

**WARREN TOWNSHIP PLANNING BOARD
MEETING MINUTES
7:30 P.M. – Susie B. Boyce Meeting Room – 44 Mountain Boulevard
January 27, 2014
APPROVED**

CALL TO ORDER Meeting called to order at 7:32 p.m.

FLAG SALUTE AND MOMENT OF SILENCE FOR OUR TROOPS

***Statement by Presiding Officer:** Adequate notice of this meeting was posted on January 14, 2014 on the Township bulletin board and sent to the Township Clerk, Echoes Sentinel and Courier News per the Open Public Meetings Act. All Board members are duly appointed volunteers working for the good and welfare of Warren Township. We plan to adjourn no later than 10:00 p.m.*

ROLL CALL

Mayor DiNardo	Mrs. Smith (excused)
Committeeman Marion (excused)	Mr. DiBianca
Mr. Toth	Mr. Freijomil
Mr. Kaufmann	Mr. Gallic
Mr. Lindner	Mr. Villani
Mr. Malanga	

■ **Announcements:**
None

■ **APPROVAL OF MINUTES:**
January 13, 2014

Motion by Mr. DiBianca, seconded by Mr. Gallic to approve the minutes.

Roll Call

For: Mayor DiNardo, Mr. toth, Mr. Kaufmann, Mr. Lindner, Mr. Malanga, Mr. DiBianca, Mr. Freijomil, Mr. Gallic and Mr. Villani
Against: None.

■ **ADOPTION OF RESOLUTION**
PB13-03 Douglas Jamieson, Application was heard and considered at a public hearing held on December 9, 2013 at which time the board rendered its decision to approve with conditions, and this resolution is intended to memorialize the same in accordance with N.J.S.A. 40:55D-10(g) (2).

Motion by Mr. Kaufmann, seconded by Mr. Gallic to approve the resolution

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Roll Call

For: Mayor DiNardo, Mr. toth, Mr. Kaufmann, Mr. Lindner, Mr. Malanga, Mr. DiBianca, Mr. Freijomil, Mr. Gallic and Mr. Villani
Against: None.

■ **PROFESSIONAL STAFF REPORTS:**

**Alan Siegel, Esq., Planning Board Attorney
John T. Chadwick, IV, P.P., Professional Planner
Christian Kastrud, P.E., Professional Engineer
Maryellen Vautin, Clerk**

■ **CORRESPONDENCE**

None

HEARING

**CASE 1 - Case #: PB-12-08
Block: 53 Lots 1.06 and 2
Road: Mount Horeb and Dock Watch Hollow
Minor subdivision with variances**

**APPLICANT: Paulo J. Varino and Rafal Imiolek
OWNER: same as above**

LOCATION: 68 Mount Horeb and 98 Dock Watch Hollow

PROPOSED: Lot reconfiguration/subdivision. A portion of Lot 1.06 to be added to Lot 2

Revised memo from Mr. Kastrud and summation from Mr. Murray included to Board Members

Mr. Villani addressed Mr. Murray who suggested that Mr. Parker would come forward and discuss the case. Mr. Villani brought up that Mr. Zimmerman, a planner, would be coming but was not present yet. Mayor DiNardo suggested going over anything else until Mr. Zimmerman would be present. Mr. Villani brought up Mr. Murray's summation and questioned part of the summation. Mr. Villani read the fire report and that the applicant had agreed to sprinkler the building, but that the fire department may still have concerns with the application and the long setback from the street and the possibility of the driveway being blocked by vehicles.

The public was invited to come up to discuss concerns and it was discussed that Mr. Zimmerman was not there yet.

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The board decided to suspend the hearing until Mr. Zimmerman arrived. Mr. Eric Hughes from 62 Mount Horeb Rd came forward as he felt his concern was not something that the planner (Mr. Zimmerman) would bring up. Ellen Byra also came up from 14 Wychwood Way and Mr. Siegel wanted the speakers to be sworn in. Mr. Hughes and Ms. Byra were sworn in by Mr. Siegel. Ms. Byra spoke with the realtor that day and spoke about the open house the day before. The realtor said her client told her as of November this had been settled and the board had said no. The realtor said she was given the "go-ahead" to sell the house without the subdivision that was proposed. The realtor said that they would offer the back lot to the people who would buy 68 Mount Horeb and if they didn't want it they would leave it as is. The board felt the information was irrelevant.

