen, a board of adjustment member, joined the meeting for this hearing.

Mr. Zach Blazak is a consultant and has done projects in the region. They got data from the Human Resources department on the number of employees. The main shift has 122 employees. In total there are only 221 total personnel working so parking will not be an issue. Opto deals in various factions of semi-conductors and microchips. He went over the process that will require the tanks; devices that are temperature sensitive such as car parts and the gas is part of the process. The current plan is about once a month the tanks will need to be swapped out. The process takes about 40 minutes to an hour. It is best to fill offsite in a controlled environment instead of at the Warren site. This makes it not possible to have permanent trailers. They have identified a good spot for trucks to pull through.

Mr. Kastrud asked that they run through the numbers on parking. There were 591 spaces required for the site. There are 432 existing, and 421 proposed. The first shift of employees is 122. Total number of employees is 221. Many empty spaces.

Mr. Chadwick said the site had been set up for 3 shifts and the variances were granted 25 years ago for the 591 but the parking ordinance requires the number be per employee.

Mr. Cooper opened up to the public for questions. No one came forward.

Mr. Schkolnick brought Mr. Jason Tennant up and is a EHS Director with II-VI and has been working with the company for about 20 years. He is very familiar with the facility. EHS is Environmental, Health and Safety. He gave his credentials and was accepted.

Mr. Tennant went over the Fire Marshall memo. The company is agreeable to all regulations required. They work with the employees at the site and the Township emergency personnel to the specific possible scenarios. They will provide them training material and bring the local fire departments on site and walk them through the procedures. There is an instrument to detect any hydrogen leaks. If the fire department does not have a detector the applicant will make sure they have it. There is adequate water supply available. The flow rate is more than adequate and is tested once a year.

There is fencing and bollards to protect the equipment proposed. There will be some piping above ground. There will be adequate lighting and there will be cameras. There is excellent detection in the building and they will be adding gas detection outside by the hydrogen tanks to make sure they do not meet 25% of the lower explosive limit. The gas would shut off. There is an ERT (Emergency Response Team) on the site currently and it has 36 members. There is coverage at all times the plant is operating.

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Mr. Bowen had asked what the worst case problem would be. Mr. Tennant said that the gas is hydrogen and the biggest concern is a fire or an explosion type of reaction. There is hydrogen in the tank and a small amount of hydrogen in the lines going into the building. There are gas detectors that are going to be in the building. If they detect 25% (and it is not flammable at that level) it will have an automatic shutoff of the gas. There are gas alarms and they will evacuate the building. Mr. Bowen asked if at that point they call the Township emergency officials. It depends on what the evacuation is for.

Mr. Tennant said that hydrogen is extremely light and rises, it does not stay down and spread. Water would be used to stop and cool the area. There are shut offs near the tank. The systems are designed to relieve pressure so they wouldn't explode. He did not know how far or wide an area might be affected. There are two gasses involved, one is hydrogen, one is argon. Argon is an inert gas.

Ms. Carleo asked how often they practice the evacuation drills and about the 25% and a false alarm. Mr. Tennant said they do evacuation drills twice a year currently. If they feel it is required to do more drills they could do more. They are insured and will also cover this and had to go through a review with Zurich. Ms. Carleo asked about the timing to evacuate and the time of response for first responders.

Mr. Tennant said if there is an alarm the first thing that happens is gas shut off. Then they evacuate and he said that takes less than ten minutes. The evacuation plan is shared with the emergency action plan submitted to the town.

Mr. Cooper asked why they would not have permanent tanks. Mr. Tennant explained that the permanent setup there has more chance of leaking.

Mr. Huber asked if this was the first time having hydrogen gas at this site. Perhaps small gas cylinders have been on site. Mr. Huber verified that everything on the Fire Marshall's memo will be agreed to, and the applicant does agree.

The employee team is trained in leaks and spills. The local Fire Marshall will inspect the facility once a year. They follow OSHA guidelines. They have personnel that inspect equipment also. The insurance company also does reviews.

