

**BOROUGH OF SPRING LAKE HEIGHTS  
BOARD OF ADJUSTMENT  
MINUTES  
March 28, 2019 at 7:33 P.M.**

MEETING CALLED TO ORDER AND SALUTE TO THE FLAG

Brian Brendle – present  
Susan Lalji - absent  
Donald Nolan – present  
Bruce Waitzel - present  
Owen Quinn – present  
John Tangeman - present  
Chairman Dennis Pearsall - present

Also Present:  
Mark Kitrick, Board Attorney  
Louis Lobosco, Board Engineer  
Christine Bell, Board Planner (arrived at 8:15)  
Mary Ellen Karamus, Board Secretary

Alternate #1  
Thomas Martin – (arrived at 7:33 P.M.)

Chairman Pearsall announced:

THIS MEETING IS CALLED PURSUANT TO THE PROVISIONS OF THE OPEN PUBLIC MEETING LAW. NOTICE OF THIS MEETING WAS INCLUDED IN A LIST OF MEETINGS SENT TO THE COAST STAR AND ASBURY PARK PRESS, POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND ON THE BOROUGH WEB-SITE.

EACH APPLICANT SHALL BE LIMITED TO FIFTY (50) MINUTES TO PRESENT THEIR CASE, AS PER RESOLUTION #10-2007.

**Approval of Minutes:** February 28, 2019 - Mr. Brendle made a motion to approve the minutes; Mr. Tangeman seconded; roll call taken as follows:  
AYES: Mr. Brendle; Mr. Nolan; Mr. Waitzel; Mr. Quinn; Mr. Tangeman; Chairman Pearsall  
NAYS: None  
ABSTAIN:

**Old Business:** **Resolution 2019-08 Application No. ZB-2018-07**  
**Wayne Teicher**  
1225 Holly Place  
Block 47 Lot 4  
Expand existing Garage

Mr. Brendle made a motion to accept Resolution 2019-08; seconded by Mr. Nolan; roll call taken as follows:  
AYES: Mr. Brendle; Mr. Nolan; Mr. Waitzel; Mr. Quinn; Mr. Tangeman; Chairman Pearsall  
NAYS: None  
ABSTAIN:

Mr. Martin entered the meeting

**810 Highway 71, LLC, Application No. ZB-2018-04**  
810 Highway 71  
600 Warren Ave.  
Block 53 Lots 4 & 5  
Employee parking and overflow parking  
Block 69 Lot 10

Create an outdoor patio for seating and service

Mr. Kitrick reminded Mr. John McCormack that he was sworn at the 2/28/2019 meeting. Mr. Kiernan Durkin was sworn by Mr. Kitrick.

Mr. McCormack stated he is the principal of Dynamic Traffic, Lake Como and stated his educational and professional background. Chairman Pearsall accepted Mr. McCormack as an expert.

Mr. McCormack summarized Dynamic Traffic's 3/15/19 report. Mr. McCormack stated that the existing restaurant is 3,200 square feet with 82 seats, 37 bar seats and 30 parking spots in the parking lot. Mr. McCormack stated that the application proposes a 700 square foot patio in the front of the building on 71. Mr. McCormack stated that 10 tables with umbrellas with 44 seats is being proposed for the patio area with a small wall. Mr. McCormack stated that the ordinance requires an additional 15 parking spaces for 44 seats. Mr. McCormack said that the applicant is proposing using 15 spaces for off-site employee parking at 600 Warren Avenue. Mr. McCormack added that 600 Warren Avenue is a common ownership lot with an owner of the restaurant. Mr. McCormack stated that patio seating usually takes the place of indoor seating; and is not in addition to indoor seating. Mr. McCormack added that the patio seating is seasonal and that both indoor and outdoor seating is not used to capacity during that time. Mr. McCormack added that the Tap House is a local business with regular customers.

Mr. McCormack stated that the offsite parking is a good example of shared parking. Mr. McCormack described shared parking as different land uses with different peak parking usages; in this case daytime office use and nighttime and weekend restaurant use. Mr. McCormack stated shared parking is the responsible way to handle parking

Mr. McCormack stated that 600 Warren Avenue is a 7,700 square foot office building with 4 suites. He added there are small offices, some of which are satellite and second offices. Mr. McCormack said that there are 37 parking spaces on the site; 4 in the side lot and 33 in the main lot; 31 plus 2 handicap spots. Mr. McCormack said that the building parking lot fills in the morning, is occupied during the day and empties at night. Mr. McCormack added that the lot is never full during the day and empties out in the evening.

