



TOWN OF WARREN
PLANNING & ZONING COMMISSION

50 Cemetery Road, Warren, Connecticut

Regular Meeting Minutes

Tuesday, March 9, 2021 at 7:30 p.m.

via Zoom Videoconference (*see below for link to recording*)

Call to Order and Designation of Alternates

Dr. Sahadevan Fossland Vice Chairperson, acting as Chairperson in the absence of such, called the meeting to order at 7:31pm. Present were Jack Baker, Paul Prindle, John Papp, Ruth Schnell, Ryan Curtiss, Debora Ouellette (seated for Mr. Carullo), and Mike Zimet (seated for Mr. Good). Absent were Derek Westfall, Andy Carollo and Phil Good.

Election of Officers

Dr. Sahadevan Fossland stated the chair position remained unfilled. Dr. Sahadevan Fossland stated that Mr. Westfall reportedly is unable to take on the role of chairperson. Dr. Sahadevan Fossland NOMINATED Mr. Jack Baker as the Chair, Mr. Zimet SECONDED the nomination. A vote was held all were in favor, Mr. Baker accepted the position. Dr. Sahadevan Fossland turned the meeting over to Mr. Baker.

Additions to the Agenda (none)

Approval of Minutes of February 9, 2021

Mr. Prindle made a MOTION to approve the minutes from the regular meeting held on February 9, 2021, Dr. Sahadevan Fossland SECONDED the motion; all were in favor. The MOTION CARRIED.

Old Business (none)

New Business

A) ZPA #21-09 / Peter Downs / **24 North Kent Road**, Map 26, Lot 4 / Proposed construction of a 40 x 50 x 16-foot storage barn and existing non-permitted driveway. Mr. Baker allowed the applicant Mr. Downs to speak. Mr. Chairperson and Ms. Hodza clarified that the application is that of the barn and during conversations with Mr. Downs it became evident that there existed a second driveway on the property. Ms. Hodza stated that the application is specifically for the barn; however, the barn cannot necessarily be approved without the commission addressing the driveway. Mr. Baker asked if the barn would be accessible without the non-conforming driveway. Mr. Downs stated it was not. Ms. Hodza stated that while the zoning regulations and calculations show that the barn would be allowed, however with the addition of the drive in 2014 it has caused concern for approval of the present application. Mr. Downs stated he had spoken to the selectman at the time of adding the drive however seemingly the final step of approval had not been taken. Ms. Hodza asked if he was referring to Mr. Nelson, Mr. Downs stated he believed it was Mr. Nelson however Mrs. Downs stated it was Mr. Jack Travers who was the selectman at the time. Mr. Downs stated that at the time Mr. Josh Tanner was replacing a culvert in the area which ran under his driveway, verifying that the town had been aware of the drive. Ms. Hodza stated that at the time Mr. Nelson was the land use officer for the town of Warren as well as the first selectman, and Mr. Tanner as the foreman of public works also in a sense informally approved the drive. Ms. Hodza explained that the formality of the paperwork had not been done, and the only record within the land use office of the installation of this driveway is historical Google image maps. Dr. Sahadevan Fossland asked if the barn would be coming off the longer driveway approaching the house. Mr. Downs stated that was true. Dr. Sahadevan Fossland disclosed a relationship with the Downs family having known and worked with them for some years but stated it would not affect how she would vote. Dr. Sahadevan Fossland

