WARREN ZONING BOARD
October 16, 2013
Minutes

The regular meeting of the Warren Zoning Board was called to order at 7:00 pm by Vice Chairman A. Harrington. Also present S. Calenda, P. Attemann, M. Smiley, Alternate A. Ellis and Alternate M. Emmenecker.

Approval of Minutes: September 18, 2013 meeting. It was moved by M. Smiley to accept the minutes. Second by P. Attemann. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

New Business

Application #13-49; David & Betty Hanssen, owners and applicants; 56 Beach Street; plat map 7, lots 100, 101, & 101A; request for a *Special Use Permit* from section 32-74 of the Warren Zoning Ordinance to remove a portion of the existing house and construct a 13'3" x 12'5" one story addition with a roof deck, thereby expanding a legal non-conforming use (2 dwellings on a lot.)

Application #13-42; David & Betty Hanssen, owners and applicants; 56 Beach Street; plat map 7, lots 100, 101, & 101A; request for a *Variance* from section 32-77 of the Warren Zoning Ordinance to remove a portion of the existing house and construct a 13'3" x 12'5" one story addition with a roof deck that will have a 6' side yard setback where 15' is required and a 9'5" rear yard setback where 35' is required.

David and Betty Hanssen owners and applicants were present to give testimony for Applications #13-49 and #13-42. They have two houses on one lot. They would like to use the "north house" "front house" as a summer house and the "south house" "rear house" as a winter house. They would like to take the rear portion of the wall and push it out to where the existing bulkhead is that would give them the ability to use a dining room and allow them a larger walk out area above. Both houses have separate utilities however they have contacted National Grid who will be bring a gas line out connecting to both houses which will be for heating purposes on one meter.

<u>Public Comment</u> - NONE

It was moved by P. Attemann to approve Application #13-49, 56 Beach Street, plat map 7, lots 100, 101, & 101A, David & Betty Hanssen, owners and applicants, request for a *Special Use Permit* from section 32-74 of the Warren Zoning Ordinance to remove a portion of the existing house and construct a 13'3" x 12'5" one story addition with a roof deck, thereby expanding a legal non-conforming use (2 dwellings on a lot.) Finding of fact the expansion is well within the twenty five percent limitation of expanding non-conforming use, the density of lot is keeping with the other lots and the street in that area for single family dwellings, there is no infringement on other immediate neighbors to the south. This special use will not create a hazard in the

neighborhood as this is an existing building with a very minor expansion. We would also like to incorporate the dimensional variances that have been requested for the rear yard setback. The dimensions shall be limited to the dimensions that were shown and submitted to this board as well as the setbacks. Second by S. Calenda. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-48; Meredith & Tyler Dixon, Jr., owners and applicants; 60 Brownell Street; plat map 16, lots 189 & 190; request for a Variance from section 32-89 of the Warren Zoning Ordinance to install an OWTS within 150' of a water body.

Tyler Dixon owner and applicant gave presentation for Application #13-48 requesting a Variance from section 32-89 of the Warren Zoning Ordinance to install an OWTS within 150' of a water body. He stated that he has already received approvals from the DEM and CRMC. He also stated that he does not have his own well.

Public Comment – NONE

It was moved by S. Calenda to approve Application #13-48; Meredith & Tyler Dixon, Jr., owners and applicants; 60 Brownell Street; plat map 16, lots 189 & 190, request for a Variance from section 32-89 of the Warren Zoning Ordinance to install an OWTS within 150' of a water body. The applicant was seeking relief to install an OWTS and remove a cesspool as indicated in his application package. The applicant has testified that he has approval from DEM. The applicant has also testified unique circumstances exist due to the lot size so it has been determined due to the hardship of the lot size the applicant would be eligible for a variance. The hardship is not pre-existing, it is not a condition that the applicant had any action or cause of and the motion is to grant him relief. Second by M. Smiley. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-50; Christine & Kenneth Medeiros, Jr., owners & applicants; 64 Overhill Road; plat map 10, lots 42 & 43; request for a Variance from section 37-82 of the Warren Zoning Ordinance to unmerge lot 42 from lot 43 on Warren Tax Assessor's plat map 13E.

S. Calenda recues himself.

M. Emmenecker will be a voting member.

Vice Chairman A. Harrington acknowledges that he is in receipt of a letter today which was addressed to the Warren Town Council.

Solicitor Federico addresses the Zoning Board in regard to the letter that was received today addressed to the Town Council. She recommends that the Zoning Board disregard the contents of the letter for the time being as the letter was addressed to the Town Council not the Zoning Board. There were some procedural issues with this application, specifically in the advertising the wrong Ordinance was cited as well as the applicant is

seeking a Special Use permit as opposed to a Variance. Therefore it is recommended that the Board continue this matter to the next meeting on November 20, 2013 so that is may be properly advertised.

