

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES SEPTEMBER 19, 2022**

APPROVED

CALL TO ORDER:

Meeting was called to order at 7:05

ROLL CALL:

Mr. John Villani
Mr. Michael Galbraith
Mr. Frank Rica (excused)
Mr. Donald Huber
Mr. Scott Bowen (excused)
Mr. Anthony Paoletta
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 10, 2022.

FLAG SALUTE

MINUTES:

The minutes of the August 1, 2022 meeting were forwarded to members for review.

All were in favor of approving the minutes.

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. No one came forward and this portion was closed

CLOSE THE PRIVILEGE OF THE FLOOR PORTION OF THE MEETING

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 2**

RESOLUTIONS: None.

AGENDA CASE APPLICATIONS:

CASE BA22-05 Mountain Properties of Warren LLC
Block 74 lot 2.01
Conditional use and FAR

Notice issue for August 1 meeting, the applicant re-noticed.

Mr. Selvaggi, Esq. came forward for the applicant and went over the application for a use variance relief of a conditional use. They have an existing two-story office building and propose to use the first floor for a school. The school program is One School Global, a Christian based, small classroom setting. They had someone from the school testify and an engineer, and concluded with planning testimony. Mr. Mark Peck, the board attorney, swore in all witnesses, Steve Parker, applicant engineer; Alex Doherty, planner for the applicant, and Ralph Markham, school representative. Also, John Chadwick, Township Planner, and Christian Kastrud, Township Engineer, were sworn in.

Mr. Ralph Markham went over his position with One School Global, as campus administrator in Fairmont, New York for two years. They would like to implement a school with 60-70 students. The school operates on a self-directed learning program. They take responsibility for their own learning. There is a larger central area that is overseen by teachers and the students learn in that space. They also go to smaller focus rooms surrounding the main room. The ages are 3rd grade (8-year old) to 12th grade (17-year old). There is roughly one teacher to 8 students. The students are grouped based more on academic progress than age. They have the focus groups where they are learning from teachers via zoom. Then they go to center where they do self-study. There are roughly 10 teachers on site. There are 2 administrative staff generally on site. There is a cafeteria area and a kitchen and a canteen. There is an office area that is about 175 SF. Mr. Markham will not be at the site every day. There will not be a lab at the campus. There are no employees for the cafeteria, it is volunteer help by Moms. Generally, it will be pre-prepared food that can be warmed up. No ranges, etc.

The anticipated hours are 8:28 to 3:08, with some teachers there afterward. Students would arrive at 8:15 to 8:25. Students are picked up in vans, 10 students or less per van. They are driven by volunteers and they will be guided by a parking attendant.

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 3**

They anticipate 7 vans maximum. Someone asked what is the plan if someone misses the van. Possibly a parent will drop off in that situation. The goal is to have transportation available for all students. It is very limited for older students to bring their own vehicles and they have to give a need and be approved.

The programming is not similar to public school. One School allows students to excel to maximum ability. Three teachers supervise the larger room where students do self-study. Students are all members of their church.

There are no on-site recreational facilities. One day a week there is an off-site activity using the same van protocol. It is one period of time for week and is only upper campus, grades 7 through 12. They do not have a site set up yet for this facility.

There is an existing sign for the building. They do not normally have signage for the schools. There will not be a sign on the building.

The school year starts August 22 and ends around June 17. There are no extra-curriculum or evening activities. The staff arrives at 7:30 and leave by 4:00 most often.

Mr. Cooper asked if the board had any questions for Mr. Markham. Mr. Huber asked if the program was recognized by the Department of Education, it is. No overnight stays at all. Mr. Huber asked about the cafeteria, it will not be a type 1. Mr. Huber asked if there were any special needs component to the program. Mr. Markham said not presently but their goal is "what they do for one, they do for all". So they would work and make provisions to include the student. The name of the church is Plymouth Brethren. There is a hall on Technology Drive in Warren.

Ms. Carleo asked if there was any before or after care options for parents. There are none. There will be no renting out of space. They follow roughly the same vacation schedule as the public schools. They start August 22, there are the same number of days as public school. The holidays will not be exactly the same. She asked about evacuation and security drills. They would go to the back of the parking lot. They will do what is required and work with the fire and police department and the Campus Principal will handle the plans and requirements.

Mr. Paoletta asked how many campuses they had. There are 120 campuses worldwide, none currently in New Jersey.

Mr. Chadwick asked if the student that graduates got a GED or a diploma from the school. They get a diploma from the school, and that is recognized by the Board of Education. Mr. Markham said the schedule has some breaks built in to the day.

Staff is on site that are teaching which are zoomed out to other campuses, and teachers off-site that are zoomed into this campus. The campus secretary will have some first

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 4**

aid and medical training. A school nurse does come three times a week. Custodial work is not during school hours.

