



TOWN OF WARREN
PLANNING & ZONING COMMISSION

Special Meeting and Public Hearings,
January 18, 2022, at 7:30 p.m
Lower Level Conference Room

Call to Order and Designation of Alternates

The meeting was called to order at 7:30pm. Present were Chairman Jack Baker, Victoria Sahadevan Fossland, John Papp, Paul Prindle, Ryan Curtiss, Ruth Schnell, Debora Oullette, Peter Sandberg. Absent was Andrew Corollo; Peter Sandberg alternate, was seated for Andrew Corollo.

Election of officers for the year 2022

Mr. Baker and Dr. Sahadevan Fossland put their names forward as co-chairs. Ms. Schnell made a MOTION that Mr. Baker and Dr. Sahadevan Fossland are seated as co-chairs for the planning and zoning commission for the year of 2022. Mr. Papp SECONDED the motion. A vote was held, all were in favor; the MOTION CARRIED.

Mr. Chairman made a MOTION to nominate Debora Oullette for vice chairperson. Dr. Sahadevan Fossland SECONDED the motion if Ms. Oullette would accept. Ms. Oullette stated she would decline due to experience. A discussion was held regarding the possibility of Mr. Papp being vice chair. Mr. Chairman made a MOTION to nominate Mr. Papp as vice chairperson, Dr. Sahadevan Fossland SECONDED the motion. A vote was held, all were in favor the MOTION CARRIED

Public Hearings

- i. ZPA# 21-58 / 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 opened 10/12, continued to 11/9 (day 28); must close by 11/16 (day 35); extension from applicant of 45 days was granted to 12/3/21; extension from applicant of remaining 20 days was granted on 12/14/21; public hearing continued from 1/11/22 for lack of quorum to 1/18/2022.)
- ii. ZPA# 21-58 & 21-57 / 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# 21-58 / 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 opened 10/12, continued to 11/9 (day 28); must close by 11/16 (day 35); extension from applicant of 45 days was granted to 12/3/21; extension from applicant of remaining 20 days was granted on 12/14/21; public hearing continued from 1/11/22 for lack of quorum to 1/18/2022.)

Mr. Szymanski representing the applicant was present and spoke on behalf of the applicant as well as on the documentation, letters, recommendations, and comments from previous hearings; as well as adjustments made to their plans based on such. A discussion was held on the surveys completed and field work regarding the topography of the land. This discussion also included regard for the slope; naturally occurring versus manipulated. A discussion was held on the regulation as it applies to the proposal with consideration for the septic regarding the regulation requiring a buildable area having no less than 20,000 sq. ft and no less than a 100ft dimension. Mr. Strub on behalf of the Lake Waramaug Task Force, spoke in order to note that the map does acknowledge one of the points Mr. Szymanski made, that the septic area is outside of what Ron had noted. An attorney with Kramer and Anderson representing the abutting property spoke to state the concerns of that property owner including 31.4 of regulations, the Wolf diagrams, the legitimacy of buildable area, cubic yards of blasting, a request for the CAD, the evaluation of the percentage of buildable land, regulation 6.1.4 as it applies to this application, the grading yardage in a subsequent application re: 97,000 cubic yards of grading. A discussion was held regarding the Wolf map and if it was assumed data or field work. Civil engineer Mr. Jeremy Hall, representing the residents of 77 Curtis Rd, spoke regarding his clients' concerns. His concerns were acid rock drainage, heavy metals, the process used for blasting; he discussed his recommendations

regarding runoff, sampling curtain drain and brook runoff, and adjusting the well testing. Mr. Hall summarized the two letters he submitted to the commission. Mr. Hall discussed concerns he held regarding the ledge cuts, the amount of ledge being removed, amount of earth and material blasted. Mr. Papp asked to clarify if Mr. Hall was proposing that the site the house was currently on as being the best buildable area, if they chose to build on this site, would it still exceed 20,000 square feet of grading. Mr. Papp clarified that there two special exceptions, one being the slope and one is grading more than 20,000 square ft. Mr. Papp asked if they were to build in the existing house site, they would still exceed the 20,000 sq.ft of grading. Mr. Hall stated yes that was true. Mr. Papp stated then that if the existing site was a buildable area, they would still be required to seek special exception for the 20,000 sq.ft of grading. A brief discussion was held regarding the area of grading.

