



TOWN OF WARREN  
**PLANNING & ZONING COMMISSION**  
50 Cemetery Road, Warren, Connecticut

Regular Meeting Minutes  
Tuesday, June 8, 2021 at 7:30 p.m.  
*(Link to Zoom recording below)*

**Call to Order and Designation of Alternates**

Present were Chairman Jack Baker, Ryan Curtiss, Victoria Sahadevan Fossland, Debora Ouellette and John Papp. Mr. Paul Prindle and Alternate, Ruth Schnell was present via videoconference. Chairman Baker appointed Ms. Schnell to sit for Mr. Good and alternate Ms. Ouellette for Mr. Westfall. Mike Zimet, Andrew Carollo, Derek Westfall and Phil Good were absent. Richelle Hodza, Land Use Administrator, Zoning Enforcement Officer, and Inland Wetlands Officer was present. The meeting was called to order at 7:35 by Chairman Baker.

**Items to be Added to Agenda** *(If any, requires 2/3 vote)* None.

**Public Hearing**

ZPA #21-28 / Paul Szymanski, P.E., on behalf of the Gally Family Irrevocable Real Estate Trust of 100 Newbury Court, Concord, MA / 39 Arrow Point Road, Assessor's Map 41, Lot 4 / Application for Special Exception and Site Plan Approval to construct a 5-bedroom single family dwelling, detached garage, generator, driveway, patio, subsurface sewage disposal system, grading, drainage, plantings, and other related appurtenances within between 50 and 100 feet from the shoreline of Lake Waramaug (Section 14.3) with significant excavation and grading (Section 22.0). (Date of receipt by Land Use Officer 5/4/2021, two TAHD Approvals Received with application; Inland Wetlands Commission Permit Issued with conditions 5/27/2021.)

Ms. Hodza stated that she received a phone call from an engineer in town who reminded Ms. Hodza that due to this application being within 500ft of the Town of Washington, Ms. Hodza was supposed to have notified the town of Washington via certified mail and she did not do that as required by statute. Tonight opening of the public hearing and allowing testimony to be presented tonight will be acceptable, however they will not close the meeting in order to follow through with due diligence of notifying the town of Washington and allowing them to respond to the application. Ms. Hodza stated that she has sent certified mail to notify the town. Mr. Baker stated that the comments should be kept within the scope of concern of the two exceptions sought. Mr. Szymanski representing the Gally family provided the certified signage and postings as required by statute. Mr. Szymanski presented the application. Mr. Szymanski noted the changes in the proposal having adjusted the location of the garage, septic and shifting of the patio and described the septic. Mr. Szymanski stated that the proposed home itself is within 100ft of the lake, on the northern side it is approximately 92ft feet from the shore to the northeast corner of the house, on the southeast corner of the house it is approximately 80ft to the shore. Mr. Szymanski described the infiltration trench, the dock, the storm water management of the driveway, and the rain gardens. Mr. Szymanski stated they also provided the commission with the landscape design proposal. Mr. Szymanski

stated the sedimentation and erosion control methods as requested by the IWC; silt fence was added as well as three layers of sedimentation and erosion control to protect the lake. Mr. Szymanski stated that the area is very level, and having moved a structure back it increased the natural buffer as well. Chairman Baker stated that he received correspondence from the Lake Waramaug Task Force which was received this afternoon. Ms. Sahadevan Fossland read the letter for the record. Ms. Claire Guadagno, 31 Arrow Point Road, referenced Mr. Szymanski's statement regarding the distance from the house to the shore and asked for more specifics on the distance of the patio to the shoreline. Mr. Szymanski described the filtration designs of the patio and the materials that would be used to create it. Ms. Guadagno asked the length of the dock. Mr. Szymanski stated that from the edge of the shoreline the dock is approximately 44ft and there is an area approximately 10x20ft area in front. Mr. Szymanski described the material of the dock and the style of dock proposed; the proposed dock uses caterpillar feet to avoid drilling into the ground. Ms. Hodza clarified if the application included the dock. Mr. Szymanski stated it was part of a special exception. Ms. Hodza stated that there shouldn't be further discussion at this hearing as it would need to be proposed in a separate application. Ms. Guadagno referenced the letter from the task force in reference to the distance from the house to the lake and she stated that she felt moving the house further back from the lake would be better for the water quality and to protect the lake.

Mr. David Wilson, engineer; read a letter for the record addressed to Sean Hayden. Mr. Connor, certified planner with the American Institute of Certified Planners and appears tonight on behalf of the Lake Waramaug Association.