Mr. McCormack described the alternate parking situation on Mercer Avenue on the adjacent lot which currently has a house on it. Mr. McCormack stated it has common owners. Mr. McCormack said that there were concept sketches done and that there could be 48-50 parking spaces if the existing lot is redesigned and the adjacent lot is included. Mr. McCormack stated that would almost meet the required 52 spaces. Mr. McCormack stated that if the house was demolished, there would not be a buffer for the residents and that there would be additional lighting and asphalt. Mr. McCormack also stated other than a few hours on Friday evening and Saturdays, that lot would not be used.

Mr. McCormack said patrons walk, bike or uber during the summer season which is when the patio with outdoor dining would be open. Mr. McCormack stated that people parking on the street is a preference of some patrons that cannot be mandated. Mr. Waitzel asked what the difference between the two traffic reports prepared by Dynamic Traffic is. Mr. McCormack stated that the change is that the parking count is correct in the March 15 report. Mr. Tangeman commented that 600 Warren Avenue requires 37 parking spots. Mr. McCormack stated that currently the available parking is not used. Mr. Tangeman stated that the parking is for that building, not for the Tap House. Mr. McCormack said that he observed that during the day half of the parking lot is available and that there are more empty spaces at night. Mr. Tangeman stated that the parking at the building is for the use of that building. Mr. Tangeman asked if Mr. Sullivan is an owner. Mr. Cosgrove stated yes, one of them. Mr. Tangeman asked if there are lease agreements with the tenants of 600 Warren Avenue. Mr. Cosgrove stated he does not know but it is not material. Mr. Tangeman stated he would like to know if there are agreements with tenants where parking spots have been promised to them. Mr. Cosgrove stated that Mr. Sullivan testified that 15 parking spaces are available. Mr. Cosgrove added that there can be legal conditions with regard to the parking. Mr. Nolan asked Mr. Kitrick about restricting or guaranteeing that parking would always be available at 600 Warren Avenue. Mr. Kitrick stated that there can be conditions of any approval. Mr. Nolan asked if it sold, would it be deeded in. Mr. Kitrick stated that if approved, there could be language in a newly filed deed stipulating that parking would have to be provided. Mr. Cosgrove added that there could be a deed restriction stating the 15 spots would be available. Mr. Cosgrove added that whatever would satisfy the board regarding if 600 Warren Avenue were to be sold could be agreed to.

Mr. Nolan asked what time employees come to work and if they come in the morning would they park at Warren Avenue. Mr. McCormack stated lunch staff and staff who come in at approximately 4:30 as well as night staff which comes on at 6:30 p.m. would go to 600 Warren Avenue. Mr. Martin asked how many employees would be on at the same time during peak hours and holidays. Mr. Cosgrove stated Mr. Sullivan testified previously 25 to 30 employees at the most. Chairman Pearsall asked Mr. McCormack about the office across from the Tap House where Tap House patrons presently park; if there was any discussion with the owners of that building if people will continue to park there as they do now if the application is approved. Mr. Cosgrove stated it is a handshake agreement and is not part of the application. Mr. Cosgrove added that most employees are local and know where to park and would park at 600 Warren Avenue and would not make noise and be disrespectful to neighbors. Chairman Pearsall asked if parking across the street is considered shared parking. Mr. McCormack added that it is not a formal agreement for people to use the lot across from the Tap House but is an example of shared parking. Mr. McCormack stated parking across the street may not always exist. Mr. Tangeman added that at the past application no parking signs were put up at the lot across the street after it was testified to that parking was allowed there. Mr. Cosgrove stated that this new application does not include the lot across the street. Mr. Lobosco asked if there will be outside dining during the day when shared parking could not be used. Mr. McCormack stated that when he looked at 600 Warren Avenue, throughout the day there was consistently 15 spaces available for Tap House employees. Mr. Cosgrove stated seating for outside dining seating would be lunch hour to 9 and the patio area would be empty by 10. Mr. Quinn stated that at the last meeting there was an agreement to place pillars for safety in front of the wall and the time people had to be out of the patio area. Mr. Cosgrove stated whatever was agreed to at the last meeting, would be complied with.

