

TOWN OF WARREN  
ZONING BOARD OF APPEALS  
Special Meeting Minutes  
Wednesday, May 31, 2017 – 7:30 pm  
Warren Town Hall – 50 Cemetery Road

Board members PRESENT were Chairman Jon Garvey, Vice Chairwoman Trisha Barry, George Githens, Bill Hopkins, and Rick Valine; alternates present were Ray Furse and Tom Paul. Also in present were Richelle Hodza, (recording secretary) and Stephanie Dubray (recording secretary trainee). Others present were Stacey Sefcik (ZEO), Peter Ebersol (attorney for the Board), Rob Fisher (attorney for the appellant), Charles Eaton (appellant), and Jeff Lewis, (appellant's property caretaker).

Chairman Garvey CALLED the meeting TO ORDER at 7:30 pm. No alternates were needed. Mr. Garvey stated that an executive session with the Board's attorney would not be held. He opened the discussion of the matter of Lake Waramaug, LLC, 387 Lake Road, Appeal of the Zoning Enforcement Officer's Non-Issuance of a Certificate of Zoning Compliance.

Chairman Garvey iterated the main events leading to the present. He stated that there were two issues before the Board: (1) whether or not the Zoning Board of Appeals possessed jurisdiction over the case; and (2) if jurisdiction was found, did the merits of the case warrant approval or denial. Mr. Garvey likened the appellant's conversion of the inn to a residence to building only half a house and then requesting a zoning compliance certificate. The work required for residential use in the South Zone was not completed and it was for this reason that the ZEO could not issue a certificate.

Ms. Barry spoke in support of Chairman Garvey's view, reading from the 2014 letter from the ZEO to the appellant:

"It is my duty to inform you of these possible violations and to advise you that I will be unable to grant a Certificate of Zoning Compliance until these outstanding issues have been satisfactorily resolved. This letter requests that you bring your property into compliance with the Zoning Regulations."

Ms. Barry interpreted the statement as a request, not a decision. She also stated that there was no attempt to make an appeal within the required time limitations. The seeking of an appeal had come up only recently in the year 2016 or 2017. Other than to ask for or demand the Certificate, nothing had changed with the property.

Mr. Valine concurred with the views expressed, stating that neither a denial nor approval had taken place. Rather, the 2014 letter informed the appellant of the reasons that the ZEO was unable to issue the Certificate.

Mr. Githens spoke, saying he would like to go back further than 2014. He wanted to know what transpired at the Planning and Zoning Commission meeting when the conversion from commercial to residential use was initially approved. Chairman Garvey stated that at this time, no new information could be introduced since the Public Hearing was closed.

Mr. Hopkins felt that the Planning and Zoning Commission should have told the appellant what ramifications the change of use would have.

Chairman Garvey stated that it was incumbent upon the applicant to determine whether or not he could, for example, continue to have four buildings on a would-be residential lot.

Discussion continued among Mr. Hopkins, Mr. Valine, and the Chairman, forming clarification of the view that the onus is always on the applicant to comply with the zoning regulations. Mr. Garvey added that the change of use from commercial to residential removed the privileges of the grandfathered, pre-existing, non-conforming circumstances granted to the original commercial property. A preponderance of voices were in agreement with that statement, including that of Mr. Hopkins.

Chairman Garvey redirected the discussion, reverting to the first issue before them, whether or not the Zoning Board of Appeals even had proper jurisdiction to even hear the case. He invited further comment on whether or not Ms. Sefcik had made a decision not to issue a Certificate of Zoning Compliance. No member seemed to think that a decision had been made.

Mr. Githens reflected on one of the zoning regulations that allowed, in the case of a calamity such as the destruction of one's non-conforming residence by a fire. The owner of that property has two years in which to rebuild that which had existed before the calamity. Mr. Githens saw Mr. Eaton's situation as something of a calamity. The long delay, during which no action had been taken to repair its effects, was another factor in Mr. Githens' resistance to the claims now being made.

Mr. Garvey invited other discussion. Hearing none, he asked for a motion to vote on the issue of jurisdiction. Mr. Githens MOVED that the Board take a vote on whether or not the ZEO had made a decision to deny the issuance of a Certificate of Zoning Compliance. Mr. Valine SECONDED. The motion CARRIED.

Ms. Barry made a MOTION for the Board to find that Ms. Sefcik did not make a decision to issue or deny the Certificate of Zoning Compliance. Chairman Garvey SECONDED. Votes were individually heard from Ms. Barry, Mr. Valine, Mr. Githens, Mr. Garvey, and Mr. Hopkins. The motion CARRIED UNANIMOUSLY.

Chairman Garvey announced that since Ms. Sefcik had not made a decision, this Board had no jurisdiction.

Mr. Valine made a MOTION to close the meeting. Ms. Barry SECONDED and the motion CARRIED. The meeting was closed at 7:52 p.m. The next regular meeting of the Board is scheduled for **June 28, 2017 at 7:30 p.m.**

Respectfully Submitted,



Richelle Hodza  
Recording Secretary