

**WARREN TOWNSHIP PLANNING BOARD  
MEETING MINUTES  
7:30 P.M. – Susie B. Boyce Meeting Room – 44 Mountain Boulevard  
April 28, 2014  
APPROVED**

**CALL TO ORDER** Meeting was called to order at 7:35

**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  
Committeeman Marion  
Mr. Toth  
Mr. Kaufmann  
Mr. Lindner  
Mr. Malanga

Mrs. Smith  
Mr. DiBianca  
Mr. Freijomil  
Mr. Gallic (arrived at 7:49)  
Mr. Villani

■ **Announcements:**  
None

■ **APPROVAL OF MINUTES:**  
March 10, 2014

Roll Call

Motion was made by Mr. DiBianca, seconded by Mayor DiNardo to approve the minutes.

For: Mayor DiNardo, Committeeman Marion, Mr. Kaufman, Mr. Malanga, Mrs. Smith, Mr. toth, Mr. DiBianca, Mr. Freijomil, 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**  
No reports.

■ **CORRESPONDENCE**

**The New Jersey Planner** January/February 2014 Vol. 75, No. 1

Township of Warren, Ordinance Supplement Volume 1, supplement No. 58, to incorporate in copies.

- **Township Committee Referral of Ordinance No. 14-14** , An Ordinance supplementing and Amending Chapter XVI entitled “Zoning” of the revised General Ordinances of the township of Warren by Deleting Subsection 16-5.34 Entitled “Flag Lots Strongly discouraged” and replacing with “Flag Lots Prohibited”. Review for consistency with the Master Plan

Mr. Chadwick went over the ordinance and reminded the board that the vote is that the ordinance is not inconsistent with the Master. He also discussed that any current flag lots with new applications would need to go to the Board of Adjustment if an owner would want to develop the lot. No new flag lots should be created going forward.

ROLL CALL

Motion by Mr. Toth, seconded by Mr. Freijomil

For: Mayor DiNardo, Committeeman Marion, Mr. Kaufmann, Mr. Lindner, Mr. Malanga, Mrs. Smith, Mr. Toth, Mr. diBianca, Mr. Freijomil, and Mr. Villani

Against: None.

■ **CASE No. 1**

**PB 14-04** 6 Cory’s Brook Rd., Ralph Markham

**Block: 84**                      **Lots 1 and 3**  
**Road: 6 Cory’s Brook Rd**  
**APPLICANT: Ralph Markham**

**LOCATION: 6 Cory’s Brook Rd.**

**PROPOSED: proposed minor subdivision**

Mr. Villani asked the applicant's attorney to begin. Mr. Zelley introduced himself and then Mr. Freijomil recused himself from the application and Mr. Siegel agreed. Mr. Zelley continued to describe the subdivision at 6 Cory's Brook Rd, block 84, and lots 1 and 3. On August 26, 2013 the Planning Board granted the applicants for two minor subdivisions. Small portions of lot 3 and lot 4 were given to lot 1. Lot 1 would then be subdivided into two fully conforming lots. It was determined that lot 4 portion is not able to be acquired due to the fact that the lender is not willing to release that portion of the property. So the applicant has returned and the now remaining lot with the house on it is reduced by that amount. Instead of having 1.5 acres it will have 1.42 acres in size, while the newly created lot would be fully conforming. Mr. Markham and Mr. Page will testify.

Mr. Villani decided to read in to record the reports from the township professionals. Mr. Kastrud went over his report dated April 28, 2014 and pointed out a correction to Item 1 on that report. The subdivision meet the definition of a minor subdivision. The disturbed area is greater than one acre so it would require the major development stormwater regulations. Utilities to the new dwelling shall be underground. The subdivision will probably be filed by deed and the descriptions will need to be reviewed before signature. There were two applications that were approved in 2013 There was discussion about a portion of the first application being completed.

Mr. Page came forward and Mr. Siegel swore everyone in at that time, Mr. Markam and Mr. Page. Mr. Page was accepted and he discussed the new plans as amended subdivision plans. He discussed the procedures they went through to get compliance for the earlier plans. The new case only involves one other property that the applicant is buying from lot 3. The new lot is the same as was approved, the remaining lot will be just under 1.5 acres at 1.42 acres. All other aspects are complying. The applicant has applied to the Somerset County. They submitted an amended application to the Board of Health.

Mr. Page discussed the storm water for the house for the 2 year to 100 year plans.

Mr. Villani read the Fire Chief report, and the issue that there is no hydrant for firefighting in the area, therefore it is strongly recommended that the new structure be equipped with a complete automatic residential fire sprinkler system. Mr. Page spoke about the last approval and that it was not required.

It would be difficult to have a tank large enough and the expenditure would be extreme for an individual homeowner.

Mr. Villani went over the Somerset County letter and that the county is satisfied with the application.

Mr. Chadwick went over his report. Mr. Zelley then called Mr. Markham forward. Mr. Siegel asked if the applicant could state which variance they were seeking.

What type of variance is it? Mr. Zelley stated it is a C1 variance for lot size on hardship, the hardship being that they were unable to buy additional land despite very diligent efforts to do so both with Mr. Cespedes and with Mr. Milara.

Mr. Villani pointed out that when the hardship is on the property and not on the owner, it meets the standard for a C1 variance.

Mr. Markham went over the history of the subdivision and that they went to both neighbors to get a conforming subdivision and they were able to get contracts for the land and were paying for them. They did the full application process and engineering plans for the first subdivision plan at significant costs. The second applicant (that was going to sell his land) had a change in employment and it changed his credit history. Mr. Markham applied for mortgages for him and tried all they could do for him. They discussed the mortgage issues and the efforts to refinance. Mr. Markham also approached Mr. Milara to make up the difference in land needed to conform. Mr. Milara did not want to give up any more property.