Fausto Anguilla, Esq., 56 Pine St., Ste. 200, Providence, RI 02903, represented Christine & Kenneth Medeiros owners and applicants of Application #13-50. Mr. Anguilla would like the record to be clear that he and his client's, Christine & Kenneth Medeiros were present and ready, able and willing to go forward, to unmerge two lots there were merged as an operational flaw and it is not happening because of a reported abjection that was allegedly filed with the Town Council. He also requests that any advertising or new costs incurred should not become his clients.

A. Ellis moved on Application #13-50, property located at 64 Overhill Road, Plat 10, Lots 42 & 43, for the matter to unmerge the lots and for a small house to be built on Lot 42 for the mother-in-law to continue this to the next regular meeting and the Applicants will not incur any costs associated with a new application fee or advertisement fee. Second by M. Smiley. A. Harrington moved that the petitioner is to work with the Building Official to get all of the procedural aspects correct. Second by P. Attemann. Yea - A. Harrington, P. Attemann, M. Smiley, A. Ellis and M. Emmenecker.

Application #13-51; Eleanor Carreiro, owner and applicant; 430 Seaview Avenue; plat map 16, lot 302; request for a Variance from section 32-89 of the Warren Zoning Ordinance to install an OWTS within 150' of a water body.

Eleanor Carreiro owner and applicant of 430 Seaview Avenue; plat map 16, lot 302 was present to give presentation of Application #13-51, requesting a Variance from section 32-89 of the Warren Zoning Ordinance to install an OWTS which is being required of her by law, within 150' of a water body. She explained that she has received DEM approval however CRMC is requiring her to get approval here prior to them giving approval.

Public Comment - NONE

It was moved by P. Attemann to approve Application #13-51; Eleanor Carreiro, owner and applicant, 430 Seaview Avenue, plat map 16, lot 302, request for a Variance from section 32-89 to allow a septic system to be placed within 150' of a body of water due to DEM approval and this being what they are required to do and they have to legal pervious to do so, motion to grant upon CRMC approval. Second by S. Calenda. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-52; I. Shalom Company, Inc., owner and David Westcott/Westcott Enterprises, applicant; 569 Main Street; plat map 5, lots 24, 44, & 45; request for a Variance from section 32-115(b) of the Warren Zoning Ordinance to install a 34 sq. ft. wall mounted directory sign that will exceed the allowable square footage of signage.

David Westcott, 2 Terrace Dr, Barrington, RI, applicant and owner of Westcott Enterprises was present to give testimony for Application #13-52. He explained the sign will be vinyl letters. The sign will not be lite and will be facing Main St. It will be similar to the signage he had at Cutler Mills. There is about 24,000 sq ft per floor.

Public Comment - NONE

It was moved by M. Smiley to approve the Variance on Application #13-52 from section 32-115(b) of the Warren Zoning Ordinance, property located at 569 Main St, applicant David Westcott, to install a sign in excess of the allowable square footage. The limitation shall be set at the dimensions given in the application, that the sign is 4' x 8' x 2'5". Second by S. Calenda. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-53; James & Lori Baptista, owners and applicants; 9 Taddy Avenue; plat map 23, lot 47; request for a Variance from section 32-77 and 32-88 of the Warren Zoning Ordinance to construct a 24' x 35' one story detached garage with a rear yard setback of 3' and a side yard setback of 5' where 10' is required; and to have lot coverage of 21.95% where 20% is permitted.

James Baptista, owner and applicant, was present to give testimony to the request for a Variance from section 32-77 & 32-88. He explained that he would like to relocate and keep his shed and did include it in the lot coverage. He was considering relocating the shed to the northwest portion of the property.

Public Comment – NONE

M. Smiley moved to approve Application #13-53, applicant James Baptista, requesting a Variance from the Warren Zoning Ordinance, section 32-77 and 32-88 at 9 Taddy Avenue, the applicant wishes to build a three (3) stall garage and would like relief on the side yard setback as well as the rear yard setback, conditional on the total lot coverage is not to exceed the 20% allowable by whatever means the applicant chooses to design his property (the applicant may build a small garage, remove the shed, change the size of the shed etc.), all drainage shall be approved by the Building Official, any and all other applicable ordinances still apply and must be complied with. Second by S. Calenda. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-54; Armand & Sandra Horta, owners and Stephen & Eileen Patistea, applicants; 272 Market Street; plat map 21, lot 138; request for a Special Use Permit from section 32-116 of the Warren Zoning Ordinance to operate a wood related retail and service business, including stoves, parts and wood based fuels. This request is conditioned upon a zoning ordinance amendment to be heard by the Warren Town Council on Tuesday, October 8, 2013.