It reduces risk with having the tanks filled offsite and it is more expensive to do this way.

Mr. Tony Coombs came forward as the Planner and is a landscape architect. He gave his credentials and was accepted. He has reviewed the plans, he will explain some of the engineering but will not be testifying as a civil engineer.

Exhibit A-1 is sheet 2 of 2 of the plans submitted and is existing conditions showing the overall site. There is a blow up of the disturbance limits. The site is 22.2 acres in

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General Industrial zone. It is bordered by Mount Bethel road and Technology Drive. The building is 147,000SF. There are 432 parking spaces. Mr. Coombs went over the area for the project. There is an area of about 1100 to 1200Sf of disturbance/tree clearing and about 1100SF of existing paving (the 11 parking spaces they will eliminate). The next page of Exhibit A-1 shows the view of the proposed improvements, the existing tree line, the area to the west has some dense bamboo and screens along with other trees and shrubs. They do propose some evergreen trees.

Exhibit A-2, is the aerial of the site and it shows the vegetative growth. The pipes will be 10 ft. above grade. There are concrete footings. The pipes are small. The pipe was at first more in the treed areas and now it basically runs along the parking lot. The tank enclosure is 60 x 32. It is enclosed with a six foot chain link fence. There are bollards along the perimeter. They discussed the areas of the tanks.

Mr. Chadwick mentioned the pipes being 10 feet in the air and they can maintain the grass. Mr. Kastrud asked if there were other location on site for this work that may not be as visible from the roadways. Mr. Coombs said they could add more evergreen trees. Mr. Kastrud asked if the poles get lit or just security lighting in the area of the tanks. It is just security lighting in the area of the tanks, and is motion activated. There is existing parking lighting. Mr. Kastrud asked about the earlier barb wire proposed. It will not be on the plan now. There is no stormwater increase expected but with reviews and audits it would be appreciate that the applicant provide the township with any stormwater manuals.

Mr. Cooper asked if there were any questions on this testimony.

Mr. Coombs continued and it is a d variance. The project with the variances would meet the positive criteria of useful land use law as providing a site that is particularly suited. It is a well buffered location. It is in the proper zone. Surrounding uses are compatible. The company has been running for over 20 years. It advances the purpose of zoning under the MLUL by encouraging the coordination of the various public and private procedures and activities. There is plenty of open space on the site and is able to accommodate this use.

Mr. Coombs continued with regard to the negative criteria, the variances can be granted without substantial detriments to the public good. He sees no detrimental impact to the surrounding properties. It is not impairing the purpose of the zone plan or the master plan. He discussed the wording of the ordinance and temporary trailers.

This is a good accessory use for the property.

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Mr. Paoella asked why it is above ground instead of below ground. Mr. Coombs said there is more concern for someone running over it accidentally. There are also cameras to monitor above ground..

Mr. Cooper asked if any members of the public had questions. There were none. No members of the public had comments. This portion of the meeting was closed.

Mr. Peck went over the submission, for final site plan approval. They seek a d variance for the trailer parking. They need to show special reasons, do they satisfy the purposes of zoning, and also is the site well suited for the proposed use (positive criteria). The negative criteria is –would the grant of this variance result in substantial detriment either to neighboring properties or to the municipal zoning scheme.

The proposed conditions are the applicant will coordinate with the Fire Marshall and other emergency personnel. If the town doesn't have appropriate devices the applicant will ensure they do get them prior to any issuance of C/O or C/A. The applicant will provide any existing storm water management documents to the township engineer. They will work with the township on appropriate landscaping. All outside agency approvals will be required.

The board went through deliberation and all were satisfied with the application. Motion was made by Mr. Huber, seconded by Mr. Bowen

Roll Call

For: Mr. Villani, Mr. Galbraith, Mr. Rica, Mr. Huber, Mr. Cooper, Mr. Bowen, and Mr. Paoella

Against: None.

Motion to adjourn was made by Mr. Rica, seconded by Mr. Huber. All in favor.

Meeting adjourned 9:40 p.m.
Next meeting will be April 4, 2022