

WARREN ZONING BOARD
June 19, 2013
Minutes

The regular meeting of the Warren Zoning Board was called to order at 7:04 pm by Chairman M. Gerhardt. Also present S. Calenda, P. Attemann, Vice Chairman A. Harrington and Mark Smiley.

Approval of Minutes: May 15, 2013 meeting. It was moved by A. Harrington to accept the minutes. Second by S. Calenda. All in favor.

Old Business

Application #13-17, Lucciola, LLC, owner and Kim Fortin/Bright Beginnings Early Learning Center, LLC, applicant; 5 New Industrial Way, plat map 23 lot 149; owner/applicant requests a *Special Use Permit* from section 32-49 of the Warren Zoning Ordinance to use an existing building as a daycare/pre-school. (Continued from the May 15, 2013 meeting.)

Kim Fortin of 356 High Street, Bristol, applicant was present to give testimony. Also available to give testimony was Rugeiro of 80 Mt. Hope Ave, Bristol. Operating hours shall be 7:00 am – 5:00 pm or 6:00 pm the latest. DCYF has come to visit the site. Not sure if there would be additional lighting at this time. There would be no food preparation.

Public Comment – None

A motion was made by A. Harrington to approve application 13-17, Lucciola, LLC, owner and Kim Fortin/Bright Beginnings Early Learning Center, LLC, applicant, property located at 5 New Industrial Way, Assessor's plat map 23 lot 149, a *Special Use Permit* from section 32-49 of the Warren Zoning Ordinance to a request for the use to be changed, in an existing building, to be used as a daycare/pre-school. The finds will show that the applicant has shown that the use would be compatible with the neighboring use even though they may be industrial and commercial. The notes from the Warren Town Council show that they have also considered all these issues and they found this area to compatible for a day care center. It has also been shown that this would not create a nuisance or hazard in the area, is compatible with the comprehensive plan as amended by the Town Council, the public's use and welfare will be served through a much needed service here. The motion is predicated on the submission and approval a parking plan by the Building Official and DCYF. Appropriate signage compatible with the Zoning Ordinance which shall be reviewed by the Building Official, as well as code review on any renovations preformed. Second by S. Calenda. All in favor.

New Business

Application #13-23, Donna L. Ryan, owner and applicant; 11 Maple Road, plat map 16, lot 284; owner/applicant requests a *Variance* from sections 32-88C of the Warren Zoning Ordinance to construct a 512 sq. ft. garage within the front yard area where accessory structures shall be located only within the side and rear yard areas.

William Dennis Esq, 576 Metacom Ave, Bristol, RI, represented application 13-23, Donna Ryan of 11 Maple Rd, requesting a Variance. Mr. Dennis points out this is actually a request for a Dimensional Variance, it is so because that portion of Warren Zoning Code under Other Dimensional regulations provides that accessory buildings are permitted in rear yards and side yards. The foundation of this request is based on the unique configuration of the land involved, a single family home site. The property is 140' wide and it is 1,300' deep, a waterfront home site, with the home oriented toward the water. The detached garage would be situated between the home and the public street. Also available to give testimony was engineer Thomas Principe, Jr.

Public Comment:

Kenneth & Beverly Boulanger of 1 Belanger Ct, Warren, RI submitted a letter which was entered into the record. Mr. Boulanger stated that he would support this request but would prefer the structure to be placed on the other side.

Michael Trainor, 15 Maple Rd, Warren, has lived there for 25 years. Opposed the application stating that there is no hardship and there is no inconvenience to the owner if the garage were to be placed in the back yard which has over ¾ of an acre. He also stated that the applicant was trying to create a hardship where none exists. He also claims this would be a fire hazard due to the fact that flammable liquids as usually stored in garages, a fire would be within 65' of his home and currently there is only 18' access available to fire apparatus.

Applicant's attorney Mr. Dennis requests a continuance to the July 17 meeting at the board's pleasure to allow for the Fire Chief to submit his opinion of this proposed building as a safety issue.

