

**WARREN TOWNSHIP PLANNING BOARD
MEETING MINUTES
7:30 P.M. – Susie B. Boyce Meeting Room – 44 Mountain Boulevard
July 8, 2013
Approved**

CALL TO ORDER - Meeting was called to order at 7:40 by the Clerk.

FLAG SALUTE AND MOMENT OF SILENCE FOR OUR TROOPS

Statement by Presiding Officer: Adequate notice of this meeting was posted on January 10, 2013 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 Sordillo	Mrs. Smith
Committeeman DiNardo	
Mr. Toth	
Mr. Gallic (arrived at 8:20)	Mr. DiBianca– Alternate #1
Mr. Kaufmann	Mr. Freijomil – Alternate #2(excused)
Mr. Lindner (excused)	
Mr. Malanga (arrived at 7:45)	Mr. Villani (excused)

The chair and vice chair were not present at the beginning of the meeting so the clerk asked for nominations for a temporary chair. Mr. Kaufmann nominated Suzanne Smith, second by Mr. DiNardo. All in favor. Suzanne Smith was the acting chair for the meeting

■ **Announcements:**
None

■ **APPROVAL OF MINUTES:**
June 24, 2013

Motion by Mr. Kaufmann, second by Mr. DiNardo to approve the minutes of June 24, 2013.

Roll Call:

In Favor: Mr. Kaufmann, Mrs. Smith, Mr. Toth,

Opposed: 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

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■ **CORRESPONDENCE**

Zoning Ordinance update packets were mailed to the members to incorporate into the ordinance books.

ADOPTION OF RESOLUTIONS:

PB1307A – Resolution to authorize and direct the Chairman and Secretary to execute the Agreement with Alan A. Siegel, Esq. to provide professional service of Attorney to the Planning Board for the year 2013.

Roll Call

Motion made by Mr. Toth, second by Mr. DiNardo.

In Favor: Mayor Sordillo, Committeeman DiNardo, Mr. Kaufmann, Mr. Malanga, Mrs. Smith, Mr. Toth, Mr. DiBianca

Opposed: None

PB1308A – Resolution to authorize and direct the Chairman and Secretary to execute the Agreement with John T. Chadwick, IV, P.P. to provide Professional Planning Services to the Planning Board for the year 2013.

Roll Call

Motion made by Mr. Toth, Seconded by Mr. Malanga

In Favor: Mayor Sordillo, Committeeman DiNardo, Mr. Kaufmann, Mr. Malanga, Mrs. Smith, Mr. Toth, Mr. DiBianca

Opposed: None

Public 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. A portion of Lot 1.06 to be added to Lot 2

Actionable

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Mrs. Smith inquired if the attorney was ready to go forward. Mr. Siegel put it on the record that he lives in the neighborhood but did not feel it was a problem and had discussed with Mr. Murray, the applicant's attorney.

Mr. Murray introduced the case and stated they would take testimony from the owners of the property and Steve Parker, their engineer. Mr. Murray brought into evidence the deeds (tracing the ownership of the lot) and a tax map of the Block 53, lot 2

- Exhibit A-1 – Deed of June 14, 2012
- Exhibit A-2 – Tax Map from December 1989
- Exhibit A-3 Deed of December 3, 1986
- Exhibit A-4 Deed of March 6, 1963
- Exhibit A-5 Deed of November 6, 1944
- Exhibit A-6 Deed of March 12, 1935
- Exhibit A-7 Schedule of Deeds

Mr. Murray pointed out that each of the deeds referred to the lot, which include the flag pole out to Dock Watch Hollow Rd. Mrs. Smith went over the procedure for the meeting/hearing-- that the attorney and any witnesses will present their case and then the board members and staff will ask questions and go over any reports. Then there would be open discussion and comments from the public. Mr. Murray explained that the lot is not bordered along a street, but that it has a long "pole" going out to Dock Watch Hollow with a width of approximately 10 feet and a distance of about 500 ft. The total area of the lot including the flag pole does not meet the minimum 1.5 acre for the R-65 zone. The lot as existing also does not comply with the front yard width requirements for the residential zone it is in. Therefore, it cannot qualify to obtain a construction permit for a home. The applicant proposes to work with the owner of lot. 1.06 in Block 53 (to the immediate north of lot 2), to come to the 1.5 acre requirement. Section 35 of MLUL prohibits the issue of a building permit unless the lot fronts a street. The frontage it would have is the width of a new flag pole (proposed easement), which is 25 feet in width from Mount Horeb Rd. Section 36 of MLUL provides for an appeal process before the Board of Adjustment but since it does involve a subdivision this same statute provides jurisdiction from the Planning Board (because it is not a use variance). The relief can be granted if it will provide adequate access for fire-fighting equipment, ambulances, and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the official map of the municipality. Mr. Murray continued that this proposed means of access will include pavement for a substantial portion and crushed stone, or a paved manner and will include Belgian block curbing and water runoff facilities. This new lot will not have the required width on Mount Horeb Rd and the relief is sought by Section 70c(1) or c(2) variances and they will present proofs that will support the variance. If the variances cannot be granted then the lot is rendered into a state of inutility. Both lots will meet the density requirements.

