

TOWN OF WARREN
PLANNING & ZONING COMMISSION
50 Cemetery Road, Warren, Connecticut
Regular Meeting Minutes

Tuesday, November 10, 2020 at 7:30 p.m.

Via Zoom Videoconference (see below for entire recording)

1. Call to Order and Designation of Alternates

Chairman John Papp called the meeting to order at 7:38 p.m. On Zoom were Paul Prindle and Alternate Ruth Schnell (seated for Phil Good). Present in the downstairs conference room at Town Hall were Jack Baker, Ryan Curtiss, Derek Westfall, Victoria Sahadevan Fossland, and Alternate Debora Ouellette (seated for Andy Carollo). Also present was Richelle Hodza, ZEO and recording secretary. Joanne Tiedmann, the video-conference monitor signed off from the meeting after setting it up and turning the controls over to the commission.

2. Public Hearings - none

3. Approval of Minutes

Mr. Baker made a MOTION to approve the minutes of the October 13, 2020 Continued Public Hearing and Regular Meeting; Dr. Sahadevan Fossland SECONDED; the minutes were APPROVED by affirmative votes from Mr. Papp, Mr. Baker, Dr. Sahadevan Fossland, Mr. Westfall, Ms. Schnell, and Mr. Curtiss. Ms. Ouellette abstained, since she was not yet a member when the October meeting was held.

4. Old Business

Continued commission discussion and deliberations in the matter of Paul Szymanski, P.E., for applicant, **Sawing High Climbers, LLC**, Emma Lozman (Plumb), Member, 69 Davis Road, South Kent, Connecticut / **Kent Road, Map 21, Lot 27** in the North Zone / **Special Exception and Site Plan Applications under Section 24 to allow construction of a 50' x 80' barn to store equipment, with office, driveway, well, sanitary system, related grading, and appurtenances** on property owned by The Living Trust of Theodore E. Theodorsen and Mary Irene Theodorsen, 56 Old Ox Road, Manhasset, New York.

Ms. Ouellette recused herself owing to her public opposition to the application.

Chairman Papp asked Ms. Hodza to read the advisory letter dated October 29, 2020 and written at the request of the Commission by the Town's Land Use Attorney Matthew Willis.

Chairman Papp asked each member to speak. Mr. Westfall was generally not in favor of approving the application owing to his belief that the application did not meet the regulations.

Mr. Baker spoke in favor of the application being of the opinion that the kind of business described by the applicant was indeed a kind of professional business. He viewed the accreditations and licenses obtained by Mr. Plumb to be similar to those required of an engineer. Like an engineer, an arborist's – perhaps a "tree doctor" – has specific knowledge which is called upon to assess presenting problems and to find remedies. Mr. Baker also felt that the nature of the Plumbs' business would exert a much less intense use of the property than a manufacturing facility or other business. Mr. Baker reckoned that the trucks, which have been brought up as the primary cause of activity on site, take up less room than the 1,000 sq ft office in a 4,000 sq ft building. So, the size of the building relative to that portion allotted office space was a weak argument. Mr. Baker acknowledged the neighbors' concerns regarding the noise of the trucks.

Dr. Sahadevan Fossland felt that the question of whether the arborist's business is a professional office is arguable. Many kinds of vocations require certification, licensure and proof of ability and Dr. Sahadevan Fossland stated that she did not doubt that an arborist is a kind of professional having to maintain certification and even meet certain standards. On the other hand, Dr. Sahadevan Fossland reiterated the commission's task: to interpret and apply the regulations using one's best understanding of what was intended by those who wrote and approved them. She stated that one of the things that the professions listed by name had in common was that they are quiet professions, citing a doctor's office as an example. That an arborist is specifically listed under types of contractor's shop and storage and not under professional office was compelling. The contractor shop and storage is a secondary use by an individual who conducts his or her trade primarily off premises. Dr. Sahadevan Fossland then spoke about the use in terms of size and intensity and was concerned that the proposed business may adversely impact, or be detrimental to the surrounding properties, recalling the site visit during which at least one of the neighbor's houses could be clearly seen even before development. Dr. Sahadevan Fossland felt that there had not been adequate assurances, aside from setbacks, in terms of reducing noise and light pollution and hours of operation. Finally, while we want to encourage new businesses and new families the applicants have stated that they are not moving to Warren. Dr. Sahadevan Fossland concluded by stating that she leaned toward not approving the application.

