

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

CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. George Dealaman
Mr. Fernando Castanheira (excused)
Mr. Frank Rica
Mr. Donald Huber
Mr. Michael Galbraith
Mr. Foster Cooper
Mr. Scott Bowen, Alt. #1
Mr. Anthony Paolella, Alt. #2
Steven Warner, 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 May 6, 2019 meeting were forwarded to members for review. Mr. Warner had a couple of corrections and they were acceptable.

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

Roll Call:

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Rica, Mr. Huber, Mr. Cooper and Mr. Paolella.

Against: None.

COMMUNICATIONS: None.

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING:

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

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need to be reviewed by the zoning board. This is often handled by the Township Attorney. The board would endorse any revisions before it was recorded.

Mr. Jeff Lehrer, the township attorney, did review the document and provide a letter for the board, confirming that the amendments were acceptable.

Mr. Warner added that going forward it will be handled by the Township Attorney. A resolution was prepared and the Board could adopt it immediately.

A motion was made by Mr. Huber, seconded by Mr. Villani to adopt the resolution memorializing the approval.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Rica, Mr. Huber, Mr. Cooper and Mr. Paolella.

Against: None.

BA19-05 Chirag Patel
 16 Sneider Road
 Block 60 Lot 16.04
 C Variance for sideyard setback

Mr. Patel came forward. Ms. Dipali Patel, P.E. prepared the plan. They propose to extend the house on the side and this will go into the side yard setback. The addition is proposed at 15' x 26.5 ft. Ms. Patel gave her credentials and she was accepted. They explained that the back yard is not easy to add an addition because it is steep. They want to add a storage area on the side and then use the existing garage for cars. Mr. Patel's parents are relocating from India to stay with them. They will need to use the third garage which is full of bikes, snow blower, etc. He approached the neighbor to see if Mr. Patel could buy a strip of property but the neighbor did not want to do that, although he provided a letter stating he did not have a problem with an addition.

Mr. Cooper asked about the addition and Ms. Patel showed him on the plan. No architectural plans were included. Mr. Cooper was interested in the plans and the look of the proposed addition. Ms. Patel called the addition an accessory structure and they plan on constructing a walkway between the road and accessory structure by adding to the existing walkway. They would have a door from the living room to enter the storage area. There will be no plumbing in the storage area.

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Mr. Chadwick stated that the addition will be part of the principal structure and the setback is for the principal building. It is an attached addition. Mr. Chadwick also said it is pretty steep in the back of the property.

Mr. Bowen was concerned they don't have a drawing or concept of the outside. Mr. Warner suggested that there could be a condition that the addition be similar in color, material and architectural style to the exterior of the existing dwelling subject to the review and approval for the Township Planner. The Patels agreed.

Ms. Patel stated it will be a two-story addition. There is an existing bedroom on the second floor that will be extended on the second floor.

Mr. Cooper asked for more information on what the addition will look like and why it is justified to expand into the setback and expand the second floor. Mr. Patel said that expanding the bedroom will keep the house symmetric.

Mr. Chadwick suggests to carry the hearing to the next meeting. They could present some preliminary plans to show what it will look like. Ms., Patel said they were not specifying that the extension would be one or two stories and that it is an accessory structure. Mr. Cooper also suggested a picture of the existing house would be helpful. The application was carried to the August 5, 2019 hearing without further notice.

CASE BA16-22 Frank Serina
 127 Hillcrest Road
 Block 198 Lot 37
 Landscape Yard -use variance

Mr. Greg D'Alessandro, applicant's attorney, came forward and explained the hearing was continued from February 4, and May 6, 2019. It is a use variance and lot width variance. Revised plans were submitted, they attempted to take as much of the existing storage area site out of the flood area as possible. They added hard edges along the wetland buffer to stop encroachment. They also removed fuel tanks.

Mr. Steve Parker, the applicant's engineer, came forward to provide testimony. He was sworn in previously. He went over the plans and the storage spaces were revised to be outside the wetlands buffer area. Some of the areas predate the wetlands regulations and some items are proposed to remain in wetland areas. The gravel areas will be reduced by about 27,000SF. An additional area of gravel will be added up to 18,000SF. So, it will still be about 18,000SF less impervious coverage compared to what exists now. Some pavement would be removed in the wetland buffer area. Mr. Parker reminded the board it was already there before the DEP regulations. They have not received any notices of violation from the NJDEP. There would be hard edges to

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keep delineated spaces. The fuel tanks around the garage will be removed, except one that provides heat for the building. It is an above ground tank for an accessory building.

