

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES APRIL 1, 2019
APPROVED**

CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. George Dealaman
Mr. Fernando Castanheira
Mr. Frank Rica
Mr. Donald Huber (excused)
Mr. Michael Galbraith
Mr. Foster Cooper (excused)
Mr. Scott Bowen, Alt. #1
Mr. Anthony Paolella, Alt. #2
Alan Siegel, Esq.

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, sending a copy to the Courier News and Echoes Sentinel, and filing a copy with the Municipal Clerk, all on January 11, 2019.

FLAG SALUTE:

MINUTES:

The minutes of the March 4, 2019 meeting were forwarded to members for review.

Motion to approve was made by Mr. Dealaman, seconded by Mr. Castanheira.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Castanheira, and Mr. Rica.

Against: None.

COMMUNICATIONS:

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING:

Mr. Villani opened the floor to any member of the public wish to make a statement, which is unrelated to the meeting agenda. Seeing no one come forward, this portion of the meeting was closed.

REVIEW OF BOARD OF ADJUSTMENT ANNUAL REPORT

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There was some discussion about the Annual Report of the Board of Adjustment. The board decided to adopt a resolution to approve the Annual Report.

MEMORIALIZATION OF RESOLUTIONS:

Annual Report Resolution

Roll Call

Motion was made by Mr. Bowen, seconded by Mr. Dealaman to adopt the resolution.

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Castanheira, Mr. Rica, Mr. Bowen and Mr. Paolella.

Against: None.

CASE BA19-02 Rebekah and Christopher Baron
 23 Arrighi Drive
 Block 97 lot 25
 FAR and Side yard Setback

Motion was made by Mr. Dealaman, seconded by Mr. Castanheira to adopt the resolution.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Castanheira, Mr. Rica, Mr. Bowen, and Mr. Paolella.

Against: None

AGENDA CASE APPLICATIONS:

CASE BA19-04 Round Top Swim Club
 106 Mount Horeb Road
 Block 55 lot 6.01
 Relief from conditions regulating method of public address from
 Resolution BA94-10, adopted March 18, 1996

Mr. Edward Schell came forward for the Round Top Swim Club. Mr. Siegel asked if the swim club was a corporation or LLC. Mr. Schell said it is a nonprofit corporation. Mr. Siegel stated they must have an attorney represent them per state law. Mr. Schell stated he didn't know they

had to have an attorney. The hearing will be carried without further notice to the May 6, 2019 board meeting.

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CASE BA18-13 Warren Construction
Peach Tree Lane
Block 88 lot 7
Minor Subdivision with variances

Mr. Joseph Sordillo came forward for the applicant as their attorney. The application is for a minor subdivision application to subdivide block 88 lot 7 into two lots. The mailing address is 11A Mountain Blvd, although it fronts Peach Tree Lane. The lot splits between the BR-40 zone and the R-20V zone, both permit single family residential uses. There is some variance relief required; minimum lot area, minimum front yard, minimum rear yard, maximum FAR, and for proposed lot 7.02 maximum building coverage.

The notice for the square footage was slightly off, the FAR proposed for lot 7.01 is actually 0.226, while it was noticed for 0.22. It rounds up to 0.23, for the record.

There were two witnesses, Catherine Mueller, engineer for the applicant, and Mr. Steck as Planner for the applicant. And they were sworn in, along with Mr. Christian Kastrud, township engineer, and Mr. John T. Chadwick, IV, township planner by Mr. Alan Siegel, the board attorney.

Mr. Siegel reminded counsel that there were six members present and for the d variance you need five of the six to approve. Mr. Sordillo agreed to go forward with the hearing.

Ms. Mueller came forward and gave her qualifications and was accepted by the board. She went over the plans dated December 18, 2018 with no revisions. The property has frontage along Peach Tree Lane and contains one existing single-family home in poor condition. The property slopes from the north to the south and there are some scattered trees on the northern portion of the property. There are single family homes to the northwest, there is commercial use to the southeast, south and to the west.

The northern portion of the lot is R-20 and the southern portion is BR-40. She went over the subdivision plan. Lot 7.01 is proposed as the northern lot and contains 14,375SF and is rectangular in shape. Proposed Lot 7.02 is also rectangular and is 13,826SF. The lots are relatively shallow.

