

TOWN OF WARREN PLANNING & ZONING COMMISSION

50 Cemetery Road, Warren, CT 06754

Public Hearings and Regular Meeting Lower-Level Conference Room Tuesday, August 10, 2021, at 7:30 pm

(This meeting was also available via Zoom; link to recording below)

MINUTES

Call to Order and Designation of Alternates

Jack Baker, Chairperson, called the meeting to order 7:30 p.m. Present were Mr. Paul Prindle, Victoria Sahadevan Fossland, Alternate Mr. Michael Zimet (seated for Mr. Ryan Curtiss) alternate Ruth Schnell (seated for Mr. Andy Corollo). Absent were Andy Carollo, Debora Ouellette, Derek Westfall, John Papp, Ryan Curtiss, and Phil Good.

Additions to the Agenda

Dr. Sahadevan Fossland stated that she would like to add the presentation to Planning and Zoning from the Affordable Housing Committee of the draft affordable housing proposal which is meant to be brought to the public in October for a vote. Ms. Hodza stated it should be added under 'other business proper'. Dr. Sahadevan Fossland MADE a MOTION to add the presentation from the Affordable Housing Committee to 'Other Business Proper' in tonight's agenda. Mr. Zimet SECONDED the motion, a vote was held; all were in favor. The MOTION CARRIED. Dr. Sahadevan Fossland stated that the plan of conservation and development had new funds approved for the fiscal year. Dr. Sahadevan Fossland made a MOTION to add the plan of conservation and development to the agenda, Mr. Zimet SECONDED the motion, all were in favor. The MOTION CARRIED. Ms. Hodza asked Chairman Baker where that item would be added. Chairman Baker stated it would be added after item 7.

Public Hearing (Continued)

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 5/11/2021, Public Hearing opened 6/8, continued to 7/13 continued to 8/10 by agreement with applicant. Applicant agreed to continue public hearing granting a 28-day extension through and including 8/10/21. TAHD approvals were received with the application; IW Permit was issued with conditions 5/27/2021; however, IWC is reopening the matter for review 8/26/2021.) Ms. Hodza stated that she had no knowledge of the request for extension. Chairman Baker stated that he did copy Ms. Hodza on the email. Ms. Hodza stated in order to extend the meeting per the applicants request and with the applicant's permission, which the applicant has

granted as they have requested the extension, that would be an additional 35 days to continue the hearing on the September meeting. Ms. Hodza stated that she would need a letter from Mr. Szymanski stating the approval for the extension to September 14th. Ms. Hodza stated that this would bring the total days of allowable extension to 53, the total remaining days of extension possible would be 12 after that. Chairman Baker read the email from Mr. Szymanski for the record. Mr. Prindle MADE A MOTION to table the application until the September 14th meeting. Ms. Schnell SECONDED the motion; all were in favor. The MOTION CARRIED.

