



TOWN OF WARREN
ZONING BOARD OF APPEALS
SPECIAL MEETING MINUTES

THURSDAY, DECEMBER 15th, 2022 at 5:30 pm

Hybrid Meeting- Held in Person & Via Zoom Videoconference

The meeting was called to order at 5:32 PM. Members present in person were Chairman Rick Valine, William Hopkins, and Robin Ploch. Members present remotely via Zoom were Ray Furse and John Morton. Janell Mullen was present as the land-use official serving the ZBA as their staff.

The first item on the agenda was #1 Approval of the Minutes from the Regular Meeting of August 24, 2022. William Hopkins moved to approve the minutes as written. Ray Furse seconded the motion. The motion passed unanimously.

The second item on the agenda was the Calendar of ZBA Meetings in 2023. John Morton moved to approve the calendar of meetings for next year. Ray Furse seconded the motion. The motion passed unanimously.

The third item on the agenda was “New Business- a public hearing regarding the consideration of a variance to allow the placement of an accessory structure (20’ X 30’) to be located 1.1 feet from the rear yard property line at 18 Reed Road. Provided this property is owned by ZBA member, Robin Ploch, she recused herself from the decision-making and moved to the audience as the applicant.

Chairman Rick Valine moved to open the public hearing. Ray Furse seconded the motion to open the public hearing and the motion passed unanimously. Chairman Valine turned the floor over to Mullen who stated that the requirements of the application had been satisfied in accordance with Section 27.3.3. They had received a completed application, payment, an up-to-date class A-2 Survey of the property and improvements. Additionally, the requirements of Section 33 “Notification Requirements” had been satisfied. The Town of Warren had published a notice in the local newspaper twice in order to advertise the hearing and to satisfy statutes. The applicant had noticed the abutters properly and had also posted Public Hearing Signage at their property in accordance with 33.1.5.

The applicant, Robin Ploch, spoke next. She presented her case for the hearing outlining how the “temporary carport” housed vehicles during the winter months. She had not sought a zoning permit for this 20’ X 30’ structure before installing it in December of last year because she had thought that due to the temporary nature of the structure that a zoning permit was not necessary. She stated that the former ZEO, Richelle Hodza, had brought to her attention that she needed a permit. When the current ZEO, Janell Mullen, reviewed the application, she was not able to issue the permit due to the setback requirements. The carport was out of compliance due to the failure to satisfy the setback requirement. The applicant sought an after-the-fact remedy of a variance via the Zoning Board of Appeals. The delay of the application, she stated, was because her surveyor took a very long time to produce the A-2 survey with the mapped carport in its location.

The applicant distributed an invoice to the Board which illustrated the amount of money she was spending on off-site car storage as well as many photographs that represented the lay-out of her property with respects to this structure. She posited that the sloped topography, the wooded nature, and the location of the septic reserve inhibited her from placing the structure anywhere else on the property.

After her presentation, the Board members were able to ask questions to the applicant. Ray Furse stated that there was another "carport" or structure on the property that was used to house vehicles. That structure is 36' X 30' according to the site plan. John Morton asked about other free space on the land other than the current location of the carport.

When the floor was open to the public, the first speaker was Lisa Stuart of 22 Reed Road. She stated that as member of the ZBA, Robin Ploch should lead the town as an example and follow the rules of the zoning regulations. Her property immediately abuts this encroaching structure. She stated that if the Board were to approve her variance, it would set a precedent that one could locate structures where they wish and then come to the Town to ask for permission later.

TJ Stuart, of 22 Reed Road spoke next. He stated that he was a septic installer and was confused about how the applicant's presentation seemed to contradict itself. At one point she mentioned that she was constrained by the nature of her cess pool and at another point she stated that she couldn't place the carport in a specific location due to her septic fields. He didn't think both constraints on one property were valid.

Chairman Valine asked if there were other members from the public that cared to speak. There were none. The applicant asked for the floor again and requested that the Board consider a condition on her application. For example, if they were to sell their property that they would take it down. Ploch stated that she recalled that the Board had conditioned other variance applications like that in the past. Mullen stated that the zoning regulations and CT Statutes allow for an approval or a denial of a request for a variance and that these approvals "run with the land". It would not be appropriate to condition a variance based on its property owner specifically. Board member Ray Furse agreed. Valine asked for a motion to close the public hearing. Member Morton moved to close the public hearing. Ray Furse seconded the motion. The motion passed unanimously.

The meeting turned to the Zoning Board of Appeals' discussion of the application. They referenced the conditions that must be present in order to grant a variance, which is Section 27.3.1 of the zoning regulations. Mullen read condition A verbatim. Member Furse stated that condition A could not be satisfied. He stated that the survey map included another sizeable garage and questioned whether the variance to allow for a second garage would fall into the "hardship" test of legal variances. Member Morton stated that the request seemed related to the personal circumstances of the applicant. Ploch had stated that her and her partner are avid car collectors, and that the carport was for their storage. Morton suggested that this request was based on personal circumstances yet there was no hardship due to the topography of the land per se. He gave the example that if he was an avid swimmer and wanted to locate a pool within a few feet from his neighbor's property line, the desire to have a pool in the setback would not be proper grounds for a variance. Member Hopkins agreed with this analogy and stated that the land was not particularly constrained and that the "temporary carport" should be considered a structure and is in the setback. Member Furse also added that trees in wooded areas get cleared all the time so that setbacks can be satisfied on other properties.

Chairman Valine stated that all conditions of Section 27.3.1 had to be met in order to grant a variance in accordance with the regulations. He asked his fellow members if they felt ready to vote after their discussion of one of the conditions- which according to their discussion- could not be met. John Morton moved to deny the variance for the setback of 1.1 feet at 18 Reed Road due to the fact that the request seemed based on personal circumstances rather than unique characteristics of the land. The exceptional difficulty to gain compliance claimed by the applicant seemed to be due to actions of the applicant. William Hopkins seconded the motion to deny the variance. Rick Valine and Ray Furse also voted to deny the applicant the variance due to the reason that not being able to have a second garage for collecting cars did not deprive the owner of reasonable use of their property. The variance was denied.

Chairman Valine called for adjournment at 6:35 pm. William Hopkins seconded the motion. The motion passed unanimously.