

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES APRIL 4, 2022**

APPROVED

CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. Michael Galbraith
Mr. Frank Rica
Mr. Donald Huber (excused)
Mr. Scott Bowen (excused)
Mr. Anthony Paoella (excused)
Mr. Foster Cooper
Mr. Mehul Desai Alternate # 1
Ms. Valentina Carleo Alternate # 2
Mr. Mark Peck, 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, and sending a copy to the Star Ledger, and filing a copy with the Municipal Clerk, all on January 10, 2022.

FLAG SALUTE

MINUTES:

The minutes of the March 7, 2022 meeting were forwarded to members for review.

Motion to approve was made by Mr. Villani, seconded by Mr. Galbraith.
All in favor.

COMMUNICATIONS: NJPO bulletin

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING:

Floor is opened to any member of the public wish to make a statement, which is unrelated to the meeting agenda. No one came forward and this portion of the meeting was closed.

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RESOLUTIONS: BA22-01 OptoElectronic Devices Minor Site Plan
Block 78 lot 18.01, 141 Mount Bethel

ROLL CALL

Motion was made by Mr. Villani, seconded by Mr. Rica.

For: Mr. Villani, Mr. Galbraith, Mr. Rica, Mr. Cooper, Mr. Desai, and Ms. Carleo
Against: None.

AGENDA CASE APPLICATIONS:

CASE BA 19-10 William & Roula Ioannou
Block 98 Lots 9 & 10
Request for extension of approval for Minor Subdivision with
variances

The board asked Mr. Peck to look into the need for an extension on this approval. The subdivision has been recorded already.

CASE BA 19-07 Maddy Realty LLC
Block 212/lot 20.01
Variance Use—Hotel
Carried from September 21, 2020, November 2, 2020, and December 7,
2020, March 1, and April 5, 2021, June 7, and August 2 2021, October 4,
2021, and March 7, 2022 meetings

Mr. Kline, attorney for residents opposing the hotel use at the property came forward. Mr. Kline had a flash drive with some videos and the slides he was going to present. They will have a planner and two fact witnesses for the evening. Mr. Peck swore in the opponent's planner and two other witnesses, Thomas Young, Lynn Mauro, and Peter Steck, planner. Mr. Steck was accepted by the board as a professional planner. Mr. Steck had attended some of the previous meetings on this hearing, he reviewed the application, including the latest changes, reviewed the zoning ordinances and the Master Plan documents, and he toured the property on several occasions.

Mr. Kline and Mr. Steck brought in Exhibit O-1 which contains 8 slides. The first page is the zoning map and the location of the property and the tax map showing the location. Slide 2 are the zone identifications for the property and surrounding property. Slide 3 are two pictures taken by Mr. Steck on April 2, 2022 and they show the existing conditions, the upper picture is the site from inside the property of where the hotel will be, and the lower picture is from Stiles Road looking up to where the hotel is proposed. Slide 4 is parts of the architecture plans. Slide 5 shows a part of the rendering from the applicant's architect of the view of the proposed hotel from Stiles Road and compares it to the existing appearance. Slide 6 has excerpts from the

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Master Plan, Land Use element. Slide 7 is an excerpt from Warren Township's ordinance describing the Neighborhood Business District. Slide 8 shows hotels in the nearby area and how far away they are from the subject site

Mr. Steck said the subject property is over 8 acres and on the southeastern side of the property lies Stiles Road and it has areas of steep slopes, and there is a conservation easement along the northeast portion of the property that abuts to single family homes. The property generally drains to the area of where the hotel is proposed, towards Stony Brook. The property is already developed with a restaurant and a catering hall.

There were two applications to the Board of Adjustment in the past for outdoor dining associated with the uses of the property, which required a d variance and was granted with conditions. Mr. Steck feels that catering use should have been before the board of adjustment but that use was before the planning board. The applicant is bifurcating the application. The applicant wants a hotel and the notice states it is asking for a d (1) variance as it is not permitted in the NB zone. There is also a height variance but not a specific height in the notice. The applicant plans shows it as a two-story hotel with a height of 34.25 ft. It is in a part of the property which has grading, some trees will be removed, and some areas are steeply sloped and wooded.

