

WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT

REGULAR MEETING JULY 1, 2013

The regular meeting of the Board of Adjustment was called to order at 7:02 p.m. by Chairman Cooper in the new Municipal Court, 44 Mountain Blvd., Warren.

THOSE PRESENT AT ROLL CALL: John Villani, Vincent Oliva, Brian Di Nardo, George Dealaman, Richard Hewson and Foster Cooper
Also present was Steven Warner, Attorney for the Board.

THOSE ABSENT: Scott Bowen, Alt. # and Clerio Martins, Alt. #2

THOSE TARDY: None

THOSE RECUSED: Fernando Castanheira

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 Courier News and Echoes Sentinel, and filing a copy with the Municipal Clerk, all on January 8, 2013. We plan to adjourn at 10:00 p.m.

FLAG SALUTE:

MINUTES: The minutes of the 6/3/13 meeting had been forwarded to members for review.

Mr. Villani made a motion to approve, seconded by Mr. Oliva.
All were in favor, so moved.

COMMUNICATIONS:

Letter dated 6/17/13 from Glenn C. Kienz, Esq., who represents CASE NO. BA13-02 K-9 RESORT DAYCARE & LUXURY HOTEL, advising the Board that his client is withdrawing the application.

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING

Mr. Cooper asked if any member of the public wished to make a statement, which is unrelated to tonight's agenda.

There was none.

He closed that portion of the meeting.

AGENDA:

CASE NO. BA 13-02 K9 RESORT DAYCARE & LUXURY HOTEL (B.75, L.3.02)
Applicant has withdrawn the application.

Mr. Dealaman made a motion to dismiss the application without prejudice, seconded by Mr. Hewson.

Roll call vote was taken. "Yes" votes were received from: John Villani, Vincent Oliva, Brian Di Nardo, George Dealaman, Richard Hewson and Foster Cooper.
There were no negative votes. The motion carried.

CASE NO. BA 13-05 ALFIE'S RESTAURANT
BLOCK 74, LOT 5
101 TOWN CENTER DRIVE

Application to permit outdoor dining...use variance required

Mr. Villani noted that the file is in order.

Mr. Castanheira, because he had been noticed for this hearing, recused himself from the meeting.

Erwin C. Schnitzer, an Attorney, represented the applicant. He noted that the property is located in the R-65/SC zone at 101 Town Center Drive. The applicant is seeking a use variance to construct a 630 sq. ft. deck for outdoor dining. Alfie's is a 14,760 sq. ft. two story premier restaurant – located in the Town Center business district.. The patrons would like it, and it would be a benefit to the Town.

Afrim Alaj, owner of Alfie's; Charles Ferruggia, owner of the property; Roger De Niscia, Professional Planner; Christian Kastrud, Town Engineer and John T. Chadwick IV, Board Planner were sworn in.

Mr. De Niscia was called to testify. He gave his background and credentials and was accepted as an expert witness in Planning. He reviewed the application, zoning ordinances and visited the site. He understands that outdoor dining is not a permitted use.

Exhibit A-1, prepared by Mr. De Niscia, was marked into evidence. The exhibit consists of six photos depicting the site. The site comprises 58,529 sq. ft. of space. Photo #1 shows that there are three office and multiple service uses – including a salon. He explained the hours of operation of the service businesses as compared to Alfie's. The only potential traffic/parking conflict times would be during the lunch time peak hours. There is existing parking for 56 vehicles. The locations were shown on photos 1, 2 & 3.

Mr. De Niscia showed the pedestrian link to the adjacent medical office building parking, which provides overflow parking capacity. He showed the access road, which was wide enough for curbside parking. This, too, allows for excess or over flow parking capacity.

Mr. De Niscia said that the restaurant is located on the ground floor and has a capacity for between 158 and 179 seats. There are about 69 seats in the inside dining area and about 110 seats in the banquet room for private parties. At present, there are chairs outside, which patrons use to wait for their tables.