Ms. Mueller went over the dwellings proposed. On lot 7.02 there is a 25-foot front yard setback, and the backyard is 23.5 ft rear yard setback. The garages are front loading. There houses are spaced so that there is some separation. The properties behind the property are close to Old Stirling and therefore gives some space for them also. The houses will have public utilities.

Sanitary sewer is proposed for lot 7.01 have a low-pressure force main in the right of way behind the curb. For lot 7.02 there is existing sewer for the property but additional investigation needs to be completed to determine the location of the line, it is believed to go out to Mountain Blvd., Ideally by gravity.

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For stormwater management it is not a major development, it is not an acre and also will be below the limit of increasing the impervious area for a major development. They propose drywells for both lots. The grading will be maintained as existing from north to the south. To the east of the property the grading does not go beyond the property line. There is a berm and a swale that runs behind the properties down to Mountain Blvd and the proposed lots grading will not impact that. Both homes are the same size, including the garage area they are proposed at 3249SF. Mr. Sordillo marked Exhibit A-1 (proposed home on lot 7.02 with a lighter color grey home shown), and A-2 (proposed lot on 7.01, with a darker color grey home shown), --colorized renderings of the proposed homes. They were given to the board.

Mr. Chadwick asked about the SF of the homes. Ms. Mueller stated the living area is 2712SF with the garage totals 3249SF. The FAR for lot 7.01 is 0.23 and for lot 7.02 it is 0.23. The homes are similar with some varying details. There was discussion on a slight variance for height for the home in the BR-40 zone and was noticed. Mr. Chadwick stated that would only be for certain roofs and buildings, this is not a variance.

Mr. Sordillo suggested going through the reports. Mr. Chadwick asked for revised plans with the calculations for FAR and clarify the garage SF on the plans. Mr. Kastrud's memo dated February 24, 2019 was discussed. Comments 1 through 5 the applicant agreed with, and the remainder there were also no objections and items were clarified during Ms. Mueller's testimony. The subdivision will be perfected by deed and metes and bounds descriptions will be submitted to the Engineering Department. Soil logs will be completed to verify drywell efficiency.

They have not made application to the Board of Health or the Sewerage Authority yet. They will if subdivision is approved with the variances, along with applying to the Soil Conservation District, and Somerset County Planning Board.

The Health Department memo was discussed and the applicant believes there is not septic on the property but agree to remove if it is discovered, along with any other underground tanks if discovered. Also, a well, if found, would be abandoned properly.

There was discussion on sewer to the property. There is one hook up now and an additional one would be requested. They agreed to the items in Mr. Sumner's (Health Department) report.

Mr. Villani asked the board if there were any questions. There was some discussion on leaving it one lot and one dwelling. The applicant did some work on easements that are on properties to the east and they were not able to obtain any more land.

Mr. Villani asked if there were any questions from the public on the testimony just given by Ms. Mueller. Mr. Eric Larson from 8 Peach Tree came forward. He lives just north of the property and discussed the property line and that when the subdivision of the property that includes his

property, the lot line between his property and the subject property was supposed to be straightened out instead of having the triangular and irregular lot line. There was going to be a

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land swap. He asked if it would be possible to get that done now. He has maintained the property that isn't his for quite some time, cut the grass, etc.

That might be something that could be done later with the owner of the property. It would be an even land swap and therefore would not change the variance or setbacks. A minor subdivision would have to be submitted to the Planning Board of Board of Adjustment. The applicant has some interest in doing that after this hearing is decided. It would be a minor subdivision with no variances and no notice requirement.

Mr. Sordillo called Mr. Peter Steck forward as the Planner for the applicant, his business address is 80 Maplewood Avenue, Maplewood, NJ. He gave his credentials and was accepted. Mr. Steck presented Exhibited A-3, prepared by Mr. Steck, dated March 29, 2019, and consists of 7 pages double sided. It includes the zoning map, tax map, photographs of the lots and the area nearby. The tax map shows the rear property line and the strip of easement on the properties to the east. The proposed dwellings are shown along with the building envelopes. The variances are also on one of the pages.

The lot is irregular, it is shallow and wide. The dwelling on the property is proposed to be demolished. The tax records show the dwelling is from 1935 and is about 8883 SF. The back of the house faces Peach Tree, and there was probably an access for the house on Mountain Blvd. It is vacant and deteriorated. Mr. Steck described the commercial properties nearby. The residential properties were built 2000 and 2001 and are fairly substantial in size.

