

WARREN TOWNSHIP PLANNING BOARD
MEETING MINUTES
7:30 P.M. – Susie B. Boyce Meeting Room – 44 Mountain Boulevard
September 9, 2024
APPROVED

CALL TO ORDER

FLAG SALUTE AND MOMENT OF SILENCE FOR OUR TROOPS

ROLL CALL

Mayor Sordillo
Committeewoman Kian
Mr. Lindner

Mr. Gallic
Mr. DiBianca
Mr. Argiro
Mr. Puglisi

Mr. Scuderi
Mr. Esposito (excused)
Mr. Lippitt
Mr. Dealaman (excused)

Statement by Presiding Officer: Adequate notice of this meeting was posted on January 12, 2024, the Township bulletin board and sent to the Township Clerk, Echo 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.

■ **APPROVAL OF MINUTES:**

August 26, 2024

Motion was made by Mr. DiBianca, seconded by Mr. Argiro.

ROLL CALL

For: Mr. Lindner, Mr. Argiro, Mr. DiBianca.
Against: None.

■ **Reports:**

Steve Warner, Esq.
John T. Chadwick, IV, P.P., Professional Planner
Christian Kastrud, P.E., Professional Engineer
Maryellen Vautin, Clerk

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■ **CITIZENS HEARING non-agenda items**

Ms. Mildred Waale came forward from Mount Bethel Road and asked about a project plan with milestone deliverables for the Master Plan. Mr. Lindner said the board has that on the agenda and it will be discussed after the application.

■ **CORRESPONDENCE**

■ **HEARING/agenda items**

**PB24-01 Warren Estates, LLC
Block 12 lots 17 & 18
P&F Major Subdivision
Second Street and Elm**

Mr. Warner, the board attorney, told the board he had reviewed the applicant's notice and he found it appropriate and timely served. The board has jurisdiction to hear the application.

Mr. James Pryor came forward as attorney for the applicant. There will be one witness, Mr. Kenneth Dysktra. This is a lot line adjustment/minor subdivision. There are two existing lots. There is an existing dwelling on one of the lots. The other lot is substantially constrained by environmental factors but the applicant proposes a subdivision that adjusts the lot line and it will allow for a second dwelling to be constructed. Mr. Pryor stated the principal of Warren Estates is present, he will not testify and he would need a sign language interpreter, but they want to proceed forward.

Mr. Dykstra came forward as the applicant's engineer and planner. Mr. Steve Warner swore in Mr. Dykstra and the board engineer, Mr. Christian Kastrud, and board planner, Mr. John Chadwick. Mr. Dykstra gave his credentials and was accepted by the board.

Mr. Dykstra went over the application with the subject property located on Second Street and Elm Avenue. The total area of the lots is about 72,700SF. Exhibit A-1 was brought in and it was a Colorized version of the submitted plan, page 5 of 9, last revised October 30, 2023. The lots are in the R-20V zone with a minimum lot size of 20,000SF. There are some wetlands located on the westerly portion and it does have an LOI approved by DEP. There is a 50 ft. transition area. There is an existing house and they would keep the footprint and expand it and build a second dwelling after the lot lines are adjusted. Lot 17 proposed lot will be 21,370SF and conforms with lot size. Lot 18 will be an oversized lot with 51,337SF and a dwelling would be built there. He pointed out the existing lot line and it is shown on sheet 2.

If there were no wetlands they would not need a lot line adjustment. Mr. Lindner asked about the four bedroom dwelling proposed and it looks like a new house. It will be new house, even if keeping the foundation and keeping some of the structure.

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Mr. DiBianca asked if there are any variances. They need a front yard variance for setback for both lots. Mr. Dykstra said that Second Street is a gravel roadway and serves the existing house on lot 17 and an adjacent dwelling across Second Street, block 12 Lot 16. They propose to pave and improve Second Street to 24 feet wide and create a turn around area. Second Street cannot go further west due to wetlands.

Mayor Sordillo asked about the setback where 50 ft. is required and they are asking for seven ft on one lot, and 23.5 ft on the other lot. The setback to the house is 29.5 but there is a front porch that makes it 23.5 ft. The other is 7 feet after the roadway is improved. This is a significant variance. There is a grass area within the unimproved area (no roadway). The existing house is on a septic system and they have preliminary approval to get both houses on sewer. The septic system will be abandoned. There is no municipal water in the area and the existing well will be maintained and another well will be built for the other lot. The well water has been tested and it is clean.