Ms. Schnell asked if blasting would be necessary if they utilized the site with the existing house. Mr. Hall stated that the amount of blasting may be so low the contractor may decide it would be more efficient to remove the rock by chipping or hammering.

Mr. Chairman acknowledged Sean Hayden. Mr. Hayden, executive director of the Lake Waramaug Task Force and certified soil scientist. Mr. Hayden read the letter he sent to the commission for the record. Mr. Chairman addressed Mr. Hayden to point out that it has been suggested to move the house closer to the lake, to avoid it being higher up the slope and lessen runoff, however in most circumstances, the further a build is from the lake the greater the benefit to the wellbeing of the lake; he asked Mr. Hayden asked about what he identified as a natural buffer below where the house is proposed and if there were any positive things to identify about this site and proposal. Mr. Hayden stated that alternative plans serve as a way for the commission and community to assess the best option for the land. Mr. Hayden stated that they did not receive alternative plans. Mr. Hayden stated that as a rule if you build on flatter sites you have less potential for water quality degradation. Mr. Chairman asked if the house was 200ft further up the hill versus 450ft, if the potential runoff would be significant enough to impact the lake so they should not be able to build on the preferred site. Mr. Hayden responded by stating he was concerned about the argument which had been made of moving the house to the existing location that there would be more disturbance in the wetlands setback. Mr. Hayden stated there was no regulation that says you cannot build in a setback, and there exists techniques and structures to be protective of water quality even if you are closer within the setback. Mr. Hayden stated that the less site disturbance and excavation, the less water quality degradation both during construction and in perpetuity. Mr. Chairman stated the commission has to weigh what could affect the lake as well as what a person has the right to do on their property. Mr. Hayden stated the task force's concern is that if a project such as this is approved it essentially states that any person with a steep slope on their property will be able to build on any location of their property if they only request a special exception. The attorney representing Kramer and Anderson spoke again to state that there have not been alternatives provided. The attorney stated that he would like to ensure Jeremy's report and his letter dated January 4th regarding buildable area, are included in the record. The attorney provided copies of the letter for those in attendance and summarized his letter for the record. The attorney stated that the site of the existing house most closely conforms, and there have not been alternative proposals yet provided. The attorney read/summarized the regulations applicable to the proposal. The attorney provided a summary in response to the special exception to those present and read it for the record. The attorney stated that one item he had not included in this written summary was CT general statute stating that any decision made on special exception must state a reason. The attorney thanked the commission. Mr. Chairman opened the hearing for comment from the public.

Opportunity for Public Comment

Barbara Cook, 71 Curtiss rd. stated that she felt it irrational to not build in the existing area and build higher and steeper for a better view when the negative consequences are increased land use disturbance, increased runoff, and the impact of the blasting both on quantity removed but that of the neighbors. She stated that she had a springhouse rather than a well as well as a field stone foundation from 1926 both of which she felt may be susceptible to damage from blasting. She stated that a bond of 50,000 is inadequate. Ms. Cook stated that if there were damage to the neighbors, she wondered who they would be expected to sue for damages. Ms. Cook thanked the commission and the experts who have spoken.

Ms. Flannigan, Melius rd, stated her concern was the lake and she wanted to ask about the buildable area versus building higher up. She stated she was not sure where the commission was landing on the topic. Ms. Flannigan stated that she felt the blasting up high would affect the runoff toward the lake. Ms. Flannigan stated that the task force in their early correspondence stated that if a property were further away from the lake that it would have less of an impact but in this case the opposite was true due to the steep lot and the amplification of the runoff. She stated that while we discussed the pollutants but not necessarily where they are going, and that she had heard the runoff would go to the warren and Washington beaches. Ms. Flannigan stated that Lake Waramaug is one of the healthier lakes in the state and that is due to the work of the task force.

