

TOWN OF WARREN
PLANNING & ZONING COMMISSION
Minutes- June 6th, 2023

Chair Victoria Sahadevan Fossland called the Town of Warren Planning & Zoning Commission Meeting to order at 7:01 on the evening of Tuesday, June 6th, 2023. Members present were Vice-Chair Pete Sandberg and Members Jack Baker, Ryan Curtiss, Deb Ouellette, and Alternate Lee Vance. Absent members were Andrew Carollo, Paul Prindle, Joanne Mansfield, and Alternates Aaron Schiller and Casper Grathwohl. Lee Vance was seated for Joanne Mansfield. Janell Mullen was present as the land-use official for the Town of Warren. Other individuals present were Evan Seeman of Robinson & Cole, Sam Sabin of Sabin Landscaping and Environmental Planner, Adam Singer of A&J Dock Builders, John Lyons, Heather Allyn, Robin Ploch, and First Selectman Greg LaCava. Individuals attending via Zoom included Bill & Joslyn Pollock, Virginia Chesney, Tiffany Parkhouse, Susan Bates, and Attorney Gail McTaggart of Secor, Cassidy & McPartland, P.C.

There were no items to be added to the agenda; the first matter of business was item #3, "Approval of the Minutes – Regular Meeting – May 2, 2023". Jack Baker moved to approve the minutes as written. Lee Vance seconded the motion. The motion passed unanimously.

The next item #4 was "Correspondence Received." Land Use Officer Janell Mullen stated that five (5) items had been received at this time via email on behalf of the Commission. Two (2) of the items were pertinent to item #5A – Public Hearing regarding 369 Lake Road and the adjacent parcel (Assessor's Map 44, Lot 33) involving a dock installation. One item was received with regard to item #5B – Public Hearing regarding 197 Brick School Road involving the request for a detached accessory apartment and the final two (2) items received related to the Home Business discussion, item #6A1 on the agenda. Ms. Mullen stated that she would paraphrase and/or read those items when they were relevant to the discussion.

Chair Victoria Sahadevan Fossland moved on to the first of the two Public Hearings that had been scheduled for the evening. Agenda item #5A, ZPA #23-1, involved 369 Lake Road (Map 44, Lot 33), a proposal for the installation of a dock on a 0.31 acre lakefront parcel. Sam Sabin of Sabin Landscaping and Environmental Planner was present on behalf of the property owners, John Lyons (also present, as noted above) and Susannah Gray. A Special Exception was required by Town of Warren Zoning Regulations Section 15.4.10 because the setback of 25' could not be met.

Mr. Sabin presented the site plan, which had been revised to June 1, 2023 and newly received by the Commission. He also presented background regarding a previous proposal for a dock in this location. An approval for the prior application had been appealed by an abutting property owner, Susan Bates. An outline of these actions had been included within the application packet.

Mr. Sabin also presented Janell Mullen with email correspondence that had taken place between John Lyons and Warner Fite (an abutting property owner). Mr. Sabin stated that the purpose of including the email exchange in the record was to indicate the neighbor's support for the proposal. Ms. Mullen read the correspondence in full to the Commission because it had been received as information after the public hearing opened.

Chair Victoria Sahadevan Fossland and Lee Vance questioned the identity of the property's abutter, stating the email correspondence presented and the planning maps did not appear to agree.

Jack Baker asked about the photo that was included on the site plan for a better understanding of the proposal.

Commissioner Ouellette asked about how the dock was fastened to the shore and if it was removeable.

Adam Singer of A&J Dock Builders spoke on the record on behalf of the property owners and replied that the dock would be fastened to the shore by drilling three (3) eye bolts into stone and the dock would be removable.

Commissioner Baker inquired about precedents in which a dock is considered the primary structure on a property. Janell Mullen stated that this is commonly seen along Lake Road where the state road transects properties fronting Lake Waramaug; in multiple instances, small unbuilt lakefront lots do not contain a primary dwelling because the primary dwelling is located across the state road.

Chair Victoria Sahadevan Fossland then gave an opportunity for those in the audience to comment. Heather Allyn of 96 North Shore Road stated she was concerned with the adverse effects this proposal might have on Susan Bates' property. She asked about the Inland Wetland & Conservation Commission's conditioning of the approval, her concerns with site compliance, the planting of shrubs to serve as a buffer, and the depth of the water.

