



TOWN OF WARREN  
**PLANNING & ZONING COMMISSION**  
50 Cemetery Road, Warren, CT 06754

Public Hearings and Regular Meeting  
Lower-Level Conference Room  
Tuesday, September 14, 2021, at 7:30 pm  
*[Link to recording below](#)*

**Call to Order, Roll Call, and Designation of Alternates**

In the absence of Chairman Jack Baker, Vice Chairwoman Victoria Sahadevan Fossland called the meeting to order at 7:30 p.m. Members present were Mr. Paul Prindle, Mr. Ryan Curtiss, and Mr. John Papp. Alternates present were (a) Mr. Michael Zimet, Ms. Ruth Schnell, and Ms. Debora Ouellette. Absent were Mr. Phil Good, Mr. Derek Westfall, and Mr. Andrew Carollo. Mr. Zimet was seated for Mr. Good and Ms. Schnell was seated for Mr. Westfall.

**Items to be added to Agenda (if any, requires 2/3 vote) None**

Vice Chair Sahadevan Fossland recused herself from the public hearing of the Gally application at 39 Arrow Point Road, since she has personally known the applicants for many years. She made a **MOTION** to nominate Mr. Papp chairman *pro tem*; Mr. Curtiss **SECONDED** the motion; all were in favor; the **MOTION CARRIED**.

**1. Public Hearings**

**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 extension, and again to 9/14 by final extension. TAHD approvals were received with the application; IW Permit was issued with conditions 5/27/2021.)*

Mr. Paul Szymanski, P.E., on behalf of the applicant, the applicant Mr. Mark Gally, and Attorney Neal Marcus principal of Cohen and Wolf, P.C. were present. Mr. Szymanski explained that since the last meeting, the Inland and Wetlands commission met meeting on August 26, 2021 and found that there was no reason to reopen the inland wetlands application.

Mr. Szymanski, said that there was discussion regarding the buffer and stated section 14.3 Special Exception – Shoreline Setback (a) principal or accessory building or structure, excluding automobile garages or in-ground fuel tank, may be permitted between 50 and 100 feet of the shoreline when specifically approved by the Commission as a Special Exception subject to the following requirements and the requirements set forth in Section 31 of these Regulations. 14.3.1 The applicant shall provide a landscape and storm water management plan showing measures designed to substantially reduce the

impact of storm water runoff from the lot to the water body using storage (detention), filtration and/or infiltration practices including, but not limited to, the following: A. within the 100 foot shoreline setback area disturbance for proposed construction shall be kept to a minimum, and B. at least 50% of the undeveloped portion of the 100 foot setback area shall be shown in existing and/or proposed vegetation suitable as a shoreline vegetative buffer designed to protect water quality and consisting of trees, shrubs or ground covers recommended for this purpose by the U.S.D.A., Natural Resources Conservation Service, or other recognized conservation resource organization. At the last meeting we provided for the record a planting plan and it is also on the website showing that 50% of the area within 100 ft of the resource was to be landscaped or kept at its natural state, we also provided associated drainage calculations, the plan showed the storm water runoff was minimized in a more than substantial manner, the proposed patio which is within a 50-100 ft of the lake is to be a fully porous pad patio as we noted at the meeting, that can infiltrate the 100 year storm event and greater. On the downgradient side of that we have an infiltration trench which in for some reason the water didn't go through that the water can infiltrate. We are keeping a buffer approximately 50 ft in depth along the entire frontage which consists of maintaining the existing large mature trees and planting the under story as well. Roof run off from the home itself, is being discharged to the rain garden, the calculation has demonstrated that if there were 7 inches of rain in 24 hours that the rain garden would only be 25% full, at ¼ of its capacity. The driveway itself very mild with respect to its grade, allowing sheet flow to the downgradient side of the driveway which allows infiltration, located over 200 ft away from the lake itself. This has received Wetland's approval in its entirety, and TAHD approval. As part of the special exception standards one thing, we are required to look at is that it matches the character of the neighborhood, we did an analysis of the properties along Arrow Point and a large portion of North Shore Rd. (Provided a handout to the Commission 18 pages total). Mr. Gally also took pictures from the lake so you can see the majority of these houses that we reference on our map to get an idea of just what it looks like from the lake itself. On Arrow Point the average buffer that exists is under 25 ft deep. As stated for the record, we are proposing a buffer that is about 50 ft deep. We are preserving greater trees and landscaping that what exists from the other properties on Arrow Point Rd. Mr. Szymanski alluded to other application that they have done before the Commission, felt they were important because there's a lot of discussion of the fact that the rain gardens may not function properly, or not designed properly. There are 2 applications that we have done (provided handouts to the Commission) first picture is an example at 108 N. Shore Rd. that was taken recently of a rain garden that we designed approximately 20 ft away from the lake and on the other side of the handout is the rain garden for 102 N. Shore Rd. On 2 separate properties we utilized the same regulations, I think it was a different section of the regulations. One application was 5 years ago, and one was 6 years ago. These rain gardens use the same design I'm using for this property. The property manager who has been there since they have been installed said that they work flawlessly, taking the runoff with no issue. The first rain garden that you see is located off the edge of their existing driveway on 108 N Shore Rd. you can see the lake is quite close to the rain gardens. In this case we proposed a home that is 50 ft off the setback. Similarly, at 102 N Shore Rd. the other picture of the rain garden this one has excelled in its' way of function.