Mrs. Tammen, 50 Curtiss Rd, requested that the commission deny the application as it did not comply with regulation

6.1.4. Ms. Tammen strongly requested the commission consider the testimony especially that of Mr. Haydens, and not go forward with the project. Ms. Tammen stated that her opinion was based on the location of the proposed build, the amount of blasting which would result in truckloads of materials and vibrations which would affect rocks, wells and structures, the steepness of the proposed site, the adverse effects on lake Waramaug. Ms. Tammen stated that they would welcome neighbors in this location however the application as presented should be denied.

Mr. Tammen, 50 Curtiss Rd, requested the commission deny the application. Mr. Tammen stated there were omissions, oversights and errors. Mr. Tammen stated that at every stage the applicant or the engineer had to adjust an oversight.

Mr. Tammen pointed out there was a site that exists with buildable area not being utilized in the proposal.

Mr. Szymanski, engineer representing the applicant had clarifying questions for Mr. Grimes. He stated that attorney Grimes, who spoke regarding the buildable area; Mr. Szymanski asked that Mr. Grimes show the surveyor certification on the Wolf maps referred to in his earlier testimony, that Mr. Grimes requested Mr. Szymanski show for the record on his maps. Mr. Szymanski asked if Mr. Grimes was relying on the same map Mr. Grimes testified Mr. Szymanski should not be using. Mr. Grimes said he was not. Mr. Szymanski asked Mr. Grimes if he was aware of any other survey map, certified by a surveyor, besides the map Mr. Szymanski submitted. Mr. Grimes stated he was unaware of the map Mr. Szymanski submitted a map. Ms. Hodza verified a map was submitted by Mr. Szymanski 12/28/21. Mr. Szymanski wanted to clarify for the record, if Mr. Grimes believed there was a buildable area on the map, if he could verify where it was located. Mr. Grimes stated it was shown on the preliminary feasibility study map by Mr. Wolf. Mr. Szymanski stated there was no surveyor certification on said map. Mr. Szymanski asked if the engineer Jeremy if prior to having CAD if he calculated volumes and how he did. Jeremy stated he calculated volumes in his January 4th record and noted approximate calculations. Mr. Szymanski asked if he traced his contours and if he gave him the CAD of his contours, what would be different. Jeremy stated that by tracing, he identified points, basically a sample, and it was not a 3-dimensional comparison. Mr. Szymanski stated that he submitted a PDF for the record, and he could have easily traced the contours in CAD showing a true representation of the contours provided. Jeremy said yes. Mr. Szymanski asked how many single-family sites he had worked on where the stone had been imported to the site. Jeremy stated probably every site. Mr. Szymanski asked how many he had tested. Jeremy asked what testing Mr. Szymanski was referring to. Mr. Szymanski stated, tested for all things he is recommending be tested on this site. Jeremy said, none. Mr. Szymanski asked Mr. Hayden could clarify what was incomplete in the application and which regulations did not comply. Mr. Hayden stated that it was incomplete because no alternatives were shown and that on the record Mr. Szymanski stated the existing house lot would have greater impact and Mr. Hayden stated they were unable to assess if that is true or not. Mr. Szymanski asked Mr. Hayden if he had emailed him a layout of a house site at the lower location showing it would be 45ft from the wetlands as opposed to 115ft and provided other specific notes. Mr. Hayden stated he did however it was not an acceptable exercise as taking something designed on a different part of the site and cut and paste it to a different location of the site. A proposal for a different location on a site would require a different design. Mr. Szymanski asked which section of the regulation require showing an alternative. Mr. Hayden stated there is no alternative requirement in zoning however it was requested from wetlands. Mr. Szymanski indicated that his map is the only one with topography by a certified surveyor and claims using other maps are not based on certified surveyor maps. Mr. Szymanski stated that in the analysis of the CAD, he performed his analysis on a 10ft grid pattern, and all Jeremy provided was assumptions. Mr. Szymanski that in respect to buildable areas, he stated he is the only person who did a slope analysis. Mr. Szymanski stated that providing calculations without considering the septic within the buildable area is inadequate. Mr. Szymanski read for the record minutes from a previous wetlands meeting as it applies to the site. Mr. Szymanski stated that this commission has to take into consideration the decision of the wetlands and all other regulatory agencies. Mr. Szymanski stated that attorney Grimes continued to refer to 6.1.4 however overlooking the word "may" as each property needs to be looked at in individual circumstances. Mr. Szymanski explained the leaching systems as they applied to slope and benefits of such. Mr. Szymanski stated that sedimentation and erosion control plans and third-party engineer reviews allow for safe successful development on slopes. Mr. Szymanski stated that Jeremy testified that and that he was testifying that in almost every site blasted rock is brought to the site and not tested. Mr. Szymanski stated that testing for acid rock drainage is new and if it is required on this property, any time there is blasted rock the testing should be required. Mr. Szymanski discussed the amount/percentage of site disturbance and impervious surface. Mr. Szymanski stated a third party engineer was hired and they have implemented all the recommendations. Mr. Szymanski stated that the third party engineer has stated that they have addressed the concerns with respect to stormwater management, erosion, grading and blasting. Mr. Szymanski pointed out the statements he felt were incorrect in the January 4th letter and why. Mr. Szymanski stated for the record when approvals from the Wetlands commission, the legal notice in the newspaper and the A2 survey were submitted. Mr. Szymanski stated some of the benefits of the proposal and thanked the commission.