b. ZPA #21- 47 / Jehv Gold for Claire S. Gold / 44 Arrow Point Road, Assessor's Map 41, Lot 9 / Application for Special Exception to construct a screened porch within between 50 and 100 feet from the shoreline of Lake Waramaug (Section 14.3). (Date of receipt 5/11/2021; approved by Inland Wetlands 6/24/21, TAHD approval received.) Mr. Gold stated that he had posted a sign and composed registered mail to the properties surrounding the applicants. Mr. Gold reminded the applicants that the proposal is before the commission as it is located 96ft from the lake. Mr. Gold stated that the proposed porch would be above ground construction with no excavation. Ms. Hodza reminded the commission that the inland wetland commission approved the application and it received Torrington Area Health district approval. Ms. Hodza stated that essentially the application is for two additional walls to be built for a porch to be put in between. Ms. Hodza stated that due to the nature of the shoreline as it swells and recedes, she had determined that Mr. Golds proposal did fall in the 100ft setback and that therefore they required a special exception from the commission. Chairman Baker stated that it was not an entire screened porch, there was an existing dry well accepting water and roof runoff currently. Mr. Gold stated that was correct. Dr. Sahadevan Fossland asked if the illegible page form the application existed somewhere else. Ms. Hodza stated that it was due to a scanning error. Chairman Baker opened up for questions from the public. Mr. Hermann Tammen, 50 Curtis Rd, stated that he was concerned with the drain. Mr. Tammen stated that there was a drain at the step of the house and was wondering how it would function under the porch. Mr. Gold stated that there would be a "cheat wall", or a channel that the water will filter and funnel down through directly over that grate. Mr. Tammen asked after the porch was built it was covered, so how would the water get to that location. Mr. Gold stated that there will be a drain at the roof level and the water would come down the grate to the dry well. Ms. Hodza stated that the construction Mr. Gold is proposing has the least disturbance to anything now occurring on the property. Ms. Hodza stated the water would be led down a pipe, enclosed in a wall, and brought to the drain without changing the landscape whatsoever. Dr. Sahadevan Fossland made a MOTION to close the public hearing on ZPA #21-47. Mrs. Tammen asked to be recognized. Chairman Baker recognized Mrs. Tammen to make a public comment. Mrs. Tammen, 50 Curtiss Road stated that the plans Mr. Gold presented should show where the drain is going. Mrs. Tammen stated that part of the drain is covered by the step in front of the door and should be constructed better so that drainage is properly done and specify in the proposal how the draining is done. Mr. Prindle SECONDED the motion to close the public hearing; all were in favor. The MOTION CARRIED.

c. ZPA # 21-50 / James Ross, Excavator, for Michael and Shawna Yoxthimer Strawberry Lane, Assessor's Map 8, Lot 7 / Special Exception to grade more than 20,000 square feet of land per Section 22.1. (Date of receipt 7/13/2021; inland wetlands permit not applicable; no TAHD approval required). Ms. Hodza stated that they would be unable to continue with the public hearing as she did not receive proof of mailings to the surrounding neighbors and had not received proof of signage being posted

outside the property. Ms. Hodza stated that the regulations are strict and therefore will not be able to have public hearing continue until the next meeting. Ms. Hodza apologized for not reminding Mr. Ross about these requirements. Mr. Ross asked if it was necessary to do certified mail. Ms. Hodza explained how to complete the mailings and that it was necessary to provide letters to all properties within 200ft. Ms. Hodza stated she would assist Mr. Ross with the mailings and signage. Dr. Sahadevan Fossland made a MOTION to table the public hearing until the September 14th meeting, Mr. Prindle SECONDED the motion. All were in favor, the MOTION CARRIED. ZPA 21-50 public hearing was tabled until the September meeting.

Approval of Minutes

a. June 8, 2021. Ms. Hodza stated she received email correspondence from Mr. Tammen stating that he had noticed mistakes or questions from the minutes. Ms. Hodza stated that she would like to make a change on page 2, Mr. Szymanski was asked by Ms. Guadagno to state precisely how far the patio was to the shoreline. Ms. Hodza stated that she would like to edit page 2 to include, "namely 92 feet from the northeast corner and 80ft from the southeast corner and asked for more specifics of the distance of the patio to the shoreline." Ms. Hodza stated she would add, "Measuring the plans with his hand scale, Mr. Szymanski stated the southeast corner of the patio itself was approximately 58ft from the shore and the northeast corner was 71 "ish" ft. from it." Ms. Hodza stated that she would indicate in the present minutes exactly what was read; one does not change existing minutes.

A typographical error exists also on the same page in the public comments section from Mr. Tammen. In the minutes it was written that Mr. Tammen pointed out that in the 1-acre lot, over 9 acres would be disturbed. It should have stated that in the 1-acre lot, 0.9 acres would be disturbed.