Evan Seeman of Robinson & Cole asked Chair Victoria Sahadevan Fossland if he could respond. He stated that comments made by the public during the public hearing should be fielded through the Chair and not aimed at the applicant or others presented. He stated that site plans as presented would be adhered to and if they were to be modified; an additional process would need to be followed. During this process, the public would have an opportunity to participate via additional public hearings. He further stated that there is no requirement to use specific surveys as had been a request by Susan Bates' Attorney within a letter.

Chair Victoria Sahadevan Fossland then gave the opportunity to those on Zoom to participate. Attorney Gail McTaggart of Secor, Cassidy & McPartland, P.C asked to be recognized. She summarized a letter previously submitted to the Commission which stated: landscaping was germane to the discussion in accordance with Section 15.3.1 of the Zoning Regulations; an as-built plan had been requested to assure that the dock would be installed per plan; and Ms. Bates was not opposed to the installation of the dock outright, rather, she wished to ensure certain conditions would be administered to mitigate adverse impacts to her use and enjoyment of her property.

Ms. Allyn was recognized again by the Chair. Ms. Allyn questioned a boat restriction, stating the owners would not dock a boat, that had been mentioned in the letter from Atty McTaggart.

Commissioner Vance asked Ms. Mullen if other docks had conditions that prohibited the docking of boats. To her knowledge, she replied that she was not familiar with applications that imposed such conditions.

After asking to be recognized, Mr. Singer of A&J Docks spoke about the installation of docks that he has been involved with on other lakes, such as Bantam and Candlewood, and stated his confusion about the "lines of extension" into the lake which are included in the Town of Warren Zoning Regulations. He added that the cove where this dock is to be located is a very shallow area on the lake.

Chair Sahadevan Fossland asked if there were other comments that members of the public would like to make while the hearing was open. She stated a concern that the ownership of the property to the south of the proposal was not clear based on the information provided. She also stated that when a dock is present, it is understood that a boat may be docked there, and inquired whether the applicant would consider reducing the proposed width of the dock, noting the Zoning Regulations allow for docks of three (3) to ten (10) feet and the Special Exception for this proposal was required because of the inability to meet side-yard setback requirements.

Commissioner Vance stated his concern that the abutter to the south had not confirmed receipt of or responded to the Certified Letter regarding the potential adverse impact to his property. Commissioner

Baker and Chair Sahadevan Fossland also stated that they were concerned about not having received a letter from the abutter stating their opinion about allowing the Special Exception for a variance regarding the side yard setback for this dock. Chair Sahadevan Fossland stated she would be more comfortable allowing the exception based on written confirmation from the neighbor to the south (to which the proposed dock would be sited more closely) that the dock would not adversely impact his property.

Commissioner Baker asked if they have received proof of receipt from the abutters. Mr. Seeman stated the proof of mailing was provided in a letter that was provided to the Town dated June 5, 2023 and that the Regulations do not call for proof of receipt.

Ms. Mullen reminded the Commissioners they are tasked with reviewing the Special Exception requirements and not the opinions of the abutters and/or whether or not they have received and/or read the certified letter that was mailed to them. Janell Mullen stated that it is up to the P&Z Commissioners to determine whether or not the application satisfies the requirements to approve Special Exception applications, as specified in 31.5 of the Town of Warren Zoning Regulations.

Mt. Seeman stated that the applicant would be ok with keeping the public hearing open although he also wished to emphasize what the Land Use Officer had said regarding the process for decision-making and the requirements.

Commissioner Vance moved to keep the public hearing open. Pete Sandberg seconded the motion. Chair Victoria Sahadevan Fossland voted in favor of the motion to keep the hearing open. Deb Ouellette voted against the motion on the floor and asked what would occur if the Commission kept the hearing open and then never heard from the abutter in question. Commissioner Baker voted against the motion on the floor. Ryan Curtiss also voted against the motion, stating that he has enough information to make a decision and the applicant had followed required procedures. The vote was hung with three (3) in favor of keeping the hearing opened and three (3) against keeping it open.

Janell Mullen stated that the vote to keep the public hearing open would not pass with a tie vote. The Commission moved forward with a re-vote. Commissioner Curtiss moved to close the public hearing regarding ZPA #23-1. Deb Ouellette seconded the motion. The motion to close the public hearing passed unanimously.

With the hearing closed, the Commission moved into a discussion involving the application.

