

Warren Township Board of Adjustment Meeting Minutes May 3, 2021

APPROVED

Because of the current COVID-19 pandemic, a hybrid Remote Zoom access and In-person Meeting was provided, whereby Board Members, Board Professionals, Applicant's counsel, client and professionals, and attorneys for represented objectors and their clients and professionals only, subject to room capacity and related limits, shall be allowed to appear in person, and all others, including members of the general public, will be allowed to appear only by Zoom remote access as set forth below. For anyone appearing remotely, including members of the general public, to ask questions when recognized by the chairperson, you may do so by both audio and video features or just audio or by phone, however, in order to make public comment, which constitutes testimony, when recognized by the chairperson, you must appear both by audio and video so that you may properly be sworn in to provide such comment/testimony. These procedures are consistent with the recently enacted Emergency Remote Meeting Protocols at N.J.A.C 5:39-1, et. seq.

Township of Warren is inviting you to a scheduled Zoom meeting.

Topic: Township of Warren's Zoom Meeting Zoning Board of Adjustment
Time: May 3, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/9087538000?pwd=VjlzSTkybWRxc1BweTI3WVpYMFNNdz09>

Meeting ID: 908 753 8000

Passcode: 081576

One tap mobile

+19292056099,,9087538000#,,,,*081576# US (New York)

+13017158592,,9087538000#,,,,*081576# US (Washington DC)

Questions regarding how to access the documents or participate in the remote only meeting can be directed to the Land Use Coordinator, Maryellen Vautin or Lisa Sammartino, by phone (908-753-8000 x 243 of X244) or email (mvautin@warrennj.org or lsammartino@warrennj.org).

Public questions/comments from Warren Township residents will be accepted only during the public questions/comments periods of the meeting and can only be considered if such comment is testified to under oath and you must have both audio and video capability if using zoom so that you can be properly sworn in to testify. If you have a problem using Zoom to participate in the meeting, contact Maryellen Vautin at mvautin@warrennj.org or 908-753-8000x243 OR Lisa Sammartino at lsammartino@warrennj.org or 908-753-8000 x 244.

Site Plans and applications for the hearings for May 3,2021 can be found at warrennj.org under the Board of Adjustment page-left side bar Pending Applications and Plans

<https://warrennj.org/408/Pending-Applications-and-Plans>

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CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. George Dealaman
Mr. Fernando Castanheira
Mr. Frank Rica (excused)
Mr. Donald Huber
Mr. Michael Galbraith
Mr. Foster Cooper
Mr. Scott Bowen, Alt. #1 (excused)
Mr. Anthony Paolella, Alt. #2 (excused)
Steven Warner, 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, sending a copy to the Echo-sentinel, and filing a copy with the Municipal Clerk, all on January 14, 2021 as well as the above statement concerning emergency procedures stated above.

FLAG SALUTE:

MINUTES:

The minutes of the April 5, 2021 meetings were forwarded to members for review.

Motion to approve was made by Mr. Dealaman, seconded by Mr. Castanheira:

ROLL CALL

For: Mr. Villani, Mr. Dealaman, Mr. Castanheira, Mr. Huber, Mr. Galbraith, Mr. Cooper,

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 or raise their hand in zoom, this portion of the meeting was closed.

CLOSE THE PRIVILEGE OF THE FLOOR PORTION OF THE MEETING

RESOLUTIONS

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 meetings.

Mr. Jay Bohn, attorney for the applicant, came forward. Mr. Nusser continued as engineer for the applicant and then will continue as planner for the applicant. Mr. Nusser remained under oath. Mr. Nusser brought in Exhibit A-3, it is dated January 4, 2021, a colored rendering of a landscaping plan. The proposal is a 50 room hotel located on the east side of the site. It is a three story hotel with a parking garage under it. Access to the garage is to the rear of the site (north). The existing entrance is to the left side of the proposed hotel. First floor access is on the west side and the northwest corner; there is a walkway. There is an entrance into the second floor on the northwest corner connecting both the existing deck and an existing building.

Two events can occur at the same time and the 50 room hotel would accommodate them.

The grading for the driveway is decreasing down to the parking garage. There is a series of walls towards Stiles Road. The elevations work in the favor of the Dillon court homes.