On a motion by Mr. Brendle; seconded by Mr. Quinn, the voice of the public was open for questions of the witness Mr. McCormack

Roll call taken as follows:

All in favor

None opposed

None abstained

Chairman Pearsall asked if the public had questions of Mr. McCormack

Dan Waters, 7 Warren Court asked why the traffic study included the parking spaces across the street. Mr. McCormack stated that was counting the demand, not the number of spaces. Mr. McCormack stated there are now 37 spaces required. Mr. McCormack stated the new patio requires 15 additional spaces and those are the spaces on Warren Avenue. Mr. McCormack added that he feels patrons will not choose to park on Warren Avenue. There is on street parking available that people would probably choose to use rather than going to Warren Avenue. Mr. Waters asked how the employees will be identified when parking at 600 Warren Avenue. Mr. Waters asked if employees could have something to identify themselves as employees of the Tap House shown in their vehicles. Mr. McCormack stated that is a good idea. Mr. Waters stated he would like to see a condition of any approval include that there is no valet parking allowed. Mr. Waters stated there were illegal spaces with two trolleys, a bus and cars that exist in the parking lot and do they count as available spaces. Mr. McCormack stated the trolleys' parking spaces were included as available spaces. Mr. Waters asked about lighting. Mr. McCormack stated he did not look at lighting. Mr. Cosgrove added that employees could have something to show they are employees and can park in the lot.

Sharon Davis, 6 Warren Court asked how the overflow parking referred to in the application will be handled. Mr. Cosgrove stated it is in the application, but it will be only employee parking. Mr. Cosgrove added that it has been agreed to that it will be used for only employee parking

Don Eilenberger, 1213 Pond Road asked if either building is no longer co-owned; either the Tap House or the office building gets sold, what happens to the deed restriction and its enforcement; he does not feel it is enforceable. Mr. Cosgrove stated it would run with 600 Warren Avenue. Mr. Brendle asked if the Tap House would also have a deed restriction. Mr. Kitrick stated a requirement can be made that both deeds reflect that. Mr. Eilenberger asked if tenancy of the building can be restricted to tenants that leave at night. Mr. Cosgrove stated that there would be some legal document showing 15 spaces at 600 Warren Avenue to be used for shared parking will be available.

Greg Schneider, 601 Passaic Avenue stated he lives directly behind the lot at 600 Warren Avenue. Mr. Schneider asked Mr. McCormack about the 25 employees being needed during peak hours. Mr. Schneider

stated that holidays run Thursday to Monday. Mr. Schneider said that the lot on Warren Avenue is full due to a limo bus and two trolleys parked sideways so how will 15 spots be provided for 25 employees. Mr. McCormack stated employees will also park on the street and across the street from the Tap House. Mr. Cosgrove stated a lot of their employees are local but there will be 15 spots for employees. Mr. McCormack stated they do not all drive. Mr. Schneider asked if the existing parking is short. Mr. McCormack said yes. Mr. McCormack added that 37 spots are required and 30 exist. Mr. Cosgrove stated that the patio requires 15 spots. Mr. Schneider asked if that includes employees. Mr. McCormack said yes. Mr. Schneider stated that the lot is full during the day and does empty out at night. Mr. Nolan asked if they move the trolleys would they have enough spots. Mr. Schneider said the trolleys move in and out all night; that there is revving engines, cigarettes, music and their lights shine into his bedrooms. Mr. Schneider said there are two trolleys, one limo bus and 2 vehicles parked over night. Mr. Cosgrove stated the 2 vehicles which belong to Mr. Sullivan and 1 trolley would be moved as a condition of any resolution. Mr. Schneider asked if the no parking signs put up across the street from Tap House are for liability purposes. Mr. McCormack said he does not know but assumes yes. Chairman Pearsall asked if the signs are still there. Mr. McCormack said yes. Mr. Schneider asked if there would be signs at 600 Warren Avenue saying no private parking. Mr. McCormack said there are no plans but if necessary, they could be put up.