Mr. Szymanski called upon Attorney Marcus who reiterated that the issue here is to meet the requirements of 14.3. The special exception is a review process allowing the commission to comment on and address issues, such as storm water controls. There had been discussion with the Wetlands Commission as to whether the building could be moved further back from the shoreline, but the 200 ft buffer zone away from the public water supply prevented it.

Atty. Marcus stated that the Commission must determine whether the present design is in conformity with the requirements of section 14.3.a. He allowed that there is disturbance with any construction for a short period of time, but the long term will there be an impact of disturbance is minimal. He stated that his clients are not suggesting that there will be no impact but with the present plans, there should be very little, if any. He feels this is a non-impact design. Atty. Marcus continued, stating that Mr. Szymanski designed the patios as porous surfaces and if whatever does not infiltrate through the patio, will overflow into a trench to infiltrate there. Attorney Marcus as if there were any questions or issues from the Commission.

Mr. Papp asked for Mr. Szymanski to put the print up for the Commission to see.

Ms. Hodza asked Mr. Szymanski to confirm that what they are looking at is the revised 6/7/2021. He confirmed that it was not; however, Mr. Szymanski stated that the only difference between the two plans was the inclusion of a dock on the one Ms. Hodza had in the files and was looking at, which was not a part of this application.

Mr. Gally spoke, relating that he grew up on Arrow Point Road; his parents having been there since the 1980s. Their goal is to create a multigenerational retreat like they had at 21 Arrow Point Rd. Mr. Gally read a letter written by his mother Suzanne C. Gally.

**Chairman Mr. Papp opened the floor for questions from the public.**

Mr. Dave Wilson, Professional Engineer from Litchfield, 552 Milton Rd. Litchfield. He is attending the meeting on behalf of the Lake Waramaug Task Force. He feels that the presentation and design on the shore line protection is done very well, and that is not the issue. The issue that is brought up was the high percentage removal of tree cover from the site. There was an explanation from Mr. Szymanski that did really bother anything, but the story of erosion and run off is really, when erosion is when you knock a piece of soil loose and sedimentation is when it settles down or drops out and what knocks it loose is energy in the water, and in this case moving the canopy of the trees and the 1ft leaf cover on the ground and converting it to grass or gardens doesn't remove the energy of the rain drop. Removing the tree canopy is significant and changes the run off characteristics. I gave an example of how much more run off that would be occurring, the only storm water treatment by the applicant is for the roof run off from the house is what the rain garden is sized for. Although we went back and forth on how close the house is to the lake, the same plan is still here. It doesn't show a house with a cut out on the corner or a small footprint, the only thing referred to is justifying where it was. Some of the other properties on the lake that were mentioned, those properties all met the setback requirements that were in effect at that time the houses were constructed. As far as 41 Arrow Point, it was mentioned that they put up a pavilion that was the size of a house, well it's about 600 sq ft open sided, we supplied a storm water management plan and even though Mr. Szymanski felt that there was no storm water treatment on that site the entire grassed area in front of the house is a grass swale that fills with water and infiltrates into the ground. This was designed to retain it, not to have us disturbed any area of the shoreline. The biggest problem is when you clean all those trees you more than double the run off from the property. Going around the rest of the lake those houses there, those met the setback requirements at the time. During the Mid 90's there's an action that the state legislature on development along large water bodies that recommended setbacks and started out at 200 ft of the lake, the zoning regulations in Warren were rewritten in the late 90's or early 2000's, the commission spent many nights going over and rewriting the regulations, and then over looked them all and approved them and when they went through them

