

**AGENDA**  
WARREN ZONING BOARD  
514 MAIN ST.; 2ND FLOOR  
TOWN COUNCIL CHAMBERS  
July 17, 2013

The regular meeting of the Warren Zoning Board was called to order at 7:02 pm by Chairman M. Gerhardt. Also present S. Calenda, P. Attemann, Vice Chairman A. Harrington, M. Smiley and A. Ellis.

**Approval of Minutes:** June 19, 2013 meeting. It was moved by A. Harrington to accept the minutes as revised. Second by S. Calenda. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

It was moved by A. Harrington to move the Administrative Matter to the front of the agenda. Seconded by P. Attemann. Yea, M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**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."

An outline was given by the Solicitor. The appeal of the decision was filed in 2011. The judge issued a decision which has remanded the matter back to the board because she found that in the findings of fact, one of the elements necessary to be met, had not had a factual basis to be found. With an abundance of caution it is recommended that the board will again hear the application in its entirety, from the beginning at the next meeting on Aug 21, 2013. That would mean that the application would be re-advertised, notice would be provided to the necessary individuals, all parties have been contacted and informed that they should re-represent their case. Again the decision from the judge was focused on that one element missing. The judge felt there was not enough evidence for her to up hold the decision. The Solicitor also stated the members of the board may have received information from the Morrill's directly and just to be clear for all interested parties, if there are any documents that are to submitted they are to be submitted through Mr. Nash the Building Official.

Alfred Ferruolo, Esq. for the Rotondo's would object to a hearing this evening as it was not listed as being a hearing for this evening. He listened to the proposal as he came in this evening and will allow proposed to happen if that is what the board were to choose but he may seek an opinion from the judge because under the decision of Judge Taft-Carter, she retains jurisdiction on this matter and she has the final say. She has remanded it back to the board but retains jurisdiction.

Mr. Morrill states he is 80yrs old and has waited a long time for this single stall garage. He feels the transcript will show that everything has been discussed and addressed.

It was moved by S. Calenda in the administrative matter known as Rotondo vs. Town of Warren in the Superior Court appeal (C.A. No. PC-2011-3415.) to be continued to the August 21, 2013 meeting to discuss the finding of facts and to determine whether or not the Variance is granted under the four standards that are listed in the Zoning Ordinance. The board also directs the Solicitor to seek clarification from the Judge Taft-Carter as to her decision.

**Old 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. (Continued from the June 19, 2013 meeting.)

Chair M. Gerhardt acknowledged a letter received from Fire Chief Galinelli and asked that it be entered into the record.

William Dennis Esq, 576 Metacom Ave, Bristol, RI, representing Donna Ryan was present to give testimony as well as Thomas Principe III, engineer, Thomas Principe, General Contractor and Lori Kean, architect. After reviewing the letter from the Fire Chief, Mr. Dennis felt there was no opinion given for or against this application. The proposed garage would be 62' from the neighbor's property. In this zone (R40), detached garages can be within 40' from a neighbor's home. Mr. Dennis also stated what is odd about their request for relief is that their entire project meets or exceeds all the dimensional requirements of the code. They meet all of the regulations. They do not believe there is any fire safety issue and there is no evidence to that affect. They are seeking the least type of variance. It would be more than a mere inconvenience to relocate the garage to the waterfront side.

#### Public Comment

Michael Trainor, 15 Maple Rd, Warren, submitted documentation for the board in opposition, stated he doesn't believe this application meets the standard for a variance due to a hardship. In regard to Section 32-66, the applicant created their own hardship due to the placement of the residence. Section 32-66B, the applicant made a conscious decision not to have the garage attached. Section 32-66D, the owner could re-locate the garage to the north end of the property. Section 32-28, there is no hardship and no alternative proposal was submitted. He also feels this application is a fire safety issue and allows lack of access for fire or emergency apparatus.

Kenneth Boulanger of 1 Belanger Ct, Warren, states the applicant has a 1300 sq. ft. lot and the applicant had other options in the beginning planning stage. The original plans were approved in 2012 this is when they had already assumed they would come to the Zoning Board at a later time and ask for a variance. The applicant states themselves that they didn't want to look out of the house at the garage. The hardship is a result of a direct action of the applicant. He doesn't believe it conforms to the ordinance. Plan approvals for the house were dated December 7, 2012. He also had written correspondence from Mr. Nash and Mr. Principe dated November 19, 2012, addressing the fact that a garage variance would be necessary prior to construction design. He would like the board to deny the application as requested.