Mr. Villani asked about the term religious education and training school. Mr. Markham said the motto is creating life ready studies and includes a lot of business classes. The schools have existed for 15 years. Mr. Villani asked about what the students expect when they get out of high school. Mr. Markham works with the students to ensure they have jobs lined up and are ready to go. There may be studies after they have started work but not college.

Mr. Peck asked if they were regulated by the state department of education as a public school or a parochial school. They are a private school. They follow DOE requirements for private schools.

The hearing was open to the public on the testimony just given. Ms. Jill Gee asked about the ages of the students, the grades. They are offering grades 3 through 12 and there will be about 60-70 students. Ms. Gee asked if they would ring bells, they will not have bells outside. She asked about standardized testing and Mr. Markham believes they will have standardized testing.

No other public came forward.

Mr. Selvaggi asked if he could ask another witness, Mr. James Markham, be sworn in and he was. Mr. James Markham is one of the partners that owns the building. The building is 33,000SF and the first floor is about 16,000SF. The upstairs will be general office space. There is a separate entrance for the first and second floor and there is no physical connection to get from one to the other. There are about 136 parking spaces on the property. Mr. Markham felt the vans would typically be off-site after students are dropped off. The school will only need about 10% of the spaces. There is one small tenant in the building currently on the first floor but would move upstairs. There will be some retro-fitting for the school space.

Mr. Villani asked if there is a difference in the fire or other codes for schools from office space. They will have to be approved by the fire official. Mr. Huber said it is under the Uniform Construction Code. Fire code comes later but will also conduct ongoing inspections.

There will be no exterior renovations and signage is not important to the school. The sign may come down that is there.

Mr. Steve Parker came forward and was accepted by the board. Mr. Parker went over the site and traffic. It is a developed property with a big parking lot and already has lighting, landscaping, and stormwater management. None of those are proposed for changes. Lot 3.01 was included in this application (adjoining property) because they

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 5**

share a common driveway on Mountain Blvd. There are a couple minor changes outside. Mr. Kastrud recommends (ltr July 25, 2022). All eroded areas within the detention basin will be stabilized. Landscape areas should be identified on the site plan. Additional detail is required for the ADA requirements. They want to ensure the existing lighting is adequate. They will verify that. A stop sign/stop bar should be included where this driveway exits and they will add to plan. They need to label the easement. It is not a medical office use. They will revise plans to the satisfaction of the engineer. There are 132 parking spaces on the lot and Mr. Parker feels it will accommodate both the school and the office space.

Mr. Chadwick asked about the vans and if they might have a condition that they can't park on site. The applicant would prefer the option that the vans can be parked.

Mr. Cooper asked if anyone from the public had questions for this witness.

Mr. Selvaggi called Mr. Alex Dougherty, the applicant's planner forward. Mr. Dougherty gave his credentials and was accepted. Mr. Dougherty explained that the school is inherently beneficial and the relief for the FAR is an existing condition. He handed out Exhibit A-1, a packet of 8 slides. Slide 1 shows the tax lot outlined in yellow. Slide 2 is an aerial. Slide 3 is a slide with the land use zones labeled. There are some residential properties nearby but most are commercial. Slide 4 shows the zoning map and the property is located in the BR-40 zone, which is business/residential. Slide 5 is an existing site plan. Slide 6 shows the parking lot, and Slide 7 shows the curb line. Slide 8 has the parking lot view.

It is an adapted use plan with first floor school use. It offers secular school with the religious education addition. They are at the board due to a conditional relief, the D3 FAR. They are at .29% and the zoning requires maximum .15%. It is an existing condition.

The project is inherently beneficial, and the use is of value. It satisfies the ZIKA test for the use. The first prong identifies the public interest at stake. It is a school. Prong 2 identifies the detrimental effect, any issues have been addressed. It is compatible with the surrounding uses. Prong 3 considers any reasonable conditions; the board can propose these. Prong 4 is the positive and negative criteria. Allowing the school does not give substantial detriment to the public and the positive outweighs the negative.

There will be outside agency requirements and the plans will be revised to the board professional's requirements.

Mr. Villani asked if there will be lane for the busses for pick up and drop off. Mr. Parker said they did submit a circulation plan and went over it on the site plan. There is a drop off point against the building. There will be a volunteer to greet and guide students. There could be a note on the plan.

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 2**

Mr. Villani asked about the accrediting process of the state and if it is annual or five years? They did not know for sure. They will have to comply with the DOE certification and inspections.

Ms. Carleo asked about the seniors that will be permitted to drive and will there be a crosswalk for safety purposes. There was not one specified. There was discussion on dedicated spaces also.