He spoke about Slide 2 and how it shows the area in satellite pictures, there are single family homes surrounding the property, and the Stony Brook is across Stiles Road with a hiking easement. Across Stirling Road there is non-residential uses in the BR-80 zone, business and residential zone. There is an area to the south, EP-250 zone, with an environmental protection component.

Mr. Steck's opinion is the hotel is a four-story building, (not a typical basement as it has 12 hotel rooms in it). Slide 4 shows the view from Stiles and the slide shows three levels of hotel space. The lowest level has 12 rooms/units, the floor above has 25 units, and the top floor has 29 units. The connecting building (on the right side of the picture) has a flat roof and if it is measured from the basement floor to the roof of the connecting building it is four stories and the height is 46 ft. That is substantially more than the applicant indicates on the plans, a two-story building with 34.25Ft.

Reviewing the Master Plan, the plan recommended a Neighborhood Business designation for the property, on page 6 of the slides. It mentions preserving steep slopes and woodlands. This location will disturb steep slopes. Trees will be removed. The most sensitive part of the subject property is the southeasterly section where the hotel is proposed Mr. Steck said. Mr. Steck read into the record the Neighborhood Business designation. Limited areas that encourage retail/service uses in a neighborhood atmosphere, adjacent to single family housing, with uses such as deli, drug store, baked goods, other convenience goods, etc. Buildings are to incorporate residential components. Mr. Steck feels the proposed hotel does not have any residential characteristics.

In terms of the zoning ordinance, Mr. Steck continued, it is in a NB zone. There is another NB north on Stirling Road but not connected to it. Mr. Steck read the NB district purpose and permitted uses into the record with retail uses, services, and restaurants. Hotels are not permitted. There was concern in the ordinance about the food to be served inside only.

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Mr. Steck mentioned the Medici case where the applicant has to show that there are special reasons, public purposes that are advanced. The applicant has to show proposal is particularly suited to the property. The applicant has to meet the negative criteria under the enhanced burden of proof; that is, it can be approved without substantial impairment to the zone plan and zoning ordinances, and without substantial detriment to the public good.

Mr. Steck believes the height variance is larger than the applicant indicated in the public notice. He feels the applicant is ignoring the fact that the basement level is in fact exposed to Stile Road and has hotel rooms in it. It is a c variance but is double the number of stories that are allowed in this zone. Hotels are not a neighborhood business use. It is not geared to the surrounding residents. It is a regional use, the zone that does allow hotels is near an interstate interchange.

The applicant has to show there is some public purpose that is advanced. This is a transient crowd and has a secondary affect of promoting more intensive use of the outdoor dining area. Mr. Steck feels it is not particularly suited to the property, especially since it is being constructed in steep slopes and remove a wooded area and is most visible from the East. There is no undergrowth in the area (looking to the site from Stiles). The wall of the building will be over 50 ft. tall he said.

There are hotels in the area conveniently located. The closest is the Embassy Suites which is 4.4 miles and about 10 minutes away. There are other hotels also. Mr. Steck feels clearly the four- story scope and architecture is not what the Master Plan suggests. It's twice as tall and doesn't have a residential flavor. He feels they are no public purposes that are advanced here. It advances outdoor dining which is a concern of the governing body. He does not see any suitability; it already has active use. The applicant is expanding it and that is not permitted. In his opinion granting this as proposed with the evidence the applicant has provided (it clearly is out of character with the area, violates the master plan themes of having a neighborhood type business) would result in substantial impairment of the zone plan and zoning ordinance, and would result in substantial detriment to the public good. He does not believe the board has evidence that the board can rely on that would allow it to approve this application.