started finding regulation that were over looked or misstated in the regulations. It was found at that point it was discovered that they left out any ability to do any work between 75 ft set back from the lake and 100 ft which was building from the lake. Then all these special exceptions began. The main thing is; you'll notice when you go down Arrow Point a lot of it is farm land and toward the end most of the lots are wooded. You have to go through woods to get to the lake. You're drastically increasing the amount of run off by doing all that tree removal. Technically the way the regulations are written now, they checked off all the boxes, but the intent of the regulations was to lessen the impact on the lake, and for that reason I think you should request either better or more complete consideration of the storm water effects of the property, and how the rain fall events will affect the lake.

A person from the public asked if he could look at the plan up close.

Chairman Mr. Papp gave him permission to come up and look at the plan, and if it was ok to move on to the next public comment or question.

Mike Guadagno of 31 Arrow Point has known the Gally Family for a long time, he has been an Arrow Point resident for over 20 years, he agrees with the statements about their contributions to the lake, task force, and to Lake Waramaug Association. The question is about location of a home inside the 100 ft buffer. If there is a possible way for this home to be moved further from the lake, that is all anyone is asking them to do. He stated that he had written a letter to the Commission along with his wife and he stated that letter that the Gally's have the right to build on their property. They bought it as buildable lot, all we are asking is that they understand the reason for the 100 ft buffer, it is important to the lake's health. Our lake is no different than an infant when it is born, it needs to be taken care of everyday. The more development towards the lake, no matter what Mr. Szymanski says, it's going to be disruptive to the lake. Mr. Guadagno asked that the Commission review it and make sure there is no way that the house can't be moved further away from the lake, including the patio.

Having reviewed the plan on display, Mr. Jim Ross, 169 Kent Rd Warren, stated that he had done a lot of work around the lake like this. He had seen many site plans and that most projects like this really ought to install a turbidity fence in the water and maintain it at all times during construction.

Hermann Tammen, 50 Curtiss Road, noted that Mr. Szymanski stated that the Inland Wetlands Commission approved his plan; however, it is noteworthy that the actual vote by that commission was a vote of two ayes, and one abstention by the Chair. In addition, he was disappointed by Ms. Hodza's comment that during the inland wetlands hearing process, the public had had ample opportunity to get a petition with 25 signatures in order to compel the commission to hold a public hearing and they did not. Mr. Tammen objected, stating that it was not the public's job, but the Commission's. This property is 1.009 acres, if it were anywhere in Warren other than its current location, it would not be a buildable lot, since elsewhere, the minimum lot size is 2 acres. He felt that squeezing a 5-bedroom house on such a small lot was excessive. He further objected to the detached garage, since 5 or 6 houses on the same side of Arrow Point have attached garages, 2 of which were built in the last 2 years. Mr. Tammen wanted to see a plan where the garage is attached to the house, and the house moved outside of the 100 ft setback; the septic could be moved closer than the 200 ft radius to a 150 ft distance that is all that is needed when you pump only 25 gallons per minute. He went on stating that Mr. Szymanski always comes with a rain garden to get his deal done. The Commission should demand that there is a maintenance plan for the rain garden that will be given access for an annual checkup by the Town and if there is something wrong, there will be a fee involved at a cost to the owner.