Mr. Connor concurred with Mr. Wilson's letter as well as Mr. Hayden's letter; and stated that he hopes the commission gives them great consideration. Mr. Connor referenced the plan of conservation and development and its identifying protecting the water resources, specifically as it applies to proposals within 100ft of the lake. Mr. Connor stated that the proposal should be required to move to the 100ft setback and be kept at a minimum. Mr. Connor stated that the commission should look at the general criteria of 31.5, as the statute requires the commission to go through it while making the decision. Mr. Connor also suggested a third party peer review of the engineering, and pointed out that although the plan with the rain garden sounds good, however rain gardens in commercial and residential use often do not have a good maintenance plan with them and the resident will need to maintain the rain garden properly. Mr. Connor stated that a section of the planting plan includes lawn, and the use of fertilizers on lawns can cause great issues within the lake. Mr. Connor urged there to exist a maintenance plan and the ability to check in on the rain garden maintenance in the future. Mr. Connor stated that limiting size, structure, plantings etc and moving the build back to the 100ft line or at least as close as possible are all options the commission can enact.

Mr. Rudolph Montgelas, 13 Arrow Point Road, asked if there was a real reason for the location of the house or it can be moved back another 20ft to keep it outside of the 100ft range.

Mr. Tammen, 50 Curtiss Road, stated that he believes the commission should deny the application for several reasons. Mr. Tammen stated that there may be between 80-100 trees that will have to be removed; Mr. Tammen read that in the 1 acre lot, over 9 acres will be disturbed during activities. Mr. Tammen stated that the water quality of the lake should be protected, the house should be moved back and he appreciated Mr. Connors comments regarding rain gardens. Mr. Tammen stated that in the IWC minutes he had read discussion of closed in patio, however this proposal shows open patio and he wanted clarity on such.

Mrs. Tammen, 50 Curtiss Road, stated that she supported the letters and comments from the experts regarding the 100ft setback. Mrs. Tammen asked about Mr. Szymanski's statement about the

garage needing to be detached, and in her view, there were homes on Arrow Point with attached garages and suggested that attaching the garage may be a solution to setting the house back behind the 100ft.

Mr. Szymanski stated that he wanted clarification from the Task Force as in the letter it had stated that water quality had improved in the last several years. Mr. Szymanski stated he does not understand how development around the lake was causing negative impacts on water quality of the lake. Mr. Szymanski stated that he believed the water quality was improving due to the storm water filtration methods being implemented on the surrounding homes that have never been utilized in the past. Mr. Szymanski stated that the inland wetlands approved the application, which means he has shown that there is no adverse impact on the lake. Mr. Szymanski stated that a quantitative analysis would be necessary in showing how his proposal would negatively impact the lake. Mr. Szymanski stated that if the task force feels so strongly about the 100ft setback, the regulation allows this type of proposal/development because it makes sense if you properly protect the lake. Mr. Szymanski submitted for the records an application that included 6 rain gardens which are all working as designed and providing the necessary function to protect the lake. Mr. Szymanski stated that he would provide a maintenance plan if requested. Mr. Szymanski also submitted for the record photos of 41 Arrowpoint that has a patio 50ft from the lake, a house 69ft at its closest point from the shoreline and has no storm water management. Mr. Szymanski stated that lawns to the lakes edge are a major problem, and many of the board members have properties that have lawns to the water's edge as well. Mr. Szymanski stated that he would like to review the letters more closely and respond. Ms. Sahadevan Fossland stated that there was a question from the public he had not addressed; is it necessary for the house to be within the 100ft setback. Mr. Szymanski stated that he believed that it was within the applicant's right to have a portion within the setback. From a technical nature they have a 200ft radius from the public water supply system, but the leaching fields to the home have specific separating distances. Dr. Sahadevan Fossland asked from the lake to the patio was what distance. Mr. Papp stated it was 70ft. Dr. Sahadevan Fossland asked the distance from the patio to the house. Mr. Szymanski stated it was 77. Dr. Sahadevan Fossland stated that the application then called for the site to be 30-35 ft within the 100ft range requirement and there was no way to push the house further away. Mr. Szymanski stated that because of the well radius, to septic separation, to the garage requirements that was true. Mr. Szymanski stated that the area of the home that is closest to the lake

Mr. Montgelas of Arrowpoint Road stated that in looking at the DPH requirements based on the draw of the well, you do not have to be 200ft you have to only be 150ft and there may be space available to move the house even more so based on this. Mr. Montgelas stated that the well is 25 gallons/minute which only requires a 150ft radius and that the 200ft radius is applicable to wells that draw 50gallons/minute. Mr. Szymanski stated he would follow up regarding that. A discussion was held regarding the buffer zone and supplemental plantings. Chairman Baker asked what would be left of the existing vegetation. Mr. Szymanski stated that there were no trees to be removed within a certain location near the shoreline, other than some small saplings.