The board and board professionals were asked if they had questions. Mr. Chadwick asked about the catering mention. Mr. Steck said that catering is in other portions of the ordinance but is not permitted in the NB zone. Mr. Chadwick asked about the approval for outdoor functions and they did get approval for that from the board of adjustment. Mr. Steck feels the guests will use the outdoor dining space and intensify that use.

Mr. Jay Bohn, attorney for the applicant, came up and asked about the low density in the area. The zoning is R-20 (.5 acres) close to the proposed hotel, where most of Warren has R-65 zoning for residential areas, which is 1.5 acre. There was discussion on zones nearby. There was discussion on where hotels are permitted and the definition of hotel in Warren. The ordinance has Hotel as having 100 rooms, where this is 66 which is and not a hotel under that definition. Mr. Steck said that it is often that the 100-room definition is so that a liquor license can be obtained, but there is already a liquor license at the Maddy site.

Mr. Bohn spoke about a basement and having hotel rooms. There was discussion on building height calculations.

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Mr. Cooper asked if anyone else from the public not represented by Mr. Kline had questions. No one came forward.

Mr. Kline asked Mr. Thomas Young from 7 Dillon Court to come up. Mr. Young moved to Dillon Court (there are four houses close to the Stonehouse and they all moved in around the same time) around 1997/1998. They were there before Maddy Realty bought the subject property. It was a restaurant before, very quiet. Many people came to Warren because of the schools. They were concerned with the changes with Maddy/Stonehouse. They have a history of noise complaints against Maddy. Many people have submitted complaints. The police are not very responsive. A Saturday night wedding goes to 11:30 or midnight often. There is light all hours of the day going into Mr. Young's yard. The Mauro's put a fence up to block the view of the Stonehouse, to block the light. Recently someone came to Mr. Young's door, a man, talked to his daughter, who is 21 years old, she answered the door and the person started grilling her about pool equipment. She was home alone and was nervous so she called the police and they filed a report. The police went to the Stonehouse and at first, they did not know a manager had gone to the house. Then they realized someone from Maddy had gone. There is a police report. Mr. Kline asked Mr. Young if he felt Maddy was a good neighbor and would this hotel help his life. Mr. Young said the people at the Stonehouse were usually nice but it would not help his life and he is still waiting for an apology to his daughter. He doesn't think the property should have a hotel use and they never imagined that when they moved in.

Mr. Cooper asked if anyone had questions from the board or public.

Mr. Kline brought up Ms. Lynn Mauro and she lives at 5 Dillon Court and they also came for the schools. They were happy and the neighborhood was quiet. Several years ago the Stonehouse was permitted to build another structure/new venue behind her home. The top portion of the venue is glass. Ms. Mauro said the lights, the disco lights, the flashing lights, bright lights are on all night at times. She put a fence up across the back of her property to try to block out the lights. They are beer and liquor bottles and people smoking pot out in the parking lot. There were dumpsters lined up across her back property line for a while. She did call and go in person etc. to ask to stop that. She feels they don't have that much room to store garbage on their property.

The back of her house is a hill so the lights and everything going on is still visible in the second floor. She has called the police multiple times as well as some neighbors have also called. The police have come. She invited everyone to come to her yard to hear the noise many nights of the week. If residents have to abide by township rules –why don't they.

Mr. Kline brought in Exhibit O-2, a flash drive, that has some videos and the slides that were presented. Mr. Peck did not feel that a flash drive could be an exhibit as the board could not see what was on the drive. Mr. Kline asked Ms. Mauro about the times of the noise and it is often after 11 p.m. and she has a lot of videos. She complained about the same DJ and booming music. She has called after midnight.

Ms. Mauro said they have used their street, Dillon Court, to park cars via valet parking from the Stonehouse. They park busses on the corner of the street. Exhibit O-2 (the flash drive was not an exhibit). It is a bus on the corner.

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She has concerns because someone was shooting off fireworks in the parking and it could start a fire. She talked about the old storage shed. Sometimes she has seen chemical drums, and sometimes a lot of propane tanks.