They agree that they will drill the well and test it before a dwelling would be built. Mr. Dykstra went over the township engineering report dated August 8, 2024. There are 23 comments. The township requests the Flood Hazard Area Verification. A Flood Hazard Area permit is not required. Comments 4, 5, 6 and 7 the applicant agrees to. The report asks for justification of the RSIS waiver request. Mr. Dykstra stated the RSIS dictates road widths, construction methods, and sidewalks. The road in the area would have to be 28 ft and sidewalks would be required and sidewalks required. The board has the discretion to grant exceptions to that. Elm Avenue is only 24 ft. wide and has no sidewalks. The sidewalk (if required) would not meet with any other sidewalks. Mr. Kastrud went over the different widths of roadways in Warren. Emergency Services would need to review the turn around proposed. They did show the site line on the plan of 330 Ft. on sheet 4. There is a planter in the back of the property and it will be removed. It is in the wetland area. Two EDUs have been issued to the property for sewer. The force man is not in the right of way and will need an easement. RSIS requires utilities to be underground. They will need to go to DEP for encroachment into the transition area of the improved roadway. It also appears the corner of the driveway turn around area is also in the transition area.

Stormwater will be managed with infiltrators for the roof areas for the houses and each of the driveways will be level permeable pavement with gravel. It is not considered a major stormwater project per NJDEP standards. Mr. Kastrud mentioned they will have language in the two deeds stating that stormwater controls on each lot are designed as such to offset the amount of impervious coverage. Mr. DiBianca had concern that an owner may asphalt the driveway. Mr. Kastrud said they propose the driveway to be permeable pavers and paving it would ruin the plan. There would need to be two stormwater maintenance manuals (recorded with the County Clerk's office) for each lot and each owner is obligated to maintain stormwater and it would require a homeowners association.

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There may be other options but the applicant has proposed this plan. A condition would be establishment of a homeowner's association. There were some soil testings. The water table is around 8 ft.

There was further discussion on wetlands and transition areas. Mr. Pryor said approval would be subject to DEP and other agency approvals are required. Mr. Dykstra believes DEP will approve the encroachments due to their standards. Mr. Chadwick was concerned if the Fire Marshall wanted a larger turn around it may impact that approval. This plan would not work then.

There was discussion on water flow. Mr. Dykstra said the water flows to the west and to the north in the rear of the property.

The Fire Marshall had a report dated July 2, 2024 and it did not have reference to the turn around. The Fire Marshall does a review during the compliance process but perhaps a review should be done sooner.

The board engineer requires a grading and land disturbance permit for each dwelling. They discussed the soil logs also. Wetlands and flood hazard areas would be placed in conservations easements.

The deeds and metes and bounds are subject to the review of the engineering department.

There was a pause in the application while Mr. Gallic had shown up and the chairman preferred to let him go over the Master Plan survey that was expected at this meeting. There is a survey that is mostly complete at masterplansurvey.com. Mr. Gallic asked the board to take a look at it for comments. Mr. Gallic apologized for interrupting the application and he missed too much to participate in this hearing.

Mr. Pryor brought up the Health Department report. The existing well on Lot 17 will be tested and protected from damage during activity on the site. Any identified septic systems will have to be abandoned.

The Fire Marshal's report addressed the issue that the area does not have public water and asked to extend the water supply and install a hydrant. Mr. Dykstra did not see the hydrant at First St. Mr. Kastrud said there had been discussion on bringing water into that neighborhood. The applicant will work with the Fire Marshall. The applicant may be able to extend the water line and seal the existing well.

There is a garage on the property very close to the property line and Mr. Dykstra said they propose to remove it.

There was a discussion on preservation of trees along the property line and building a berm to avoid stormwater flowing onto adjacent lot 19.

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Mr. Pryor asked Mr. Dykstra to go over the planning and the variances. The lot has environmental constraints with the wetlands and buffer areas. The proposed 7 ft setback is by a lawn area so it doesn't appear to be a 7 ft setback. The house is about 3000SF, with a garage and it pushes the floor area ratio. Lot 17 has a unique shape, it isn't deep, only 100 ft., the ordinance requires a 50 ft setback and 25 ft rear. The existing house setback was 29.5 ft. setback, and the new house to the covered porch is 23.5 ft. They are conforming for the rear setback. The house is about 2300 SF plus the garage with FAR is 0.125. Proposed is a two story colonial with a front entry porch and it fits into the neighborhood nicely.

The roadway is really a private driveway for the houses. The lawn area is a municipal right of way. Second Street could not be extended due to wetlands. There had been discussion on asking the Township for a vacation of the right of way from the Township when there was an application before the board of adjustment.

The vacant lot with the environmental constraints where a house could not be built without a variance constitutes hardship per Mr. Dykstra. The lot with an existing house finds hardship due to the configuration of the lot with its shallow depth. It is a lot line adjustment and is a reasonable and appropriate means of addressing and resolving the hardship described.