Linda Gargiulo 557 Mercer Avenue asked where the offsite parking is. Mr. McCormack explained where the parking on 600 Warren Avenue is in relation to the Tap House. Ms. Gargiulo asked if people could park on Sussex or other streets, so that her street is not a parking lot. Mr. McCormack stated the 15 spots for employees would help alleviate that. Mr. McCormack added that when parking is allowed on street parking is hard to regulate. Ms. Gargiulo asked if employee parking can be mandated at the train station. Mr. McCormack said it cannot be mandated; it is owned by New Jersey Transit. Mr. Kitrick said that is controlled by NJ Transit. Ms. Gargiulo stated it is not policed so people can be told to park at the train station. Mr. Martin stated employees are the only ones that can be directed where to park. Ms. Gargiulo stated she is a taxpayer, taxes go up every year and the application allows a business to take over a neighborhood.

Greg Schneider, 601 Passaic Avenue asked if the goal is to alleviate parking in the Tap House parking lot. Mr. McCormack said the goal is to provide the required 15 parking spots for employees to park at 600 Warren Avenue. Mr. Schneider asked if they are taking a parking issue from one spot in town to another. Mr. Schneider asked what happens when 25 employees are talking, playing music, making noise and starting their cars. Mr. Cosgrove stated there has been no testimony stating that. Mr. Cosgrove added there are 15 parking spots, not 25. Mr. Schneider said that employees will be walking through the residential neighborhood making noise and going into the lot surrounded by houses. Mr. Kitrick asked Mr. Schneider if he is asking Mr. McCormack if he has an opinion about employees coming to the parking lot late at night and additional noise being created by that. Mr. McCormack stated that there will be noise of people getting into their cars after working a long night to go home.

On a motion by Mr. Waitzel; seconded by Mr. Quinn, the voice of the public was closed

Roll call taken as follows:

All in favor

None opposed

None abstained

Mr. Tangeman stated that he found information in the borough files that he would like to discuss concerning two code denials from July of 2014 and March of 2015 regarding the Tap House's sign size and that both denials stated to see the Zoning Board of Adjustment for a variance. Mr. Tangeman added that in March of 2016 Tap House came to the board for outside dining and they did not ask for a variance for the sign. Mr. Tangeman added that a member of the public stated at that time that the sign looks like a billboard. Mr. Tangeman added he is concerned that there are two outstanding variance denials that have not been addressed; there are two notifications that the sign is too big. Mr. Tangeman added that he wanted to ask Mr. Sullivan about that. Mr. Cosgrove stated that Mr. Sullivan was before the board at the last meeting and he was not asked about the sign. Mr. Tangeman stated he did not have the information at that time. Mr. Cosgrove stated to his understanding, the applicant met with the code officer and the sign is not an issue. Mr. Cosgrove added that if it is an issue, they would address it. Mr. Cosgrove added that the sign is not part of this application. Mr. Cosgrove added it would be arbitrary and capricious during this application to bring up an issue that is not part of the application. Mr. Cosgrove stated the application is for outdoor dining; testimony has been presented on that. Mr.

Tangeman stated he did not know when Mr. Sullivan was at the previous meeting that the sign was an issue. Mr. Kitrick stated that the application was deemed complete. The board is to deal with the application that is before them. Mr. Kitrick added that whether the application is approved or not approved, if the sign is an outstanding issue, the code enforcement official can be made aware of it. Mr. Martin stated that the sign should be addressed at another time. Mr. Kitrick stated the sign can be addressed in another forum; the sign is not part of the application.

Mr. Brendle asked Mr. Merunka if anything can be done on the north end of the property at 600 Warren such as shrubs to help with headlights from vehicles in the parking lot. Mr. Merunka stated a fence or shrubs can be added to help with that. Mr. Cosgrove stated the applicant would agree to add landscaping to that area.

Mr. Martin asked if the applicant cannot use 600 Warren Avenue for parking, would they demolish the house next door to the Tap House and use that as a parking lot. Mr. Cosgrove stated yes. Mr. Cosgrove added that the applicant thought 600 Warren Avenue was preferable to demolishing the house adjacent to the Tap House to neighbors.