Mrs. Tammen, 50 Curtiss Road stated that if the Commission approves this application, it would start a precedent, and as Mr. Szymanski mentioned earlier, he referred to other parcels where exceptions have been made, so if there's another exception being made, then the next application will be able to refer to this and demand to have the same.

Rudy Montgelas - 13 Arrow Point Road stated that he is the head of the Arrow Point Water Company. The Department of Public Health (DPH) regulations state that the actual septic field can be 150 ft away from the well. This distance has already been defined. What was described earlier -- that there are deeds requiring 200 ft -- does not apply to this parcel. In addition, the Arrow Point Water Company does not intend to expand the well because it has been fully installed for all the allowable houses on Arrow Point. So, the radius needs to be 150 ft, and what was presented before was based on a much larger well, which does not need to be installed in the future. I ask that the Commission consider that aspect of what is being done here. Secondly, I must echo Hermann's concern, that he is right that the storm water runoff is a real issue, and this should be considered as well, and the house should be moved back to the required setback.

**Chairman Mr. Papp opened questions and comments from the Commission for the applicant**

Mr. Zimet wanted clarification once and for all -- was the setback from the well required to be 150 ft or 200 ft? Also, at the June 8<sup>th</sup> meeting, there was discussion about changes to the patio, what happened to those thoughts?

Attorney Marcus explained that the water company says you can be 150 ft; however, there is a map recorded in 1972 that shows that the setback is 200ft. This map is in book 3 page 196. The Chairman of the Arrow Point Water Company says it can be 150ft radius, but that's only if the pumping capacity is limited, and in this situation that's not the case. When this was brought to the Inland Wetlands Commission, they agreed not to move the house closer to the septic which would then move the septic closer to the well; it's not a safe solution.

Mr. Zimet asked if the septic system was restricting where that house was placed.

Attorney Marcus stated it was, to a certain degree. The septic system needs to follow state regulations on setbacks. Then, there is the 100 ft buffer from the lake, and then from the house to the septic and to the -- one has to follow all the regulations.

Mr. Wilson, P.E. thought that Mr. Ross's suggestion was a good idea - to install turbidity fencing.

Ms. Hodza asked Attorney Marcus if it is correct that this property at 39 Arrow Point Rd does not have a deed restriction at all. Attorney Marcus stated this is correct.

Ms. Ouellette wanted clarification on what area exactly was proposed to be cleared.

Mr. Szymanski stated that the green area represents the limit of clearing that will be required and tree shown with a red (x) are the trees that need to be removed. A good number of mature trees will remain. The trees in the house foundation, septic and patio need to be removed. A large number of trees are being preserved along the lake and along the front of the property its self as well.

Pro Tem Chairman Papp wanted to know the answer to Mr. Zimet's question: what happened to the removal of the patio from a previous meeting?

Mr. Szymanski- Since that meeting on June 6<sup>th</sup>, we have spoken with Mr. Gally about reducing the patio, he felt that the fact that it's completely porous and that it has an infiltration trench on the downgradient side that it would provide no benefit to the resource and as a professional engineer, I agree with him. Mr. Wilson spoke to the removal of trees and the potential impact on the lake, the Wetlands Commission cannot approve a plan unless they make a finding there won't be an adverse impact on the lake, and they made that finding. The only areas we have in the lawn is within 100 ft from the lake. The storm water runoff that is upgradient coming from where the trees are being removed, that goes towards a couple areas, towards the house where it will infiltrate, goes slowly into the soil, and if there's enough it will go into the footing drains, those footing drains will then go into the rain garden which is 25% capacity for a 7-inch storm event. All of the storm water management that is upgradient is fully treated. The remaining of the runoff will either go into the mature woodland that is being preserved, the porous patio, and the infiltration trench.

Mr. Zimet- asked how much forest will be removed between the house and the lake? Mr. Szymanski- Approximately 50ft on average as well as the sides. So, 50% of the area within 100 ft of the lake is remaining as wood. Attorney Marcus- regarding to Mr. Wilson's comment, will the pre and post runoff be the same, will it be less, or more as it effects the water running into the lake? Mr. Szymanski- 0%

Ms. Hodza- What about velocity of water runoff? Mr. Szymanski- no greater because we have the treatment train approach, for the house it slowly infiltrates and the rain garden it slowly infiltrates as well. Mr. Zimet- regarding Mr. Wilson's comment- I believe he is talking about falling velocity opposed to ground velocity. Mr. Szymanski- again what he has stated before, it's going to go along the house or in the rain gardens, so it doesn't go straight to the lake, the trees are being maintained along the lake.