She feels the police will be very busy because the party won't end it will just continue. Mr. Kline asked if there were any restrictions that could be put in place that would take care of these problems. The noise now is intolerable Ms. Mauro said, she has concerns with fighting and people who are intent on doing harm to your property. She found someone sharpening a knife on a tree, her tree. The lights go all night and she sees it from the second floor of her home. There are hotels close and they don't need a hotel here.

Mr. Cooper asked if there were questions from the board, professionals, and the public. Mr. Bohn came forward and asked Ms. Mauro about the fireworks and he asked who set them off. She didn't know but they were right behind her property. She did call the police right away.

Mr. Bohn asked if they had ever submitted complaints to Mr. Chadwick. They have only submitted complaints to the police and there should be records of the complaints.

She did not complain to Mr. Cretella but has complained to property managers over the years. He is willing to give his numbers to neighbors for complaints.

Mr. Kline thanked the board for their time; this is the applicant's third use variance that this property is seeking. It is not contemplated in the Master Plan. It cannot be accomplished without undermining the intent and purpose of the zone scheme. It goes against all the guidelines and standards set forth in the zoning ordinance. He feels there is no way to accomplish this application without detrimentally impacting the lives of the neighbors who have already been through a lot with noise and lights. Expanding the use by the hotel will expand the patio use and there is no way to enforce what is already happening at the property, and the hotel will not be monitored well either. It is wrong for the neighborhood. Perhaps it could be in a different zone. He believes the applicant has not satisfied their heightened burden of proof for a d variance and they respectfully ask the board to deny the application.

Mr. Cooper asked if Mr. Bohn had any closing comments. Mr. Bohn asked Mr. Cretella to come up and respond. Mr. Cretella did see some videos with the noise complaints and it was during Covid and the windows had been taken out. He was aware that they called the police. They responded by scheduling the weddings that were happening during that time, starting each event earlier so the noise stopped by the time. They had worked it out with the police. Mr. Cretella does not have a record of police coming to the place based on noise complaints other than a few times. The Stonehouse had called the police about a theft, one was about a lady who was not well. One time they did an event for Cramer when they had a tent in the back and Cramer went in the back and started his own after-party. They built the building in the back because it does control noise instead of a tent. He said they work with valet parking so they don't have people hanging out in the parking lots. Cars are brought up for the guests.

Mr. Cretella said there would be no reason someone would go to the house to complain about mechanics in a neighbor's property. He would like to see some of the police reports. He did not know about complaints other than during Covid. The storage sheds in the back—they have plans to redo that shed for storage. They moved into new headquarters about two weeks ago

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and all the storage that was out there is now gone. He felt they lowered the height from how it looks from Stiles. He felt it was better to have a connection from the hotel to the catering hall and that is the highest point of the hotel but at the height of the catering hall.

He said he can't see how the hotel will increase his outdoor business. It is limited to the seating approved. The hotel is an accessory use and not open to the general public. The guests are already there for events. It is benefit because not everyone is arriving at the same time. The building is low on the property and so close to the front on Stirling Road and furthest from any residential. The industry is going this way with overnight guest rooms. He wants to compete with other high-end venues. Mr. Cooper said that economics cannot be part of the criteria.

Mr. Cooper asked if anyone had questions. Mr. Kline asked if event guests could stay at the hotel the night before the event as well as the night of the event. If it is possible yes. There may be an event on a Friday that might prevent a night before a Saturday night. Mr. Cooper asked if any member of the public not represented by Mr. Kline to comment.

Mr. Bohn asked the board to remember that restaurant use includes the catering facility. The proposed hotel is accessory to that use. It will be limited to guests attending events only. In that case, it is particularly suited to this property because the catering event will be there. They have given a lot of details for the site plan being it is a bifurcated application for the use. If the board approves the application, they still have to come back for site plan approval. Mr. Bohn mentioned there are only six board members and a couple are new. The new members are prepared and have listened to CDs and signed affidavits. It was decided to carry it to the next month for the vote. There will be just the vote. Mr. Bohn extends the time for the board to act to May 2, 2022. The application is carried to May 2, 2022 with no further notice.