Ms. Barbara Cook stated she would like to clarify for the record she does not have a well she has a spring house.

Ms. Hodza asked if Mr. Szymanski would sample the spring house and Mr. Szymanski stated he would.

Mr. Tammen referred to a letter from the Leonard engineering dated August 25th and stated that in the letter the application did not have adequate information and that the following documents would be required. Mr. Tammen

stated there were 14 items. Mr. Tammen stated that they had to ask the commission many times for a blasting report, and they finally received it.

Mr. Szymanski stated that in his December 28th letter that he would conduct blast survey on Ms. Cooks house as well as take water samples.

Ms. Hodza made a correction to Mr. Szymanski's testimony regarding an address located on couch Rd in Washington, Mr. Szymanski verified the driveway was in Warren.

The attorney for the applicant, Neil Marcus spoke on behalf of the applicant. Mr. Marcus reviewed two cases in other locations. Mr. Marcus pointed out the number of civil engineers and consultants have looked at the proposals and considered the oppositions. Mr. Marcus stated that the engineer hired by the opposition should be the focus as they were chosen not by the applicant, and they have no bias. Mr. Marcus pointed out the approval from the wetlands and discussed the determination of the blasting of rock as well as the conditions in the regulations. Mr. Marcus discussed the CAD and Mr. Szymanski work as it applied to the proposal. Mr. Marcus discussed the January 4th letter from Mr. Howe (?) in respect to the inland wetlands commission. Mr. Marcus discussed Mr. Hayden's letter and stated that it was requesting the planning and zoning commission to rewrite their regulations. Mr. Marcus stated that Mr. Hayden's letter requested other proposal be provided however other proposals may not be approved by inland wetlands. Mr. Marcus discussed the language in regulations as discussed by Mr. Grimes, Mr. Marcus stated that if the language in a regulation was not clear and unambiguous it would be sided in favor of the property owner, not the neighbor. Mr. Marcus discussed the language of the regulation in terms of utilizing the phrase "may" versus "should". Mr. Marcus stated that the applicant had taken every precaution to protect the environment to the satisfaction of the wetlands commission and hopefully to that of the planning and zoning commission. Mr. Marcus stated that there exists nothing in the record showing that the lake or environment would be harmed to the point that it would be irreparable. Mr. Marcus thanked the commission.