Stormwater Management may be a subsurface system below the garage level. There will be landscaping along Stiles. There are a number of trees and landscaping along the entrance and along Stirling Road. They propose to add to the buffer with evergreen species. They are highlighted in dark green on the plan.

The existing structure does provide some screening for the properties on Dillon Court, additionally, evergreens will be added along the edge of the property line.

Mr. Nusser brought up an Exhibit A-4, Sheet A-1 of the floor plans, with latest revision February 2021. The main roof is 35ft. There is an extension up about 3.5 ft. The elevation of the main roof is 403.4, the highest portion of the roof is 406.9, the driveway (new portion) elevation is at 391. The topography then drops down into the residences to the north. From a 391 elevation to a 406 elevation.

Mr. Castanheira asked about the number of trees that will come down. There is a total of 49 trees from about 5 inch caliber, most are 8 to 12 inch range. They will install about 48 trees in the area east of the proposed hotel, and 39 arborvitae along the north side of the driveway, and 37 shrubs on the eastern side of the property.

The trees will be 12 to 14 ft trees. The evergreen are planted at six feet in height.

Mr. Chadwick reminded all that this is not site plan approval. The question is can they achieve a physical barrier with landscaping or not.

Mr. Chadwick asked about the driveway for the hotel and where the new driveway starts on the plan. Mr. Nusser pointed it out. It is next to a turn about. Mr. Chadwick asked if Mr. Nusser

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reviewed the standards for the Neighborhood Business zone. He had and there is a buffer requirement. He needs to check that they comply. All bulk variances would go to the site plan.

Mr. Nusser felt the landscape proposed would provide sufficient buffer.

Mr. Kastrud stated that the majority of his comments were addressed with Mr. Nusser's testimony. Mr. Kastrud asked about the emergency vehicles for turning around and if they fit into the garage. Mr. Nusser said they can fit into the garage. At the dead end there is not enough room to turn around so they would need to dedicate a spot for that and lose one spot.

The steep slopes that are greater than 15 % will need to be shown on the plans. Drainage and runoff will be with site plan. There will need to be interior signage (directional). Lighting will be part of the site plan also. The existing utilities are adequate per Mr. Nusser, although that can be addressed at site plan. The sewerage authority and the applicant have been in discussion as to capacity. There will be ADA parking in the garage.

A security system was brought up but nothing had been determined. Mr. Chadwick asked about the steep area where the building will be placed and possible issues with construction. Mr. Nusser said the construction would happen from the existing driveway. They will come off of Stirling Road. Near the entrance of the site currently.

There is the reflecting pool and landscaping in front of what is proposed. Mr. Chadwick asked if there were special techniques needed due to the elevations. Mr. Warner asked Mr. Nusser what the construction plan would be. Mr. Nusser said they would build the foundations first, and finish grading around the building. There was some discussion about landscaping around the back of the building and stabilize the site. Mr. Nusser said there would be no access from Stiles Road for construction.

Mr. Frank Cretella talked about creating a barrier down the hill to protect the conservation easement. There is a terraced area that much of the building will be constructed on. They would come in from Stirling Road and will create a stabilized pad that would be grassed over but be stabilized underneath as another access for the fire department. That is where the construction vehicles would drive onto the property.

Mr. Warner asked if this was a similar process that the developer has used in the past. Mr. Cretella said they have had some difficult sites but not the same. Mr. Nusser suggested that the landscaping would be done from Stiles. Mr. Chadwick suggested that be left with site plan application.

Mr. Chadwick asked about the retaining walls that exist and he didn't see them on the plan. The retaining walls are on the down slope side of the driveway.

Mr. Warner brought up the sewer capacity and the applicant is on the waiting list. Mr. Chadwick felt the sewer capacity may take longer than one year and perhaps we might not want to have a one year construction start date in a resolution of approval.

The health department memo has a few items to satisfy. Other than sewer capacity the applicant can agree to health items. Mr. Warner asked about the Fire Marshall report and some requests for a study and turning radius calculations. A truck turning diagram will be done at the site plan stage.

