



TOWN OF WARREN
PLANNING & ZONING COMMISSION
Lower-Level Conference Room
50 Cemetery Road, Warren, Connecticut

Public Hearing and Regular Meeting
Minutes

Tuesday, October 12, 2021 at 7:30 p.m.

1. Call to Order, Roll Call, and Designation of Alternates

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

2. Items to be Added to Agenda (if any, requires 2/3 vote)

Ms. Hodza requested to add a vote on proposed regular meeting dates for the year 2022 under Other Business Proper, item g.

Mr. Papp made a **MOTION** for this item to be added to the Agenda, Mr. Curtiss **SECONDED, MOTION CARRIED** by a vote of six to zero.

3. Public Hearings

- a. 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

- i. 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. (*Received by Commission 9/14/21, public hearing opens 10/12.*)
- ii. 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. (*Received by Commission 9/14/21, public hearing opens 10/12.*)

Ms. Hodza started by saying she had received letters from a couple of townspeople who believed that these public hearing could not be held since the matter is still open before Inland Wetlands. She stated that CGS 8-3.g allows both applications to be submitted at the same time; therefore, testimony and the public will be heard tonight.

Mr. Goldin introduced himself to the Commission and to the public and his wish to build a home for his family on the property he had purchased at 85 Curtiss Road.

Mr. Paul Szymanski, professional engineer, representing Mr. & Mrs. Goldin presented the applications. The proposal calls for the construction of a new driveway entrance, but then follows the majority of the existing driveway. The new driveway has 60-foot radiuses or larger, in accordance with the zoning regulations. It then goes up to serve the new, proposed single-family home with an associated patio, pool, and pergola. The septic system is located south of the home and was approved by the Torrington Area Health District.

The entire site drains basically from the northern portion of the site southward, toward Curtiss Road and towards the Gildersleeve property. No direct disturbance of Wetlands will occur. Mr. Szymanski acknowledged that the application was presently in the public hearing process before the IWC as well. A third party, peer review by [engineer] Todd Parsons was fully addressed. Mr. Szymanski offered to respond to any comments from today and incorporate them into the plans.

A proposed retaining wall along the western side of the driveway addresses runoff and minimizes the amount of disturbance in the upland review area. There is a permanent drain in Curtiss Road on the adjacent side of the existing stone wall. That drain captures, with a high-level overflow, any surface water from the driveway. As part of the Inland Wetlands review it was noted that there is runoff coming onto Curtiss Road from the slope itself. On the upgradient side of the stone wall is proposed a crushed, washed stone curtain drain that will intercept that water leading it into the existing drainage system on Curtiss Road, as opposed to on the road.

Roof runoff will discharge into a rain garden at the northwest corner of the property. The raingarden will be of a size to handle the volume in accordance with the 2004 Connecticut Stormwater Quality Manual.

A series of infiltration trenches are proposed adjacent to the driveway, so there will be a net reduction of 1,500 square feet of impervious surface runoff toward Curtiss Road. Both shoulders and the infiltration trenches have been modified to be simple level spreaders, so that the energy coming off the driveway is dissipated. Existing meadow on both the down- and upgradient sides of the drive will be maintained, with a mowed swath along both sides of the driveway so that the meadow does not encroach on the driveway itself. Further up the driveway, two of the infiltration trenches have been moved and replaced with rain gardens and an additional rain garden on the northeast side has been added to form a separate system for runoff from the patio and pool area. Of the 10.2 acres, only about 25% of the site will be disturbed and a decent portion of that is the restoration associated with removal of the cottage and parts of the driveway. Total proposed impervious surface is 5.67%, well within the requirements.

With respect to the special exceptions for excavation and grading -- under Section 22 of greater than 20,000, square feet, cutting of more than 500 cubic yards, and filling of more than 100 cubic yards, and under Section 6 for buildable area -- the 2007 version of the regulations didn't seem to require them. These special exceptions were incorporated in the 2008 version. The buildable area regulation simply says that each lot shall contain at least one buildable area. The buildable area shall be a rectangular area containing a minimum of 20,000 square feet, and a minimum dimension of 100 feet. All structures and septic systems shall be located within a buildable area except accessory structures with a footprint under 250 square feet and wells which may be located outside of the buildable area.

There are some exceptions to this regulation, one is the existing structures on the property assessed for lots which legally existed prior to the adoption of section 6.1.1 and 6.1.2 to the buildable area requirements shall not apply to the expansion of existing structures. The reason that we can't conform to the buildable area is a buildable area has to be free of slopes greater than 25%. On this property there are pockets of slope greater than 25% that rule out strict conformance with the buildable area. It is not possible.

A commission member wondered if the proposed house is too large for the buildable area and that the house should be made smaller.