A. Harrington moved to continue Application #13-23; Donna L. Ryan, owner and applicant; 11 Maple Road, plat map 16, lot 284, requesting a *Variance* from sections 32-88C of the Warren Zoning Ordinance to construct a 512 sq. ft. garage within the front yard area where accessory structures shall be located only within the side and rear yard areas to the July 17 meeting as requested by the applicant. Second by P. Attemann. All in favor.

Application #13-21, Club Recreativo, owner and John Pereira, applicant; 132 Child Street, plat map 9, lots 28, 29, & 31; owner/applicant requests a *Special Use Permit* from sections 32-74 and 32-49 of the Warren Zoning Ordinance to construct a 22' x 59' one story storage and service building, thereby expanding a legal non-confirming use.

John Terra of 15 Long Wharf, Warren, RI as well as John Pereira of , represented Application 13-21 for Special use Permit from sections 32-74 and 32 -49 of the Warren Zoning Ordinance to construct a 22' x 59' one story storage and service building. This building would provide better accommodations for future events, there would be no cooking in this building. Frank Modura, president of Club Recreativo was also present to give testimony. He stated the hours of operation are usually 7:00am – 10:00 pm, sometimes 11:00 pm, he took over 3 months ago and is trying to improve the area and address the concerns of the neighbor's complaints. The proposed area current has a dumpster located there. The current parking is neighbors which are allowed to use the space. The purpose of the building is for storage and to replace the use of the small tent during the festival, to provide protection from rain etc. The applicant states they would consider removing the patios for the request. The festival is a once a year event.

Public Comment:

Michael Signourey of Signourey LLC owner of Culter Miller being the largest abutter, located across the street from this facility. He gave great detailed opposition to the request of this application, which include parking on his property, an increase in liability, debris be dumped on his property, it would be inconvenient to him, the abutter and the town. The hardship would impose on the abutters not on the applicant, there is not economic development achieved by this request, it works against every aspect of the Warren Development Plan. He asked the board to rule against this after having considered the long term ramifications.

Stephen Patton, 121 Market St, Warren, located directly behind the club, testified this club is already a late night nuisance, contributor to rodents and parking issues.

Emmanuel Silveira, 123 Market St, Warren testified that instead of the nuisance of noise and being 60' from his property line approving this application would put them against his fence line. The applicant uses the proposed area for parking because they have knocked down his fence three times.

Barbara Sanchas, 117 Market St, Warren, testified there is a rodent and noise nuisance from this applicant.

The applicant requested to withdraw the application at this time.

It was moved by A. Harrington to approve the withdrawal of Application 13-21 at the applicant's request without prejudices. Second by S. Calenda. All in favor

Application #13-24, 840 Main Street, LLC, owner and Alfred Brazil, applicant; 840 Main Street, plat map 15B, lot 20, owner/applicant requests a *Variance* from section 32-115B of the Warren Zoning Ordinance to install a two-sided, free-standing sign and a wall-mounted sign that will exceed the allowable sq. footage of 15.

Alfred Brazil was present to give testimony to the request for a Variance from section 32-115B, to install a two-sided, free-standing sign and wall-mounted sign. The proposed sign is on each side of the 3.8' 46" x 6' in length a total of 53 ½ sq.

feet of signage. The material will be wood, probably black with gold, no additional lighting and the planter will be decorated with flowers.

Public Comment - None

It was moved by M. Smiley to approve application 13-24 property located at 840 Main St, Assessor's Plat 15B, Lot 20, a Variance from 32-115B, suggested that the sign be made of wood. The colors to be as indicated by the applicant, black with gold writing, to be limited to the 72'46" and two sided. Second by A. Harrington. All in favor.

Application #13-28, Minassian, Harry & Finn, Gail, owners and Graphic Signs/Jarid Gobril, applicant; 568 Child Street, plat map 20, lot 232; owner/applicant requests a *Special Use Permit* from section 32-74 of the Warren Zoning Ordinance to replace a 40 sq. ft. freestanding sign (destroyed by a motor vehicle) with a 64 sq. ft. sign, thereby expanding a legal non-conforming sign.