Melissa Hughes from 62 Mount Horeb Rd came forward and was sworn in. Ms. Hughes stated she went to the open house and the listing is for 2.06 acre lot size, which is the full property and there is an offer on that. The realtor also told Ms. Hughes that the subdivision was not approved. The board felt it has no bearing on the case that night. There was discussion that the plans are what is being heard for this case.

William Byra, from 19 Wychwood Way came forward and asked about Mr. Murray's letter and referring to the deeds for lot 2 submitted earlier and zoning not in effect when the lot was established. Mr. Byra asked about when Mr. Obuch owned the lot along with a home that was contiguous and that they should have been merged, due to one being nonconforming lot. Mr. Chadwick stated they were not merged. There was further discussion on the sales and the issue of merger and the issue of a filed map absence for this lot. There was discussion on the value of the lot.

Mr. Murray discussed lots along Hillcrest Blvd in 1.5 acre zone and that zoning was changed and also discussed a case for a subdivision that went to the Supreme Court of New Jersey.

Mr. P. David Zimmerman arrived and came forward and introduced himself and stated he was representing some of the neighbors of the subject property and he was accepted as a qualified planner. Mr. Murray gave an introduction to Mr. Parker and the continued testimony. They went over Mr. Kastrud's report on the case. Mr. Kastrud wanted to go over the items still open and skip those that have been resolved. Number 4 would be a condition if approved, on emergency services. It (any construction) would still be subject to a soil movement application. Mr. Kastrud asked Mr. Parker to address some of the items on both Mr. Chadwick and Mr. Kastrud's report. They discussed the driveway 20 feet wide from street to the first home and then at turn around area, it goes to 12 feet wide. It is suggested that there be a division of the driveway or separation between the two properties (portions of the driveway) by a small fence or curbing. Mr. Parker disagrees on the separation. There was further discussion on where the division would be and the issues.

Mr. Villani asked if the applicant would accept the division of the driveway and Mr. Murray answered yes. It was not determined exactly what the driveway division would be at that time (but they will split).

Mr. Parker addressed Mr. Kastrud's comment number 24 about the detention system and possible failure. Mr. Kastrud suggested the investigation of an overflow pipe to an existing storm sewer. Possibly a pipe in the easement used for the sewer line. Mr. Parker felt they have a safety with the storm water management system being three

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times what is required. It is over designed but anything could fail. There was further discussion on the storm water system and the possibility of going to a storm sewer. Mr. Parker didn't know where the storm sewer is on Wychwood Way. Mr. Kastrud knows there is already an issue on Wychwood Way properties with water and the drywells would be near wetlands, and flow is north to south or downhill towards Wychwood Way. Mr. Parker does not know if it is (a pipe to storm water system) possible and he would need to discuss with his client. There was discussion on standards and the unique site characteristics of this lot. Mayor DiNardo asked Mr. Kastrud about other drywells in town and if there have been issues and Mr. Kastrud did agree there have been problems, sometimes due to maintenance, or change in ground water after construction.

Mr. Villani reminded the board that we rely on the professionals opinions and that they don't want to increase any problems surrounding the site

Mr. Villani called for a 5 minute break at 8:55 p.m. Mr. Villani called the meeting back to order at 9:04 p.m. Mr. Murray discussed the proposed maintenance contract for the storm water management system for the proposed new lot and how it would work. Mr. Kastrud discussed a manual would be required for maintenance to ensure that maintenance would continue. There was a discussion on the proof of maintenance, follow up if not complying with an annual report, and methods to rectify issues of systems failed or noncompliance with maintenance. There was discussion about a drywell on Isabella Way that at first had a regular overflow that went into the neighbors yard often until a pipe was put in to the storm water sewer in the street. Mr. Murray stated that have no problem with the Items 25, 26 and 27 from Mr. Kastrud's report, all dealing with the maintenance system.

