

TOWN OF WARREN
PLANNING & ZONING COMMISSION

CONTINUED PUBLIC HEARING
AND REGULAR MEETING MINUTES

Tuesday, October 13, 2020 – 7:30 p.m.

Via Zoom Online Videoconference (see below for link to recording)

1. Call to Order and Designation of Alternates

Chairman John Papp called the meeting to order at 7:32 p.m. Howard Lethbridge, Paul Prindle, Ryan Curtiss, Derek Westfall, and Jack Baker were present. Alternates were seated as follows: Ruth Schnell for Andrew Carollo and Victoria Fossland for Phil Good. Mr. Baker stated that he had listened to the recording of the previous public hearing. Staff present were videoconference monitors Joanne Tiedmann and Colleen Frisbie and Richelle Hodza, Land Use Officer and Recording Secretary.

2. Statement by the Chairman

Mr. Papp stated that the rules of order governing the previous public hearing would continue.

3. Public Hearing

Paul Szymanski, P.E., for applicant, **Sawing High Climbers, LLC**, Emma Lozman (Plumb), Member, 69 Davis Road, South Kent, Connecticut / **Kent Road, Map 21, Lot 27** in the North Zone / **Special Exception and Site Plan Applications under Section 24 to allow construction of a 50' x 80' barn to store equipment, with office, driveway, well, sanitary system, related grading, and appurtenances** on property owned by The Living Trust of Theodore E. Theodorsen and Mary Irene Theodorsen, 56 Old Ox Road, Manhasset, New York.

Mr. Papp invited Mr. Szymanski to speak in rebuttal to comments received at the last hearing. Mr. Szymanski stated that his clients, the Plumbs of Sawing High Climbers wanted to speak. Ms. Plumb read her comments into the record.

Attorney Delores (“Lorry”) Schiesel of Cramer & Anderson, counsel for applicant Sawing High Climbers, LLC, read her letter into the record. All letters read into the record are available to the public.

Mr. Szymanski added additional comments from his professional viewpoint as Professional Engineer for applicant Sawing High Climbers.

The public was invited to speak.

Michael Zimet, 45 Mountain Lake Road said he was neither for nor against the project; however, he requested that the Regulations dictate the Commission’s decision. He stated that there was a definition which included arborist and that such business was not allowed in the zone

On behalf of herself and her husband Bertrand Ouellette, Debora Ouellette, 11 Brick School Road, read a letter in opposition to the project. Her points included, but were not limited to, the definition of contractor shop and storage which describes the Sawing High Climbers business; the character of the neighborhood which was different from what the applicant proposed.

On behalf of herself and her husband Leonard Ucciardo, 31 Brick School Road, Celia Ucciardo read a letter in opposition to the project.

Stephen Warshaw, 219 Kent Road, made a statement in opposition to the project, specifically with reference to the Plan of Conservation and Development which was written and approved by the Planning and Zoning Commission.

Hermann Tammen, 50 Curtiss Road made a statement in opposition to the project especially citing Section 24 and the differences between the types of businesses allowed per definitions of professional office and contractor shop and storage. Mr. Tammen requested that Chairman Papp ask the applicant's engineer to withdraw the application, since the proposed use does not meet the regulations.

Mr. Jonathan Meter, attorney at the firm of Stedronsky & Meter, on behalf of Jack and Ellen Baron of 187 Kent Road and for Leonard and Celia Ucciardo, referred to his letter submitted at the last meeting. Among other things, he stated that the burden of proving that they were entitled to a permit for special exception was on the applicant and said that professional appraisals of the effect on property values should be conducted. He also stated that the actual use – a contractor's shop and storage facility - would be distinctly different from the proposed use as a professional office. The kind of professionals described by the regulations do not include electricians and other tradespersons, which is the category into which Mr. Meter saw the Plumbs' business fitting. Mr. Meter requested that the Barons' property be visited since it would be the most directly affected by any approval.

Cynthia Warshaw, 219 Kent Road spoke in opposition to the project referring specifically to the fact that Mr. Plumb would not be working mainly in the office as a doctor or lawyer or similar professional would. For that reason, the business conducted by Sawing High Climbers fits the category of contractor shop and storage.

Maryann McEnroe, 11 Kent Road, spoke on behalf of herself and her husband saying that she had written a letter in opposition. She reiterated statements made by others especially with regard to the type of business and its location in the residential North Zone.