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Mr. Cooper asked if members of the public had any questions of this witness, the applicant's engineer. Mr. Bruce Morlino from Old Smalleytown Road asked if they had gone past the use variance portion of the hearing. Mr. Warner, stated this entire application at this stage is solely about the d(1) use variance and the d(6) height variance. If they are approved, then the applicant would return and file with Site plan and bulk variances. Mr. Morlino asked about the entrance and Mr. Nusser had discussed earlier the entrance and the access pad.

There was some discussion on the Governor raising some of the restriction, although there is still the requirement to distance which limits the room the board meets in, and the room was currently at capacity.

Mr. Cooper went to Mr. Mitchell Bennett from 12 Stiles Road. He asked about additional access paths for the garage. Mr. Nusser said they had looked at some options but the existing screening that is mature might be affected and they decided on the proposed access. Mr. Bennett had concerns with an emergency and people trying to leave the garage all at one time. Mr. Nusser said that in an emergency the process is to exit the building as soon as possible, not going to the garage. Mr. Bennett was also concerned with emergency vehicles being able to access the garage. Mr. Nusser believes the grade is not too steep for emergency vehicles.

Ms. Meghan Yuan from 3 Loren Way asked about the storage unit facility. The next applicant has the storage unit.

Mr. Cooper asked if anyone in the court room had questions. No one came forward. Mr. Kline, attorney for the opponents, came forward. Mr. Kline asked Mr. Nusser if there were any stormwater calculations submitted to the board. No. Mr. Kline asked if the proposed application disturbs more than one acre of land. Yes. Mr. Nusser reviewed the township ordinances. It is a major development. The stormwater design will be required to meet the performance standard established under New Jersey soil erosion sediment and control act. The stormwater was not submitted for this application. It will be submitted with the site plan.

Mr. Kline asked about the tree line and asked what trees are counted in this application. It is focused on the hotel location and on Stirling Road. There will be 49 trees removed. About 38 trees will be removed from the steep slope area. The building will be in that area. They have not determined how many trees will be replaced. Mr. Chadwick suggested to ask if you can replant in the steep slope area.

Mr. Nusser said they could put more trees in but it would impact the trees that are in place and they are under a pretty thick canopy so its limits survivability. Some of the trees would be replaced with a 2.5 caliper as planted and would be 12 to 14 ft. tall. Some are on the steep slope area. Mr. Kline asked about analysis of planting in steep slope and not steep slope areas. Mr. Nusser has looked at the plantings and how well they would survive. Mr. Kline asked if trees act as a noise barrier. Mr. Kline asked if there was any noise analysis done in connection with plantings. Mr. Nusser said that trees don't provide an effective sound barrier.

Mr. Kline asked if Mr. Nusser had personally counted all the trees on the property. He did not do the survey but did look at the trees and plantings on the property. Mr. Kline asked how long it will take for the trees proposed to plant to grow to full growth. Mr. Nusser did not know.

Mr. Kline asked about the steep slopes. The application has steep slopes. Mr. Kline asked what the steepest slope they would be disturbing is. Mr. Nusser did not have a number for that. Mr. Kline asked if Mr. Nusser had evaluated possible flooding, runoff from disturbing the slopes on

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Stiles Road or Stirling Road. Mr. Nusser said the hotel will be in place of the trees and the slope is not well covered with grass or bushes.

Mr. Kline asked about the stream along Stiles Road at the lowest topography. Mr. Nusser said the stream is on the other side of Stiles Road. Mr. Kline asked if it was a C-1 waterway. It is not. Mr. Kline asked about one or more drainage pipe that extend out of the slope and discharging something other than water. Mr. Nusser is not aware of that. Mr. Kline asked if there had been any wetlands delineations on Stiles Road. Mr. Nusser was not aware of any.

Mr. Kline asked if Mr. Nusser knew if the construction of the underground parking will entail any blasting. They have not done any geotechnical investigation.

Mr. Kline asked if the subject property has a limit at 37 EDUs as existing. Mr. Nusser does not know but he believes there is excess capacity associated with the number of EDUs. They had discussions with the sewerage authority. Mr. Kline brought up Sewer resolution 05-49 and that is requires quarterly water bills to demonstrate compliance with the 37 EDUs. Mr. Nusser was not aware of the requirements

There was a review of the water usage on the site. During that time there had been a break in the irrigation system. Mr. Kline asked if the property has caused damage to the Stiles pumping station. Mr. Nusser was not aware of an issue. Mr. Nusser is not aware of any pipe coming out of the hill towards Stiles Road.