asked if the application is then requesting both the approval of the driveway and the approval of the barn. Ms. Hodza stated that the commission could approve the barn, which is what the application is specifically for, with the condition that the driveway is approved. Dr. Sahadevan Fossland asked what the purpose is of separating the two. Ms. Hodza stated that if the commission does not approve the driveway tonight or decides to deny it, Mr. Downs would be able to go to the Zoning Board of Appeals and appeal the decision or to get a variance from the town. Ms. Hodza stated that due to the slope of the drive it is unclear if the driveway can comply. Dr. Sahadevan Fossland asked if the driveway conformed to the regulations if then it would be able to be approved. Ms. Hodza stated she did not have enough information at this time to approve the driveway due to regulations concerning slope, angle as far as it enters the roadway etc. Mr. Prindle asked why the driveway had to conform if it was not a dwelling. Ms. Hodza stated that driveways are feature in our planning and zoning regulations and they are heavily regulated, Ms. Hodza stated that there also exists a driveway ordinance. Ms. Hodza stated that there are two governing documents required for driveways. One requires a permit from the First Selectman, and one requires a permit from the zoning commission. Ms. Hodza stated that driveways require certain safety regulations such as egress, ingress, the grade at which it meets the roadway. Ms. Hodza pointed out that this is a safety concern for all those passing the driveway, not just the owners of the property as well as concern specifically for the accessibility of safety vehicles (fire, ambulance). Mr. Baker asked if there were any other questions. Ms. Ouellette stated that on the application "accessory building" is checked off, however on the description it states storage barn. Ms. Ouellette stated that a barn is classified as for the use of agricultural farm equipment. Ms. Ouellette asked if the purpose was to store cars or to store farm equipment. Mr. Downs stated that the barn would be used to store cars, a motorcycle, and several tractors. Ms. Ouellette asked if it was necessary to change it on the application to building, rather than barn. Mr. Zimet stated that due to the commercial business also being located on the property the application should also include the specification of "commercial" in addition. Mr. Zimet also reiterated that he agreed with Ms. Hodza concern about the driveway being evaluated to meet zoning regulations. Ms. Hodza stated that she agreed with Ms. Ouellette to remove the word barn from the application and change it to building or accessory building. Ms. Hodza stated she did not agree with Mr. Zimet's suggestion/request of adding the commercial use term to the application as the building will be used specifically for Mr. Downs's personal car collection. Mr. Downs reiterated that it is simply a storage building with only electricity and will only be used for his own vehicles. Mr. Zimet stated that he did not intend his adjustment to the application to infer Mr. Downs would be utilizing the building for commercial use, however because the application specifically asks, "what is the use of the property at the moment" and it due to Mr. Downs property currently being used dually as personal and commercial it may be necessary to state such. Mr. Chairman stated that the commission cannot approve a zoning application on a piece of property that has a zoning violation unless the application cures the violation. Therefore, a motion could be proposed to approve the building of the structure pending the resolution of the non-approved driveway. Mr. Downs stated the building would not be built if the driveway could not be used and stated that the grade of the drive is somewhat steep. Mr. Chairman stated that due to the strict driveway regulations he suggested that Mr. Downs have an engineer present a drawing to the commission for approval or receive a denial and then plead hardship with the zoning board of appeals. Mr. Downs stated that he felt the grading was 12% after he examined it himself. He stated that the drive would only be used for the accessory building, it was well built, however he feels that the drive will not meet the regulations. Mr. Downs stated that due not wanting to pave the drive, which would allow it to meet regulations, based on costs and the limited use of it, he would accept the denial and bring it forward to the ZBA. Mr. Chairman thanked Mr. Downs for his candor and willingness to work with the commission. Dr. Sahadevan Fossland made a MOTION to DENY the driveway the application; Ms. Ouellette SECONDED the motion. Mr. Prindle asked how the commission can deny the application for the driveway approval if the original application is for an accessory building. Mr. Chairman stated that the commission was denying the application based on the zoning violation with no known cure through the proposed application. Ms. Hodza stated that the motion should be amended to state denial of the original application. Dr. Sahadevan Fossland AMENDED her MOTION to state denial of the application of the accessory building in light of the non-conforming driveway. Mr. Prindle SECONDED the

motion, a vote was held. All were in favor, the MOTION CARRIED. The application was DENIED. Ms. Hodza stated that the next Zoning Board of Appeals meeting will be held on March 24th and therefore it would be possible to submit his appeal and not have to wait another month. Mr. Zimet asked Ms. Hodza if putting a locked gate at the end of the driveway would adjust the definition of the access way. Ms. Hodza stated she was not comfortable answering that at this time and thanked Mr. Zimet for question.