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Mr. Murray called Mr. Paul Varino, who is the owner of existing lot 2 of Block 53. Mr. Siegel swore in all the witnesses, Mr. Chadwick, Mr. Kastrud, Mr. Paul Varino, Mr. Imiolek, and Mr. Steve Parker.

Mr. Murray directed questions to Mr. Varino about the application. Mr. Varino purchased the property in June 2012. Mr. Murray asked about the deeds/exhibits. Mr. Varino stated that he bought the property for an investment, in the future to build a house.

Mr. Siegel asked which lot on Wychwood Way that Mr. OBuck owned. It was determined that it was 15 Wychwood Way and Mr. Siegel was concerned about a subdivision or that the flag lot adjoined Mr. Obuck's property. Mr. Murray pointed out that the lot was in existence in 1935 and was an isolated lot. Mr. Siegel stated that if you own an isolated lot adjacent to a lot there would be a merger and a need for subdivision in order to sell it off. There was discussion as to what is being proposed on the plans.

Mr. Siegel brought up the issue that Mr. Chadwick raised and suggested that we take time to hear Mr. Chadwick. Mr. Chadwick stated that the question is was this piece (lot 2) and an adjoining lot in common ownership at one time. It appears that was the case. Mr. Chadwick feels it would need a subdivision to separate them because they merged. Mr. Murray advises they don't need a subdivision and did not merge. If you buy a nonconforming lot adjacent to a conforming lot it merges. There was discussion that the property may have been illegally sold and then this may not be a valid case. Mr. Siegel felt then the case cannot proceed until it is determined if it is a valid case. There was further discussion on the Loechner Case that supports this, filed maps, deeds and hypothetical situations. It was determined to look at this issue after the meeting in detail.

Mr. Gallic arrived at 8:20 and he was given a brief of the case. Mr. Siegel presented the decision to continue or to hold back on going forward. There was thought that it should be resolved before going forward and then also the thought that witnesses and public were there. There would be no decision that night.

Mrs. Smith proposed that the board not continue until the issue was resolved. The board discussed that there were a lot of people in the public there and the professionals and they could continue. The board also asked Mr. Murray about what they could continue with that night. There was discussion about what standards and what testimony would be needed. Mr. Gallic thought they could give some testimony so that the people would understand the proposal.

A break was called at 8:40. The meeting was called back into order at 8:50.

Mr. Murray introduced Mr. Stephen Parker, and Mr. Parker gave his credentials and was accepted by the board. Mr. Murray asked when Mr. Parker was retained, and he answered early 2012. Mr. Parker participated with the application to the Sewer Authority and approval was obtained as well as the Board of Health application. The Sewer Authority approved sewer hook up for

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both of the lots of this application. There will be public sewer and water. The existing well will be taken care of under regulations. Mr. Parker went through the plans, the existing conditions, which include some wetland areas on lot 2. The DEP has approved the boundaries of those wetlands, as well as the sewer connection through the wetlands. Sheet 4 shows what is being proposed including the location of the proposed home on lot 2 and 1.06 and how the driveway access for lot 2 is addressed. A buffer averaging approval is required and is secured. Mr. Parker continued that Mount Horeb is a county road, so county approval is also required. He also stated that the Warren Township Engineering Dept requires a soil movement plan before you can begin construction, which include storm water management and grading. Mr. Murray inquired as to the physical condition of the flag pole area. Mr. Parker stated that it is about 10 feet wide and heavily wooded. It is about 825 feet long and no improvements are on that part of the property. Mr. Parker explained that the access would be from Mount Horeb Rd. and there would be one driveway, and once after the house on 1.06 it would be for lot 2 only. The driveway is about 420 feet. New curbing would be installed at the road. The paving would extend and be about 18 feet wide at the Mount Horeb intersection and then go to 12 feet wide where it is for just lot 2. The driveway easement would be about 25 feet on the easterly edge of lot 1.06. The driveway and or easement could be wider. There was discussion about health and safety and the driveway width. Mr. Parker stated it is a standard driveway design and that 12 feet is adequate. There is a turn around area next to the home. The board brought up that a fire truck could not turn around. There was discussion about the parking lot (at the school) next to the property to use. Mr. Parker stated other towns have driveways that long. Mr. Murray asked about Warren Township Fire Official and had it been reviewed. The clerk will check with Mr. Tom Byrne.