Opportunity for Public Comment

Unidentified resident Ms. X was acknowledged by Mr. Chairperson, she stated that Mr. Hayden had records dating back to last summer showing potential harm to the lake. Ms. X stated that the task for is working for any of the neighbors is offensive.

Ms. Golden, the applicant, stated she was very appreciative of the commission and thanked them for their service to the town.

Mrs. Tammen stated that Mr. Marcus referred to the decision of the wetlands commission and Mrs. Tammen stated that the decision was being appealed. She encouraged the commission to look at the written record and regard all the facts presented by the experts. Mrs. Tammen stated that it was being appealed due to lack of adequately addressing the blasting and showing and alternative building site.

Mr. Prindle MADE A MOTION to close the public hearing, Dr. Sahadevan Fossland SECONDED the motion, all were in favor. The MOTION CARRIED.

Mr. Chairperson opened the second part of the public hearing. b. ZPA#21-79 / 110 Rabbit Hill Road, Assessor's Map 5 Lot 4 / Brian E. Neff, P.E. for Amy L. Walsh and William A. Walker, 147 Congress Street, Brooklyn, N.Y. / Special exception per Section 22.1 for fill in excess of 100 cu yds for septic and driveway. (Received by Commission 12/14 public hearing continued from 1/11/2022 for lack of quorum to 11/18/2022)

The applicant not being present, Mr. Prindle MADE A MOTION to table to the application to the next public meeting February 8th, 2022. Mr. Curtiss SECONDED the motion; all were in favor. The MOTION CARRIED.

Approval of Minutes of December 14, 2021 and January 11, 2022

Mr. Curtiss made a MOTION to approve the minutes from the regular meeting and public hearing, December 14, 2021, Mr. Sandberg SECONDED the motion. All were in favor, the minutes were approved.

Mr. Sandberg made a MOTION to approve the minutes from the regular meeting and public hearing, January 11/2022 Mr. Curtiss SECONDED the MOTION, all were in favor. The minutes were approved.

Deliberations and/or Decisions on Applications with Closed Public Hearings

Deliberations and/or Decisions on Applications with Closed Public Hearings a. ZPA# 21-58 & 21-57 / 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# 21-58 / 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. ii. ZPA# 21-57 / Special Exception and Site Plan Application for structures outside the buildable area per Sections 6.1.4 related construction of a new house with

appurtenances including driveway, pool, spa, pergola, septic well. b. ZPA#21-79 / 110 Rabbit Hill Road, Assessor's Map 5 Lot 4 / Brian E. Neff, P.E. for Amy L. Walsh and William A. Walker, 147 Congress Street, Brooklyn, N.Y. / Special exception per Section 22.1 for fill in excess of 100 cu yds for septic and driveway. (Received by Commission 12/14 public hearing continued from 1/11/2022 for lack of quorum to 11/18/2022)

Mr. Chairperson and Ms. Hodza verified that 21-58 and 21-57 had been tabled for further review and 21-79 had been tabled due to lack of representation.

6. ZPA# 21-78 / 28 Reed Road / Demetrio Meduri for Star Marie Meduri / Construction of new home (Received by Commission 12/14/2021; tabled to 1/11/2021 for lack of information; continued for lack of quorum to 11/18/2022 Ms. Hodza stated that there was no participation present from the applicant. Item 21-78 was tabled.

New Business (none)

ZP# 22-02 / 152 Curtiss Road / Elliott Davis / Michael Mazzucco, PE / Construction of new single-family dwelling and related appurtenances (Received by LUO 1/10/22; TAHD Approved 11- 3-2021; IW permit not required.)