Mr. Curtiss felt that the proposed use of the site as a professional office was a definition that was met by the Plumbs. He stated that the use would be less intense than if a residence were to be built on the property and that if a residence were built, it would be large with views of the pond and likely involve significant landscaping. The proposed structure is less obtrusive and the impact of the business seemed lower than almost anything else that could be built there.

Mr. Prindle stated that he has been involved in the Town and with its various commissions for thirty-five years. He was of the mind that it has always been the intention of the regulations to allow a business, such as an excavator, as an accessory to a dwelling in which the people live full time. He stated that there are many of these in Town.

Ms. Schnell stated that she did not think that the business was a professional office; rather that the proposed office was just a place where records would be kept. She was also concerned about the noise.

Mr. Papp stated that he did not think that the application falls under Section 24.0. If the Commission, in writing its regulations had wanted to include "arborists" under professional offices, it would have done so, just as it had done under "contractor shop and storage." He also felt that if the Commission were to allow arborists under this section, a Pandora's box would be opened, with untold types of businesses claiming to fit the definition. Mr. Papp stated that there was no doubt in his mind that the Plumbs are professionals; every arborist he had met had been professional. We are not here to vote on the Plumbs, however, we are here to decide on the use that they are proposing and whether it is what the regulation intended. Mr. Papp noted that the special exception outlives the applicants. He did not think that Section 31.5 even needed to be addressed since, in his opinion, the criteria imposed by Section 24.0 had not been met.

Chairman Papp invited a second round of deliberations. Mr. Westfall stated that he is a contractor. He questioned why there was no mention of contractor shop and storage apart from as a definition.

Ms. Hodza stated that these uses are allowed as secondary to a residence and fall under "home occupation." Ms. Hodza asked whether Mr. Papp had been involved with recent historical attempts to write or rewrite the regulations with regard to contractor shops with storage and home occupations. It was

recalled that attempts to address these uses had been recurrent even before he was on the Commission.

Mr. Baker stated that presently, there is room for interpretation and that the decision is at the Commission's discretion. He reiterated that this was why he was able to determine that the arborists' business described by the Plumbs does fall under the definition of "professional office," similar to an engineer, designers, and other people who work on and off the premises. Mr. Baker agreed that vagueness needed to be addressed. He stated that the Zoning Commission does not regulate noise. Ms. Hodza stated that Mr. Baker is correct; however noise can generally be considered to affect well-being and personal enjoyment of one's property.

Mr. Curtiss felt that the proposal was not merely for a contractor shop and storage type operation because the business office was going to be on site as well. It was not a place to store tools and equipment only.

Mr. Baker made a MOTION to APPROVE the APPLICATION for special exception to allow the construction of a 50' x 80' barn to store equipment, with office, driveway, well, sanitary system, related grading, and appurtenances WITH THE FOLLOWING CONDITIONS: a) that ample evergreen trees will be planted and maintained to obscure the visible structure and storage area from view by neighbors, (b) noise will be abated when possible; and c) full cut-off lighting with motion sensors will be installed.

The motion was SECONDED by Mr. Curtiss. Mr. Papp called for individual votes:

Mr. Baker: Yay

Mr. Curtiss: Yay

Mr. Westfall: Nay

Dr. Sahadevan Fossland: Nay

Mr. Prindle: Nay, without prejudice

Ms. Schnell: Nay

Mr. Papp, Nay

The APPLICATION was DENIED by a vote of 5 against, and 2 for approval with conditions.

5. New Business

- a. ZA# 20-35 Mike Lauretano, Regatta Dock Systems, Applicant, on behalf of Co-Trustee, Thomas M. Yamin, *et al.*, 50 East 89th Street, Apt. 14C, New York, New York, 10128 / 14 Arrow Point Road / Application to replace existing dock with new dock system.

Mr. Lauretano presented the proposal for the replacement of an existing dock with a larger dock. After questions it was determined that more information would be required, in particular, an A-2 survey showing the shoreline and a site plan. Because the proposed new dock was greater than 360 square feet, Mr. Papp requested that Mr. Lauretano submit an application for a Special Exception. Mr. Lauretano stated that he would be in touch with the ZEO and thanked the Commission for its time.

- b. ZA# 20-36 Hendrik ("Henk") E. Dalmeyer / 220 Kent Road / Application for Home Occupation to operate a painting business

Mr. Dalmeyer described his painting business and the contents of the application as well as the site and buildings thereon. It was determined that more information was required and that because it was an application for a Home Business, a Public Hearing was needed and a Site Walk would be required.