There was discussion on the curbing along the driveway and surface water runoff. The property drains from Mount Horeb Road toward the back of this property, to the south. The pattern would stay the same, but no final plan has been done for drywells, although drywells would be included for both of the houses. Mr. Parker explained that drywells are just a big underground chamber, concrete vault, with holes in the sides, 6 feet high or so and stone is around them, it is a storage chamber and slowly perc the water into the ground, and it reduces runoff from roofs.

Mr. Parker spoke about the wetlands on the south side of the property. The development on lot 2 would be above (north of) the wetlands area. The grade of the driveway varies 2 to 3 % coming off of Mount Horeb Rd. and about 8% in the middle and then levels out again. Usually 12 % is the maximum driveway slope. Curbing could be on both sides. The requirements are that the rate of runoff does not increase after development from the rate before development. Rate is measured in volume in the amount of time. The drywells will reduce or maintain the rate of runoff and not the volume. With the 12 foot width driveway 2 cars could not pass, they would have to pull over. The driveway could be widened or could include a turn out. Mr. Murray asked about tree removal and the plans show the tree line on lot 1.06, which will be part of proposed lot 2. There was discussion about the approval from DEP for any tree removal. There

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was discussion about the wetlands and the town may superimpose a conservation easement. Mr. Murray stated that the US Supreme Court issued a decision that stated that imposition of easements is now unconstitutional.

Mrs. Smith stated that the audience can ask questions of the witnesses but can not give testimony and to try not to repeat the same questions.

Mr. Eric Hughes came up from 62 Mount Horeb Rd. He asked Mr. Varino what he did for a living. Mr. Varino stated he was a developer. Mr. Hughes asked what his relationship was with Mr. Imiolek. Mr. Varino stated he was a friend. Hughes asked how Mr. Varino knew about the lot when it was for sale. Mr. Varino stated he spoke with Mr. Obuck. Mr. Hughes asked if Mr. Varino has entered into an agreement to purchase a portion of lot 1.06. Mr. Varino said no that Mr. Imiolek is running sewer through his lot and he gave authority. Mr. Varino stated the house will be for his personal use. Mr. Parker is retained by Mr. Varino and Mr. Imiolek.

Mr. Hughes asked Mr. Parker who he was first retained by. Mr. Parker stated he did not recall. He did not recall when he met Mr. Varino. He probably did discuss with Mr. Varino that the lot was nonconforming. Mr. Hughes asked if Mr. Parker had discussion prior to Mr. Varino's purchase of the lot. Mr. Parker did not remember that but he did not give advice about it, but could tell them from an engineering standpoint what is involved. Mr. Hughes asked if Mr. Varino knew he would have to obtain a variance. He asked how much Mr. Varino paid and Mr. Varino stated it was \$30,000. Mr. Hughes asked if he thought it was fair market value. Mr. Varino did not understand the questioning.

Laura Hurvich from 19 Wychwood Way came forward and asked Mr. Varino that first he said it was for investment (the purchase of the lot) and then stated it was for personal use. Mr. Varino said it was for both.

Mr. William Byra from 19 Wychwood Way asked Mr. Parker where the DEP approvals are and he was told they were in the Municipal Clerk's office.

Mr. John Goemaat from 8 Wychwood Way asked Mr. Parker about the surface water runoff design. Mr. Parker stated it is specific to the house and its design. But typically it is controlled with drywells. Mr. Goemaat asked about the water that doesn't go into the drywells would go into the wetlands. The other side of the wetlands are part of the Wychwood Way subdivision. Mr. Goemaat asked if all the water that overloads the wetlands would come down into Wychwood Way. Mr. Parker stated that the design will be in accordance with the standards of Warren and is part of the soil movement plan that is approved by the Warren Township Engineer.

Mr. Goemaat asked about the fire trucks turning around in Mount Horeb school. He wanted them to be aware that on that side of the school the Kindergarden playground is located.