Exhibit A-5 was brought in and it is a letter from David Krueger, President of Environmental Technology, advising that the applicant that he does not believe the DEP would require the applicant to remove existing developed areas from the wetlands transition areas, because they predate the wetlands regulations.

Mr. Parker proposed jetty rocks to mark each tenant space. They propose deer resistant plants for barriers also. The hours of operation are proposed to be 7:00. a.m. to 7:00 p.m., Monday through Saturday. Activities that are permitted are on the plans.

The wetland buffer line will be the line that the conservation easement will follow, except where the buildings exists. Where the building exists, the conservation easement will follow the flood hazard line. There was some discussion about this and the pre-existing disturbed area.

Plans and an application have been submitted to Health and Sewer. The house is not in the sewer service area. If the applicant is not approved to connect to sewer, they would have to install a new septic system.

Mr. Parker could not give a specific number of vehicles that would be on the property at any given time. The tenant space will be clearly defined. The applicant stipulated that there would be no more than two tandem trucks at the site.

There was a water test of the well. The test was submitted and it was fine. Exhibit A-6 Laboratory Results from April 2018, was introduced.

There are existing sheds on the property and if permits are needed from the Township, they will obtain permits for them.

The rules and restriction on the plans will guide the permitted uses on the yard. The current rules allow for mulch. Mr. Chadwick spoke about stacking to 20 feet high. It will be difficult to know what kinds of vehicles will be at the site. There are 14 storage areas/spaces. He was concerned with tandem trucks. There will be no more than two tandem trucks up to 35-ton limit. The applicant agreed that this condition would apply to the entire site.

There was discussion on the size of the jetty rocks. They wouldn't be easy to move.

They proposed a loop turn around area in the southerly portion of the site.

Mr. Huber asked if the applicant kept Material Data Sheets. It was unknown.

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There are no lights proposed. There are a couple of lights on the buildings.

Mr. Chadwick asked about material storage and using bins. Mr. Parker stated there are some concrete bins now and they may be relocated. Some material will be stored in U-shape bins.

Mr. Cooper asked if anyone from the public had questions on the testimony given. No one came forward.

Mr. Frank Serina the owner of the property, from 19 Dickinson Road, Basking Ridge, came forward and was sworn in. Mr. Serina purchase the property in June of 1977. When he purchased the property, the owner was getting maple syrup off the property. Mr. Serina used the property to store his landscape and paving equipment. His brother also used it for storage. Mr. Serina also said that the use gradually changed approximately twenty years ago when he decided to retire. Mr. Serina's son took over the business and utilized the site. There are currently multiple tenants and they have designated spaces. There are mason dumps, pick up

trucks, etc. The trucks leave in the morning and return in the evening. He believed the trucks leave around 6:30 to 7:00 a.m. and believe most are back by 4:30, unless it is rainy than maybe later. Mr. Serina believes that maybe 15 to 20 vehicles park on the property and leave with vehicles or equipment.

The plans submitted make changes and give a chance to clean up the property. There has been removal of excess junk and non-working equipment. Mr. Serina said there was work currently being done. Some existing tenants may be evicted and some tenants are being relocated to other areas on the property. The tenants will sign written leases containing restrictions. He planned on not having hazardous material onsite.

Multiple tenants were on the property in 1977, when he purchased the property and continued.

Mr. Joseph Serina, from 561 Heritage Road, Millington (Mr. Serina's brother) came forward to testify and was sworn in. Mr. Joseph Serina said he previously operated a recycling business and was part of the Somerset County Waste Plan. He is no longer involved (since 2000).

Mr. Chadwick noted that that prior recycling use would have pre-empted the zoning ordinance.

The property is assessed for Woodland Farm Assessment.

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Mr. Cooper asked if anyone had any questions for Mr. Serina. Mr. Anthony Patricco, from Block 198, lot 71 came forward and asked if the tenants would repair broken vehicles on site. Mr. Patricco also asked how the hours would be enforced. Mr. Serina said his son and other tenants would report any non-permitted conduct.

There were no further questions.