Mr. Villani brought up Mr. Zimmerman who stated he is a licensed professional planner in New Jersey with undergraduate degree from Rutgers University, and a Masters from the University of Pennsylvania, he taught planning at Rutgers for 14 years, and is a planning consultant, and represents many municipalities. He was accepted. Mr. Zimmerman spoke about the public notice and he felt it is deficient. He also feels it is not a buildable lot as it is currently, and will speak of how it could be utilized, the impact on the adjoining lot, and requirements to be considered by the board dealing with the variances associated with this application. Mr. Zimmerman spoke about the bulk variance for lot width, the lot width requirement is at the 75 foot setback and this lot has a width off of Dock Watch Hollow Rd that is ten feet. The second variance is a lot frontage as this lot at Dock Watch Hollow is only ten feet. Mr. Zimmerman stated that the applicant is also there for relief from Section 35 and 36 of the municipal land use law, which requires that all properties front a public road for emergency vehicles access. He spoke about the C1 and C2 variances and if they qualify. He talked about the notice of the application and lot frontage variance, and that the notice is unclear, and they don't talk about lot width in the notice and feels it is deficient.

Mr. Zimmerman then introduced exhibit Z-1, Sheet 2 of 5 of the applicant's plans with blue area colored in for wetlands and a dotted line area for the 50 ft transition and colored the stem out to the road to present what the area would be to build and then with the 25 ft setbacks, he stated that it is not a buildable lot. And no driveway (because need to be minimum of 12 feet) can be installed in the 10 foot wide stem area without disturbing neighbor's property. Mr. Zimmerman also presented the idea of selling portions of the lot to the adjacent property owners and that he feels it is the best solution for the lot.

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Mr. Zimmerman also brought up Mr. Chadwick's memo of Oct 14, 2013 which concluded the lot was not buildable, due to location of transition area and the placement of conceptual access to the property.

Mr. Zimmerman brought up the minutes from August 12, 2013 where Mr. Parker stated that if the access is not through the easement on lot 1.06, it is not a buildable lot. Mr. Parker also stated (during the August 2013 meeting) the clearing would be tremendous to go down the flag portion of the lot for access. Mr. Zimmerman presented an exhibit Z-2, Practical Lot Size, sheet 4 of the plans, with the easement colored in on the front lot, which changes the utility of the lot by about 5000SF, making it not 65,345 SF is now 60,345 SF. Secondly, he brought up that the back lot with the stem not being usable and the wetlands area not able to be used, the back lot (practical size) would be 18,750SF in a zone that requires over 65,000 SF. He suggested it is not appropriate for this neighborhood. Mr. Zimmerman spoke about the applicant and criteria for the variances as a hardship application, and the requirement of the negative criteria. He did not feel the applicant can satisfy the negative criteria items. He read the Warren Zoning, section 16-5.34 Flag Lots Strongly Discouraged. He also read from the R-65 Zone purpose section. Mr. Zimmerman introduced exhibit Z-3, tax maps, and discussed the lot sizes surrounding the subject lot, which are all similar except the flag lot which is smaller. He felt it does not further the goals of the Warren Township Master Plan as it does not match the character of the neighborhood due to its configuration and it is the only one of its kind in the neighborhood. Mr. Zimmerman went back to the Z-2 exhibit and pointed out the easement on the front lot and stated he feels it has a negative impact on lot 1.06, as its use is reduced because of the easement. He reiterated that both lots are reduced in usability and reduces the public good of the lots and the neighborhood. Lastly, Mr. Zimmerman pointed out that the applicant did not request a variance that is part of the site, a bulk or a use variance. He referred to Warren Township ordinance, 16-5.7, access driveways, and that they shall be deemed to be accessory to such use. There was further discussion to permitted uses and accessory use. Mr. Chadwick wanted to clarify that you cannot put a commercial use driveway through a residential property, but serving a residential use through a residential property is permitted. There was further discussion on this and that Mr. Zimmerman feels the application is a use variance due to the driveway being an accessory. Mr. Zimmerman stated the public notice did not inform the public on what the application is about and the application is confusing. It is per Mr. Murray's summation that it is a C1 or/and a C2 use and he (Mr. Zimmerman) feels it does not promote the MLUL, and it has substantial detriments. Mr. Zimmerman paraphrased the Kaufmann case in that the application has to have some community benefit and it does not.

Mr. Villani stated the case would not be completed and Mr. Murray will want to address the points presented by Mr. Zimmerman. The date the case would be continued to February 10, 2014 without further notice.

Motion was made by Mr. Gallic, seconded by Mr. Kaufmann to adjourn. All in favor.

■ **CITIZENS HEARING (Agenda Items)**

None

■ **SCHEDULE OF NEXT MEETING:**

February 10, 2014