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Mrs. Ellen Byra from 19 Wychwood Way discussed the long driveway and she has some pictures of flooding in her backyard on Monday with just the first house. She expressed concern and asked what they would do. Mr. Parker stated they would design to the standards. The drywells have not been connected yet.

Committeeman DiNardo asked Mr. Kastrud to check the property and drainage.

Ralph Cagnetta from 11 Wychwood Way came up and asked Mr. Parker about runoff. They have had issues with runoff for years. He is concerned about the natural barrier of wooded property and to do deal with it. Mr. Parker stated that the lots are wet lots and they will not be better than it is right now. Mr. Cagnetta states that there will be a swelling of the wetlands, will that occur. Mr. Parker said that they measure the rate of stormwater runoff and there will be slight increase. Mr. Cagnetta asked if he would have any recourse to seek compensation from the developer if his property is damaged. Mr. Parker said that sounds like a legal question. Mr. Murray stated if a neighbor creates a nuisance to the neighbor's property you may have a course of action to enforce a restriction or restraint.

Committeeman DiNardo asked Mr. Parker if a swale could be put on the property to divert water from Wychwood Way. Mr. Parker said that those properties are lower and they slope down. Water runs downhill, so he does not think so. There is no storm drain behind lot 2. There was discussion about a stream.

Ms. Brenda Liberti from 15 Wychwood Way, the previous Obuck lot, came forward. She stated there is no stream back there currently. There are wetlands and trees. Ms. Liberti asked how many trees would be removed. Mr. Parker did not know. She asked Mr. Varino where he lived currently. Mr. Varino stated he lived in Union. She asked what brought him to Warren Township. He stated the school system and that he has been sending his child to private school. Mrs. Liberti asked Mr. Varino if there weren't any other homes in Warren to buy. Mr. Varino said yes. She questioned why he got such a great deal and if he wanted them all as neighbors. Mr. Varino said he is friends with everyone.

Mr. Steve Burger from 21 Star Dust and he asked Mr. Varino about the school and the perception of people coming and looking at the school and seeing houses next to each other and what that will do to this community. Do you think it adds or detracts (flag lots). Mr. Varino feels it is irrelevant but anyone can have their opinion.

Ms. Diane Butler from 27 Wychwood Way (was sworn in) stated that Mr. Malanga did work on her house and they could not use their backyard because of the amount of water coming in. The yard was a swamp, until a system that took all the water to the streams (on both sides of the property there are streams) They have had to update the system a few times and spent a lot of money. The water runoff from Mount Horeb is extremely high.

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Mr. Tom Sullivan from 7 Wychwood Way asked Mr. Parker about the post construction drywell and design about future potential increased impervious area. Mr. Parker stated that any increase in coverage would have to be reviewed and possibly increased stormwater runoff control. Mr. Sullivan then asked if they would open up or modify the current structure. Mr. Parker stated no that there would be additional measures, and most likely subsurface.

Mary Cagnetta from 11 Wychwood Way asked if anyone looked into the impact of the wildlife of the wetlands and the wooded areas. Mr. Parker thinks the DEP looks at that with the review of the application.

Mr. Andy Mokhor from 60 Mount Horeb asked about flag lots and if there is unrestricted use now. Mr. Murray stated that the proposed plan would create a new access from Mount Horeb Rd. It could be restricted that it could not be used. Mayor Sordillo clarified that it was from the deed and its non-restriction and perhaps that could be eliminated, and therefore limit use if it was approved. Mr. Siegel was not sure if the Planning Board could override a deed.

It may be done by re-deeding the land and adding the restriction.

Ms. Ellen Byra from 19 Wychwood Way asked how many flag lots there are in Warren. There are not many. She asked about where this lot comes out on Dock Watch. They were invited to look at the plans.

Mr. William Byra from 19 Wychwood Way asked if one knew a drywell was not doing the job adequately, perhaps 100 feet away, would you approve a drywell for this property.

No more people came forward. Mr. Murray wanted to discuss steps going forward. The experts can come back Mr. Chadwick suggested that the expert discuss the stormwater drainage issue and the limited placements with the wetlands.

The next meeting was scheduled for July 22 but a quorum would not be present so it will be August 12, 2013. The case is carried to August 12, 2013.

■ **SCHEDULE OF NEXT MEETING:**

July 22, 2013 no quorum so goes to August 12, 2013.

■ **ADJOURNMENT**

Motion made by Mr. DiBianca, second by Mr. Gallic.

All in favor. Meeting adjourned at 10:10