Ms. Hodza clarified that Mr. Szymanski is looking for a special exception for a buildable area, not how big the house the house is. The plan meets impervious coverage.

Chairman Jack Baker opened the floor to public comment

Mr. Terrence O'Donnell of 34 Sheehan Road expressed a concern on how the neighbors are notified of this work being done at the property site. Ms. Hodza stated that all of the mailings to neighbors within 200 feet were properly noticed; that the applicant is required to take addresses from the tax assessor's records. She produced the return receipt to Mr. O'Donnell's New York City address. Mr. O'Donnell also wanted to know about the proposed blasting and who would inform the neighbors.

Ms. Hodza stated that blasting was of great concern to the surrounding community, and it is being addressed in front of the Wetlands commission. Ms. Hodza stated that blasting per se was not a concern of this Commission. To address concerns in the Wetlands application, Ms. Hodza stated that she consulted the CT DEEP's "Guidance Document for Evaluating Hydrogeologic Impacts Associated with Blasting and Development Activities," published in 2019 by the Bureau of Water Protection. Although many of its recommendations are for larger, commercial properties, page two of the document, states that in the absence of drinking water wells within 500 feet of the area to be disturbed the applicant's environmental professional should identify the closest drinking water wells, if any within a 1000-foot radius. Ms. Hodza addressed Mr. Szymanski, stating that she believed he had said there were no wells within 500 feet. Mr. Szymanski stated that is correct. And that since Ms. Hodza had called his attention to the guideline, he contacted the TAHD to get information on those wells within 1000 feet and his firm would be plotting those on updated plans before Wetlands. Ms. Hodza also referred to page 3 of the document under "Other Considerations," the third of which considered disturbances of one acre or more to be of notable significance. She then asked Mr. Szymanski to confirm her belief that more than two acres were to be disturbed in this application, which he did.

Mr. Martin Connor, representing the Lake Waramaug Association [not the Lake Waramaug Authority as stated], was recognized by the Chair. Mr. Connor stated that he is a Certified Planner with the American Institute of Certified Planners. He commended the Inland Wetlands Commission on doing a peer review, stating that sheer amount and thoroughness of information contained in the third-party report indicates its crucial importance. Mr. Connor stressed that this is a difficult site with development on a very, very steep slope. How the development is carried out is important. Stormwater must be managed, during, and even more importantly, afterwards. Mr. Connor stated that testimony had been given about poor drainage in the area, and icing. It is critical that the proposed activity is not going to make the situation worse, and if possible, improve upon the drainage in the area. Mr. Connor stated that the

Association is not opposed to a house being built, but that the issues raised by the consulting engineer on behalf of the Town are properly addressed. The Association is opposed to a situation where stormwater may affect the lake. It is concerned about road safety

Mr. Connor continued, stating that the only thing about blasting he wanted to comment on is mentioned in Mr. [Todd] Parsons' report: the staging and processing areas need to be specifically defined and if material is to be removed from the site, explain how that is to be accomplished.

Ms. Hodza thanked Mr. Connor and added that her understanding that the processed blasted rock was to be used on the site in the driveway bed and perhaps elsewhere. The report she had read from discusses the potential harm of "acid rock drainage" so the plans should indicate where that processed rock was going to be used and how any potential for seepage would be addressed. She confirmed with Mr. Szymanski that he was consulting with an environmental professional on this matter.

Ms. Katia Zero, 52 Mountain Lake Road was recognized by the Chairman Baker. She echoed Mr. Connor's concerns about the icing of Curtiss Road, since Curtiss Road is the only way she can get to her house. She implored the Commission to get its own peer review. She has noticed an increase in the amount of ice on the road since people have been clear-cutting trees along it.

Ms. Elizabeth Gildersleeve, 77 Curtiss Road, stated that her property is immediately adjacent to 85 Curtiss Road. Ms. Gildersleeve stated that she is one of the people who sent a letter to the land use officer this afternoon to suggest that this planning and zoning public hearing might be premature, because the Wetlands Commission has not approved the application. She read local regulation Section 31.4 which states: "If a Special Exception application involves an activity regulated pursuant to the Inland Wetlands and Watercourses Act, the applicant shall include with their application evidence of the approval of the Town of Warren Inland Wetlands Commission." Ms. Gildersleeve continued, stating that since there has been no such approval, this hearing is too early.

Ms. Barbara Ann Cook, 71 Curtiss Road, stated that she sent a letter to the Land Use Officer last week and wanted it read into the record presently. She stated that the reason for an independent engineering review was to assess the impact of the blasting on local properties, basements, foundations, and wells; however, the report really does not address blasting. If it's not within the scope of their expertise, then a different independent engineer needs to be retained quickly to address the blasting issues. Ms. Cook also stated that she and her late husband purchased in 1980 their home, which was built in 1926 with a fieldstone foundation by Charlie Johnson, grandfather of Brad Johnson the stonemason. She did not want to see damage to that 95-year-old foundation. Ms. Cook also stated that, the fact that these hearings have dragged on for months raises the question of whether there is any possibility at all, that the project could satisfy applicable state and local laws and regulations. Ms. Cook requested that her letter be read in the full for the record. Ms. Hodza read the email for the record.