Mr. John McDonough, from 101 Gibraltar Drive, Morris Plains, the applicant's planner, came forward and was accepted by the board. Mr. McDonough brought in Exhibit A-7, a compendium of maps and photographs, consisting of five sheets, dated November 26, 2018. He proposed that the property is a large lot that can accommodate the proposed use, especially with the proposed landscape screening. He also believes it is an ideal location on the edge of the township.

Mr. McDonough handed out Exhibit A-7, six pages of maps and photographs. He went over the pages; one was a tax map showing the property with some frontage on Hillcrest Road. It is a large parcel and is distinctive as an exceptionally large piece of land. This gives some good buffering. A lot of wetlands make part of it unbuildable. It is at the edge of town and the edge of a residential neighborhood. They propose some landscaping to enhance the privacy. This proposal is an opportunity to take what is existing and improve it. Another photo showed what is being stored now. There is a house on the property and it will remain. The nearest home on Hillcrest road (block 198 lot 71) is approximately 300 ft away from the closest storage area.

There are non-residential uses in the area including Camp Riverbend. He went over the surrounding properties land use. Mr. McDonough also went over the wetland areas. The property is in the EP-250 zone. More than two thirds of the site will be restricted by a conservation easement. It is zoned for residential uses but it could not be developed with many houses. The last page of the exhibit showed the conditions in November and it shows it is still very buffered with the leaves down. It is a storage yard and they propose to clean it up and gives the Zoning Officer more control to monitor the site with spaces marked and regulations agreed upon. It is an agricultural zone also. A conditional use is a flea market, although they didn't go over all of the flea market use conditions.

The main relief they are asking is allowing a multi-tenant storage yard that would include vehicles, materials, equipment.

Mr. McDonough brought up the lot width that is a long-standing condition and a lesser relief, a hardship.

The Medici test has four parts. Special reasons required for the use variance. The site is being improved. The site is going to be cleaned up and moved out of the wetlands

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buffer. The restrictions define and contain the use. Outdoor storage has to be contained. There are limits to the height of stored supplies and what is permitted there. The applicant is proposing to connect the property to the sewer system, or update the septic.

Visually the site will be improved and a fence will be installed at the tree line to increase screening from adjacent properties. They will plant some deer resistant plants.

On the negative criteria, Mr. McDonough suggested that the application approval will not result in substantial detriment to the public good or substantial impairment of the zoning ordinance and zone plan. The applicant is containing the use and allowing the use will not degrade the integrity of the zone plan given the unique characteristics of the site.

Mr. McDonough introduced Exhibit A-8, an updated restriction list, entitled, "Serina Storage Yard-Restrictions on Use and Operation. Mr. Chadwick stated they now know there will only be two tandems on the property, and no storage of mulch. There will be no cranes, no road grading machines or trailers whose length exceeds 40 ft. The number of tenants is around 14 to 15 currently. Fourteen spaces are proposed.

Mr. Chadwick asked about the storage height of 20 ft. and what would be stored at 20 ft. Mr. McDonough proposed that since a storage container cannot be stacked, then perhaps the height of a container. They agreed to keep any items that would be stacked not to exceed 10 feet. No one would operate the business from the site, and no repairing vehicles or equipment will be done on the property.

Matthew Santos came forward from 125 Hillcrest Road. He asked about whether the sale or display of items would be permitted and how this would be enforced. They agreed that no items would be for sale out front of the property. Ms. Truc-Lan Vu from 125 Hillcrest Road came forward and asked about non residential uses in the area. She believes the doctors office is probably not in Warren.

Mr. Anthony Patricco from 123 Hillcrest Road came forward and asked about the storage containers would be two high. It will only be one high and the material storage would be 10 feet maximum.

Mr. Cooper asked the board if they had any questions, there was none.

The meeting was opened to the public for comment.

Mr. Dan Murphy, from 127 Hillcrest Road came forward. He was sworn in. He has been a resident of Warren his whole life. He has seen many changes in Warren. He expressed support for the applicant's proposal. Mr. Serina has cleaned up the property and the tenants are trying to comply. They need the area to park equipment and they

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have been there for many years. The property has been there since 1977 and many neighbors moved in after that date.

Mr. Matthew Santos came forward from 125 Hillcrest Road. He moved in and assumed they were moving near a farm. He contended it is not being used well. Lights are left on late into the evening and they are in and out of the property very early and late. The neighbors worked to get hooked up to the sewer and it is not fair for the property to now be hooked up. He had concern on how the use would be policed. They have been selling vehicles and equipment at the road for months at a time. His dwelling faces the property, particularly the driveway the tenants use. He doesn't feel anyone should be rewarded for continuing an illegal use.