Ms. Hodza asked if Mr. Szymanski could explain the history to which he had referred regarding the requirement that the garage needed be detached. Mr. Szymanski stated that an initial application a few years ago for 10 North Shore Road had shown the garage as part of the house and the garage portion was greater than 100ft to the lake, however the Commission had determined that because the garage was attached to the house and the house was within 100ft of the lake, it was determined then that due to it being attached the garage was within 100ft of the lake. Mr. Szymanski stated that this decision created a bigger development. Mr. Szymanski stated that at that time they had to detach the garage.

A discussion was held on the possibility of moving the house backward and attaching the garage again. Mr. Szymanski stated that in doing so of moving the house back it would create more lawn, and lawn area has a greater chance of negative impact on the lake due to fertilizers. Dr. Sahadevan Fossland stated that just by moving the house does not mean you need to threaten to necessarily create more lawn. Mr. Szymanski stated that if they moved the house back the client will want lawn in order to enjoy his property. Mr. Montgelas asked if there is a requirement regarding the distance from the shore that certain fertilizers can be utilized. Mr. Szymanski stated that was true. Chairman Baker asked if any other residents on Zoom would like to comment.

Mrs. Tammen, 50 Curtiss Road, requested that the letter from the task force be published. Mrs. Tammen stated that the property Mr. Szymanski referenced a property nearby for comparison and Mrs. Tammen asked to point out that this said property was 2 acres, twice the size of the property at hand. Mrs. Tammen also stated that Mr. Szymanski made reference to a single property to show how well a rain garden can work and that the IWC has already approved the project, and Mrs. Tammen pointed out that it is within the power of the commission to deny the project even though the IWC has approved it.

Mr. Tammen, 50 Curtiss Road, stated that Mr. Szymanski pointed out the property of 41 Arrow Point Road, a 2 acre property, as comparison to the current proposal at hand. Mr. Tammen stated that his property was established 24 years ago and that the commission at the time may not be as sharp as our current one. Mr. Tammen stated that if it gets approved, then the next neighbor will request even closer distance of build to the lake. Mr. Tammen stated that it is necessary to follow the rules of 100ft, 100ft is the minimum to protect the lake.

Dr. Sahadevan Fossland stated that she would like to disclose that she has known the Gally family for many years and therefore would not be voting on the proposal. Dr. Sahadevan Fossland read the requirements for the record as applicable to the current application. Dr. Sahadevan Fossland stated then that she would like Mr. Szymanski to clarify why it is absolutely necessary to infringe on the 100ft setback in the application. Mr. Szymanski asked if the commission was stating that he preferred they not provide supplemental plantings. Dr. Sahadevan Fossland stated she preferred he present a plan that meets their regulations and not request a special exception. Mr. Szymanski stated that due to Dr. Sahadevan Fossland not voting he was concerned with her participating. Mr. Szymanski stated he was trying to understand what her concern was, Dr. Sahadevan Fossland stated that her concern was with why the proposal needed to be within the 100ft. Mr. Szymanski asked if Dr. Sahadevan Fossland did not believe that under 14.3 someone has the right to place the home within the 100ft. Dr. Sahadevan Fossland stated it can be approved if it meets the special exception requirements and she was not sure if the proposal had done that. Chairman Baker stated that the public hearing would continue onto the next meeting and that they would adjourn the public hearing until the next meeting on July 13<sup>th</sup>, 2021.

### **Approval of the Minutes**

Mr. Curtiss Made a MOTION to approve the minutes from May 11, 2021, Mr. Prindle SECONDED the motion. A vote was held, all were in favor the MOTION CARRIED.

### **New Business**

ZPA #21-40 / Gary Nurnberger Architect, LLC on behalf of Arrowpoint Road, LLC (Heath L. Watkin, Member) / 6 Arrow Point Road, Assessor's Map 45, Lot 9 / Application for Site Plan Approval for the

alteration of a parking area per §29.1.c. (Date of receipt by Land Use Officer 6/7/2021)