It was moved by A. Harrington to approve Application #13-23 Donna L Ryan 11 Maple Road; plat map 16, lot 284; the request for a Variance for the placement of a structure, the variance they are looking for is from sections 32-88C, accessory structures that require that accessory structures of this size be no closer than 10' to a lot line within a side or rear yard area, they meet all of the dimensional variances, meet all dimensional requirements to be placed in what is defined as the front yard, they have met the requirements for a dimensional variance, they have shown a hardship, they have shown there is no other reasonable alternative to the legally permitted beneficial use, that the findings are, it is unreasonable to require the applicant to place the garage/accessory structure between the house and the water. The facts that support this are, it is not a reasonable alternative, as it is the whole purpose for having waterfront property is to have a waterfront view therefore it would be unreasonable to require them to place this in the front likewise it would be unreasonable to require the applicant to place the accessory structure where it would interfere with their view or their neighbor's view. This is just a normal use and compatible with the surrounding structures. The applicant did concede they would widen the 18' to 20' and cut back the vegetation, this is conditional for approval. Second by S. Calenda. Yea, M. Gerhardt, A. Harrington, S. Calenda and M. Smiley. Opposed, P. Attemann

#### **New Business:**

**Application #13-29; Karl & Linda Senn, owners and applicants; 5 Touisset Road**, plat map 16, lots 331 & 27; owners/applicants request a *Variance* from section 32-77 of the Warren Zoning Ordinance to remodel the existing house and construct a garage addition that will violate the required 30' side yard setback.

Karl & Linda Senn owners and applicants were present to give testimony on this request to remodel the existing house and construct a garage addition.

#### Public Comment

Stephen Fortunato, 1 Bradbury St, Warren, feels there are several problems with this request that the board should consider 32-28 Standards and 32-74 Non-Conforming Development this is already a non-conforming use, already 15' into

the side back line to grant a variance into a setback line it can't be more than 1/3 of the distance and this application is already more than 30%, the expansion line toward the property line as well as going up would increase by 82% of the dimensions.

Katie Hutchinson, 2 Bradbury St, Warren, is opposed to the side yard setback and the granting of this application. Feels this would obstruct her view.

It was moved by S. Calenda to approve Application #13-29 **Karl & Linda Senn, owners and applicants; 5 Touisset Road**, plat map 16, lots 331 & 27, requesting a variance from section 32-77 of the Zoning Ordinance to remodel the existing house and construct a garage addition that will violate the required 30' side yard setback, the finding of fact that the applicant has testified that they do have certain hindrances of the topography of their lot, that it would make it a hardship if they were to construct the garage and move it to line up the side wall, which would be the front and the side of the garage, which would also create a hardship. Also a finding of fact, it would be compatible to the surrounding neighborhood, would not be creating a nuisance, the public convenience and welfare would be served. Findings are this is not hindrances of view being impeded and no view easements do exist. Second by M. Smiley. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**Application #13-30; Richard & Joan Roelke, owners and applicants; 38 Brownell Street**, plat map 16 lot 178; owners/applicants request a *Variance* from section 32-89 of the Warren Zoning Ordinance to install/construct an OWTS that will be within the required 150' setback from a water body.

Richard Roelke owner of 38 Brownell St was present to testify to the request for a *Variance* from section 32-89 of the Warren Zoning Ordinance to install/construct an OWTS that will be within the required 150' setback from a water body. He is replacing the cesspool with a septic as required by the state regulations.

Public Comment – NONE

It was moved by S. Calenda to approve Application #13-30, Richard & Joan Roelke, owners and applicants, 38 Brownell Street, plat map 16 lot 178, applicants request a *Variance* from section 32-89 of the Warren Zoning Ordinance to install/construct an OWTS that will be within the required 150' setback from a water body. The applicant has testified that he has all the approvals from DEM, we have determined that there is no hardship that would be created, it would be compatible with the comprehensive plan and the public convenience and welfare will be served. Second by M. Smiley. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**Application #13-31; Richard & Joan Roelke, owners and applicants; 40 Brownell Street**, plat map 16 lot 180; owners/applicants request a *Variance* from section 32-89 of the Warren Zoning Ordinance to install/construct an OWTS that will be within the required 150' setback from a water body.

Richard Roelke owner of 40 Brownell St was present to testify to the request for a *Variance* from section 32-89 of the Warren Zoning Ordinance to install/construct an OWTS that will be within the required 150' setback from a water body. He is replacing the cesspool with a septic as required by the state regulations.

Public Comment – NONE

It was moved by P. Attemann to approve Application #13-31; Richard & Joan Roelke, owners and applicants; 40 Brownell Street, plat map 16 lot 180; owners/applicants request a *Variance* from section 32-89 of the Warren Zoning Ordinance to install/construct an OWTS that will be within the required 150' setback from a water body. Second by S. Calenda. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**Application #13-32; TDR Properties, LLC, owner and Fox Point Wine & Spirits, applicant; 84 Cutler Street,** plat map 8, lot 115; owner/applicant requests a *Special Use Permit* from section 32-55 of the Warren Zoning Ordinance to allow for a wholesale business and storage of non-flammable and non-explosive materials (alcohol) within one unit of an existing building.