Mr. Baker made a motion to set the PUBLIC HEARING for January 12, 2021 at 7:30 p.m. Dr. Sahadevan

Fossland Seconded; the motion carried.

Mr. Papp made a motion to hold a SPECIAL MEETING AND SITE WALK on December 5, 2020 at 9:00 a.m. Mr. Baker SECONDED; the motion CARRIED.

- c. Preliminary Presentation – Jessica Marullo (Dell'Aera), Applicant, and Civil One Engineering, Applicant's Agent, on behalf of property owner Michael Dell'Aera / Corner of Hopkins and Curtiss Roads, Map 8, Lot 44, 16.7 acres, more or less / Application for a three- or four-lot subdivision.

Ms. Marullo presented her ideas for a subdivision of the property. The applicant's engineer was not present. This was not a formal application at this time; however, Ms. Marullo explained her plans, which had been drawn up by Civil One Engineering of Woodbury. Dr. Sahadevan Fossland brought up the issue of Hopkins Supply, a water company serving nine houses. Ms. Marullo stated that TAHD had already approved one of the lots for a well. Ms. Hodza stated that she had been alerted to the existence of this water company which is registered with the State Public Health Department and said that Ms. Marullo would have to show that her plans comply with State regulations regarding such small water companies. Ms. Marullo agreed to ask her engineers to look into the matter.

6. Other Business Proper

- a. Search for Alternate to fill vacancy left by Victoria Sahadevan Fossland (Voted to Regular Member at Town Meeting) on October 15, 2020, and possible proposal of Michael Zimet of 45 Mountain Lake Road.

Ms. Hodza stated that Mr. Zimet had expressed an interest at the Annual Town Meeting in joining the Commission. He had introduced himself publically to those present at that meeting and Ms. Hodza had spoken to him privately afterwards. Mr. Baker, who had also seen Mr. Zimet at the Annual Meeting made a MOTION to appoint Mr. Zimet as an alternate to finish out the vacancy. Ms. Ouellette SECONDED. The motion CARRIED.

- b. Finalization of Commission Member Training Session(s) with Attorney Michael Zizka

Members agreed that Tuesday, December 1, 2020 would be a Special Meeting at which Mr. Zizka would offer training to the Commission with the opportunity for public participation. A MOTION was made to call the meeting; the MOTION was SECONED by Mr. Curtiss; the motion CARRIED.

- c. Review of, and vote on, proposed regular monthly meeting dates for the year 2021

Ms. Hodza presented the meeting dates for 2021. Mr Prindle MOVED to approve the list; Ms Schnell SECONDED; the motion CARRIED.

- d. Other, if any, to be added by 2/3 vote

A MOTION was made by Dr. Sahadevan Fossland to add a discussion of the need for monitoring and follow up of implementation of the goals of the POCD vis-à-vis the zoning regulations. Mr. Baker SECONDED. The MOTION CARRIED and a discussion followed. It was determined that a subcommittee would not be needed, but that the POCD should be an item on every regular agenda. A MOTION to add the POCD to

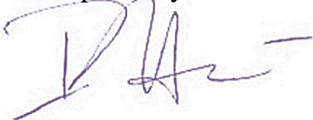
every agenda was made by Dr. Sahadevan Fossland, SECOND, Ms. Ouellette, motion was APPROVED.

A MOTION was made by Dr. Sahadevan Fossland to add a discussion of the need for assistance by the Land Use Officer. Ms. Ouellette SECONDED. The motion CARRIED. A discussion ensued. Dr. Sahadevan Fossland offered to write a letter to the Board of Selectman re same. Mr. Papp made a MOTION to authorize Dr. Sahadevan Fossland to draft the letter; Ms. Ouellette SECONDED. The MOTION CARRIED.

7. Zoning Enforcement Officer's Report – None
8. Correspondence Received – None
9. Opportunity for Public Comment – Mr. Tammen was recognized and stated that he was happy to see that the Commission was becoming more professional.
10. Adjournment

Ms. Schnell made a MOTION to ADJOURN the meeting until the next regular meeting on December 8. Mr. Prindle SECONDED. All were in favor, the MOTION CARRIED.

Respectfully Submitted,



Richelle Hodza
Zoning Enforcement
Officer Town of Warren
11/17/2020 4:18 pm

For meeting recording:

https://zoom.us/rec/share/uQKeCvSy-kSjAAc7lpGOku_fzbfazvxd162kWXeFp8oNMCjDeSvuQtO_vmJcUy2I.RwXxWDMypgcR31Vv