Ms. Hodza stated that she had walked the site. It is a fully wooded lot with mature trees. Many trees will be removed.

Mr. Szymanski responded to the collection of questions posed by the public. He stated that the patio will have joints so that water can infiltrate. Crushed stone would be the base for the patio. On the down-gradient side trenches of crushed washed stone will encourage infiltration; the rain garden is shallow with primarily sand. Mr. Szymanski stated that the proposal meets all of the stipulations of section 31.5 regarding special exceptions.

Mr. Szymanski stated that the reason the garage is detached is that there was a finding by [former] town staff [Stacey Sefcik] regarding another lakeshore property [10 N Shore Rd] that the garage needed to be detached.

Atty. Marcus - located the deed to the Gally property - Vol. 33 P. 224 and gave a copy to the commission.

Mr. Szymanski offered to add the turbidity fence.

Mr. Prindle wanted clarification on the precise location of the wells. Attorney Marcus submitted the map of the location of the wells showing them within the cul-de-sac. Mr. Szymanski- stated that Mr.

Ms. Hodza asked after the architectural drawings, which to her mind, had been rough sketches. Mr. Gally stated that Lisa Sadler of Harwinton drew them. Ms. Hodza felt that the drawings lacked clarity and the professional appearance of architectural drawings she was used to seeing. She wanted to know

also where the roof runoff from the garage was going to outlet. Mr. Szymanski stated it will be going in to splash pads. Ms. Hodza asking after drawings for garage. Mr. Gally said the architectural designs had not gotten that far yet, given the difficult zoning application process.

Mr. Wilson, P.E., representing the Lake Waramaug Task Force, held that the rain gardens were in the wrong location to address the storm water run-off. Mr. Wilson would suggest cross swales to address the volume of water prior to the house and before it reaches any rain gardens.

Chairman Papp recognized Hermann Tammen on Zoom who stated that the property is a forest, removing it is a big disturbance.

In response to Mr. Wilson's suggestion of cross-swales, Mr. Szymanski added to the map in his own writing, then dated and initialed it. On both sides of the house were proposed 3 ft x 3 ft splash pads with 1 ½ inch crushed washed stone, to allow for infiltration of any surface run-off in that area.

Chairman Mr. Papp still wanted clarification from Mr. Szymanski on the number of trees bring removed from the road to the septic.

Mr. Szymanski stated that the actual clearing itself is associated with the entrance to the driveway, the proposed grading which is shown in green represents in essence the limit of clearing that is required and shown in red (x) are the trees that need to be removed. It shows leaving a good number of mature trees, and the trees in the house foundation, septic and patio need to be removed. A large number of trees are being preserved along the lake and along the front of the property its self as well.

Ms. Ouellette reminded the Commission of its duty to adhere to the POCD [Plan of Conservation and Development] especially regarding its commitment to working with both the Lake Waramaug Task Force and the Lake Waramaug Association.

Ms. Hodza pointed out that the proposed water service line seems to be going right through a number of located trees. She wanted to know which, if any of the trees it ran through would have to be removed. Mr. Szymanski stated that he felt that at installation, the water lines can go around or to the north of those tree without having to remove them.

Ms. Hodza wanted to know where the generator and AC condenser would be placed. Mr. Szymanski indicated that the generator is located in the northeast corner of the garage and the AC units are shown in the rear of the house northwest corner.

Attorney Marcus was asked by Chairman Mr. Papp for any further comments. Attorney Marcus stated that he felt the team came up with, and is committed to, a plan that would preserve the lake, and felt that all the regulations had been followed.

Chairman Mr. Papp asked for a **MOTION** to **CLOSE THE PUBLIC HEARING**, Mr. Prindle **MOVED** so; Mr. Curtiss **SECONDED; MOTION APPROVED.**

### **Public Hearing**

Vice Chairwoman Victoria Sahadevan Fossland resumed her seat at the commission's table and presided.