Mr. Dykstra does not see any negative effect as the drainage has been taken care of. And they proposed Second Street to pave to 24 ft wide and is a substantial public improvement. Mr. Dykstra feels this does not generate any substantial impact or substantial detriment to the MLUL.

Mr. Lindner asked if the board had any questions or comments. Mr. Warner asked why the proposed dwelling on proposed lot 18 can not be tilted to more closely face Second Street. Mr. Dykstra felt the tilted angle is for the view and gives more useable rear yard. Mr. Warner asked about straightening the house towards Second Street and how it might affect the roadway. Mr Chadwick said if they straighten it then they could not go out the back door. Mr. Dykstra mentioned it lines up better with the garage to have it on an angle with the turn around. Mr. Dykstra said they could use the area that is transition for a backyard.

Mr. Dykstra said they will remove the existing garage that is 3.5 ft from the property line. Mr. Warner said that the hardship for lot 17 is the depth of the lot. You can not create a hardship. The lot line adjustment does not create that depth, it is existing.

Mr. Lindner called for a five minute break at 8:45 p.m. The meeting was called back to order at approximately 8:50 p.m.

Mr. Lindner asked if the board had any questions or comments. Mayor Sordillo feels it is a stretch on the hardship by making an extra lot; it is a financial opportunity; but not the betterment of our community. He also feels that when you build that close to wetlands you will have water problems and you won't be able to ride a tractor to cut grass.

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Mayor Sordillo also had concerns of adding another well and you could bring in a cone of water from either an aquifer from the north that may be contaminated. This will go by the existing homes and there are some homes with filters already in place. He also does not feel that 7 ft. is appropriate where 50 ft is required. He does not see hardship. He believes a study would be needed for the water to ensure it is safe. The applicant would need to complete testing of the well.

Mr. Lindner also feels the 7 ft is too much, the surrounding homes have mostly complying setbacks. Mr. Lindner opened the meeting to the public.

Mr. Greg Peterson from 5 Third Street (and 1 Third Street) came forward. He was sworn in and he has been a Warren Resident for many years since 1964. He has a bachelors degree in Engineering, but is not a professional engineer. He went to the exhibit and turned it the opposite way and showed where the direction of the water flows. He pointed out storm sewer drains (to the north of lot 17) and no other storm water systems. The water goes north and/or just sits on the lots. He feels it will hurt other properties. There is also discussion about bringing sanitary sewers into this area. The septic systems are already strained in the area. Mr. Peterson has his extra lot as a buffer, he doesn't want to build on it. The wells in the area are also an issue.

Mr. Bill Stahl from 6 Third Street came forward and he is directly behind these two houses. He was sworn in. He has spoken with the developer and talked about drywells. His concern with drywells is clay and it doesn't drain well. Mr. Stahl was okay with the berm. His concern is if someone in the future wants to change something, how will it impact neighbors. He wants it in the record that they can't make any changes, can't pave driveways, and might need a homeowner association. The water is like a brook on Mr. Stahl's property near his neighbor's property line. Elm Avenue pitches down towards Third Street. It ends up in those backyards.

Ms. Jeane Horway from 10 Third Street came forward and she was sworn in. She went to the map and showed where the water flowed and where her house is located at Block 12 Lot 20. Her issue is the water and with no one being in the house her backyard without any rain she can't mow it with a push mower. Her whole back area is wet, it is like a lake and there is no drainage. She feels paving will create a sheet of water coming down. She knew when they bought the house it was wetlands. Sump pumps run all day.

Mr. Pryor gave a summary response. He and the applicant appreciate the opportunity to hear this case and feels they made a compelling case to grant this proposal. He respectfully disagrees with the comments given by the board. There are two experts present, the board engineer, and the applicant's engineer. The stormwater should be based on expert testimony and not about the speculation and opinion as to what the affect will be on someone's property. What they propose is a single-family home. The testimony they heard from the public he has heard before but not for a single family home, more for entirely new residential developments for maybe 20 homes. Mr. Pryor thinks there is a substantial amount of over concern with respect to the water flow here and the people should listen to the qualified experts, the engineers. They have not

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suggested there will be any serious issues with flow from this application. The stormwater is proposed with the plans. He feels the applicant has fully satisfied the applicable legal criteria and demonstrated that there is no substantial detriment nor substantial impact to the zoning plan or zoning ordinance. It would have to be a substantial impact. He feels they have proved the hardship completely. The lot is essentially useless with constraints without the variance; and they proposed removal of a nonconforming garage. A hardship is the inability to use property under circumstances such as this. With all due respect Mr. Pryor disagrees with Mayor Sordillo with the hardship, this is a c1 hardship case. The owner is a property owner in Warren and is entitled to make this case. The 7 ft variance is not on a heavily traveled road, look at the situation in context. The street will be improved for dwelling access. You must decide this on what is in the record. He requests review the record and come to the conclusion that the applicant has made a compelling case for hardship for c1 hardship, and satisfaction of the negative criteria and there is no substantial detriment to zoning ordinance or negative impact.