Mr. Tangeman stated that benefits outweighing detriment is the standard. Mr. Tangeman stated the owner of the Tap House and the public who use outdoor dining will benefit. Mr. Cosgrove stated there was testimony that it would look nice, people look for outside dining, neighboring towns have outside dining, so it is not just a benefit to the owner; it is also a benefit to the community. Mr. Tangeman stated the detriments are what people have mentioned; noise, overparking, no room on the street so the decision is to see what outweighs the other.

Mr. Kitrick stated yes, after hearing all the testimony that is part of the deliberation.

On a motion by Mr. Brendle, seconded by Mr. Waitzel, the voice of the public was open for comments

Mr. Kitrick stated this is the comment period so testimony will be sworn.

Roll call taken as follows:

All in favor

None opposed

None abstained

Gregory Schneider, 601 Passaic Avenue sworn by Mr. Kitrick.

Mr. Schneider stated he has lived in town 6 years and is involved with coaching in the community. Mr. Schneider stated he has 3 sons and his wife is pregnant. Mr. Schneider added he has improved his property. Mr. Schneider added that he is vested in the situation. Mr. Schneider referred to a Coast Star article referencing outside dining by Mr. Durkin. Mr. Schneider stated this is not a shore community. Mr. Schneider stated it is a small, quiet family town. He stated there is no benefit to the outdoor dining at the Tap House. Mr. Schneider said it means there would be more traffic, noise and require extra parking. Mr. Schneider asked the board what benefits the town gets from passing the variance. Mr. Tangeman stated after hearing what everyone has to say, the board needs to figure that out. Mr. Schneider described the plantings and a shed that back up to 600 Warren Avenue from his property. He added when employees leave 600 Warren Avenue in the winter, the lights from their vehicles shine in his house. Mr. Schneider stated he has never complained about the trolleys that come in and out during the night; they are loud and noisy. Mr. Schneider added they idle their engines, play music and that employees use their phones. Mr. Schneider stated approving the application will affect people who live in town. Mr. Schneider said he feels bad for people who live on Mercer Avenue. Mr. Schneider said the applicant is moving the parking issue from one part of town to another. Mr. Schneider stated there are 4 houses on Passaic Avenue and it is not fair for them to have the noise. He added Tap House is already over their parking requirements. Mr. Schneider stated the town does not need outdoor dining. He asked who will monitor the patio emptying at 10 and the noise in the parking lot when employees are talking about their night. He stated the police should not have to do it.

Jim Haines, 611 Mercer Avenue sworn by Mr. Kitrick.

Mr. Haines stated he has lived on Mercer Avenue full time for 8 years and has lived in town 10 years. He commented he respects the board and the police. He opposes the outdoor dining at the Tap House. Mr. Haines stated he cannot believe a residential lot on his street can be demolished and turned into a parking lot. He mentioned ordinances are there for a reason. Mr. Haines added that he would expect his taxes to be lowered if a parking lot is put where a house is. Mr. Haines stated the town does not enforce noise ordinances now. He has called the police and it has not helped. Mr. Haines stated patio hours and minimal outdoor dining would not be enforced either. Mr. Haines stated the bar is out of control. Mr. Haines added that there is garbage on the street, noise on the street; screaming by patrons, the traffic is not normal and it is dangerous. Mr. Haines commented that there was a break in on the street by a drunk and disorderly person. Mr. Haines asked if the

board was concerned with safety with seating on the highway. Mr. Haines stated he does not want the town to be a Seaside Heights or Belmar. Mr. Haines added if the board approves the application, it may affect other bars in town. He feels the application has no benefit to the town and only benefits the Tap House. Mr. Waitzel asked if the adjacent property next to the Tap House is zoned so that it could legally be torn down and have a parking lot put in. Mr. Lobosco stated it is zoned to allow a parking lot but there is an issue with buffers.