**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 7/13/21; inland wetlands permit not applicable; no TAHD approval required, public hearing set for 9/14/21.)

Ms. Hodza affirmed that she had published the announcements in the newspaper as required by state statute. Mr. Ross is here tonight; he has given all the certificates of mailing for the 7 property owners who surround Mr. Yoxthimer. While Mr. Yoxthimer lives at number 12, the lot that is being cleared has no street number and it is the subject lot. Therefore, owners within 200 feet of it, not number 12, require notification. A photo of the sign that has been placed on the location has been sent to the Land Use Officer.

Mr. Ross came forward stating that the site had been cleared, and it may have been cleared more than anticipated. Some neighbors stopped by (such as Mr. Hopkins), who approved of the new aesthetic. It's about 30,000-20,000 sq ft have been cleared, removal of the stumps, grading and seeding are the only things left to do on this property. Vice Madam Chairwoman, Victoria Sahadevan Fossland asked if anything else needed to come down? Mr. Ross stated no nothing else needs to come down.

Vice Chair Sahadevan Fossland asked for public comment

Hermann Tammen, 50 Curtiss Road, had heard ongoing noise from the area and had told the Land Use Officer who, he said, did not investigate. Mr. Tammen wanted to know why Mr. Ross did not contact the Land Use Officer before cutting.

Ms. Hodza stated that she had several conversations with Mr. Yoxthimer himself who expressed his desire to comply with all regulations. When the tree-cutting came to her attention, she asked Mr. Ross to stop. It appeared that at some point, the project got away from Mr. Ross; however, he is here today to make right. It is a fact that the property owner has the right to cut down trees, unless the area is regulated by the Inland Wetlands Commission, and this property is not near wetlands. The trees have been cut down, the stumps are to be removed and grading will then be necessary. As such, this is not an after the fact permit, since it is the grading in excess of 20,000 sf (related here to the pulling of the roots) that requires a special permit. The grading has not yet been done.

Hearing no further public comments or questions from the Commission, the Presiding Chairwoman asked for a **MOTION** to close the public hearing, Mr. Papp made a **MOTION** to close the public hearing, Ms. Ouellette **SECONDED, MOTIONED CARRIED.**

### **Public Hearing**

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 by Commission 8/10/21: public hearing cancelled for information received 8/18/21 per email from, and conversation with, Atty. William J. Manasse re CGS Sec. 8-26a.)

Ms. Hodza had emailed the entire Commission on this. She was notified by the applicant's attorney that the subject property had been part of a legal subdivision and subsequent re-subdivision. State statute says that zoning permit applications for lots that were created by subdivision or resubdivision must be



made in accordance with the zoning regulations that were in affect at the time the subdivision or resubdivision occurred. Thus, no public hearing will be held, since nothing but a regular zoning permit would have been required for this residential building project in 2004, which the re-subdivision was approved.

#### **Approval of the Minutes from August 10, 2021**

Chairman Sahadevan Fossland made a **MOTION** to approve the minutes from last meeting, Ms. Schnell **SECONDED; MOTIONED CARRIED.**

**Old Business** - none

#### **Possible deliberations and voting on matters whose public hearings have been closed**

**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.**

Vice Chair Sahadevan Fossland made a **MOTION** to approve the special exception of allowing the grading greater than 20,000 sq ft, to remove the stumps and plant the grass, Mr. Papp **SECONDED, MOTION CARRIED**

**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).**

Ms. Sahadevan Fossland again recused herself from the matter and took a seat with the public. Mr. Papp took the chair and presided.

Mr. Prindle made a **MOTION** to approve the application with the following 4 conditions

1. A turbidity fence shall be installed in the lake during construction and until project completion and soil stabilization has occurred.
2. A revised site plan shall be submitted showing the 3ft x 3ft 1 ½ inch thick crushed washed stone infiltration trench on either side of the house per hand drawing by Mr. Szymanski at the meeting.
3. A maintenance plan for rain garden shall be drawn up and submitted.
4. The Planning & Zoning Commission shall be named in the Performance Bond Agreement of \$15,000 required by the Inland and Wetlands Commission.