Mr. Cooper called for a 5-minute break.

CASE BA21-03 Julie Conley
 Block 76.03 lot 16
 Use Variance-Townhomes

Mr. Richard Sasso, attorney for the applicant, came forward and asked Mr. Henry Hinterstein to come forward and gave his credentials and was accepted as an architect and planner. He was asked to develop a concept plan for proposed townhomes. He went over the plan; the property is at 164 Washington Valley Road. It is just over two acres and has some environmental constraints. The east branch of the Middlebrook runs in the southern portion of the property. There are wetlands but they have not been delineated. There is a flood plain that runs through the property. It limits the amount of developable area by probably about 50%. He worked with the constraints and has one single access point off Washington Valley Road. The lot has a little bit a parallelogram shape. The townhouses can step slightly for variety/visual interest.

Due to the lot, it is limited to six townhomes, with two three-unit buildings. There are residential and office uses nearby. The Master Plan goal is to support the local

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business that exist in the center of town. There are some multi-family units at the end of Town Center Drive to the north. The redevelopment plan for Flag Plaza has multi-family units. There are buffers to the residential areas. Mr. Sasso asked about other viable uses for the property. Townhouses next to single family are nicer than office space and less intense.

Mr. Hinterstein said the environmental constraints provide a natural buffer between the adjoining properties. It is towards the center of town and tax assessment will provide for the town. It would be attractively landscaped. The plan provided is just conceptual. Details would be proposed at site plan approval with full engineering and architecture plans. This provides sufficient space as a community. The negative criteria is the residential in character and has an existing buffer, at about half of the property. And is a nice transition area. Any detriment outweighs the benefit. Mr. Hinterstein sees no substantial harm to this use of property, or intent and purpose of the zoning plan and supports local businesses. There are similar townhomes in Town Center and multi-family units in Flag Plaza.

Mr. Cooper asked if the board or professionals had questions. Mr. Chadwick spoke about the area and the TID district and it is a town center district. Those designations of the district contemplate the diversity of use. The mix of uses works to get people in the center of town and has been trending for the last five years.

Mr. Kastrud had a memo with a fair amount of check list items that would be addressed with a site plan.

Mr. Cooper asked if anyone from the public had questions based on the testimony. A resident came forward and asked if Mr. Hinterstein had been to the site and he said he had. It is built on a little bit of a hill. The resident asked about where the wetlands were on the plan. He said the veterinary office abides by the wetland rules. He is concerned that the florist cuts the grass. He was also concerned that they were noticed just that week. He feels the wetlands are very important in this decision on a variance.

Mr. Cooper said if they did get approval they would have to come back and conform to everything.

Mr. Joel Holl from 2 Middlebrook Road came forward and is right behind the florist. They have lived there since 2004, raised three kids there with the creek. He asked how many bedrooms the units would have. That has not been determined but probably 2 to 3 bedrooms.

Mr. Holl asked if the planner could point to the 100-year flood line and where it intersects the parking lot. Mr. Hinterstein pointed to it and said it goes over two guest parking spots.

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Mr. Holl asked about Mr. Kastrud's memo points. The applicant would need to meet all the engineer's requests at site plan. Mr. Holl spoke about the environmental commission and a report. Mr. Holl saw the minutes from the commission and that they recommended against the proposal. The board did not have the report. Mr. Sasso rejected this because it was minutes of the meeting and no report was issued. Sometimes the commission sends minutes and sometimes it sends a report. Mr. Peck, the board attorney, said the board could take notice of the minutes. Mr. Peck read the minutes and this case, Julie Conley, and the WEC recommends the application be denied for the following reasons, a. The visitor parking area encroaches on the 100-year flood line b. the designation of the wetlands buffers is unknown, c. the proposed plan will exacerbate flooding downstream due to increased impervious coverage that exceeds the FAR, and d. there is too much impervious coverage on a FAR.