Gary Minassian owner of Crestwood Nursing Facility was present to give testimony for the request of a Special Use Permit from section 32-74 of the Warren Zoning Ordinance to replace a 40 sq foot freestanding sign with a 64 sq foot sign. Mr. Minassian explains that back in March a young lady coming home from work late one evening drove across the front lawn and through the sign. That sign had been there since 1978. Also present was Jarid Gobal, owner of Graphic Signs who gave testimony to the sign and its design.

Public Comment - NONE

It was moved by A. Harrington to grant Application #13-28, to grant the Special Use Permit, to replace a sign that destroyed, with a new 2 sided sign, as shown on the plans 32 sq feet from each side, as shown by the plans with the condition that it has landscaped lighting. Second by S. Calenda. All in favor.

Application #13-22, Toor, LLC, owner and Ormonde Productions/Tony Ormonde, applicant; 7 Commercial Way, plat map 23, lot 153; owner/applicant requests a *Special Use Permit* from section 32-55 of the Warren Zoning Ordinance to use the existing commercial building for wholesale business and storage of non-flammable, non-explosive materials with associated office use.

Tony Ormonde, 8 Francis St, Barrington, RI, of Ormonde Production, LLC applicant gave testimony for the Special Use Permit. He would like to move his business from 91 Main St to 7 Commercial Way, where he would store light and sound equipment and decorations, there would be no hazardous material stored at this location other than the diesel fuel in the fuel tanks of the trucks which will be parked on the west side of the building.

Public Comment – NONE

It was moved by S. Calenda to approve Application #13-22, Toor, LLC, owner and Ormonde Productions/Tony Ormonde, applicant; 7 Commercial Way; plat map 23, lot 153; owner/applicant requests a *Special Use Permit* from section 32-55 of the Warren Zoning Ordinance to use the existing commercial building for wholesale business and storage of non-flammable, non-explosive materials with associated office use, the applicant has testified he will not store hazardous waste there, the applicant has also testified showing purposes for clients to view an existing product that they could order and there will be no retail sales. Second by A. Harrington. All in favor.

Application #13-25, Morlaur Properties, LLC, owner and Carl Benevides, applicant; 288 Market Street, plat map 21, lots 85, 86, 87, 88, 89, 109, 110, 111, & 112; owner/applicant requests a *Special Use Permit* from section 32-166 of the Warren Zoning Ordinance to remodel and use the existing building as a veterinary hospital with associated/accessory activities.

Carl Benevide, General Contractor, 304 Metacom Ave, Bristol, RI gave testimony for the requested Special Use Permit from section 32-166. There would not be an expansion of the footprint of the building. Also present was Dr. Cory, veterinarian currently located in Barrington looking to relocate to 288 Market St to give testimony. The current show room will be renovated. Toward the back on the lower level will be the 4 examining rooms. The doors will be solid core and the rooms will be soundproofed. Over to the right as you face the building, the upper level will be a doggie day-care. The parking lot will be lined and there will be handicapped accessibility

Public Comment - NONE

It was moved by S. Calenda to approve Application #13-25, Morlaur Properties, LLC, owner and Carl Benevides, applicant; 288 Market Street; plat map 21, lots 85, 86, 87, 88, 89, 109, 110, 111, & 112; owner/applicant requests a *Special Use Permit* from section 32-166 of the Warren Zoning Ordinance to use the existing building as a veterinary hospital with associated/accessory activities. This application will only be heard upon approval of a zoning map change request to be heard by the Warren Town Council on June 11, 2013, which was approved. The applicant and the owner of the property have indicated that this will be used as a doggie-day care, there will also be grooming services also provided, they have shown there will be no nuisance added to the neighborhood by soundproofing, they will be controlling the waste inside and they have taken every precaution. This will be conditional on parking and site plan that will be approved through the Building Official and the plans will be by a structural engineer or architect because of the changes, this also requires the DOT approval. Second by A. Harrington. All in favor.