Hearing no other people wishing to speak, Chairman Papp posed Mr. Tammen's question asking Mr. Szymanski if he withdraws the application. Mr. Szymanski said he does not. [1:11:27] Mr. Papp asked Mr. Szymanski to respond to the latest public comments.

Mr. Szymanski addressed each comment and corrected misstatements. He also stated that he, too, has a real estate license and as such, did not believe that property values would decrease.

Attorney Schiesel refuted interpretations of the Plan of Conservation and Development as well as its role and directed attention back to the zoning regulations allowing certain kinds of businesses in the North Zone by special exception as a primary use.

Mr. Plumb discussed the beeping of trucks required by OSHA (Operational Safety and Health Administration) and explained that the beepers were not needed and were not used by Sawing High Climbers when a spotter was available to direct a truck while backing up.

Chairman Papp asked commissioners one-by-one if they had questions. Ms. Schnell stated that she felt that both sides had presented a complete case. Mr. Prindle had no questions. Mr. Curtiss had no questions. Dr. Sahadevan Fossland had no questions. Mr. Westfall felt there were grey areas especially with regard to the definition of the proposed use. He asked the applicants to clarify the precise nature of their business especially, for example, how a certain noise-threshold could be maintained.

Mr. Szymanski said that should the commission approve the application, he would recommend two potential conditions: 1) no outdoor storage of any equipment, and 2) with the exception of the loading and unloading of 20 x 6 feet of stacked logs no more than twice a month on a weekday, there would be no usage of equipment outside, including chain saws and chippers.

Mr. Plumb said he could agree to both terms, providing that the commission understood that if a tree fell

across the driveway, for example, he could use a chainsaw to remove it.

Mr. Papp asked if Mr. Baker had any questions. He did not. Mr. Lethbridge said he felt all of his questions had been answered. Mr. Papp also had not questions.

Dr. Sahadevan Fossland made a **MOTION to CLOSE** the public hearing; **SECOND**, Mr. Lethbridge. All present were in favor. **MOTION CARRIED**; the **PUBLIC HEARING WAS CLOSED**. [1:32:43]

4. Approval of Minutes

Dr. Sahadevan Fossland made a **MOTION to APPROVE** the minutes of the September 8, 2020 Public Hearing and Regular Minutes **WITH THE FOLLOWING ADDITION** “Received two letters from Bertrand and Debora Ouellette dated September 8, 2020 in opposition to the project. Ms. Schnell **SECONDED**, all present were in favor, the **MINUTES AS AMENDED WERE APPROVED**.

A **MOTION** was made to **APPROVE** the minutes of the September 29, 2020, Special Meeting – Site Walk of Map 21, Lot 27 (proposed “Plumb Project”) by Dr. Sahadevan Fossland, Mr. Westfall **SECONDED**. Mr. Baker reminded the Commission that only those who attended the site walk could vote on the minutes. Mr. Baker, Mr. Papp, Mr. Curtiss, all were in favor in addition to Dr. Sahadevan Fossland and Mr. Westfall. The **MOTION CARRIED** and the **MINUTES WERE APPROVED**.

5. Old Business - None

6. New Business – Possible deliberations and/or vote on closed public hearings.

Dr. Sahadevan Fossland made a **MOTION to DISCUSS** the Plumb Application; Mr. Baker **SECONDED**. All were in favor of discussing the matter of the closed public hearing. **MOTION TO DELIBERATE PASSED**.

Mr. Baker asked if a permit were to be issued, what kinds of conditions would be placed on the permittees in order to give the neighbors some peace of mind, and how any restrictions would be documented and enforced.

Dr. Sahadevan Fossland raised questions of future ownership and possible expansion. Mr. Papp confirmed that another business in the future, which may seek to expand or change the business, must return to the Planning and Zoning Commission for a modification.

Mr. Papp explained how difficult he saw enforcement, especially in incremental expansions over time.

Ms. Hodza agreed that enforcement would be difficult.

Mr. Papp stated that before restrictions were talked about, he did not think the proposal meets the regulations. He stated that the commission had spent long hours refining the regulations and making definitions, including professional offices. He stated that if the commission that he felt that if the commission had wanted to include arborist in the definition of professional offices it would have since it had included it in contractor shop and storage. He felt that the proposed use does not meet the regulations. He also did not believe that it met 31.5. Nor did it meet 31.5.6, he did not think it would provide for adequate long-term protection of the property, regardless of any restrictions imposed.