Mr. Cooper brought up that an extension be obtained from the attorney, Mr. Bohn, and the hearing was carried to June 7, 2021 at 7:00 p.m. with no further notice. It will be a hybrid meeting again. Mr. Bohn will provide the extension in time to act until the end of June.

CASE BA 20-08 Rica Properties, LLC
Block 82, lot 4.01/256 King George Road
Preliminary and Final Site Plan Use and bulk variances
Carried from March 1, and April 5, 2021 meetings.

Mr. Richard Sasso, attorney for the applicant, came forward and presented two exhibits. Exhibit A-2, a letter from Cathy Mueller, engineer for the applicant, dated April 19, 2021 indicating that the original survey did not show the site easement that Mr. Messano referred to in an earlier hearing. Mr. Kennon, the surveyor, was provided the easements. Exhibit A-3 was a letter from Mr. Sasso, dated April 23, 2021 indicating that the original survey from when the client purchased the property in 2019 did not reflect the sight or slope easement and the deed was attached, which also did not refer to any sight or slope easement. Mr. Kennon was contacted and he agreed his survey was incorrect and he redid it. The site easement did not interfere with the grading plan so it does not impact the project.

The traffic consultant, Gary Dean, was introduced and he was sworn in and was accepted by the board. Mr. Dean did a traffic study for 256 King George Road. The report is dated January 20, 2021. The use is not permitted in the zone but they look at what is permitted in the zone. The BR-40 can be residential and also commercial; including professional offices, banks, funeral homes, fraternal organizations, and as conditional use, churches, and education and school buildings.

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The proposed use has less traffic comparably. Mr. Dean believes it is the lowest traffic generator (storage facilities). Traffic engineers rely on data collected by other traffic engineers and compiled by the Institute of Traffic Engineers. The group compiles and publishes this data about every six years. It is actual traffic studies of a variety of uses. Mr. Dean referred to Table 2, This includes what would be permitted and they generate about 25 to 30 in and out cars an hour. Some of them might be 50 to 100 trips. The self-storage generates about ten traffic movements in the morning peak hour and up to 18 in the evening. They used data that was compiled for the King George Inn redevelopment just south of the subject property. The level of service goes between A to F, (F is waiting about 50 seconds). They project that the driveway would operate at level of service C. Northbound traffic is broken up with gaps created with the signal at Crown Drive. Not a lot of parking is needed, there are six paved parking spots and four paver spaces. There is proposed security and access gates are back a bit and there is a bulb at the far easterly end of the site. It is a single access driveway on the county road, and it will need county approval.

Mr. Cooper asked if there would be scheduled times for customers to move in or out, especially on weekends. Mr. Dean has worked with a dozen of the storage facilities and has never known of a situation that required it. It is a passive use and generates minimal traffic and it is part of the special reasons that the site a good use. Mr. Cooper asked if there were any questions.

Mr. Warner asked about the traffic study and the ITE manuals and the land use of storage facilities. Land Use code 151 was used and it refers to mini-warehouse uses. The size of the facility is also taken into account. The size of the buildings was included for permitted uses that the SF of the lot would permit to be built.

The proposed storage facility generates much less traffic than other uses that are permitted.

Mr. Cooper opened up to public questions. No one in the room had questions and Mr. Cooper asked for any questions from the zoom participants. Mr. Charles Messano, from 258 King George Road, asked about the ten cars per hour at the morning peak hour, and 18 in the evening peak hours.

Mr. Messano asked if there would be cars or contractor vans, landscape trucks with trailers. Mr. Dean said there will be ten trips, five in and the same five out, so ten trips. The units are climate controlled and not the type for landscape contractor, which would often be stored outside. The site has no outside storage. It is geared to furniture, household items, office furniture, etc.

Mr. Messano asked again about trucks and gas engines. The testimony of the planner and the owner of the property stated that if a vehicle is stored it is either drained or full.