B) ZPA #21-14 / Elliott Davis of 5 Mine Hill Road, Roxbury, Connecticut / **152 Curtiss Road**, Map 7, Lot 15-1 / Construction of 3-bedroom single family dwelling, pool, and extension of existing non-permitted driveway. Mr. Chairman disclosed a conflict of interest as it applied to the applicant and therefore would not be voting in the matter. Mr. Davis asked that Mr. Paul Szymanski report on the property. Mr. Szymanski stated that a zoning permit was applied for from planning and zoning and Inlands Wetlands in 2015, wherein which an approval for a drive was received closer to the wetlands than where the driveway currently exists today. Mr. Szymanski stated there was debate and confusion in the minutes about moving the driveway and it was unclear as it relates to if this location was approved or not, however it does comply with the standards as it holds 50,000lbs, has a hard surface, there exists a pull off beyond where the driveway ends, has no impact on nearby properties, there is no storm water adversely impacting down gradient properties and it does not exceed 10% at any point including the extension of the proposed driveway. Mr. Zimet asked what the radius of the curve of the driveway was. Dr. Sahadevan Fossland asked if this proposal had gone to IWC. Mr. Szymanski stated they have submitted an application to IWC. Ms. Hodza stated that there exists a simultaneously application, IWC is due to receive said on March 25th. Ms. Hodza stated that the area of concern is just in the 200ft review area, not directly in the wetlands and it is down gradient from the wetlands therefore any runoff from the driveway is directed away from the wetlands. Ms. Hodza stated that a wetlands application was necessary due to the fact that the driveway had not been approved and the tremendous public interest occurring on Curtiss Road regarding a separate property so therefore in good conscious it was important to present it to the wetlands and the community. Mr. Davis asked if the original driveway location, 100ft closer to the wetlands was indeed approved. Ms. Hodza stated that this was true, and she believed that the wetlands commission will have to find that the current, non-permitted driveway would be allowed. The IWC will likely want to examine the possibility of runoff due to the grade of the road, and steepness of the property, and while the presented driveway has gradient runoff going away from the identified wetlands, it still eventually goes toward Lake Waramaug. Dr. Sahadevan Fossland stated that the application presented tonight is not just for the approval of the non-conforming driveway but for the house, the pool and the extension of the driveway. Dr. Sahadevan Fossland disclosed she was acquainted with Mr. Davis as well. Dr. Sahadevan Fossland verified that the application was asking for approval of the entire site plan pending the approval of the IWC. Mr. Zimet asked if the Torrington area health application had been approved yet. Mr. Szymanski stated that they are waiting for Mr. Ross's review however that the septic area was approved for feasibility purposes as part of the original first cut application. Dr. Sahadevan Fossland asked why the applications are being submitted simultaneously/before inland wetland has received it. Ms. Hodza stated that it is the right of the property owner to submit them simultaneously however nothing would be finalized until the inland wetlands approve their application. Mr. Davis stated that the original driveway had the permit, approval from inland wetlands and the current proposal is 100ft further away from the wetlands, however Mr. Szymanski discovered that the beginning of the driveway is within the 200ft and has downgrade. Dr. Sahadevan Fossland stated she understood and was attempting to ensure the commission was following the appropriate process as in the instructions for applications it states that if an application is within the inland wetlands' areas approval from the IWC is to be attached to the application presented to the commission. Ms. Ouellette asked if the commission moves forward, pending wetlands, would the commission have to go back and deny the application if IWC does not approve. Ms. Hodza state that this is a point of procedure, and that Dr. Sahadevan Fossland is correct in the instructions for applications she had just presented regarding the procedure that the IWC approval should be attached. Ms. Hodza stated if you intend to make your decisions to the letter of the regulation as it stands then the commission must deny it if that is what it chooses to do. Ms. Hodza stated that her reasoning for allowing the zoning to proceed as she