Dennis Cupura vice president and representative of Fox Point Wine & Spirits, was present to give testimony on the request for a special use permit from section 32-55 to allow for a wholesale business and storage of non-flammable and non-explosive materials (alcohol) within one unit of an existing building. Mr. Lopes stated this is a sister companies with other branches in Massachutes and New Bedford they feel this would be a good location to service Newport and Providence. They will be renting a 1250 sq. ft. area with 1 sales person. They would also have one distributing truck which would be stored in the building. Andrew Arruda owner of TDR Properties was also available for testimony. He stated they would be renting Unit 17 near the eastern end of the building. This unit also has a loading door located on the south side and there is blue stone located there.

Public Comment – NONE

It was moved by S. Calenda to approve Application #13-32; TDR Properties, LLC, owner and Fox Point Wine & Spirits, applicant; 84 Cutler Street, plat map 8, lot 115; owner/applicant requests a *Special Use Permit* from section 32-55 of the Warren Zoning Ordinance to allow for a wholesale business and storage of non-flammable and non-explosive materials (alcohol) within one unit of an existing building. The applicant has testified that it will compatible to the surrounding use and neighborhood, the public convenience and welfare will be served, compatible with the comprehensive plan and no nuisance would be created by granting this application. Second by A. Harrington. . Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**Application #13-33; Corliss Institute, LLC, owner and Christopher Blank, applicant; 20 Nobert Street,** plat map 3, lots 38A & 38; owner/applicant requests a *Special Use Permit* from section 32-49 of the Warren Zoning Ordinance to modify an existing Special Use Permit by removing condition #8 thereby allowing for the replacement of cedar clapboards with vinyl siding.

Christoper Blank of Blank Construction, Warren, RI, contractor for Corliss Institute, LLC was available to give testimony on Application #13-33 requesting a Special Use Permit from section 32-49 of the Warren Zoning Ordinance to modify an existing Special Use Permit by removing condition #8 thereby allowing for the replacement of cedar clapboards with vinyl siding.

Public Comment – NONE

It was moved by A. Harrington on **Application #13-33; Corliss Institute, LLC, 20 Nobert Street,** plat map 3, lots 38A & 38, to approve the request for a Special Use Permit which is amending a Special Use Permit granted back in 2001, amendment that they be allowed to remove and replace the siding and moisture barrier with vinyl in place of the cedar which was previously required, the applicant has shown this would not create a nuisance, it is compatible with the comprehensive plan and it is a reasonable alternative to what is there. A modification to the motion, to grant the Special Use Permit granted on Dec 12, 2001 and remove in its entirety item #8 from that Special Use Permit. Second by S. Calenda. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**Application #13-34; Paul Baggott, Trustee, owner and applicant; 264 Child Street,** plat map 10 lots 39 & 40; owner/applicant requests a *Special Use Permit* from sections 32-75 & 32-55 of the Warren Zoning Ordinance to change the use of a portion of the existing building to allow for a wholesale business and storage of non-flammable and non-explosive materials.

Thomas Wright Esq., 572 Main St, Warren, RI representative for Application #13-34; Paul Baggott, Trustee, owner and applicant; 264 Child Street, plat map 10 lots 39 & 40; owner/applicant requests a *Special Use Permit* from sections 32-75  
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& 32-55 of the Warren Zoning Ordinance to change the use of a portion of the existing building to allow for a wholesale business and storage of non-flammable and non-explosive materials. Paul Baggott owner and applicant, was also available to give testimony. He would like to partition off 2500 sq. ft. section and rent it out to this eco-friendly husband and wife company. Hours of operation at the most would be Monday – Saturday from 6:00am- 6:00pm.

Public Comment – Karen Ouellette, 244 Child St. Warren, RI wanted clarification of what the use would be.

It was moved by S. Calenda to approve Application #13-34; Paul Baggott, Trustee, owner and applicant; 264 Child Street, plat map 10 lots 39 & 40; owner/applicant requests a *Special Use Permit* from sections 32-75 & 32-55 of the Warren Zoning Ordinance to change the use of a portion of the existing building to allow for a wholesale business and storage of non-flammable and non-explosive materials. The applicant has testified that this will not creating a nuisance or hazard to the neighborhood, that it will compatible with the comprehensive plan, the public convenience and welfare will be served and I so moved that the application be approved with the operational hours being Monday- Saturday 6:00am – 6:00pm. Second by P. Attemann. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

**Administrative Matters:**

**(Moved to the front of the agenda)**

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 Morrills' satisfied 45-24-41(d) (2) and further indicate the findings of fact and conclusions of law in support of its decision."

Consideration of items for future agendas – Process of Appeals

**Adjourn** It was moved by S. Calenda to adjourn the meeting at 9:36pm. Second by P, Atteman. Yea - M. Gerhardt, A. Harrington, S. Calenda, P. Attemann and M. Smiley.

Respectfully submitted,

Rhonda Lee Fortin