Commissioner Baker discussed reducing the dock width at the end of the platform to 8' from the proposed 10' because as proposed, the side-yard to the south would be reduced from 25' to 11' 4" when extended into the water. Commissioner Curtiss made a motion to approve the Special Exception application with the condition that the dock width was reduced. This was seconded by Ryan Curtiss. Chair Sahadevan Fossland voted against the motion on the floor based on the fact that she believed the proposal had an adverse impact on the neighboring property to the south, owned by the Aubes. Pete Sandberg also voted against the approval. Lee Vance, Deb Ouellette, Ryan Curtiss, and Jack Baker voted in favor of the dock's approval with the condition of reducing the width from 10' to 8'. The motion carried and ZPA #23-1, an application for a dock at Map 44, Lot 33 owned by John Lyons was approved with the condition that its width at the end would be reduced to 8'.

The Chair recused herself for the next item on the Agenda #5B. Pete Sandberg, the Vice-Chair, assumed the position as Chair for the public hearing involving an application for a detached accessory apartment at 197 Brick School Road (Map 27, Lot 6). Acting Chair Sandberg opened the public hearing at 8:30 pm. Lily Binns-Berkey, the applicant, introduced herself and stated that this was the most affordable way for her to reside in Warren on the property where she grew up. She stated that site plan for the detached accessory

apartment had been approved by the Torrington Area Health District.

Upon the conclusion of her presentation, Acting Chair Sandberg asked what triggered the Special Exception for the purpose of the application. Janell Mullen stated that it was a requirement due to the distance of the primary dwelling unit from the detached accessory unit, which as proposed would exceed 50 feet. Lily Binns-Berkey added that it would be sited approximately 120' from the primary dwelling unit.

Commissioner Ouellette inquired about the site access. The applicant stated that the existing driveway and parking would be used.

Commissioner Baker asked if the Zoning Regulations require that a subdivision can take place should the lot be divided as he had done when he created an accessory unit on his property. Ms. Mullen read the pertinent section of the Zoning Regulations and stated that this was not a condition of approval according to current regulations.

Acting Chair Sandberg asked if members of the public cared to speak. No one present spoke. An individual on Zoom asked to be recognized and Philip Fox of 216 Brick School Road stated that he was in favor of this application being approved. Acting Chair Pete Sandberg asked if anyone else in the audience cared to speak to the application, and hearing none, he moved to close the public hearing at 8:37 pm. Lee Vance seconded the motion to close the public hearing. The motion passed unanimously. The public hearing closed at 8:37.

Commissioner Baker made a motion to approve ZPA #23-2 an application for a detached accessory apartment at 197 Brick School Road (Map 27, Lot 6). The motion was seconded by Commissioner Ouellette. All seated members of the Commission voted in favor of granting the Special Exception for the accessory dwelling unit at 197 Brick School Road.

Commissioner Sahadevan Fossland rejoined the meeting at 8:41pm and re-assumed her role as Chair. The Commission moved on to the next item on the agenda which was item #6A "Old Business – Regulation Review- Home Businesses." She brought a memorandum outlining home business regulations in surrounding towns to the attention of the Commission. The memo had been prepared by Land Use Official Janell Mullen home businesses and included pertinent regulations from the towns of Warren, Kent, Cornwall, Washington, and Litchfield. To open the discussion, Chair Sahadevan Fossland read through portions of regulations from other towns, noting items to consider when drafting home business regulations. Commissioner Vance brought up the importance of ensuring that regulations can be enforced and recalled the discussion about what comes across the desk of the ZEO most often in the form of complaints: stockpiling, noise, and traffic.

At 8:43 PM the Zoom connection was lost due to passing thunderstorms. After attempting to reconnect to the Zoom function of the meeting several times, it was noted that the internet in the Town Hall was down. The Commission resumed the discussion regarding home businesses.

Land Use Official Mullen asked to be recognized so that she could read (2) two items of correspondence into the record. One was a complaint email from Robin Ploch regarding 28 Reed Road and the second was from Bob and Joslyn Pollock with suggestions to the Commission regarding possible amendments to the home business regulations.

Commissioner Ouellette Warren's Zoning Regulations do not define Home Occupation vs Home Business and do not mention "home office."

Commissioner Sandberg asked is there is a difference between Home Occupation vs Home Business.

Chair Sahadevan Fossland stated that it would be important to discuss what the Commission feels should be regulated—and how broadly it/they should be defined—before drafting possible regulations.

Commissioner Baker suggested outlining items that are considered to be customary and incidental to residential properties by right and then to rule out that anything beyond that would fall into a Home Business.

Commissioner Vance asked what is not within the Regulations currently to give us the authority to enforce. Ms. Mullen stated enforcement becomes most difficult in instances where the clear distinction between what is “commercial” activity versus “residential” activity.

Chair Sahadevan Fossland added that the Commission would need to provide specifics within proposed regulations that would provide guidance to the ZEO for enforcement.