Application #13-26, Main Street Properties, LLC, owner and Sharon L. Hayden, applicant; 390-398 Main Street, plat map 3, lots 72 & 70; owner/applicant requests a *Special Use Permit* from section 32-49 and 32-52 of the Warren Zoning Ordinance to remodel the existing building, construct a two story addition, and allow for a private educational and personal service use that includes but is not limited to a day spa, massage, acupuncture and Pilates.

Application #13-27, Main Street Properties, LLC, owner and Sharon L. Hayden, applicant; 390-398 Main Street, plat map 3, lots 72 & 70; owner/applicant requests a *Variance* from section 32-78 of the Warren Zoning Ordinance to remodel the existing building and construct a two story addition that will violate the required front and side yard setbacks.

Presenting Application #13-26 & #13-27 was Fausto Anguilla, Esq., 56 Pine St, Providence, RI. Also present was Sharon L Hayden, 7 Maple Rd and owner/ applicant of 683 Main St., gave testimony to her application and the proposed changes, construction and how she would like to use the property. Hours of operation will be 9:00am – 5:00 pm. John Duvally, 3 Braytonwoods/PO Box 134, Rehoboth, MA 02769, Contractor, gave testimony to the remodeling and materials to be used. Lynn Small, engineer, Northeast Engineers, 55 John Clarke Rd, Middletown, RI, also gave testimony to the parking and drainage.

Entered into the record was a letter submitted by William Dennis Esq. of 576 Metacom Ave, Bristol, RI represented his client Twenty Eight Market Street, Inc. although the letter doesn't oppose the approval of the application there are requests and concerns which include parking issues.

Public Comment - NONE

It was moved by P. Attemann to approve Application #13-26, as presented to change the use from residential to commercial in order to have a day spa, to include massage, acupuncture and Pilates. They demonstrated that the currently neglected and vacate building detrimental to the neighborhood and the Town, the new use would be compatible with the neighboring land uses for services and retail, it's compatible with downtown neighborhood. It would not create a nuisance or a hazard. They improving the current condition, compatible with the comprehensive plan and the public convenience and well fare will be served. Contingent on hours of operation will be 8am – 7 pm. The applicant will comply with the sign Ordinance. The applicant will acquire all required approvals from the State, DOT and structural review or change of use. Second by S. Calenda. All in favor.

It was moved by to approve P. Attemann to approve Application #13-27, for relief from a dimensional *Variance* where a front yard setback is 10' and there is 7.8', the side yard setback requires 10' and it is 7'4", as well as where 30 parking spaces are required and there are 28 spaces. Second S. Calenda. All in favor.

Administrative Matters:

Discussion and action relative to the Rotondo vs. Town of Warren Superior Court appeal (C.A. No PC-2011-3415) This case has been remanded back to the Warren Zoning board of Review and the original decision will be modified"... The Zoning board shall determine whether the Morrill's satisfied 45-24-41(d)(2) and further indicate the findings of fact and conclusions of law in support of its decision."

Discussion and action relative to the Rotondo vs. Town of Warren Superior Court appeal (C.A. No PC-2011-3415) an appeal was taken in Superior Court in 2011, on Monday a decision was received from Judge Sarah Taft-Carter, she remanded the matter but did not overturn the decision of the board. She remanded it seeking additional clarification of one of the components, one of the elements that were necessary to be found. The hope was to have this on this evening to allow the Morrill's for a more expedient manner, unfortunately opposing counsel refused to accept notification service of this matter because they had a conflict with this evening and requested that this matter be continued to next month. Meanwhile, we will send return receipt requested notification. The Solicitor will prepare a brief memorandum of actions the board may take along with the decision of the Judge.

It was moved by P. Attemann to continue this matter to the July 17, 2013 meeting. Second by A. Harrington. All in favor.

Consideration of items for future agendas: NONE

Adjourn It was moved by S. Calenda to adjourn the meeting at 10:45pm. Second by A. Harrington. All in favor.

Respectfully submitted,

Rhonda Lee Fortin