Photo #6 shows the rear of the restaurant. It fronts on Town Center Drive. This would be the location of the proposed outdoor dining deck. Because of the topography, there is a slope downward, so the deck would be slightly elevated. The size would be 20x30 ft. The outdoor dining area would only be accessible from the inside dining area. The perimeter of the deck will be landscaped with the same quality and quantity of landscape screening as that which presently exists. The deck would have seating for 36 people. There will be no separate meal preparation facilities outside. Food would be prepared inside and served outside. Dining outside will be provided only during warm weather months.

Mr. De Niscia said that there would be a slight increase in the impervious coverage to 14.5 percent. The existing parking capacity would be sufficient to accommodate up to 36 seats (which would require an additional 12 parking spaces) based on the parking utilization surveys that he conducted. He explained the variations in parking requirements during the lunch time peak hours and weekends. Discussion followed.

Mr. De Niscia noted that the proposed deck for dining is really ancillary to the interior use. It is not the primary use. However, according to the ordinance, a use variance is required. He felt that a use variance is not required.

Mr. Chadwick stated that a use variance is required.

Mr. De Niscia opined that the site is particularly suited for the use. It advances the purposes of zoning and planning. There is no substantial detriment to the site, because the site can accommodate the use. There is sufficient parking. He recommended that the application be approved.

Mr. Oliva said that the application called for 176 seats. Yet, 158 seats were mentioned. He was told that there are 69 seats in the regular restaurant and 80 to 110 seats in the banquet hall.

Mr. Chadwick was told that “h” applies - meaning that sufficient parking is provided. He noted that shared parking was part of the original site plan approval.

Mr. Chadwick noted that the Town Center Drive was one of the few streets to have on street parking. The street is at least 30 ft. wide.

Mr. Cooper asked for questions from the public. There was none. He closed that portion.

Mr. Charles Ferruggia was called to testify. He is the owner of the building in which Alfie’s Restaurant is located. He showed where the deck will be constructed on photo #6. It will be elevated. It will be constructed with composite material and have white vinyl railing around it. The access will be from a door to the restaurant. Outside air conditioners will be relocated. Many of the existing shrubs can be used.

Mr. Ferruggia stipulated that the landscaping will be subject to the approval of Mr. Chadwick.

The lighting will be minimal. They would like to create a nice ambiance – either on the tables or on the rails. – not too bright. There will be no pole lights. Any additional lighting would be on the exterior of the building and/or the deck structure itself. The applicant stipulated.

Mr. Ferruggia said that the deck would not be used as a lounge. The restaurant does not have a liquor license, therefore, no bar. It will not be used as a smoking area. There is a separate ground level area for that purpose.

Audio was discussed. They may have music piped out from inside the restaurant. Mr. Cooper had no objection if the volume is the same as inside – low decibel, if they decide to have it.

Mr. Cooper asked for questions from the public. There was none.

Mr. Schnitzer said that the Board has heard the testimony. The application is favorable to the Town in general. It is located in such a nice spot. It will work out nicely.

Mr. Cooper asked for statements from the public. There was none. He closed the public portion.

Mr. Warner said that the applicant is asking for minor site plan approval as well as a use variance.

Mr. Chadwick noted that testimony was given that no variance is required. He stated that a variance is required.

DELIBERATIONS:

Mr. Oliva said he had no problem with the application. The idea and location are good. It’s an upscale restaurant. As long as the deck is built to code, he would be in favor of approval.

Messrs. Hewson, Dealaman, Di Nardo and Villani agreed they would be in favor. The location is good and will be a good addition to the Town.

Mr. Cooper said he was comfortable with the application as long as they abide by the conditions.

Mr. Warner read a Draft Motion.

Mr. Hewson made a motion to approve, seconded by Mr. Oliva.

Roll call vote was taken. "Yes" votes were received from John Villani, Vincent Oliva, Brian Di Nardo, George Dealaman, Richard Hewson and Foster Cooper. There were no negative votes.

Mr. Hewson made a motion to adjourn, seconded by Mr. Di Nardo. All were in favor, so moved.

There being no further business, the meeting was adjourned at 7:58 p.m.

Respectfully submitted,

Kathleen M. Lynch
Clerk