Mr. Steve Warner, the Board Attorney, asked if Mr. Santos is at lot 71, he is at lot 72.

Mr. Anthony Patricco came forward and was sworn in. He brought in Exhibits that he had prepared before the first hearing.

Exhibit O-1: a "Neighborhood and Community" Exhibit consisting of photographs of the Property;

Exhibit O-2: an "Environmental Concerns" Exhibit explaining his concerns about vehicles and equipment leaking and contaminating the ground water;

Exhibit O-3: an "Equity and Fairness" Exhibit explaining the cost of the sewer connection paid for by the neighbors; and

Exhibit O-4: a "Sightline and Vehicular Traffic" Exhibit consisting of photographs of the driveway and sight lines.

Mr. Patricco (lot 71), from 123 Hillcrest Road, went over the exhibits and testified that he has resided at the Property since 2014 and expected the property to be used as a farm. He is concerned that the applicant was cutting down trees without permission. He also said there is weekend and evening activity and it can be quite noisy. He is also concerned with drainage onto his property. He is concerned about the fairness of the sewer hook at 127 Hillcrest when the residents paid for it. He went over the Exhibit O-4 showing the trucks going down the driveway and there were no leaves and he sees a lot of vehicles and said some trucks come in and out many times a day. There are environmental concerns with what is stored there, mulch and salt.

Mr. D'Alessandro gave a summation. There are wetlands on the property and the LOI took a lot of time. The property is being cleaned up and improved. The environmental concerns have been addressed. Hard barriers are proposed. Buffering will be placed. About 22 acres will be in a conservation easement. They propose regulations and hard barriers to contain and maintain enforcement of rules. Fuel tanks will be removed except the tank heating the existing building. This is a transition for the property to be

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cleaned up. There really is a need for storage like this. The contractors service the residents of this town. They are local contractors. This site is particularly suited for this use as it is well buffered, and additional buffering is proposed with plants and fencing.

Mr. Steve Warner, the Board Attorney, listed the variances at issue in the proposal with the (d)(1) variance of multi-tenant commercial contractors' storage yard, and the bulk

variance for 133.5 ft. lot width versus 150 ft required. The planner put forth the Medici standard for the application and the applicant put forth their proof of the positive and negative criteria. All the members present were qualified to vote. Five affirmative votes are required for passage of the (d)(1) variance.

The board went into deliberation. Mr. Villani concluded that the applicant's case does not meet the Medici standard and would cause undue problems for the neighbors. It would be very hard for the town to police. He would be against it.

Mike Galbraith agrees with Mr. Villani. Mr. Dealaman feels it would be very difficult to police. Mr. Huber stated that the residents want the services and he felt that the applicant has made all efforts to improve the facility. They should be getting an annual fire inspection. He was for the application.

Mr. Bowen expressed disappointment that the township let this site operate for many years. The applicant did not make any attempt to bring the property into a legal use. He didn't believe that the property could be monitored so he was against it.

Mr. Paolella agreed with Scott Bowen. Frank Rica did not agree with the applicant and it has expanded and he can't vote for it. Mr. Foster Cooper does not think the positive or the negative criteria were met. It is a detriment to the residents and it does not fit the zone plan. It has been going on too long with no attempt to clean it up. It is still a mess and would be hard to monitor.

Mr. Warner asked for a motion to deny the application of Frank Serina for (d)(1) use variance relief for the non-permitted use of landscaping, construction and storage yard. As well as the variance request for lot width deficiency. Such a decision would be memorialized at a later meeting. A motion was made by Mr. Villani, seconded by Mr. Bowen to deny the application.

Roll Call

For: Mr. Villani, Mr. Dealaman, Mr. Galbraith, Mr. Rica, Mr. Cooper and Mr. Bowen

Against: Mr. Huber

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CASE BA19-03 Mt. Bethel 150, LLC
150 Mount Bethel Road
Block 80 Lot 11, Expansion of nonconforming use

Applicant's attorney, Richard Sasso and the chairman decided to carry the application to the next meeting without further notice.

NEXT MEETING: August 5, 2019

10 Independence - Use variance

MEETING ADJOURNED: at 9:50 P.M.