Mr. Richard Rose, having an address of 7 Loren Way, was duly sworn according to law and expressed concern about the sufficiency of the notice. The Board Attorney confirmed that the Applicant gave notice in accordance with the requirements of the Municipal Land Use Law. Mr. Rose expressed concern that approving the proposed storage-facility use impairs the intent of the Master Plan and Zoning Ordinance, since self-storage is not a permitted use in any zone within the Township. Mr. Rose questioned whether the Applicant had submitted a complete application because, in his opinion, the Applicant had not provided a legal theory for the relief sought. He expressed concern that there are self-storage facilities in Berkeley Heights and Bernardsville, as well as Greenbrook, and, therefore, there is no need for the proposed self-storage use in Warren.

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Mr. Charles Messano, having an address of 258 King George Road, was duly sworn according to law and expressed concern about the proximity of the self-storage use to an adjacent daycare center. He also expressed concern about stormwater runoff, safe circulation, and the impact of the facility on the immediate neighborhood.

Ms. Megan Yuan, having an address of 3 Loren Way, was duly sworn according to law. She testified that she lives to the rear of the Property and expressed concern about the impact of the proposal on her property.

Mr. Anthony DiRoma, having an address of 5 Loren Way, was duly sworn according to law and testified that he owns property to the rear of the Applicant's lot. He explained that when he constructed the improvements on his property, he had to comply with the Ordinance requirements and he was concerned that the Applicant was not complying with same.

Mr. Warner suggested that the board, if granting the variance, listen to the stipulated conditions to properly deliberate. Mr. Warner went over the stipulated items; the prohibited items or hazardous substance list submitted, a form rental agreement substantially similar to the submitted sample, hours of operation Monday through Friday 7a.m. to 7p.m, Saturday 8 a.m. to 5 p.m. Sunday maximum hours of six hours only. Tenants shall have access to their storage units 6 a.m. to 10:00 a.m. No outside storage permitted. No outside sales. No storage of motor vehicles with gasoline in them or any storage of motor vehicles will be subject to the review and approval of the fire official. All exterior lighting house shielded, downward focused, no light spillage across the property line. Landscaping as per TCC including landscaping adjacent to school with six foot tall chain link fence. Minimum of four carts for moving of storage items to be kept indoors in lobby. No striping spacing along side of the building but a sign would be placed with no parallel parking permitted. Landscaping will be subject to the approval of the planner. Beehive grates will be revised to comply with township standards. Drainage area maps to be submitted to the township engineer, Gates subject to the approval of the fire official. Install one public fire hydrant subject to the approval of the fire official. All items were agreed to by Mr. Sasso.

The board went into deliberation on the six variances. Building coverage, three stories vs. two stories, residential buffer, D- use variance, D-height variance, and D-Floor Area Ratio. There were six members present and five members would need to vote for the variance to approve.

Mr. Villani felt positive about the proposal because there is less traffic and no flammable substances and he has visited the site and believes it will fit in the area and feels some storage is/will be needed in Warren. The benefits outweigh the detriments.

Mr. Galbraith feels it is an attractive building and the light traffic is a benefit on the busy road. It is well designed and fits in the township and he would vote for it.

Mr. Huber thanked the residents that came forward. It is an ambitious proposal but was presented well. He feels this will be needed with the increase in housing that is projected. He supports the application.

Mr. Dealaman agrees with the previous members. Mr. Castanheira felt it was a good application and appreciates that the residents came and present their thoughts. He knows the affordable housing requirements and the need for storage and it will be lower traffic along the road. He supports this application.

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Mr. Cooper agreed with all and does appreciate the emotion and information given by the residents. The particular property and the traffic planner testimony giving a limited impact proves it is a good use for the property instead of an office or school. He was also supportive. He felt the applicant has good consultants and it will be done well.

Mr. Warner presented a motion to approve with the conditions listed above.

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

ROLL CALL

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Castanheira, Mr. Huber, and Mr. Cooper
Against: None.

NEXT MEETING: June 7, 2021 Meeting

Motion was made by Mr. Villani, seconded by Mr. Cooper to adjourn
All in favor.

MEETING ADJOURNED: 10:15 P.M.