Mr. Cooper asked if anyone from the public had questions for the planner. No one came forward. This portion was closed.

Mr. Selvaggi went over that this is an inherently beneficial use as a school. There will be some conditions by the board and they will be met. The state will have requirements. Parking requirements is reduced because it is a school and traffic will be reduced.

Mr. Cooper opened this up to the public for any comments. No one came forward.

Mr. Peck went over the requested variances, d3 for deviation from the conditional use standard variance, the d4 for FAR variance, also pre-existing and for preliminary and final site plan approval.

The board members were satisfied due to the conditions requested and agreed upon.

Mr. Peck went over the conditions outside the standard items. To line and paint the drop off area, and a crosswalk, and obtaining all necessary DOE certifications.

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

ROLL CALL

For: Mr. Villani, Mr. Galbraith, Mr. Huber, Mr. Cooper, Mr. Paoletta and Ms. Carleo.
Against: None.

CASE BA22-07 Powder Horn Realty Corp., Inc.
 Block 778 lot 19.02
 Minor Subdivision w/ FAR variance

Mr. Richard M. Sasso came forward as attorney for the applicant. He went over the application. Mr. Sasso went over the minor subdivision. There will be two witnesses,

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 7**

Cathy Mueller, the applicant's Engineer, and Henry Hinterstein, the applicant's Planner. They were sworn in along with Mr. Kastrud, the Township Engineer, and Mr. Chadwick, the Township Planner.

The professionals were accepted by the board. The property contains two office/commercial warehouses. There is one accessory building. It is fully developed, they do not propose any new development. The use on the left of the lot (5B Powder Horn) is a warehouse and office and the building on the right (5A) is a mix of general office space and lease to a trainer, a chiropractor, and some warehouse space.

The existing lot is 3.382 acres and is in the GI (general industrial) zone. There is some mixed zoning and some variances pre-existing. Five acres are minimum, and the lots/development were done with lot averaging. They propose a lot line at almost the center of the lot. The lot on the left (5B) they propose to be 1.32 acres and the lot on the right 2.062. They put the line where it worked best for parking and the trash enclosure. They kept them rectangular.

They propose variance for lot size and some setbacks.

Mr. Cooper asked about the function of the shed. It is used by a surveyor for their equipment. There will be a cross access easements to Powder Horn and between the buildings. They will need a cross access easement for the dumpster area (it is within the access easement). They will submit metes and bounds for the easements.

Mr. Huber asked if the buildings were currently occupied. They are occupied. There is no proposed change of use.

Mr. Chadwick stated that the reason they are at the board of adjustment is because of the FAR. These buildings were built before the FAR was in place.

Mr. Chadwick asked about Title 39 and they agree to it. Mr. Kastrud said the applicant's engineer went through all the items he had, but they will need to change the signature block to the board of adjustment instead of planning board. They will submit metes and bounds.

Mr. Cooper asked if anyone from the public had questions. No one came forward.

Mr. Hinterstein came forward and he was accepted. He went over the subdivision and the line is somewhat in the center of the property and gives the owner some flexibility to rent or sell one building. There is no new development proposed. The operation will stay the same also. It does change some of the bulk variances on the site. The variances are exacerbated. There is an FAR variance and it is increased for one lot and the other lot complies. Lot 19.07 is below FAR maximum. The lot can accommodate the additional FAR as the buildings exist. The current lot has an FAR of 20.9 with a

**BOARD OF ADJUSTMENT
MEETING MINUTES
September 19, 2022
Page 8**

proposed 23.6 for lot 19.08 and complying for lot 19.07. There will no negative impact from the subdivision. Mr. Hinterstein also feels there is no zone ordinances impaired. The property can handle the current FAR.

Mr. Huber asked about parking at the site and Mr. Hinterstein feels it is still good. Mr. Chadwick said the parking was oversized for this lot to start with. Mr. Huber had concern that this approval may start some other lots being subdivided. Mr. Chadwick said there are no other lots in that area with two buildings on one lot.

Mr. Cooper opened up to the public for any questions. No one came forward and that portion was closed.

Mr. Sasso stated they felt they met their burden of proof and all are familiar with the buildings and the empty parking lot. Splitting the lot is better for tax purposes.

Mr. Cooper asked if anyone had any comments on the application. No one did.

Mr. Peck went over the motion to grant all of the variances as well as to grant the minor subdivision and there are no conditions outside the standard compliance memos.

The board were all okay with the application.

A motion was made by Mr. Villani, seconded by Ms. Carleo.

ROLL CALL

For: Mr. Villani, Mr. Galbraith, Mr. Huber, Mr. Paoella, Ms. Carleo, and Mr. Cooper.
Against: None.

Next meeting will be October 3, 2022

MEETING ADJOURNED: 8:39 p.m.