Mr. Gallic suggested it was a *de minimis* exception for this variance.

Mr. Villani asked if there were any further questions, seeing none he asked if the audience would come forward with questions and comments. Mr. William Hoke came forward from 176 Mountain Ave and was sworn in by Mr. Siegel. Mr. Hoke is not opposed to the application but has concern on runoff. Mr. Hoke's property is lower and 500 feet away and it runs the length of Cory Brook on the opposite side. There is a concrete pipe that accepts runoff from the Markham property and goes into Mr. Hoke's property. Hypothetically, now there could be double the impervious area on this non conforming lot. Mr. Hoke wants to make sure it does not negatively impact his property. Mr. Markham stated that Mr. Page told him it would be 100 year storm water system for the new house, but what about the existing nonconforming property. Mr. Hoke spoke about the overflow into a ditch and back onto his property. Mayor DiNardo asked that Kevin Page address this. Mr. Page stated he thought the house would be fixed up and money spent on it. Mr. Markham's new home will reduce the runoff with the two to 100 year storm to below the existing runoff, including the driveways, etc. There was discussion about the ordinance's requirements and that they used a conservative approach. There was discussion on any new development for the old lot and the soil movement requirements of the town, which would ensure that the new development would have more guidelines for stormwater. Mr. Chadwick stated that this case will establish the new lot with a variance so they would not come to the Planning Board, but may need to go to the Board of Adjustment if they did not meet the setbacks for the lot. There is a requirement to be 200 feet away from Route 78 and this lot is closer to it so they would need to come to a board for development. There was discussion if they could put a condition on that lot to require that it would be the development to the 100 year stormwater requirements. Mr. Kastrud stated they haven't seen the new stormwater plan for

the new home, they have seen the subdivision plan. Mr. Kastrud would like to get that during the compliance process so it is addressed.

Mayor DiNardo stated that someone could move into the existing home and not change anything, so runoff would stay the same. With the new development on the "new" lot it should take some of the water away from where it is now. It was determined that the new lot and the lot that will still have the house (if any improvements are done) on it will both be 2 to 100 year flood requirements for storm water.

Mr. Villani asked if there were any other residents that wanted to comment. Mr. Amalio Armente from 174 Mountain Ave. came forward with a comment; he is below the Markham property and is concerned with the water runoff. He would like something to be done even now with the current conditions. They get a lot of water onto his property and on the side of the road. There was discussion of the current conditions and how the water runs. Mr. Page feels that some of the water will be intercepted into the new system and the condition should improve. Mr. Page will get the calculations to Mr. Kastrud and Mr. Kastrud will investigate.

Mr. Villani asked for any other comments from residents or the board. The Board went into discussion. Mr. Gallic feels the case does meet the *de minimis* exception. Mr. Villani restated that the hardship is a C1 and meets the definitions. Mr. Villani asked for a motion.

Motion by Mr. Gallic, seconded by Mrs. Smith to approve the application with the conditions

Roll Call

For: Mayor DiNardo, Committeeman Marion, Mr. Kaufmann, Mr. Lindner, Mr. Malanga, Mrs. Smith, Mr. Toth, Mr. DiBianca, Mr. Freijomil, Mr. Gallic, and Mr. Villani

Against: None.

■ **CITIZENS HEARING (Non Agenda Items)**

Seeing none, this portion was closed

- **PB 14-01 29 Dubois Rd. Urban Renewal LLC** Application was heard and considered at public hearings on February 24, 2014 and March 10, 2014 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).

Mr. Villani discussed some of the correspondence and conversations concerning the Dubois Rd resolution. Mr. Siegel discussed his prepared resolutions and its basis on the master deed and by-laws of the development. There was discussion on flags and a standard size flag with no definition on it. There was also some discussion on terms that could cause problems with definitions and vagueness.

Mr. Gallic brought up that he doesn't want Warren to be associated with restrictions on flying a flag.

Mr. Freijomil discussed the conditions that were discussed at the previous meeting. There had been a discussion of a subcommittee to discuss them. Mr. Freijomil feels the association should have the right to self-govern on flags for safety, etc. Mr. Freijomil is fine with the resolution as it is. Mr. DiBianca feels the board is over reaching and it is between the unit owners and the sponsor and they would be in control of their by-laws. The unit owners will be voting on the by-laws going forward.

Mr. Villani went through the resolution and conditions, along with Mr. Freijomil. Mr. Gallic wanted to stress that only 20% of the neighbors/residents have to vote by proxy to change the by-laws for all the residents.

Mr. Siegel went over the revisions on the flag and safety.

Mr. Tom Powers came forward and there was discussion on privacy fencing between the units. Mr. Chadwick will review as the plans are submitted for fencing if proposed.

One change will be made to the resolution concerning the flag and safety.

Motion made by Mr. Gallic, seconded by Mr. Freijomil to memorialize the resolution.

Roll Call

For: Mayor DiNardo, Committeeman Marion, Mr. Kaufmann, Mr. Lindner, Mr. Malanga, Mrs. Smith, Mr. Toth, Mr. DiBianca, Mr. Freijomil, Mr. Gallic, and Mr. Villani

Against: None.

■ **SCHEDULE OF NEXT MEETING:**

May 12, 2014

■ **ADJOURNMENT**

Motion by Mayor DiNardo, seconded by Mr. DiBianca. All in favor. Meeting adjourned at 8:45 p.m..