Ms. Hodza recommended that on page 3 near the bottom be amended: Mr. Szymanski stated that because of the well radius to septic separation to the garage requirements that was true. He added that the footprint on the plan is schematic, a 42 x 60ft home. In reality, Mark [Mr. Gally] is building something smaller. Ms. Hodza stated that Mr. Szymanski stated that the area of the home that is closest the lake actually has an inset there. He stated that he would confirm the applicant is committed to the smaller home, which would increase the distance to the lake. Dr. Sahadevan Fossland asked where the amendments to the changes be recorded. Ms. Hodza stated that the new minutes for this current meeting, under the section of the approval of the minutes the amendments will be recorded. Mr. Prindle MADE A MOTION to approve the June 8, 2021 minutes with the changes noted by Ms. Hodza, Dr. Sahadevan Fossland SECONDED the motion, a vote was held, Mr. Zimet abstained due to not being present at the meeting. The MOTION CARRIED.

b. July 13, 2021. Mr. Zimet MADE a MOTION to approve the July 13, 2021 minutes. Mr. Prindle SECONDED the motion. Dr. Sahadevan Fossland and Ms. Schnell abstained due to not being present at the meeting. The MOTION CARRIED.

Old Business (none)

Chairman Baker asked if there were deliberations or voting on the closed public hearing for 44 Arrow point road. Mr. Zimet MADE a MOTION to approve 44 Arrow point road special exception. Mr. Prindle SECONDED the motion. Chairman Baker stated that due to comments from the public it would be helpful if the applicant showed the building department and Ms. Hodza that the water be going to the drain as presented in the public hearing. Ms. Hodza stated it is the goal of the commission to protect the

land and have erosion and sediment control methods in place. Ms. Hodza stated that it may be a building issue and not a zoning issue, but it can be added as a condition to the special exception that proper engineering is followed for drainage. Chairman Baker asked if Mr. Zimet would like to amend the motion to provide adequate documentation that the runoff would properly go into the existing drain. Mr. Zimet amended his motion to include this as discussed. Dr. Sahadevan Fossland asked how he would show documentation, and specifically asked if it was to be provided via drawing from an engineer. Ms. Hodza stated she could ask Mr. Gold to provide a drawing of the piping and a description of that and she could review it. Ms. Hodza stated that Mr. Gold will be required to obtain a building permit either way. Dr. Sahadevan Fossland stated that if they were asking for an engineer's drawing then who would be reviewing it. Ms. Hodza stated that she did agree, it was asking something of the applicant that may not be relevant for the zoning commission. The applicant has testified as to how the drainage would work and she felt it was the least disturbing way to address the drainage. Dr. Sahadevan Fossland stated that if inland wetlands had already approved it, the modification to the motion may not be necessary. Chairman Baker stated that due to particular concern about lake Waramaug and drainage, leaving the motion as it is, giving Ms. Hodza the chance to receive drawings specific to the process for draining, provides some time of assurance that the drainage would be properly done. Ms. Hodza stated that Mr. Prindle may have personal expertise in the matter and perhaps he could weigh in on the discussion. Mr. Prindle stated that the commission may be digging too deep into unnecessary matters; they should be relying on the knowledge of the land use officer. Mr. Prindle stated that if the land use officer approved the proposal he would accept it as well. Dr. Sahadevan Fossland asked that in any project that the commission in good faith approved based on believing drainage would be properly dealt with, and then a building issue that leads to water causing erosion or a problem later, under whose jurisdiction, or how would someone follow up. Mr. Prindle stated the first thing would be to go to wetlands, and see if they had followed their plan and guidelines as proposed. Building code says you cannot discharge water on others' property, or anywhere it isn't supposed to go. So if there is an issue you have wetlands and the building department. Chairman Baker stated that they would go with the original motion by Mr. Zimet. All were in favor, the MOTION CARRIED.

New Business (none)

a. ZPA# 21-53 / F&H Architectural Design and Consulting LLC for Melanie Fahey and Criston Cicala / Wolfe Road, Assessor's Map 37, Lot 03-01 / Special Exception and Site Plan Application for cutting more than 500 cubic yards and grading more than 20,000 square feet of land per Section 22.1 related to the construction of a new house, pool, and appurtenances. (Date of receipt 7/26/2021by LUO; Date of Receipt by Commission 8/10/21; inland wetlands permit not applicable; TAHD approval received). Chairman Baker stated they could review the application however it would need to go to public hearing due to section 22.1. Mr. Steven Kalur and Mr. Chris Rolli of F&H Construction, representing the applicants Melanie Fahey and Criston Cicala, were present to discuss the proposal. Mr. Kalur stated that the proposal was to construct a 1,100ft driveway to access a building site on their 15 acres of property off wolf Rd. The project includes the excavation for the foundation of a 3,300sq ft., in the neighborhood of 500 cubic yards of soil for the foundation alone. On the site plan an estimate of 1200-1500 cubic yards will have to be disturbed, moved or imported for the project. Mr. Kalur stated that the driveway requirements necessitate a significant amount of fill, otherwise they are well outside of wetlands jurisdiction and well outside of setbacks for neighbors. The main issue is the amount of fill that need to be moved and/or imported in and around the site. Ms. Hodza asked Mr. Kalur to walk the commission