Mr. Nurnberger architect representing the applicants provided images to the commission and explained the application, including changes to the driveway. Ms. Hodza stated that she had met with the applicant, Mr. Nurnberger at least twice in person; he has provided all that's required and addressed the questions Ms. Hodza had in the initial application. Ms. Hodza stated that this is being presented to the commission today because any time there is change in parking; it is supposed to be presented in this way. Ms. Hodza stated that the deck is not technically part of the application tonight as it meets requirements; the driveway is what is being addressed. Ms. Hodza stated the work being done is more than 100ft from the lake and therefore did not need to be presented to the IWC. Ms. Hodza stated that her concern is the perimeter lines which were taken from the original subdivision taken in the 1970s so there is no A2 survey showing the exact location of the house. An A2 survey is to be coming; however there is concern that if the lines come back and the existing driveway is 5ft away from the southern property line that is the maximum minimal space allowed to a property line. Ms. Hodza stated that the plans show existing fencing however; there are not exact locations of said fences. Mr. Nurnberger stated that the driveway would be the last project completed; nevertheless, he would make sure it was within the regulations. Ms. Hodza stated that the site plan requires an A2 survey and therefore she was concerned to approve it without it being transposed within an A2 survey. Ms. Ouellette asked how long the driveway was. Mr. Nurnberger stated that it was 200ft to the circle, Ms. Ouellette stated that the turnaround area needs to accommodate emergency vehicles. Ms. Hodza stated that they would need to provide the radius. A discussion was held regarding if the turnaround was technically parking area. Ms. Hodza stated it may not require an emergency turnaround and to consider the circle parking area rather than a turnaround as part of the drive. Chairman Baker stated that it is in everyone's best interest to ensure all the regulations are followed within the dimensions of a survey. Ms. Hodza stated that as a condition of the permit she would require an as-built also be submitted so that they could receive a zoning compliance certificate. Ms. Hodza stated that there may be shifting in the application if there are changes in the A2 however this is the application as presented, and if the commission has any questions the commission should ask them now so they may have time to respond or gather further information. Ms. Hodza stated that due to there not being an appropriate survey, the commission would not be able to vote on it at this time. Mr. Nurnberger stated that there is soil testing occurring tomorrow. Ms. Hodza stated that she is satisfied with the application and advised the commission to approve it eventually; however it cannot be done without the survey. Mr. Nurnberger stated the applicants were eager to begin the deck construction. Ms. Hodza stated they could present their applications in two, separating the driveway and the deck applications as she could approve the application of the deck without the commission. Dr. Sahadevan Fossland made a MOTION to table the application until the next meeting July 13, 2021 Mr. Papp SECONDED the motion; a vote was held. All were in favor, the MOTION CARRIED.

**Old Business-** None

#### **Other Business Proper - Commission Member Training**

Dr. Sahadevan Fossland stated that the budget passed, increasing their budget by 7,000 in order to pay consultant fees to COG in order to go over the regulations. The budget takes effect July 1 and an interview of 4 individuals for the land use job however none of which were hired. Ms. Hodza stated that it is her recommendation to put the advertisement on the Connecticut Association of Zoning Enforcement Officers' (CAZEO's) website as it is a site for individuals interested in land use specifically.

#### **Zoning Enforcement Officer's Report**

Ms. Hodza read the zoning officers report. See attached.

#### **Correspondence Received**

None in addition to what was read this evening as applicable to the above applications.

### **Opportunity for Public Comment**

Mr. Tammen, 50 Curtiss Road, stated that agenda point number 5 is an issue for him today. Mr. Tammen stated that they received the information and application yesterday which is not enough time to be able to provide the application and information on the application to the commission and to the public. Mr. Tammen stated that Ms. Hodza's office should receive and accept business and no further in order for the commission and the public to review the applications. Mr. Tammen asked about the issue at 12 Strawberry Lane.

Ms. Hodza stated there was an acre to an acre and a half of clear cutting on the property of 12 Strawberry Lane. Ms. Hodza stated that 20,000 or greater square feet of removal would cause necessity for grading and therefore require permit for excavation and grading. Ms. Hodza stated that she had spoken to the owner as well as the excavator. The owner stated he was unaware of the regulation and that he would have his excavator call Ms. Hodza, which he did however no application was received. A second call was received from the excavator stating that the application was being worked on. Ms. Hodza stated that she would issue a notice of violation and that they need to make an application, if they are clearing the roots then a cease and desist will be included. Chairman Baker asked about the executive order expiring for posting online the applications, Chairman Baker asked if it was burdensome to continue to post the applications online so that the commission and the public may be able to review the applications. Ms. Hodza stated that the statute clearly states that the commission must accept an application if it is received/submitted and complete 24 hours before the next hearing. The statute says that as it knows the commission has 35 days to make a decision, therefore receiving and reviewing it as soon as its available allows you 35 days to continue to review. With regard to posting them on the internet, because Ms. Hodza does not have the ability to post online and training to manipulate the website, it's necessary to send them to the town clerk in order to post. Ms. Hodza stated that she could request it going forward. Ms. Ouellette stated even if it's not possible to post them online, the commission being able to receive a copy via email is helpful. Ms. Hodza stated that all documents are available for review at the town hall subsequent to posting the meeting minutes. Mr. Papp stated he was concerned with setting a precedent of posting everything online. Ms. Hodza stated that as the agent of all the commissions, open files are the best thing. A discussion was held regarding the postings of applications on the website.

### **Adjournment**

Mr. Papp made a MOTION to ADJOURN, Dr. Sahadevan Fossland SECONDED the motion. All were in favor, the MOTION CARRIED. The meeting adjourned at 9:45 pm.

Respectfully Submitted,

Melissa Woodward  
Recording Secretary

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