Mr. Curtiss **SECONDED.**

Chairman Papp asked for members' leanings on the matter. Ms. Ouellette agreed with the Lake Waramaug letters, and her decision is up in the air. Mr. Zimet stated that he is still undecided. Mr. Papp felt that the architectural plans posted online were sufficient for the Commission's information; he appreciated comments from Engineer Wilson on behalf of the Lake Waramaug Task Force. Regarding

the 150 ft -200 ft set back, the Commission can do nothing but follow the regulations. He considered the fact that this lot is a building lot that could contain a dwelling that complies with the 100 ft set back from the lake. Mr. Zimet was unclear on why there exists a special exception provision for the purpose of being closer to the lake. Ms. Hodza stated that the special exception feature does not require the applicant to show a hardship; the regulations allow something closer to the lake than 100 ft, providing all those points enumerated in the requirements are met. If the Commission finds that all those points are met, is it very difficult to deny the application. If the Commission denies this application, it needs to state the reasons that it is being denied. Mr. Prindle was concerned about the closing in of autumn stating that timing is important. Requiring the applicants to wait another 30 days until the next meeting would be onerous.

Chairman Papp called for a vote: Ms. Schnell: yay, Mr. Curtiss: Yay, Mr. Prindle: yay, Ms. Ouellette: Nay, Mr. Zimet: Nay, Mr. Papp: Yay. **MOTION CARRIED by a vote of 4 – 2.**

#### **New Business:**

Ms. Sahadevan Fossland rejoined the table and took the Chair again.

**ZPA# 21-62 / F&H Architectural Design and Consulting LLC for Melanie Fahey and Criston Cicala / Wolfe Road, Assessor's Map 37, Lot 03-01 / Application to construct new house, pool, and appurtenances in an approved subdivision.** (Date of receipt 8/20/2021 by LUO; Date of Receipt by Commission 9/14/21; TAHD approval received)

Ms. Hodza stated that although it was determined that no special exception was required, because of the sensitive nature of the parcel, its location among areas of preserved or conserved land, she did not want to make the decision alone. The house does meet the regulations of today, except for the extensive cutting and grading that would have required a special permit. Setbacks are all being met, the height of the house, etc. For the record, there were correspondence from a neighbor with a map prompting Ms. Hodza to do a lot of research in order to be certain that no regulations were being violated, that no discrepancies existed, and that it met all setbacks. Mr. Zimet sought clarification on the difference between the 2004 regulations and our current regulation. Ms. Hodza confirmed that the only difference was the excavation and grading. She stated that health approval has been obtained. A zoning permit and driveway permit have already been issued. Ms. Hodza sought confirmation from the applicant's agent, that although the pool is on the plans, it is not part of the present application, but may be in the future. Mr. Chris Rolli of F&H Architecture and Design stated that the pool will be constructed at some point.

Chairwoman Sahadevan Fossland asked for a **MOTION** to approve the application. Mr. Curtiss made a **MOTION to APPROVE**; Mr. Prindle **SECONDED**; **MOTION CARRIED.**

**ZPA# 21-57 & 21-58 / 85 Curtiss Road, Assessor's Map 7, Lot 19 / Paul Szymanski, P.E. of Arthur H. Howland & Associates, P.C. for Davidson, and Elizabeth Goldin**

**ZPA# 21-57** Special Exception and Site Plan Application for grading more than 20,000 square feet of land per Section 22.1 related to the demolition of existing house and shed and construction of a new house with appurtenances including driveway, pool, spa, pergola, septic well. (Rec'd by LUO 8/10/21, to be rec'd by Commission 9/14/21.)

**ZPA# 21-58** / Special Exception and Site Plan Application for structures outside the buildable area per Sections 6.1.4 and 6.1.5 related construction of a new house with appurtenances including driveway, pool, spa, pergola, septic well. (*Rec'd by LUO 8/10/21, to be rec'd by Commission 9/14/21.*)

Mr. Szymanski stated that both applications require a public hearing. He requested that the commission set the hearings, rather than having him make a presentation now, and then have to make a presentation again next month.