Mr. Baker stated that the fact that enforcement mechanisms of restrictions may be weak, that is no fault of the Applicants. He mentioned that there may be other mechanisms such as conservations easements that may give the neighbors certain protections. He also felt that the business described by applicant was a much less intensive use than others might be. He thought that an arborist is an advantageous business to have in the town.

Mr. Baker disclosed that he had used Mr. Plumb’s service to prune some fruit trees and do some other work at his property, but that he had paid fair market value and that he would have no difficulty in denying the

application if he felt it did not meet the regulations. Ms. Hodza asked Mr. Baker whether he felt he could be unbiased in making a decision and he stated that he was certain he would be able to remain unbiased.

Mr. Lethbridge stated that the proposed business use was going to be minimal. He felt that the fact that arborists require licenses makes them professional. Mr. Lethbridge wanted to consult the Land Use attorney.

Mr. Westfall felt this was a legal grey area. He said is only needed to be legal. He wanted to consult the attorney to understand whether the use was professional.

Ms. Schnell asked if the applicant owned the property. Mr. Papp said they do not.

Mr. Prindle said that he felt the commission might set a precedent if it were approved that the Commission would regret down the road. He stated that he is against approval of the application.

Mr. Papp stated that there were enough commission members who seemed to need more time to think about the issues and he entertained a motion to adjourn.

Ms. Hodza reminded the Commission that it was not to discuss the matter and that no further information could be received.

Mr. Baker made a **MOTION to TABLE the DELIBERATIONS; SECOND**, Mr. Westfall; all were in favor. **MOTION CARRIED.**

7. Town Meeting Thursday, October 15, 2020

Mr. Papp explained that two terms of membership were expiring, that of Howard Lethbridge and that of Derek Westfall. Mr. Lethbridge wished to step down from his decades of service and did not wish to be nominated. Dr. Sahadevan Fossland was asked if she would be willing to become a full member and she assented. Nominations of Mr. Westfall and Dr. Sahadevan Fossland would have to occur at the Town Meeting and put to vote by qualified Town residents.

There was an Alternate Member position available; however, no commission members seemed to have anyone in mind for possible nomination.

8. Schedule for Commission Member Training

Mr. Papp announced that Attorney Michael Zizka of Halloran & Sage was willing to offer training sessions to the Commission. Ms. Hodza offered to send out an availability schedule for meeting times.

9. Zoning Enforcement Officer's Report

Ms. Hodza had no written report but stated that to date approximately 30 zoning permits had been issued, which was slightly more than the last two years by this time. She also stated that she had issued certain permits by making agent determinations James Newton, 7 Above All Road got a first cut; 120 Tanner Hill Road 120 THR LLC, a tennis court was approved; 4 Cornwall Road, Warren Town Center LLC, permit for a generator longer than 6 feet and a propane tan longer than 6 feet; 28 Reed Road, Demetri Meduri, 6 foot high privacy.

10. Correspondence

None

11. Opportunity for Public Comment

Hermann Tammen, 50 Curtiss Road, stated that all Board of Selectmen appointments -- Jack Baker and Derek Westfall both appointed August 18, 2020, and Paul Prindle who was appointed September 17, 2019 – must be voted on by at the Town Meeting. He also stated that we have to find a replacement for Howard Lethbridge, and finally, that there is an existing vacancy among alternates. Mr. Tammen wanted to know if the training by Mr. Zizka would be allowed to participate in the training (i.e., ask Mr. Zizka questions). Mr. Papp assented.

12. Adjournment

MOTION TO ADJOURN by Mr. Lethbridge. *SECOND* by Ms. Schnell. All were in favor, **MOTION CARRIED**; the meeting was adjourned at 9:34 pm until Tuesday, November 10, at 7:30 p.m. via Zoom.

Respectfully Submitted,



Richelle Hodza
Zoning Enforcement Officer
Town of Warren
10/20/2020 3:01 p.m.

Listen and Watch Zoom Recording:

https://zoom.us/rec/share/IiSyc9yl4KMId6kqAQKW7WKkYb3zIbLUazO3u5IjlJSobaP1U23lAUigLW6MTSfe.QXNfxEm9t1eq_V-W