Sharon Davis, 6 Warren Court sworn by Mr. Kitrick

Ms. Davis stated that there are 8 condos on Warren Court. Ms. Davis stated that 600 Warren Avenue was previously a watch repair business and was quiet. Ms. Davis described the property and its fence. Ms. Davis stated the shuttle busses and their idling and noise that they create is horrible and has been a problem. Ms. Davis stated that she is concerned that the sign situation brought up by Mr. Tangeman was never taken care of. Ms. Davis stated she does not think they would abide by employee parking only. Ms. Davis stated the Tap House closes at 2:00 and employees would be walking through to 600 Warren Avenue at 2:30 in the morning making noise. Mr. Kitrick stated that if the application is approved, there would be conditions incorporated into the resolution. Ms. Davis mentioned Wintron may be a good idea for the Tap House to buy and knock down and use for a parking lot.

Rich Gaeta, 604 Mercer Avenue sworn by Mr. Kitrick.

Mr. Gaeta stated he lives very close to the Tap House. Mr. Gaeta stated there is screaming and yelling late at night as they walk toward the train station. Mr. Gaeta stated that patrons leave garbage and broken bottles on his property which he cleans. He added his daughter no longer comes to town on weekends due to parking and noise from the Tap House. Mr. Gaeta stated he has had a stranger park in his driveway. Mr. Gaeta stated that he has woken up to police in the street; it was a patron who went into a house. Mr. Gaeta stated the Tap House currently does not have enough parking. Mr. Gaeta added that the sign is huge; it always bothered him. Mr. Gaeta stated that the parking spaces next to the building are dangerous and wonders if the town approved the parking. Mr. Gaeta stated the existing parking is not safe for backing up out of the space. Mr. Gaeta stated he would like someone from the town to look at the parking. Mr. Gaeta stated he feels allowing parking at Warren Avenue would just create a parking issue for that part of town. Mr. Gaeta stated he is across the street 5 houses down from the Tap House. Mr. Kitrick said that the site has been a bar/restaurant for many years and the parking was approved many years ago before the present owner bought the property. Mr. Kitrick added that the sign is not before the board tonight. Mr. Kitrick added that there are town Enforcement can help with that. Mr. Nolan asked if it was different with the Porch and why. Mr. Gaeta stated yes; it was more of a local bar; it would empty out by 10 usually. Mr. Gaeta added that there was never cars parking on the street when it was the Porch.

James Murray, The Arbors, 550 Warren Avenue sworn by Mr. Kitrick

Mr. Murray asked if there is a deed restriction on a property and a variance on one property being tied to another property that requires variances on both properties should 600 Warren Avenue be coming to the board with their own variance. Mr. Kitrick stated no. Mr. Kitrick added this would be shared parking. Mr. Murray stated he feels any change of ownership or tenants can create problems. Mr. Murray stated he feels the situation is a house of cards. Mr. Murray said that the Arbors faces Warren Avenue and the office building. The office is a good neighbor but at 2:30 in the morning with employees talking, it would affect the quality of life for the Arbor residents who face the parking lot. Mr. Murray feels it makes more sense to use the adjoining lot on Mercer Avenue which is commercially zoned and is in conformance for a parking lot.

Don Eilenberger 1213 Pond Road sworn by Mr. Kitrick.

Mr. Eilenberger stated the board is facing a positive/negative criterion, a use variance, a D class variance, and it is the most serious variance. Mr. Kitrick stated it is not a use variance. Mr. Kitrick added that the board does have to satisfy the positive/negative criteria. Mr. Eilenberger said he has not heard any positive criteria. Mr. Eilenberger stated there have not been any neighbors who stated this is a good idea. Mr. Eilenberger stated walking to 600 Warren Avenue from the Tap House using either Warren Avenue or 71 is dangerous. He added that the application is not good for Spring Lake Heights. Mr. Eilenberger said that he sees no advantage or reason to approve outside dining.

Dan Waters, 7 Warren Court sworn by Mr. Kitrick

Mr. Waters stated that the lights and noise from the trolleys is not a benefit to the neighborhood or the town. Mr. Waters stated that he is concerned that there is no ordinance for or against outside dining. Mr. Waters described his experience with Spring Lake and outside dining with his own business. Mr. Waters stated music at the Tap House on the patio may become an issue in the future.