through the existing conditions of the driveway. Mr. Kalur stated that there exists a logging road presently on the site. Mr. Kalur stated that they have since, going through zoning and obtaining approvals, they have opened the road and cut down some saplings. The driveway is not unique; they would excavate approximately 8-12 inches, install stabilization fabric and put in process. There will be a trench along the side of the road to allow for conduit power and so forth to the site. Mr. Kalur stated it would be dressed with 3/8 rock at the end, it is a permeable surface. Mr. Prindle asked if there was ledge. Mr. Kalur stated that they assumed they would run into some in some location considering the level of excavation necessary. Mr. Kalur stated that the majority of the house was frost wall depth, and therefore they were not anticipating in having to dig deep at the two ends of the house. Mr. Kalur stated they would be probing for ledge tomorrow morning to determine if any blasting was necessary. Mr. Kalur stated they did not predict needing to hammer or cut ledge for the driveway unless they are unable to get to the 18 inch depth necessary for the conduit trench. Mr. Prindle stated that recently a location in Cornwall had to blast for the house and the volume was such that a crusher was necessary. Mr. Kalur stated that they needed to meet a balancing point of the necessity for the machinery to crush. Mr. Kalur stated that it was a 'feel your way in the dark' situation until they determined what they were dealing with. Chairman Baker stated they only had a small site map. Ms. Hodza stated that Mr. Kalur provided larger plans however she had not had a chance to distribute them yet. Mr. Kalur shared the full size site plan and described that the site was moderately sloped, there is a section of the house that enters at the lower level at the garage and the rest of the driveway is at the front of the house. Mr. Kalur stated they left several larger trees in between the lake, and that it was a good 200-250ft to the edge of the pond. Mr. Kalur stated they cut many saplings but have left the larger trees until they can analyze how much is necessary to take down. Chairman Baker stated that the site plan was not yet updated online. Mr. Kalur stated this was altered along the way to show the pullouts required due to the length of the driveway, so yes what they were currently looking at is different than what was originally submitted. Mr. Kalur stated that he believed the full size plans that were submitted showed the correct driveway. Ms. Hodza stated that they did. Ms. Hodza stated that she had noticed there were no pull offs, and that the town of warren has a regulation that the driveway meet the road at a perpendicular or as close to 90 degrees as possible. Mr. Kalur stated that the driveway would be hitting wolf road just a hair off of 90 degrees because the location of where the road and driveway meet is very close to the pavement installed by the neighbor and Mr. Kalur was attempting to avoid damaging the neighbor's driveway. Mr. Kalur stated that it has a very good line of site and that it was about 85 degrees. Ms. Hodza stated that there is a pending application to the first selectman. Ms. Hodza also reminded the commission that the applicant had Torrington Area Health approval. Chairman Baker clarified where the closest point of the driveway to the property line. Mr. Kalur stated he had identified that correctly and that it was about 20-25ft. Dr. Sahadevan Fossland asked if anyone felt it required a site walk. Chairman Baker and Mr. Prindle stated that it was fairly straightforward there were no grade or radius issues; there were no issues with encroachment on setbacks. Ms. Hodza asked how far they were away from the preservation land. Mr. Kalur stated he had not been made aware of that. Ms. Hodza stated she felt there was Warren Land Trust land somewhere in the vicinity, possibly not abutting the property but somewhere nearby. Ms. Hodza stated she had not yet visited the property however she planned to. She stated that there was somewhat gradual slope on the property and it would be worthwhile to investigate the proximity of any land trust land. Mr. Kalur stated that given the grade of the site, the neighbor with the house near, the grade moves across the property and they were at midgrade, downgrade toward the pond. Mr. Kalur stated he believed the abutting property was not Warren Land Trust. Mr. Kalur stated he believed the area in front of the house, which was downgrade, was not Warren Land Trust. Mr. Kalur