stated she felt in some ways responsible for holding up the application to the wetlands and did not make a decision to require a wetlands application until consideration for the location and its current public interest. Ms. Hodza suggested that given the difficult history with this application; fully hear the applicant and his engineer in regard to not only the driveway but the rest of the plan, as an opportunity to understand fully what is proposed for the site. Ms. Hodza stated the decision could be tabled until the following meeting, and due to the lack of the IWC approval and Torrington Area Health you may deny the application based on that information. Ms. Schnell stated that she believed it should be tabled until the next meeting. Ms. Hodza stated that the commission should still utilize the opportunity to hear the applicant in full even if the decision is tabled. Mr. Szymanski stated that the application was fairly simple, a single family home with a pool, well and septic. Mr. Zimet asked if Mr. Szymanski had found the radius of the driveway. Mr. Szymanski stated it was 60ft and he could confirm for the next meeting. Ms. Hodza asked if there are any concerns of erosion and sedimentation on the site during the construction and speak about the type of construction that would occur due to the ledge and rock on the property. Mr. Szymanski stated that due to that it would cause less concern for erosion and sedimentation. He stated that the existing driveway has occurred for six years and caused no issues he is aware of. Mr. Szymanski stated the driveway is situated in a way that the runoff sheet flows onto the property going down to mountain lake road and the extension of that driveway has no potential therefore would not impact neighboring properties. Ms. Hodza asked Mr. Szymanski about to speak about the roof liters, their outlet, how the storm water will be removed from the roofs, a description of the foundation and if there is there any possibility of blasting to be done. Mr. Szymanski stated that the roof liters would go to splash pads because it's a relatively small footprint. The footing drains are being shown discharging to the right side of the driveway to a splash pad to infiltrate into the ground. If blasting is needed they would apply to fire marshal as needed. Mr. Davis stated that the foundation design is a half basement with crawl space, utilizing the immediate grade to try and eliminate blasting. Ms. Ouellette asked if the pool was in ground or above ground. Mr. Davis stated that the design is to utilize the slope, sitting above ground attaching to the deck. Ms. Hodza asked if there was a pool contractor yet and that that would be a separate application with Torrington area health for approval. Mr. Davis stated they did not have one yet. Mr. Chairperson asked if there were any further questions. Ms. Hodza stated that her main concern is the heavy public interest in this area, and that Mr. Davis has a right to build a single family home on his lot. Ms. Hodza stated that her intention is to be sure to ask the important questions in order to be able to defend the decisions the commission makes. Ms. Hodza stated that due to the steepness of the slope she wanted to ensure that concerns of erosion and sedimentation are addressed. Mr. Szymanski stated that in the proposal there is a silt fence to ensure temporarily during construction that there would not be any impact. Mr. Davis stated that they moved the house site further back from the road and that due to the location of the property it should have a light footprint. Mr. Davis stated are working to use the grade, limit blasting and be sensitive to the site. Mr. Davis asked if a staff approval was possible, a conditional approval pending Torrington area health and IWC, and if Ms. Hodza would be able to approve in order to avoid having to go through 1 or 2 more months waiting for the process. Dr. Sahadevan Fossland stated that when there is significant public interest it is the commission's job to represent both the applicants and the public. Dr. Sahadevan Fossland stated that if the application meets all the requirements and makes no special requests outside of the regulations then Ms. Hodza is allowed to approve the application, however due to the interest of the community in the construction at Curtiss Road currently it is necessary for the commission to conduct their due diligence in inquiring on all aspects of the application. Mr. Davis asked if the construction a mile and a half away from the area of concern. Dr. Sahadevan Fossland stated that there is one property which has drawn a lot of public interest, and at this time the application has been withdrawn. Ms. Hodza confirmed and stated there was an additional build on Curtiss Road as well. Dr. Sahadevan Fossland stated that the development in this area is being monitored so closely due to the fact that it is near to the lake which has only been revived in the last 20 years. Dr. Sahadevan Fossland stated the lake was a dying lake due to runoff from properties, farms and builds etc. and therefore due diligence is necessary in any developments nearby. Mr. Davis stated again that this location was miles away from the area of concern on an approved single family lot. He stated if people are concerned about what is happening on the lake and as it extends three miles up the