Mr. Chairperson recused himself from application 22-02 and co-chair Dr. Sahadevan Fossland stepped in to lead the meeting. Mr. Davis and the applicant were present to represent this application. Mr. Davis reviewed the application and its adjustments for the commission. Mr. Davis paraphrased Mr. Tanner's (foreman for the town of Warren Street Department) letter stating no concerns of the driveway on the property. Ms. Hodza asked Mr. Davis and the engineer to review the septic system being within a different buildable area. Mr. Mazzucco, engineer, stated that there is a separate buildable area in the lower field where the septic is proposed due to the upper portion of the property having ledge. The lower part of the property would allow for little disturbance. Mr. Mazzucco stated there was very little earth work to construct it in that location. Ms. Hodza asked if there was ledge to get the pipe from the house to the septic. Mr. Mazzucco stated they moved the tank downslope, use fill and avoid rock removal in the previous location. Dr. Sahadevan Fossland asked if the driveway would end 156ft from the house and in a medical emergency, is there a walkway. Mr. Davis stated there was a path. Dr. Sahadevan Fossland asked if there was anything in the regulations regarding emergency access. Ms. Hodza stated this was more of a concern for the homeowner rather than anyone else, however she did ask Mr. Davis to provide a letter from a professional to provide an opinion regarding the distance from the house to the driveway. Ms. Hodza received a letter from Mr. Tanner as well as the first selectman, a member of the emergency management team, and both felt it was a non-issue. Ms. Oullette asked what the foundation was or if blasting were required. Mr. Davis clarified the foundation and that there would be no blasting. Ms. Hodza stated she had a letter which she would read into the record during public comments however due to this not being a public hearing, no requirement for special exception and therefore it would not be open to public comment. Ms. Hodza explained this application is only in front of the commission due to it having previously been brought forth here and the high interest in the location. Dr. Sahadevan Fossland clarified that the application met the regulations as it stands. Ms. Hodza stated that it did, and she had been working with Mr. Davis for over a year on this project and the adjustments to his plans have been effective. A discussion was held regarding the driveway. Dr. Sahadevan Fossland asked if any commission members had any further questions or concerns about the application. Mr. Prindle MADE A MOTION to approve application as its presented, Mr. Papp SECONDED the motion, a vote was held, all were in favor. The application was APPROVED.

Zoning Enforcement Officer's Report

Ms. Hodza read her report for the record.

Other Business Proper

Dr. Sahadevan Fossland MADE A MOTION to move other business proper (Item 9 on the agenda) to the following meeting February 4th. Mr. Prindle SECONDED the motion, all were in favor.

Correspondence Received

Ms. Hodza read a letter from Betsy West, neighbor of Mr. Davis, for the record.

Opportunity for Public Comment

Mr. Hayden soil scientist and representative for Lake Waramaug Task Force was acknowledged by the commission. Mr. Hayden stated that if the adjustments and structures could be added to the plan Mr. Mazzucco presented.

Mr. Tammen, 50 Curtiss Rd was recognized by the commission. Mr. Tammen stated that clear cutting was done on the property without control, the driveway is unauthorized, and the neighbors reported construction activity without a special permit. Clarification on which proposal was necessary, Dr. Sahadevan Fossland clarified that Mr. Tammen was speaking on 152 Mtn Lake Rd. Mr. Tammen stated the commission needed to see what was happening on the property, that a professional engineer needed to be addressed. Dr. Sahadevan Fossland reminded Mr. Tammen he could file an

appeal regarding the decision.

Ms. Celia Ucciardo, sent her condolences to Mr. Prindle regarding a loss in the family.

Adjournment

Mr. Papp made a MOTION to adjourn, Ms. Schnell SECONDED the motion; all were in favor, the motion carried.

Mr. Chairman adjourned the meeting.

Respectfully Submitted,

Melissa Woodward
Recording Secretary
Town of Warren
2/7/22

Zoom Link:

<https://us06web.zoom.us/rec/play/QlEmPa8MoLXH06NcHs8vSaITXykaqandITxbe3uQv2geZNR8jzsqHQT-CT9sjMZfKkBRo3WBU-8TQWR.AcUanrdQxCDjhleD>