Mr. Papp made a **MOTION** to schedule public hearings for ZPA#21-57 and ZPA#21-58 on October 12, 2021. Mr. Prindle **SECONDED; MOTION CARRIED.**

Vice Chair Sahadevan Fossland noted that an Inland Wetlands permit application regarding this property remains in public hearing before that Commission. Any comments, or questions should be forwarded to Ms. Hodza who will email Mr. Szymanski in preparation for the Public Hearing on October 12, 2021.

Ms. Schnell asked about blasting. Ms. Hodza stated that the blasting necessary for site development had been discussed at the Inland Wetlands public hearing. The applicant has provided a number of alternatives to the application that is before Inland Wetlands Commission. Because feasible and prudent alternatives are being considered, the plan approved by Inland Wetlands may change from the one that is presented with the current zoning application for special exceptions.

Mr. Zimet wanted to clarify which drawing was submitted to Zoning, because there are 5-6 drawings for Wetlands up on the website. Mr. Szymanski stated it is Alternative 1A, the applicants' preferred plan.

### **Other Business Proper**

**Affordable Housing** – Discussion of current draft of the affordable housing plan  
[https://www.warrenct.org/sites/g/files/vyhlf3991f/uploads/warren\\_housing\\_plan\\_draft\\_aug6\\_2021.pdf](https://www.warrenct.org/sites/g/files/vyhlf3991f/uploads/warren_housing_plan_draft_aug6_2021.pdf))

Presiding Chair Sahadevan Fossland, who is also a member of the Affordable Housing Committee, stated that the draft is being brought to the Planning and Zoning Commission for its input. The State's goal is to require 10% of total households in town to be affordable housing units. At the meeting on Thursday September 16, 2021, there will be an opportunity to walk the property.

Presiding Chair Sahadevan Fossland asked for a MOTION approving the draft as being consistent with the Plan of Conservation and Development. Mr. Papp made a **MOTION** to approve the draft submitted by the Affordable Housing Committee and presenting same to the Board of Selectmen. Ms. Sahadevan Fossland **SECONDED. The MOTION CARRIED.**

### **Plan of Conservation and Development**

Subcommittee started last year, bylaws and regulations were needed. Asking for Ms. Hodza to put out a request for proposals for the outside consultant so we can start addressing these objectives. The objectives are to establish bylaws, how many people we need present for a meeting and what is a quorum for us to be able to have a vote. Mr. Zimet wanted clarification on restrictions regarding administrative discussions without public attendance. Vice Chair Sahadevan Fossland stated that everything the commission does must be before the public.

Mr. Papp made a **MOTION**, Vice Chairwoman Victoria Sahadevan Fossland **SECONDED, MOTION CARRIED**

**Zoning Enforcement Officer's Report:** Report was tabled

**Correspondence Received:** None

**Opportunity for Public Comment**

Hermann Tammen, 50 Curtiss Road stated that the Special exception regarding 85 Curtiss Road has to abide by section 31.4 page 90. It demands that you need to have approval by Inland Wetlands before coming to Zoning. Mr. Tammen read the section. He also wanted to note that the Town will get 1.2 million from the American Rescue Plan and that the town has already received \$600,000.

Ms. Hodza stated that one of the reasons the regulations are being reviewed is because there are points on which they differ from State statute; however, no matter what local regulations say, State law always trumps town law; as such, applications can be made to both Inland Wetlands and Zoning simultaneously.

**Adjournmen**

At 10:58 p.m., Ms. Schnell made a **MOTION** to ADJOURN the meeting, Mr. Papp **SECONDED; the MOTIONED CARRIED**. The next regular meeting is on October 12, 2021.

Respectfully submitted,

Robin Tanner-Hoskinson,  
Recording Secretary

Link to Zoom recordings:

<https://us06web.zoom.us/rec/share/Wfu-NptA14c1w4RT4NCjLEoZvqGYSuKLEeR74m0k9Ni8dJ0R7zVdta6LXHtj9bd.As4jqyEjCR0GMXQg>