Mr. Lindner stated they consider all information presented during the hearing. Mr. Chadwick mentioned the issue of the applicant not to pursue a vacation (from the township on right of way) which would allow a more useable lot.

The applicant also agreed to the Fire Marshall's review of access for emergency vehicles, if a full cul-de-sac was required, the plan would not work. The last item is water and contamination in the area, the health officer did want testing of the well, existing and proposed. It is known there has been contamination in the area.

Mr. Warner went through items discussed as possible conditions. This is two lots to two lots but is a major subdivision due to the roadway improvements, it is a preliminary and final major subdivision.

Mr. Warner continued and the two variances are for 23.5 ft setback for the dwelling and 50 ft. is required, and for proposed lot 18, 7 ft setback where 50 Ft is required. The third deviation is RSIS exception for a 24 ft. roadway as opposed to 28 ft. wide RSIS requirement (with sidewalks). The conditions are set forth in Mr. Chadwick's memo dated July 9, 2024, the health officer's memo dated July 5, 2024, fire marshalls' memo of July 2, 2024, and Mr. Kastrud's engineering memo dated August 8, 2024; as well as Emergency Service review/approval of the turn around on Second Street. The stipulation to remove the planter, a creation of a homeowner's association, as well as deed restrictions to be recorded, and stormwater operations and maintenance manuals to be recorded. All outside agency approvals are required, including NJDEP for encroachment into the wetlands area and the transition area. If there is a motion to grant it is assumed it is with all the stipulated to conditions. If it is a motion to deny it is unconditional.

Mr. Lindner asked if anyone wanted to make a motion. Mr. DiBianca felt there are so many conditions and unknown items, and he asked if this was the best plan for this lot. Mr. DiBianca made a motion to deny, and Mayor Sordillo seconded that and he would deny on the 7 ft front yard versus 50 ft and did not want to set a precedent. He has not

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studied the area, but he knows it and they have dealt with contamination and he can't prove that it will contaminate wells but he is certain they will not be able to cut their lawn.

For: Mayor Sordillo, Mr. Lindner, Mr. Argiro, Mr. DiBianca, Mr. Esposito, Mr. Scuderi, and Mr. Lippitt

Against: None.

Master Plan Committee Updates

Mr. Lindner spoke about the Master Plan Survey that Mr. Gallic talked about earlier and the board should check it out and come back with comments. Mr. Lindner represents Historical Sites and they have submitted an element to Mr. Chadwick. Zoning and Affordable Housing has been ongoing and they are compiling maps. The Master Plan is not due until 2027. A lot of current effort is being done for affordable housing

Mr. Chadwick said the Background Studies for the affordable housing aspects are near completion. The two elements on Master Plan that are Affordable Housing (part of the Housing Element), will be impacted by the DCA and the numbers they assign to each municipality. The DCA is to provide the numbers by the end of October. The Townships are required to adopt a resolution binding with our number by the end of January 2025. The planning board should adopt Housing Element and Fair Share Plan by June 30, 2025.

Mr. Warner added that the resolution is due January 30, 2025 for all Townships that sets forth a number (whether the number DCA assigned or a different number).

Mr. Lindner asked if anyone from the public wanted to comment. Ms. Waale from Mount Bethel Road came forward and was glad to see progress. She did not realize the Master Plan is due 2027. Mr. Chadwick said they will update elements separately. Some elements have been updated relatively recently. Ms. Waale asked if they had a project plan which scopes out the long term plan of deliverables. Mr. Chadwick said that is the Program Plan. Ms. Waale asked about the school projections based on all the new units and the future projects. The board of education will report to the township, and they have five year plans.

There will be more projects coming with the affordable housing numbers. The enrollment has been going down.

Ms. Waale has submitted more detailed surveys and asked if they would consider putting a reference to an optional and additional detailed questionnaire. Mr. Lindner was not sure that would be appropriate as all should get the same survey. Mr. Lindner said they will consider that.

Mr. Bill Gilbert from 17 Flintlock Drive came forward and said some people have asked to follow up on volunteers from the public to work with the committees on the Master

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Plan. Mayor Sordillo and Mr. Lindner did not discuss that yet but will. The board is trained on land use to meet the requirements of the state.

SCHEDULE OF NEXT MEETING

September 23, 2024 at 7:30 p.m.

■ **ADJOURNMENT**

Motion was made by Mr. DiBianca to adjourn, seconded by Mr. Argiro. All were in favor. Adjournment was approximately 9:55 p.m.