There was discussion on wetlands and how much acreage is usable. There is still two acres.

Mr. Cooper would appreciate that the environmental report submit reports. Mr. Chadwick spoke about the concept plan and there is a wetlands boundary and the 100-year flood is shown. Buildings can be built in a flood plain with certain regulations.

Mr. Sasso argued that all of that detail would be at site plan. Mr. Kastrud's memo are primarily site plan and they will be required to be addressed then. Mr. Holl said they received the notice nine to ten days ago and they researched what they could. He asked for the board to give it more time to take a vote.

Mr. Peck said the notice was made in a timely manner and was sufficient. There will be drainage studies, full engineer plans, and architecture plans will be required for site plan. Mr. Noll mentioned that the wetlands commission should influence on whether or not a vote is done tonight.

Mr. Cooper asked if anyone else from the public had questions. Ms. Sonia Stevas came forward from 2 Middlebrook Road. She asked about the property and how close the creek is to the building. She said you could google map it and about 50% of the property is wetlands, the creek comes up to about a third of the property. She feels there is not enough land for this variance. Mr. Chadwick said that the flood boundary will be the controlling jurisdictional issue, not the wetlands. The flood boundary is shown behind the buildings and the property line and that won't be buildable. She has pictures when there is a lot of water and flooding.

No one else came forward and Mr. Cooper asked if the board had anything else. Mr. Cooper asked the public for any comments, just on the use variance for townhomes on the property.

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Mr. Joel Holl came forward from 2 Middlebrook Road and was sworn in and they have lived there for 18 years. The florist has been a good neighbor as a local business. His kids enjoyed the creek. The wetlands commission has proposed that the Township purchase this property and preserve it for wetlands open space. The wetlands are being encroached on this property currently. There is significant flooding in his backyard, and the florists backyard. He will bring pictures to the next application. Any building on the property will push the water closer to his back yard.

Mr. Holl feels this is a very high density of residential space in this area of town, it is all residential around him, R-65. It is a nice community. This is potentially 18 cars coming and going from this space.

Mr. Rick Negri from 56 Green Valley came forward and was sworn in. He said there is pressure on infrastructure and they are seeing a lot of building. The concern they have is that it is a quiet spread out neighborhood. One of the pressures is traffic and dangerous traffic. More high density will create more pressure on the area and it will be less secure.

No one else came forward and this portion of the hearing was closed.

Mr. Cooper asked to deliberate on a use variance and in order to grant the use variance the applicant has to prove/the board has to find that the property is particularly well suited for the proposed use, and that there are special reasons that exist for the grant of the variance. Special reasons are how does it advance the purposes of zoning, does it advance the MLUL in any particular way, and in addition, the board should consider whether grant of the variance would cause substantial detrimental impact to neighboring properties or a substantial detrimental impact to the township zoning scheme/Master Plan.

Mr. Chadwick said the planning process has evolved in the center of town. It is more dense.

Mr. Villani said it meets the positive criteria because it is near the center of town and will allow tenants to walk to stores and he feels it is not an undue burden for surrounding properties. It is not an impairment of the intent of the zoning. He is in favor of the use only.

Mr. Rica mentioned that an office building would probably bring more cars. They will have to go through the requirements with the constraints at site plan.

Ms. Carleo feels it is inline and would be in favor.
All other members agreed on the use variance being appropriate.

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Motion was made by Mr. Villani, seconded by Mr. Galbraith.

Roll Call

For: Mr. Villani, Mr. Galbraith, Mr. Rica, Mr. Cooper, Mr. Desai, and Ms. Carleo.
Against: None.

Motion was made to adjourn by Mr. Villani, seconded by Ms. Carleo. All were in favor

Next meeting will be May 2, 2022

MEETING ADJOURNED: 9:30 P.M.