

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT**

**REGULAR MEETING MAY 5, 2014**

The regular meeting of the Board of Adjustment was called to order at 7:03 p.m. by Chairman Cooper in the Municipal Court, 44 Mountain Blvd., Warren.

**THOSE PRESENT AT ROLL CALL:** John Villani, Vincent Oliva, George Dealaman, Richard Hewson, Frank Rica, Foster Cooper, Scott Bowen, Alt. #1 and Clerio Martins, Alt. #2

Also present was Steven Warner, Attorney for the Board.

**THOSE ABSENT:** None

**THOSE TARDY:** Fernando Castanheira (7:07p.m.)

**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 10, 2014.

**FLAG SALUTE:**

**MINUTES:** The minutes of the 4/7/14 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:**

Memo dated 5/2/14 prepared by Christian Kastrud P.E. concerning CAE NO. BA14-03 SHEDLOCK AUTO CLEANING, which will be heard this evening

**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.

Mr. Cooper announced that his long time friend and Board member, Vincent Oliva, is retiring from the Board after this meeting. They have sat together for the last seventeen years. Vinnie has been a tremendous asset; a great guy who knows his stuff. We will miss him. We will put together a proclamation, which members will be able to sign.

Mr. Oliva said that it has been his pleasure to be of service.

Mr. Castanheira arrived at this point - 7:07 p.m.

**AGENDA:**

CASE NO. BA14-02KYLE & GAIL KINGMAN  
BLOCK 87, LOT 10  
44 HILLCREST BLVD.

Application to raze the existing home and construct a new single family dwelling  
The property is an existing lot without legal frontage on a municipal street.

Mr. Chadwick noted that the existing lot is undersized and does not front on a public street.

Jay Bohn, an Attorney, represented the applicant. He said they want to replace an old house with a new one, which will still be non-conforming. However, they will make the side yards conform. They would construct a 4 bedroom, 3 bathroom, two-story colonial style dwelling with an attached 3 car garage. It will fit in nicely with the rest of the neighborhood

Kevin Page, Gail Kingman, John Chadwick and Christian Kastrud were sworn in.

Mrs. Kingman said that her husband is in Norway. They have two children and presently live at 44 Hillcrest Blvd. She is the President of the Barberry Hill Association. They purchased this property, because the family wants to stay in Warren and build a new home. The application was discussed with her neighbors and received formal approval from the Association.

Mr. Chadwick noted that the application is pretty close to the maximum allowed floor area ratio. They will have to remove the pool and not add anything. The applicant noted that she doesn't plan to.

Kevin Page, P.E. and P.P. testified on behalf of the applicant. He has appeared on numerous occasions before this Board. He was accepted as an expert in Civil Engineering and Professional Planning.

Mr. Page said that while the property has no public street frontage, there is an existing driveway that serves multiple homes. The Kingmans and the other homeowners have formal access rights on the shared driveway through the Association. He mentioned the removal of the shed and the relocation of the neighbors' shed, which straddles lot 11 & lot 10. The applicants have received Sewer Authority approval to replace the existing septic system with a connection into the public sewer system.

Mrs. Kingman stipulated, as a condition of approval, that Mr. Page will amend the variance plans to correct the zone labels.

Mr. Page noted that the lot area is slightly under the minimum required - 65,340 sq. ft. There is no adjacent property available to acquire so as to bring the size of the property into conformity. Also, while technically the lot width is deficient since it is measured along the frontage and there is no lot frontage, in actuality the lot is 180 ft. wide, which is greater than the 150 ft. minimum width requirement.

He said he reviewed the Master Plan. He believed that the lack of public street frontage will not negatively impact any proposed or anticipated future street layouts. There is adequate access for emergency vehicle ingress and egress. After construction, they will rehabilitate and reinforce the existing driveway so as to provide even better access for emergency vehicles.

Mrs. Kingman explained the reason for the second kitchen, which is shown on the plans. She has a home occupation of baking specialty cakes - including wedding cakes. It is not a store front, retail type business. She and one of her friends make specialty cakes that are usually delivered to or occasionally picked up by customers. She agreed that there will be no retail sales of specialty cakes or any other goods on the property.

Mrs. Kingman stipulated that the architectural plans will be amended and the notation showing a "future pool" will be removed. Because the proposed construction is slightly less than the maximum floor area ratio, she agreed that no additional construction of shed, covered decks, etc. will be permitted without further approval from the Board. Also, there will be no parking or storage of commercial vehicles at the property.

Mr. Page noted that the applicants have satisfied the positive criteria for "c1 hardship" variances for the undersized nature of the lot due to the peculiar and exceptional practical difficulties attendant to the property. It is a pre-existing undersized lot with no frontage on a public street.

There is no self created hardship The lot area deficiency is small. They have satisfied the negative criteria by showing that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan.

Mr. Cooper asked for questions from the public.

There was none.

He asked for statements from the public.

There was none.

He closed the public portion.

#### **DELIBERATIONS:**

Mr. Castanheira noted that this is not a huge issue. The house will fit into the neighborhood. He would be in favor of approval.

Mr. Dealaman and Mr. Villani thought that there was no detriment to the neighborhood. The house will look like the rest of the neighborhood.

Mr. Oliva said he likes to hear that the residents are staying in Town.