stated that if the concern was erosion and runoff that that would not necessarily be an issue. Mr. Kalur stated that he felt runoff would not be a threat to Warren Land Trust in this property. Chairman Baker stated he did not recall Warren Land Trust easements on this property. Ms. Hodza stated that she had just looked it up, she stated the Kent Land Trust is entirety on the other side of Wolfe Road. Dr. Sahadevan Fossland stated that the application was for exceptions regarding moving and adding fill. Dr. Sahadevan Fossland stated she was trying to understand Ms. Hodza's thought process in her concern for the land trust location and the specifics of the special exceptions. Ms. Hodza stated that it gave her pause with regard to erosion and sediment control, and that it was the prerogative of the commission to have a site walk. Dr. Sahadevan Fossland stated that she did not wish to have a site walk she just was unable to see the maps and wanted to hear the feedback of those members who could. Ms. Hodza stated that it is under the purview of this commission to follow the guidelines of erosion and sedimentation control and was especially important since the wetlands commission was not involved in this application. Dr. Sahadevan Fossland stated that the land trust would be notified due to the public hearing. The Chair stated that only those who are within 200ft would be notified but if a land trust has rights regarding a certain property, it may be by easement or actual ownership. He noted that if it is an easement, then the owner would not get notification. Ms. Hodza stated that in this case the Kent Land Trust does own the property. Ms. Hodza stated that she noticed Mr. Richard Kleinberg on the call this evening; she stated she believed he was a member of that organization and had his hand raised, but on Zoom, but because this is not a public hearing, he cannot be called on to comment; however at the end of the agenda, there is an item allowing public comment and he could make general comments at that time. Mr. Prindle made a MOTION to bring the application to a public hearing at the next meeting, Dr. Sahadevan Fossland SECONDED the motion. All were in favor, the MOTION CARRIED. A discussion was held regarding the necessity for mailings and signage. Ms. Hodza stated she would assist the applicant in making sure they were aware of proper noticing assignments.

Other Business Proper

Dr. Sahadevan Fossland stated that the draft of the affordable housing proposal which runs through the purpose of the plan, the reason for its necessity, what the affordable housing committee proposes etc. She stated the reason the planning and zoning commission to see it is that the committee has put together some proposals that apply to their regulations, for example allowing multiple family dwellings. These alterations would make it possible for more affordable housing to be available in warren and the commission may want to review it. Dr. Sahadevan Fossland asked if the commission felt it necessary to have a special meeting to review it, or if they could discuss it at the next meeting. Dr. Sahadevan Fossland stated that the Affordable Housing Committee planned to propose the draft to the board of selectman and then bring to the town for vote in October. Mr. Prindle stated he would like to have a copy to start. Dr. Sahadevan Fossland stated that everyone would have a copy prior whether they chose to have a special meeting or review it at the next meeting. Chairman Baker stated that the public would have plenty of time to review it and comment at the town meeting. Dr. Sahadevan Fossland stated that was correct and on September 16 the affordable housing committee is hosting a public information session to present the plan to the public and take feedback for consideration prior to finalized draft. Chairman Baker stated that if there was that much opportunity for the public to be made aware he didn't feel it necessary to have a special meeting in regard to the proposal and they could add it to the agenda for the commission to discuss but not as a public hearing. The commission agreed to add the item to the agenda at the next meeting.