Ms. Jane Flanagan, 218 Melius Road, wanted to reiterate the importance of the letter from Sean Hayden of the Lake Waramaug Task Force, stating that anybody who read that letter could not help but be concerned. She stated that Mr. Hayden's concerns as a soil scientist were strongly stated and that she believed he does not normally write letters of such urgency, so this is clearly an extraordinary proposal. Ms. Flanagan implored the Commission to do its work and

evaluate the project thoroughly, because it is one that affects not just Curtiss Road, but everyone in the town.

Ms. Waltraud Tammen, 50 Curtiss Road, stated that she felt that the application should be denied because the IWC has not approved the project. She stated that a section of the General Statutes of Connecticut states that a site plan may be denied if it fails to comply with requirements already set forth in the local regulations. In this case, the P & Z special exception application regulations Section 31.4 requires -- as Elizabeth Gildersleeve said earlier -- that the applicant include with their application, evidence of approval by the Town of Warren Inland Wetlands Commission and that is a prerequisite for submitting an application. There is no such evidence. Ms. Tammen continued, stating that there are questions regarding the effects of blasting on surrounding properties. She repeated Ms. Cook's concern, that the application came before the IWC on June 24 and as of today, October 12 -- almost four months later -- it is still not decided. She wondered why the P & Z was going forward even though it is unclear that the IWC will approve the proposed activity. Approval cannot be assumed and doing so would put this Commission under undue time pressure to gather and consider all the information it needs.

Mr. Tammen, 50 Curtiss Road stated that the minutes from the last meeting confused the Special Exception application numbers related to 85 Curtiss Road. Mr. Tammen questioned whether the existing house, built in the 1930s, could be demolished without considering its historic importance. Mr. Tammen wanted clarity on the areas of proposed excavation and grading and what the existing and proposed contours were. The site plan was unclear. He also felt that the difference between the existing and proposed drainage was not made clear. Finally, Mr. Tammen agreed with other speakers that the application is incomplete, and it could and should be denied on that, alone. Mr. Tammen then requested that his email communication of October 4 at 3:34 be read into the record. (See attached.)

Chairman Baker thanked the public for its important participation and comments and stated that no decision would be made tonight.

Chairman Baker reiterated the general criteria for the granting of special exceptions in Section 31.5, which address protecting the interests of the community. The Chairman felt that he did not have a clear understanding of the elevations especially with regard to the way the views of the neighbors behind the house might change and whether the effective natural screening of the mature trees would remain.

Mr. Szymanski stated that his plan preserves 75% of the existing vegetation on site. He stated that Mr. Tammen was incorrect: that proposed drainage was in fact indicated and the topography for the entire 10 acres was shown, even though only a quarter of it was being disturbed. Also the front portion of the property has mature trees which will remain, but that the majority of it is meadow which will remain as it is today. He offered to produce an aerial photo to document the canopy that exists around the perimeter.

Ms. Hodza recommended a site walk.

Chairman Baker asked for a motion to be made for a site walk at 85 Curtiss Road. Mr. Papp made a **MOTION** to set the site walk on Sunday, November 17, 2021 at 8:30 am. Mr. Curtiss **SECONDED; MOTION CARRIED**.

Ms. Hodza informed the Commission that the Inland and Wetlands is having an engineer review concerns within that application, which would assist this Commission; however, certain other areas regarding the proposal, not under the Inland Wetlands' jurisdiction, might call for additional independent professional review. She attempted to speak about the blasting and the kinds of protections that other agencies afford the neighbors, as well as the Fire Marshall.

Mrs. Tammen, 50 Curtiss Rd, thanked the Commission for scheduling a site walk.

Ms. Barbara Ann Cook, 71 Curtiss Rd, stated that there ought to be an independent engineering assessment of the blasting, not just checking people's wells three months later. She was concerned that the foundation would crack or collapse and while insurance is well and good, there really needed to be an independent assessment of the impact of the blasting.

Mr. Martin Connor, AICP representing the Lake Waramaug Association stated that he regularly reviews earth excavation operations in Torrington, and it is not unheard of to place conditions on the permit, such as notifying neighbors before blasting occurs, and having surveys done of foundations before any blasting occurs.

Chairman Baker asked for a motion to be made to continue the public hearing to the next meeting November 9, 2021. Mr. Curtiss made a **MOTION** to continue the public hearing to the next meeting November 9, 2021, Ms. Schnell **SECONDED, MOTION CARRIED**.