Mr. Rica thought that the plans are nice. It is a good house.

Messrs. Hewson, Bowen and Martins had no problems with the application. They would be in favor.

Mr. Dealaman made a motion to approve, seconded by Mr. Villani.

Roll call vote was taken. "Yes" votes were received from: John Villani, Vincent Oliva, George Dealaman, Richard Hewson, Fernando Castanheira, Frank Rica and Foster Cooper.

There were no negative votes. The motion carried.

CASE NO. BA14-03 SHEDLOCK AUTO CLEANING  
BLOCK 78, LOT 19.01  
121 MOUNT BETHEL ROAD

Application for use variance, preliminary and final site plan approval to construct a 13,600 sq. ft. building with basement, which will be used for an auto detailing center and used car license

Mr. Bowen recused himself from the hearing and left the meeting.

Mr. Dealaman noted that the file is in order.

Erwin Schnitzer, an Attorney, represented the applicant. He mentioned that the applicant previously received preliminary and final site plan approval and variance relief from the Warren Township Planning Board for the construction of a 13,600 sq. ft. building for warehouse and flex space and approval for parking, lighting signage and other improvements. However, the warehouse was never constructed.

The applicant now seeks preliminary and final site plan and variance approval to permit construction of a 13,600 sq. ft. building for automotive detailing and use car sales. The property is located in the GI zone. The proposed uses are not permitted. In addition, variances for front yard and side yard setbacks are being requested. Approval from the Sewerage Authority has been given.

The Board of Health approved the previous site plan.. The Resolution contained a condition that no hazardous materials would be stored on site. However, if hazardous materials must be used and stored, then the applicant must submit a full application to the Board of Health.

Joseph Shedlock, Lee Titus, P.E., John Madden, P.P., John Chadwick, P.P. and Christian Kastrud, P.E. were sworn in.

Mr. Shedlock said that he is the Managing Member of the Applicant, which has a concierge type specialized business detailing high end and luxury cars for an exclusive base. He mentioned that there will be no storage or display of vehicles outside. All work will be done inside the building. The used car sales are primarily done on the internet. An inventory of luxury and classic cars will be stored in the basement of the building. There will be 10 feet, rather than 9 feet, separating the first floor from the basement floor. There will be four full time employees and possibly a few part timers in the future.

Mr. Leland Titus, a Licensed Professional Engineer, has appeared before this Board on many occasions. He was accepted as an expert witness. He stated that he was the Engineer for the previous application to the Planning Board. He mentioned that the proposed building is the same size and located in the identical position of the prior plan approved by the Planning Board. The exterior of the proposed building will be significantly better than the original approved proposal. He has made moderate changes to the parking lot and drainage facilities. The applicants can now relocate the drainage facilities in the rear of the building and further from view. The Somerset County Planning Board indicated that they had no serious problems with the project.

Mr. Titus agreed to amend the signature block to read "Board of Adjustment". Also, the detention basin will be placed within a drainage easement, which will be prepared by the Township Attorney and filed with the Somerset County Clerk's Office. There is no need for a loading dock for truck deliveries. The lighting will be five shoe box type mounted at 15 ft. The landscaping will be better than that which was previously approved. The proposed impervious coverage will be slightly less than the original.

Exhibit A-1 was marked into evidence. It is an architect's colorized rendering of the proposed building.

Exhibit A-2 was marked into evidence. It is a poster board with four samples of high-end vehicles on which the applicant performs services.

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

Mr. John Madden, a Professional Planner was called to testify. He has appeared before this Board on numerous occasions and was accepted as an expert witness. He introduced Exhibit A-3, which was marked into evidence. It is a photo board depicting the current operations of the applicant at the current location. It also depicts nearby properties. He described the operations as a very unique use, catering to a high end and unique market. The applicant does not cater to the general public or passerby traffic. His customer base is very exclusive and by appointment.

Mr. Madden believes that the proposal comports with the Master Plan's intent in the creation of the GI zoning district. The property is particularly suited for the use proposed. It is located in an affluent area and it will be more efficient and safer with the high end and luxury vehicles stored and worked on (inside the building).

He stated that the proposal serves multiple purposes of zoning including promoting a desirable visual environment. He mentioned the benefits of relocating the detention basin from the front yard, as previously approved, to the rear yard, providing more room up front for landscaping. The proposal satisfies the negative criteria. There would be no detriment to the public good. There would be no outdoor storage or display of vehicles, no truck traffic. It would not impair the intent and purpose of the zone plan. It would be a suitable transitional use. Signage would simply include the company name and would not advertise the used auto sale portion of the business.

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

Mr. Warner read a list of the variances being requested.

**DELIBERATIONS:**

Mr. Villani said that it was a beautiful building. The positive and negative criteria have been met. It will be a real asset to the Town. He is pleased that everything will be kept inside.

Mr. Dealaman and Mr. Martins are in favor. It is a nice building.

Mr. Castanheira had no objection. It will be an improvement for the Town.

Mr. Oliva said it is a nice business. It is in a good location.

Mr. Rica said it is a class act.

Mr. Hewson and Mr. Cooper said it is a nice use of the property. They are pleased with having everything inside.

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

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

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

There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Kathleen M. Lynch  
Clerk