hill, Mr. Davis asked what the public interest would be. Dr. Sahadevan Fossland stated that a lot of the issues which caused the lake to previously begin to deteriorate were due to runoff from many properties including Tanner Farm which was miles away from the lake as well. Dr. Sahadevan Fossland stated that all of our properties affect the lake due to the runoff down the hill. Dr. Sahadevan Fossland stated it is not up to the commission to determine what is acceptable, but Torrington Area Health District, the task force etc. and it cannot be decided tonight. Mr. Davis asked if the sanitarian and wetlands are ok with the proposed house and driveway extension if the commission would be in favor. Dr. Sahadevan Fossland stated that they would need the information in order to approve the application. Ms. Schnell agreed. Mr. Zimet asked for clarification on the three images of the driveway and which is accurate. Ms. Hodza stated that there is an A2 survey driveway showing the existing conditions, the driveway which has been built ends after the hook. Ms. Hodza stated that the driveway appeared in good condition, no evident erosion etc. Mr. Szymanski stated that Mr. Cheney surveyed the location and provided the grades. Ms. Hodza stated that the 556 elevation is where the new part of the driveway continues and that the application would have to include approval for the existing driveway. Mr. Zimet asked if the hand drawn driveway on the images is showing the existing driveway. A discussion was held on the images provided regarding the driveway location; Mr. Szymanski stated they did not submit any hand drawn drawings. Ms. Hodza stated that her only concern on the application is the existing driveway; as the house meets the regulations, however Mr. Davis has a right to build the home on his property whether or not there is public concern regarding surrounding property. Ms. Hodza stated that if the commission would like more information or time to consider the application, they can continue to request the approval from inland wetlands and Torrington Area Health Department. Mr. Papp thanked Mr. Davis for his application; he stated that the property has a non-conforming driveway, and an application was denied subsequent to this current application based on the same conditions of the property. While Mr. Davis's property had a driveway pre-approved, it was not built in the same location as it was previously approved for. Mr. Papp stated that if the commission does anything other than table the application then the commission would not be doing their due diligence to the community and setting a standard due to a possible few week delay. Due to this Mr. Papp MADE a MOTION to table the application until the non-conforming driveway is resolved, the motion is SECONDED my Dr. Sahadevan Fossland. A vote is held, Mr. Curtiss was in favor, Ms. Ouellette was in favor, Ms. Schnell was in favor Mr. Prindle opposed; the MOTION CARRIED. Mr. Chairman stated that in the interim we do have excavation regulations and suggested the applicant be sure they obtain necessary permits. Mr. Chairperson stated that due to the location being a corner lot, one of the setbacks is located at 27.5ft on the Westside and therefore would need final zone of approval by Ms. Hodza and stated that this location was tight tolerance and requested a stake be placed to ensure regulations are met and continue to be met during construction. Mr. Davis stated that they would flag the boundaries in the corners of the house. Ms. Hodza clarified that the commission was requesting the applicant resolve the issue first with the wetlands commission and come back to the planning and zoning commission with an application to approve the driveway.