4. Approval of Minutes of September 14, 2021.
 - a. Ms. Schnell made a **MOTION** to accept the minutes from September 14, 2021 with corrections. Mr. Papp **SECONDED; MOTION CARRIED**

5. Old Business- NONE

6. New Business

- a. ZPA# 21-66 - 37 Brick School Road, Assessor's Map 21, Lot 24-02 / Terry Shook and Cynthia J. Stilson-Shook of 236 Brick School Road / Construction of a proposed horse barn withdwelling unit. (*To be received by Commission 10/12/21*)

Tabled to next meeting on November 9, 2021. Mr. Papp made a **MOTION** to table this application to the next meeting, Ms. Schnell **SECONDED; MOTION CARRIED**.

7. Other Business Proper

- a. Discussion of Membership and Expiring Terms of Office
Nominations and votes will be held at the Town Meeting on October 21st.

- b. Affordable Housing – Discussion of current draft of the affordable housing plan

The Affordable Housing Committee would like this Commission's endorsement of the draft that was posted on the website and sent to each Commission member.

Mr. Papp made a **MOTION** to endorse the affordable housing draft, Mr. Prindle **SECONDED; MOTION CARRIED.**

- c. Request for Proposal for Rewriting of Zoning Regulations

Ms. Hodza stated that Ms. Jocelyn Ayer of the NHCoG had spent an hour-and-a-half waiting to speak at the last meeting, but had to leave before the Commission took up the item. In order to allow time for Ms. Ayer to speak, a Special Meeting should be held. Ms. Ayer was invited to the meeting to discuss with the Commission its needs and the writing of an RFP.

Mr. Papp made a **MOTION** to hold a special meeting to be held on October 26, 2021 at 7:30pm, Mr. Curtiss **SECONDED, MOTION CARRIED.**

- d. Plan of Conservation and Development. No new information.
- e. Ordinances naming P&Z Commission. Ms. Hodza stated that there are a few Ordinances that mention the Planning and Zoning Commission and she is in the process of working compiling them in order for the Commission to review them. It is possible that a new, clearer P & Z ordinance needs to be proposed.
- f. Sample by-laws. Ms. Hodza stated that she could draft by-laws for the Commission, since it is a straight-forward document, similar to that of many other Connecticut towns.
- g. 2022 Schedule of Regular Meetings. Ms. Hodza presented a list of the proposed regular meeting dates with an identical schedule to years past, namely, that P & Z regular meetings be held on the second Tuesday of every month.

Mr. Prindle made a **MOTION** to APPROVE the list of meeting dates for the 2022, Mr. Curtiss **SECONDED, MOTION CARRIED.**

8. Zoning Enforcement Officer's Report

- a. Ms. Hodza reported that since the last meeting, the following agent approvals were made: Approvals; 218 Kent Rd approved on 10/12/2021, 184 Brick School Rd approved on 10/12/2021, 55 Reed Rd approved on 9/16/2021, 23 Laurel Mountain Rd approved on 8/31/2021, 183 Melius Rd approved on 10/12/2021, 12 Arrow Point Rd approved on 10/12/2021, and 335 Brick School Rd approved on 10/12/2021.
- b. Enforcements: Ms. Hodza stated that she was informed of the possible operation of a business without permit. The property owner's father, Demetrio Meduri has had a history of violations and has caused the Town to incur legal fees. There is a zoning permit on the property for a driveway, so presently, there is construction on the property. It is difficult to discern between the construction and the property's non-allowed use as a contractor shop and storage. There are constant complaints about him driving his trucks into the property at all hours. And more than one neighbor have complained. A show-cause hearing should be held on November 9. Mr. Meduri

apparently uses 28 Reed Road as a staging area for his masonry business, he stores his equipment and supplies there, and his employees park there.

- c. There has been one resolution of an enforcement action. A notice of possible violation was sent in January 2021 to Catherine Wells of 163 Melius Road. IN August, she completed the work to move her shed back from the front yard line to just over 30 feet and from the side yard to over 25 feet.

9. Correspondence Received - NONE

10. Opportunity for Public Comment - NONE

11. Adjournment: Mr. Papp made a **MOTION** to adjourn the meeting at 9:30pm, Mr. Curtiss **SECONDED, MOTION CARRIED**. The next regular meeting is November 9, 2021 at 7:30pm.

Respectfully submitted,

Robin Tanner-Hoskinson
Recording Secretary

Link to zoom recordings:

https://us06web.zoom.us/rec/share/6pphtFtk97auVQpMKyVTQdoh5x0cbw8ckP2Q89x2Q9Ae8R38pt_5H2SbljmKhSYu.V0sjLPnnJQ331FDi