

**Town of Warren
Planning & Zoning Commission
Public Hearing & Regular Meeting
Tuesday, March 10, 2020 – 7:30 PM
Warren Town Hall – 50 Cemetery Road**

Present: Chair: Adam Crane; **Vice-Chair:** Susan Bates; **Regular Members:** Andrew Carollo, Howard Lethbridge, Ryan Curtiss, Paul Prindle; **Alternate Members:** Derek Westfall

Zoning Enforcement Officer: Kathy Castagnetta

Absent: John Papp, Ruth Schnell, Victoria Fossland, Philip Good

Also Present: First Selectman, Timothy Angevine, Land Use Attorney Matthew J. Willis of Halloran & Sage, Members of the Public

1. CALL TO ORDER AND DESIGNATION OF ALTERNATES

The **Regular Meeting** was called to order at 7:30 PM. All regular members were seated for the meeting. The proceedings were recorded digitally, and copies are available in the Land Use office.

2. OPPORTUNITY FOR PUBLIC COMMENT

Mr. Jack Baron of 187 Kent Road – Mr. Baron is concerned about a factory being built next to his property. Chairman Crane explained the public hearing regarding this matter will be held on April 14th and Mr. Baron should come to that meeting. Attorney Willis further explained the public hearing process to Mr. Baron.

3. PUBLIC HEARINGS

None

4. APPROVAL OF MINUTES

a. February 11, 2020, Regular Meeting

MOTION: Vice Chair Bates, second Mr. Lethbridge to **APPROVE** the February 11, 2020 **REGULAR** meeting **MINUTES**

APPROVED: UNANIMOUSLY

ABSTENTIONS: NONE

MOTION: CARRIED

b. February 18, 2020, Special Meeting

MOTION: Vice Chair Bates, second Mr. Curtiss to **APPROVE** the February 18, 2020 **SPECIAL** meeting **MINUTES**

APPROVED: UNANIMOUSLY

ABSTENTIONS: NONE

MOTION: CARRIED

5. OLD BUSINESS

None

6. NEW BUSINESS

None

7. ACCEPT FOR PUBLIC HEARING

None

8. ZONING ENFORCEMENT OFFICER REPORT

Ms. Castagnetta sent via email her report to all Commissioners on March 10, 2020. She verbally reviewed her report with the Commission.

9. CORRESPONDENCE

None

10. OTHER BUSINESS PROPER TO COME BEFORE COMMISSION

a. Discussion with Land Use Attorney Matthew J. Willis of Halloran & Sage regarding revising zoning regulations.

Chairman Crane stated for the record that the Commission has withdrawn the proposed contentious home business/occupation regulation revisions.

Attorney Willis began by explaining the powers of a Zoning Commission as outlined in Section 8-2 of the Connecticut General Statutes. The powers outlined are things like uses, setbacks, etc. Zoning was first adopted in Connecticut in the 1920's. Not every town has zoning. Zoning regulates use of land, not ownership. A Commission decides how to regulate uses in a town.

Zoning regulations allow some uses to be approved by a ZEO, some uses approved by Site Plan Approval of a P&Z Commission, and some uses approved by Special Exception subject to specific criteria and the discretion of the Commission. Zoning Regulations and Zone Changes are adopted when a Commission uses its legislative capacity.

The Commission should think about how it wants the town to look and what uses it wants to encourage.

Variances are approved by Zoning Boards of Appeals. Usually variances are applied for regarding yard setbacks. The ZBA is a relief valve of the zoning process. The legislature is currently considering revising the statutes to make it easier to get a variance.

Attorney Willis then began taking questions and comments regarding Warren's specific regulations. He stated that the North Zone takes up the vast majority of the Town. The Commission needs to consider what uses it wants in the North Zone. To what degree do you want home businesses in your Town? A discussion regarding home businesses ensued.

Attorney Willis stated that it is always a goal of zoning to have regulations that are clear and understandable. The regulations must also be uniform so that everyone in a zone has the same regulations apply to them. Vice Chair Bates asked if the Town should enforce what it has on the books – is it necessary to write the regulations?

It was also mentioned that laws are useless without enforcement. Methods of enforcement were discussed including bringing an enforcement action in court, adopting a municipal citation ordinance to allow for fines, and finally methods for encouraging voluntary compliance. The importance of having good definitions in zoning regulations was discussed.

Attorney Willis briefly discussed the Federal Americans with Disabilities Act and the Fair Housing Act and noted the Town needs to be careful with applications where these terms are mentioned.

The process for approval of a Special Exception was discussed as was the concept of Legal Non-Conforming Uses.

It was mentioned that CGS 8-30g, or the Affordable Housing Statute puts the burden on the Commission to demonstrate why an application should *not* be approved – it is like zoning in reverse.

Coordination of land use approvals, including Zoning, Wetlands, Building, Health and other agencies was touched on.

Mr. Westfall asked if a regulation was not previously enforced, can the Town start to enforce it after allowing a violation to be ongoing? He stated that registering or applying to zoning for approval of a use is important as it can prove it was established prior to any changes in the zoning regulations – it can protect a use.

Attorney Willis discussed the Supreme Court ruling regarding signs and necessary proposed changes to the CGS 8-2 so that it conforms with the US Supreme Court decision.

Vice Chairman Bates asked for a further explanation of non-conforming uses. Attorney Willis stated that "intent to abandon" has become a very important part of determining the legality of a non-conforming use.

Mr. Carollo asked what truly defines home occupation and home business. A discussion regarding home business ensued and it was noted by Mr. Lethbridge that the regulations regarding this has not changed for at least 25 years.

Special Exception guidelines were discussed as were Sections 12 and 23. Mr. Lethbridge discussed the challenge home business operators have with the number of employees, including offsite employees. How many employees can a home business have to keep it as residential – and when does a home business become more than an accessory use? It was discussed that possibly percent of lot coverage may be a way to limit a home business becoming more than an accessory use.

The use of drones and google earth images in the use of enforcement was discussed. Drones are regulated by the Federal Government. Enforcement procedures were discussed.

It was again emphasized that having zoning approval of a home based business adds legitimacy and can provide protection for the business from future changes in the zoning regulations. Attorney Willis stated that approval of a ZEO is needed for some state permits for certain types of businesses.

The Commission thanked Attorney Willis for his participation in the meeting and Attorney Willis left around 8:30pm.

b. Change in Land Use Office Hours

Mrs. Castagnetta mentioned the new land use office hours are Tuesdays and Wednesdays from 9am to 1pm.

c. Site Walk: Application of Paul Szymanski, P.E. Special Exception – Kent Road, Map 21, Lot 27

Mrs. Castagnetta passed out agendas for the Site Walk scheduled for March 16th at 3:30pm. She explained the protocol for site walks – that there should be no comments or questions asked. The purpose of the site walk is to view the property and the applicant's engineer will point out site features. Commissioners were also reminded about public hearing procedures and that they should not discuss the application with members of the public or each other outside of the public hearing meetings.

9. ADJOURNMENT

MOTION: Vice Chair Bates, second Mr. Lethbridge to **ADJOURN** the meeting at 8:35 PM

APPROVED: UNANIMOUSLY

ABSTENTIONS: NONE

MOTION: CARRIED

Respectfully submitted,

Kathy Castagnetta
Land Use Officer