Dr. Sahadevan Fossland stated the plan of conservation and development received funding and would like to initiate meetings. Dr. Sahadevan Fossland stated she would like to have Janelle Mullin to come and present at the October meeting. Mr. Zimet asked the question of during this process as they review the zoning regulations, if they determined they would recommend alterations changes or additions to the regulations, if it was required to be voted on by the town at the town meeting. Dr. Sahadevan Fossland stated that it required a public vote. Mr. Zimet asked if it was bound to the town meeting in October. Dr. Sahadevan Fossland stated no, any changes to the regulations would be down the road, first they would be reviewed. Dr. Sahadevan Fossland stated that they should have a proposal of how to go about this to the commission and meet with Janelle in October. Dr. Sahadevan Fossland stated that any changes to be made to the regulations would need to be made public prior to a vote. Ms. Hodza stated it would be similar to an applicant requesting an exception; it would have to go to a public hearing and have proper notice. Mr. Zimet stated he wanted to ensure it wasn't tied specific to the town meeting. Ms. Hodza stated that ordinances which affect the zoning commission are bound to the town meeting. Dr. Sahadevan Fossland asked in terms of the ordinances there would be enough time to initiate everything, complete a review and present it before October. Dr. Sahadevan Fossland stated they would be planning on a 2022 proposal. Mr. Angevine stated there is also a town meeting in the spring, the commission could request from the board of selectman to have special town meeting at any time of the year. Chairman Baker stated that they would be adding the conservation and development to the agenda and noted that commission members should be prepared to review any proposals.

Zoning Enforcement Officer's Report

ZP #21-51 -- 231 Lake Rd -- Eli Vonnegut / Steve Pelletier, SJP & Son Construction LLC -- Fence no more than 6 ft high, 35 ft from roadway -- Approved -- 7/29/21

ZP #21-52 -- 00 Wolfe Rd -- Cicala, Cris & Melanie / Steven Kalur -- Excavation and grading in preparation for building limited to 19,999 sf and 499 cu yds -- Approved with conditions, TAHD approval rec'd -- 7/29/2021

ZP #21-54 -- 43 Kent Rd -- Meeker, John -- Install propane tank -- Approved upon condition of TAHD approval -- 8/7/21

Correspondence Received

Chairman Baker stated there was no additional correspondence received other than what had been read into the record earlier in the meeting.

Opportunity for Public Comment

Mr. Richard Kleinberg was recognized and stated that he was one of the property owners of the pond shared among several lots and also a lot about 75ft away from the property in the application. He stated this was part of a subdivision done in the 80s with the cooperation of Weantinoge* and the purpose of it was to protect the headwaters of Kent Falls. He stated he believed it was the uppermost area of the waters that falls into Kent Falls. He stated the Kent Land trust property is lower on the western side of the Tobin property. He stated the conservation easements on his property and his neighbor's property were with Weantinoge and he believed they also owned 50 or more acres on the west side of Chester Road. Mr. Kleinberg stated he felt a site walk was necessary as the area is unique with ledge, wetlands, steep slopes, all going into an environmentally sensitive pond. He stated commissioners would benefit from a site walk with the applicants to fully understand the plans.

Mr. Hermann Tammen, 50 Curtiss Rd; Mr. Tammen stated he did not see an A2 survey and was also wondering about the length of the driveway, Mr. Tammen stated that the pond seemed to be away from the house however the elevation should be in 2ft steps however on the website it shows 10ft steps and therefore he is not sure what the accurate distance is. Mr. Tammen reiterated an A2 was necessary. Mr. Tammen asked what they could do if it was allowed, moving soil around and/or putting up a house. Chairman Baker stated he would not be able to be present at the September 14 meeting, Dr. Sahadevan Fossland was made aware and she urged commission members to be present in case of matters needing to be voted on. Chairman Baker also stated that Dr. Sahadevan Fossland had recused herself from 39 Arrowpoint, and therefore would not be present at that part of the meeting. Chairman Baker stated that another member would need to run that section of the meeting.

Adjournment

Mr. Prindle made a MOTION to adjourn the meeting, Dr. Sahadevan Fossland SECONDED the motion. All were in favor, the MOTION CARRIED. The meeting was adjourned.

Respectfully Submitted,

Melissa Woodward Recording Secretary Town of Warren 8/17/21

* June 30, 2020, Weantinoge Heritage Land Trust changed its name to Northwest Connecticut Land Conservancy.

Zoom Link:

https://us06web.zoom.us/rec/play/3ecDBRR4UTP9f_xvY5nfwLJ1HQ80yX17a0OHtbCH8ClMXthCPbWb_1LE4bAU4IJp8xAcrHWJ7VKrbM5J.i39toac-

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