Commissioner Curtiss stated that it sounded as though the requirement for outside storage typically involves screening from adjacent properties and/or the public right-of-way and that it is difficult to distinguish what one stores on their property for personal use versus “commercial” use.

Land Use Official Mullen stated that she would be able to draft some language to provide to the Commission for the next meeting and had worked on similar tasks in other towns.

The next item on the agenda was Item #6A2, “Old Business- Language Clarification.” Chair Sahadevan Fossland noted Warren Zoning Regulations are inconsistent with the current state statutes, which use the term “accessory dwelling unit” in lieu of “accessory apartment.” She suggested a future language change. Janell Mullen added that recent legislative update Public Act 21-29 clearly uses the term “accessory dwelling unit” and that this could be tackled at the time of another zoning text amendment, which would require a formal public hearing.

There were no new items under Item #7 “New Business.”

Under Item #8 “Other Business Proper- A. Commissioner Training,” Ms. Mullen distributed a copy of Zizka’s updated book “What’s Legally Required” to each Commissioner present. She stated the town had purchased enough books to supply each Commissioner with a copy to reference while active members or alternate members on the Planning & Zoning Commission. She also stated she had worked with Attorney Zizka on edits for the book and encouraged the Commissioners to familiarize themselves with its content and that any hours spent reading the book would count toward training required by the state.

Under Item #8B, “July Meeting,” the Commissioners agreed a July meeting would not be necessary because at this time there was no pending business and no new applications received. Ms. Mullen stated that if she received land-use applications requiring Commission review, she would correspond with the Chair to determine if a Special Meeting was needed.

The Commission moved on to Item #9, “Zoning Agent’s Report”. Janell Mullen asked if any members had questions about specific items on the report. Chair Sahadevan Fossland asked about the zoning permit issued for 39 Arrowpoint Road. Janell Mullen stated that this issue had recently come up as the property owner requested to establish a dock as a primary structure that would be installed on their lot before the construction of the previously approved dwelling unit. Ms. Mullen stated that there was no provision within the regulations that could prevent the property owner/applicant from doing so in accordance with Section 7.1.3 of the Zoning Regulations and the Definition of the term “structure,” which she read aloud.

Commissioner Vance suggested bringing the definition of “structure” back for future discussion. Chair Sahadevan Fossland also suggested reviewing the language for the small non-conforming lots with lake frontage which currently do not have structures on them and are associated with larger lots containing dwelling units located across the state road. It was noted that the list for Regulation Review was growing and would be a standard item on future agendas.

For the next item on the agenda #10, “Opportunity for Public Comment.” Chair Victoria Savadevan Fossland recognized the two remaining individuals in the audience.

Randy Shrack, of 26 Reed Road, stated on the record that there is no house on the property at 28 Reed Road, the subject of Robin Ploch’s complaint, which was read earlier during the discussion of Home Business regulations. He stated that at times he is not able to back out of his property due to his driveway being blocked by activity at 28 Reed Road. He stated that the person who appears to be involved in the activity there, Demetrio Meduri, does not own the adjacent property; rather, his daughter does. He stated they “had followed Mr. Meduri and he delivers wood to others and he is running a business.” He also stated there is a backhoe stored next to wetlands and that despite similar problems going on for over ten (10) years, the town has done nothing.

Robin Ploch, 22 Reed Road, stated that the former ZEO, Stacy Sefcik, had “this situation” under control and more recent ZEOs have done nothing. She paraphrased various sections of the Zoning Regulations stating that the property owner doesn’t live there and that Mr. Meduri uses it for business. She stated that rules are on the books now that are not being followed. She conceded that the current regulations aren’t that specific, but also stated that there is enough evidence and that they have videos and photos for the Town to intervene. She stated that there are a lot of businesses in this town and the concerns of Reed Road have persisted for ten (10) years. She spoke about the disrespectful nature of the property owner that uses 28 Reed Road. She stated that she had to pay taxes on her property in New Milford when she was operating a business.

Commissioner Vance stated that he is very empathetic to the public comments. Chair Sahadevan Fossland stated that she would look into the matter further.

Item #11 “For the Good of the Commission” Commissioner Baker stated that he thought it was a good meeting and that everyone had a good discussion. He noted the Commission didn’t need to agree with one another on everything in order for it to be a good meeting.

Commissioner Sandberg made a motion to adjourn, and Ryan Curtiss seconded it. The motion to adjourn passed unanimously and the meeting was adjourned at 9:47 pm.

Respectfully submitted,

Janell M Mullen
Town of Warren
Land-Use Official
Thursday, June 8th at 8:44 am