Other Business Proper

a. Commission Member Training

Dr. Sahadevan Fossland stated that she had sent out a flyer from the CT council of Governments with training opportunities on the website. Dr. Sahadevan Fossland stated that the commission members can be placed on the email list and suggested they utilize the training Land Use 101 due to repeated questions regarding the legal duties of the members. Mr. Chairman thanked Dr. Sahadevan Fossland and stated that the videos are informative and will allow the members to move forward confidently. Dr. Sahadevan Fossland referred to the book "What's Legally Required," and stated it was beneficial as well. Ms. Hodza cautioned that the author did not entirely endorse its contents at this time due to statutes having changed since its publication in 2004 and reminded members to check current statutes. Dr. Sahadevan Fossland stated that at the last meeting Ms. Ayer or Ms. Mullen would come and conduct training, however it was suggested by them to complete the training already available, and they could follow up on my specific requests and questions the commission may have in the spring.

POCD subcommittee report and priority items

Dr. Sahadevan Fossland thanked the individuals who answered the survey and reported the top 3 prioritized items were as follows: 1. Research and consider adopting ridgeline protection regulations 2. Evaluate and consider whether business uses should remain permitted as principle uses in the north and south zone and if so, amend those zoning regulations to provide well defined requirements 3. Support and facilitate existing and new home-based business while simultaneously ensuring the preservation of our rural residential character. Dr. Sahadevan Fossland stated that the commission would begin putting together plans with Ms. Ayer and Ms. Mullens to address these concerns. Mr. Zimet stated that Ms. Ayer and Ms. Mullens would be looking closely at the current regulations which would be beneficial. Ms. Ouellette stated that as a commission they had been looking for professional guidance and she felt this is exactly what they were receiving from COG (Council of Governments). Dr. Sahadevan Fossland stated that the POCD meets every other Thursday at 1pm.

Zoning Enforcement Officer's Report

Ms. Hodza stated that as of this date, this year some 15 zoning applications were received, last year a total of 39 were received. Ms. Hodza stated that some applications are still open as Ms. Hodza is waiting on certain items.

Approved applications include:

- 53 Curtiss Rd: partial demolition of abandoned dwelling to create pool house and pool.
- 6 Arrow Point Rd: generator.
- 40 Laurel Mountain Rd 20x20 prefab garage.
- 31 Arrow point Rd.: deck enlargement which required a variance.
- 1 Arrow point road: generator.
- 96 Tanner Hill Rd: generator.
- 37 North Shore Rd: generator.
- 53 Curtiss Rd: generator.
- 232 Melius Rd: application for a tennis court however requires a lot line revision and Ms. Hodza is awaiting a Mylar and new deed description of the jog in the lot line revision.
- 39 Arrow point Rd: application for dock was denied due to no primary use of the property.
- 11 Cornwall Rd: application for an in-ground pool/awaiting receipt of approval from Torrington Area Health District -- they are requesting an A2 due to many small buildings added to the property over the years.
- 33 Arrow point Rd: generator approved after variance from ZBA was granted.

Correspondence Received (None)

Opportunity for Public Comment

Mr. Tammen 50 Curtiss Rd stated he is a concerned citizen and thanked the commission for asking difficult questions. Mr. Tammen asked what the frontage regulation of mountain lake road was. Mr. Tammen asked if the driveway cutting through the setback area was allowed. Mr. Tammen stated that he was concerned about the blasting. Mr. Tammen stated he was concerned about the distance between the house and the septic system and asked what the length of the driveway was. Mr. Tammen stated that planning and zoning should propose a budget to increase Ms. Hodza's income, ensure she is paid for all her hours, and suggested Ms. Hodza has assistance in her office. Mr. Tammen would like to participate in the training for planning and zoning.

Mr. Chairperson thanked Mr. Tammen for his comments. Dr. Sahadevan Fossland stated she would send Mr. Tammen the link to the online training.

Ms. Hodza 236 Brick School Rd stated she would like to thank Mr. Baker for stepping up as chairperson.

Adjournment

Mr. Prindle MADE A MOTION to adjourn, Dr. Sahadevan Fossland SECONDED; all were in favor. The MOTION CARRIED. The meeting adjourned at 9:06pm.

Respectfully Submitted,

Melissa Woodward
Recording Secretary Town of Warren
03/16/2021

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