Mr. Waters added that he feels there would have to be a review to restrict valet parking, people walking across the street and adding any new lighting coming into 600 Warren Avenue. Mr. Waters stated he cannot find any benefits to the neighborhood or town if employee parking is allowed on Warren Avenue. Mr. Nolan asked Mr. Waters if he would trade the busses for cars. Mr. Nolan added that without a resolution approving the application, the board cannot address the busses and trolleys. Mr. Waters stated he cannot answer the question. Mr. Kitrick stated that Mr. Nolan is making the point that if the application is approved by the board, the board can control the trolley issue. Mr. Waters described the location of his unit as the next-to-last unit next to 600 Warren Avenue.

Carol Keller, 558 Mercer Avenue sworn by Mr. Kitrick.

Ms. Keller stated she is concerned with not only traffic but the entrance and exit off of 71 on to Mercer Avenue, as well as into the Tap House parking lot. Ms. Keller added that the sight lines for turning onto 71 as it currently exists is not good and is concerned with umbrellas making it worse. Mr. Merunka stated that any sight requirements and standards are complied with with the expansion of the patio. She added that even turning off 71 onto Mercer is a safety issue with cars parked at the Tap House.

June Labaj, 1 Warren Court sworn by Mr. Kitrick

Ms. Labaj stated she has lived in town her entire life; her family built the Warrentown Condos. Ms. Labaj stated she agrees with all of the objections stated by anyone from the public who commented. Ms. Labaj added she does not know why anyone would want to eat on Highway 71. Ms. Labaj stated traffic currently backs up to the Tap House.

Greg Schneider 601 Passaic Avenue asked if 9 is the last table seating and they have to be out by 10, but DJ George comes on at 10, if people are not done eating on the patio, what happens. Mr. Schneider asked will noise come out on to the patio when the doors open for servers. Mr. Cosgrove stated that at the last hearing there was testimony that no one will be seated outside past 10. Mr. Schneider stated it is not realistic that the patio would be cleared out if people are eating outside. Mr. Cosgrove stated that it was testified to that people will be out by 10. Mr. Kitrick said that there was testimony that if people were eating outside at 10:00, they would be brought inside. Mr. Schneider said that is not believable. Mr. Martin asked if people were outside at 10, that would not be up to code. Mr. Schneider asked who will enforce that. Mr. Nolan asked Mr. Schneider if he would trade the trolleys for cars. Mr. Schneider stated both are bad. Mr. Nolan said there is no way for the board to get rid of the trolleys without a resolution.

Sharon Davis, 6 Warren Court asked why Mr. Nolan was asking if people prefer trolleys or cars. Mr. Kitrick explained the authority of the board when a resolution is written and the ability to have conditions of approval. Mr. Kitrick explained if there is not a resolution, enforcement falls under the code official in town. Ms. Davis said she would like to have the neighborhood polled to see which they would prefer. She added they do not know the unknown. Ms. Davis stated she hopes the application does not pass. She added she already knows the trolley situation but does not know what it would be like if the trolleys were replaced with cars parking. Mr. Tangeman stated if the board approves the application; that is the only way the board can address the trolley situation. Mr. Kitrick stated the board is not an enforcement mechanism. Mr. Kitrick added that whatever the board decides, things are enforced through code enforcement. Ms. Davis stated that the trolleys are terrible. Ms. Davis stated she does not want the responsibility of deciding if the trolley or the approval of the application is better or worse. She added it is comparing what she does know and does not know; she does know that the trolley is a nightmare. Chairman Pearsall asked Ms. Davis if she has done anything regarding the trolley situation. Ms. Davis stated she asked the new code officer within the past eight weeks to look into it.

Jim Haines, 611 Mercer Avenue stated it is unfair for the board to pit Mercer Avenue against Warren Avenue. Mr. Haines added that there are different complaints with parking for the different areas. Mr. Haines added that the board is doing a good job. Mr. Tangeman stated the board can control things if an application is approved and cannot if the application is not approved. Mr. Tangeman added that the board is not trying to pit anyone against anyone else. Mr. Martin stated this is a difficult situation

On a motion by Mr. Quinn, seconded by Mr. Martin the voice of the public was closed

Roll call taken as follows:

All in favor

None opposed

None abstained

Mr. Cosgrove stated that 810 Highway 71 is looking to construct an outdoor 13 by 54 dining area on Route 71. Mr. Cosgrove added people have stated they do not want to eat on 71, but people do otherwise the applicant would not want it there. Mr. Cosgrove added a bar/restaurant is a permitted use; it has been for many years. Mr. Cosgrove stated that tearing the house down on the adjacent lot and putting in the parking lot as well as outdoor dining does not require a use variance. Mr. Cosgrove added that tearing down the house is not before the board. Mr. Cosgrove stated a lot of the testimony from the public has to do with things not before the board. Mr. Cosgrove added that there is nothing that currently prevents employees from parking at 600 Warren Avenue. Mr. Cosgrove asked the board to focus on the two bulk variances; one for parking and one for lot coverage. Mr. Cosgrove added that there are existing nonconformities with both. Mr. Cosgrove stated that the variances are not severe. Mr. Cosgrove said that the applicant is proposing making things better than what currently exists. Mr. Cosgrove added that outdoor dining is a benefit to the community; Mr. Cosgrove stated that the two bulk variances being requested would provide a nice-looking outdoor area for the public and that the 15 additional spots using shared parking is encouraged by zoning law. Mr. Cosgrove stated that the sign mentioned by a board member should not be considered by the board since it is not part of the application. Mr. Cosgrove added that the public commented on it and that was not fair to applicant. Mr. Cosgrove stated that the application's benefits outweigh the negatives. Mr. Cosgrove stated that the application should not be denied based on concerns raised by residents that the town is more crowded than it used to be. Mr. Nolan asked Mr. Lobosco if storm runoff and drywells were discussed. Mr. Lobosco stated for the patio area, yes. Mr. Lobosco added that it was a very small area of additional impervious coverage. Mr. Nolan asked if roof runoff could be included. Mr. Merunka stated that it was designed for the front half of the building on 71 and the patio impervious area, as well as a trench drain in the patio area to catch runoff.

A motion was made by Mr. Tangeman to deny the application. Mr. Tangeman added that the applicant has not shown that the benefit outweighs the detriment. Mr. Tangeman stated that the parking has not been resolved, it seems cars are just being moved around. Mr. Tangeman added that people have spoken against the application;; the motion was seconded by Mr. Brendle.

Roll call taken as follows:

Mr. Brendle: Voted yes on the denial. Mr. Brendle stated that the detriment is greater than the benefit and that the only benefit is the enhanced streetscape. Mr. Brendle stated that the Tap House is already busy and the application is seeking to expand further. Mr. Brendle stated that parking is still not figured out and that the existing handicap spaces are on the borough property.

Mr. Nolan: Voted yes on the denial. Mr. Nolan stated this is a difficult application. Mr. Nolan stated he sees the benefits of approving a different application, but the voice of the public is clearly against this application and that in the future, a deed restriction and the ability to figure out who will monitor what would be hard to figure out.

Mr. Waitzel: Voted no on the denial. Mr. Waitzel feels that most of the public comments at both meetings is that the public does not want the bar to exist. Mr. Waitzel stated he feels the 15 parking spaces have been addressed. Mr. Waitzel stated he does not think it is a detriment to the neighborhood. Mr. Waitzel said that he thinks a good standing business is good for the borough.

Mr. Quinn: Voted yes on the denial. Mr. Quinn stated he does like outdoor dining, but the Tap House is not the place to have it. Mr. Quinn feels that people walking down the street at 2:30 in the morning from the Tap House to 600 Warren Avenue will affect the neighborhood.

Mr. Tangeman: Voted yes for the reasons stated when making the motion.

Mr. Martin: Voted yes on the denial. Mr. Martin stated it is a respectable business, but there is too much volume, too much activity in a small space. Mr. Martin stated that he does like outdoor dining, but this is not the spot for it.

Chairman Pearsall: Voted yes on the denial. Chairman Pearsall stated that he felt the Arbors' comments, as well as the condo residents' were a consideration. Chairman Pearsall stated 15 cars coming out of the lot at 2:30 in the morning creates taking a nonconformity and moving it over to Warren Avenue which would affect the condos as well as the Arbors' quality of life.

Mr. Kitrick stated the application is denied.

NAYS: None  
ABSTAIN: None

**Adjournment:** On a motion by Mr. Nolan and seconded by Mr. Martin the meeting was adjourned without objection at 9:42 p.m.

**Submitted and Approved:**

Mary Elh Karamus

Date: April 25, 2019