Mr. Steck looked at the Master Plan and it noted that the R-20V zone was intended for 20,000SF lots. The BR-40 zone was intended for office and service uses. The BR-40 is generally on the busier streets. The older single-family dwellings are in the BR-40 zone and the zone may be a protection for the existing homes, as it is not as likely to build a home on a 40,000SF lot on a busy street today.

Mr. Steck went over the zoning standards and how difficult it is to build anything within the setback standards on the lot. He went over the R-20 portion with a possible house and the R-40 zone possible building. It does not work. The lot is more similar to the Peach Tree subdivision.

The variances needed are for lot 7.01 are undersized lot and with the split zone it is more difficult to quantify. They need a lot area variance, a front yard variance (proposed at 25 feet vs. 35 ft minimum) and a rear yard variance of 23.5 ft vs. 25 ft minimum. The FAR is 0.23 vs. 0.15 max.

The lot 7.02 they have a lot size variance, a rear yard variance of 23.5 ft vs. 25 ft, FAR of 0.234 vs. 0.15, and building coverage variance of 12.9% vs. 10% maximum. The BR-40 from a practical point of view doesn't apply well here. The lot matches the Peach Tree Lane subdivision and the proposed homes look like they are part of the subdivision. Even though

the lot is shallow it is not visibly jarring as the houses behind them are far away. Mr. Steck proposed that there is a hardship if you apply the zoning standards. It is not usable that way.

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The positive criteria: The application does have an FAR and will need five votes for it to be approved. It is not a use variance. The impact is aesthetic and it is a positive. The houses will match the properties on Peach Tree.

Mr. Steck went through the negative criteria, they propose dwellings that fit well to the area, BR-40 portion of this property is more appropriate for residential use than office use, even though there is office use across the street (although has no access on Peach Tree), the shallowness of the lots will not be apparent from the road. If there was one dwelling on the lot then the accessory buildings or uses would most likely be in the side yards.

The R-10 zone next to the property (on Peach Tree) requirements are met with this proposed subdivision. The rear yards do not impact the neighbor as the houses are close to the Road they are facing. This lot is unique and lends itself to variance relief. Mr. Steck felt if approved it can be approved without substantial detriment to the public good, without substantial impairment to the zone plan and ordinance. The owner will also work with the neighbor to straighten the property line and it makes sense to have more conforming lots. The dwelling is being placed farther away than the required setback from the home to the north giving space.

Mr. Sordillo asked Mr. Steck's opinion if the lots as proposed can accommodate the problems associated with the larger FAR. Mr. Steck felt it will not affect traffic or stormwater, and that these are more compatible with the newer houses on Peach Tree Lane.

Mr. Villani asked if there were questions from the board or the professionals for Mr. Steck. Mr. Chadwick discussed the building that exists now. He asked if it could come down in a short time period. Mr. Sordillo did feel it would be removed in a timely manner.

Mr. Chadwick said that this subject lot has been existing for quite some time. The plan is shown without a deck and if they want a deck the owner would have to come to the board for a variance. There is a deck on the side not in the back on the plan. A patio on the ground could be done without a variance. There are not any sliding glass doors along the back of the homes. No decks are proposed on the back.

Mr. Villani asked if the public had any questions. This portion of the meeting was closed.

Mr. Chadwick went over the application with a lot size variance, FAR, front and rear setback, lot coverage for one of the lots, and testimony has commented on all of these.

Mr. Villani and the board went into deliberation. The members thought it would be an improvement to the neighborhood.

There are conditions, Mr. Kastrud's report items 1 through 12, and Mr. Sumner's report items 1 through 5, and Mr. Chadwick memo Item 4, and revised plans with the FAR information.

Mr. Chadwick also asked about the existing building and a timeframe for demolition. The applicant suggested that the subdivision would first be perfected and then the building would come down. Mr. Chadwick proposed 60 days after the deeds are submitted.

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A motion was made by Mr. Dealaman, seconded by Mr. Bowe.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Castanheira, Mr. Rica and Mr. Bowen.
Against: None.

NEXT MEETING: May 6, 2019

Motion to adjourn was made by Mr. Bowen, seconded by Mr. Villani. All in favor.

MEETING ADJOURNED: 8:15P.M.