Robert J. Healey Jr. Esq., 665 Metacom Ave, Warren, represented the applicants Stephen & Eileen Patistea, request for a Special Use Permit from section 32-116 of the Warren Zoning Ordinance to operate a wood related retail and service business, including stoves, parts and wood based fuels. The Warren Town Council amended the zoning ordinance on Tuesday, October 8, 2013, providing for this particular use in a Rural Business Zone and anything decided this evening by this Board would still be contingent on the Town Council.

Robert J. Healey Jr. Esq. requests a continuance to the November 20, 2013 meeting at which time the applicants can return with the completed check list. (This list may be obtained from the Building Official's Office and outlines the necessary documentation to be submitted to the Zoning Board.)

It was moved by S. Calenda to continue Application #13-54 to the November 20, 2013 as requested by the Applicant's council. Second by M. Smiley. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-55; Kurt Guerrin, owner and Kurt Guerrin & Chelsa Shaw, applicants; 38 Terrace Avenue; plat map 13D, lot 400; request for a Variance from section 32-77 of the Warren Zoning Ordinance to demolish the existing house and construct a new single family dwelling that will violate the front, side, and rear yard setbacks as per plan on file; also to have lot coverage of 24.3% where 20% is allowed.

Kurt Guerrin and Chelsa Shaw applicants were present to give testimony for their Variance request from section 32-77. Setbacks would remain the same however the new house print would take over 2' of the deck space and the existing deck would become 8' instead of 10'. They decided to build the new house on the pre-existing footprint as it would allow them to have privacy and a backyard and they felt it wouldn't be as useable if they had placed the house back into the property.

Public Comment- NONE

It was moved S. Calenda to approve Application #13-55, Kurt Guerrin, owner and Kurt Guerrin & Chelsa Shaw, applicants; 38 Terrace Avenue; plat map 13D, lot 400, request for a Variance from section 32-77 of the Warren Zoning Ordinance to demolish the existing house and construct a new single family dwelling that will violate the front, side, and rear yard setbacks as per plan on file; also to have lot coverage of 24.3% where 20% is allowed. After hearing testimony from the applicants and there being no public comment, I find that a hardship does exist due to the unique lot size which is rilitly small and basically the existing dwelling not be habitiable based on the testimony from the applicants, the hardship is not an action caused by the applicants it was pre-existing. I also find that granting the Variance will not alter the general characteristics of the surrounding area and it conforms with the Warren Zoning Ordinance and the Comprehensive Plan, it will it within the neighborhood. They are asking for a certain amount of relief based on their testimony I find that the relief is the least amount of relief that would be necessary to maintain this footprint that they are trying to follow of the pre-existing dwelling. Also, the applicant is showed evidence that the structure is not presently habitable at this point and time. If the dimensional variance was not granted they would have to build a structure where they would have no backyard use, so granting the relief of violating the side, front and rear yard setbacks a motion to grant is made. Setbacks shall be as outlined and submitted with the application. Second by P. Attemann. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #13-56; Thomas & Cindy Gordon, owners and applicants; 14 Terrace Avenue; plat map 13D, lots 242 & 241; request for a Variance from section 32-77 of the Warren Zoning Ordinance to construct a 17' x 18'

one story addition to existing single family dwelling with a front yard setback of 18' where 25' is required and a rear yard setback of 32' where 35' is required; also to have lot coverage of 21.5% where 20% is allowed.

Thomas Gordon, 14 Terrace Ave, owner and applicant was present to give testimony to Application #13-56 requesting a Variance from section 32-77 of the Warren Zoning Ordinance to construct a 17' x 18' one story addition to existing single family dwelling with a front yard setback of 18' where 25' is required and a rear yard setback of 32' where 35' is required; also to have lot coverage of 21.5% where 20% is allowed. The addition would be aligned with the existing walls.

Public Comment – NONE

It was moved by P. Attemann to approve Application #13-56 located at 14 Terrace Avenue, plat map 13D, lots 241 & 242, from section 32-77 of the Warren Zoning Ordinance to construct a 17' x 18' one story addition to existing single family dwelling with a front yard setback of 18' where 25' is required and a rear yard setback of 32' where 35' is required; also to have lot coverage of 21.5% where 20% is allowed. It has been indicated that his is the logical expansion for the future use of their expanding family, the addition is in line with the existing walls of the house, the 18' dimension is not actually increasing it any, as well as on the side and rear setbacks. The shed is an existing structure on the lot and before the applicant owned the property. The finding of fact is the 21.5% is well within the range of the Variance to be considered. Second by S. Calenda. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Administrative Matters: NONE

Items for future agendas: NONE

Adjourn: It was moved by S. Calenda to adjourn the meeting at 8:43PM. Second by M. Smiley. Yea - A. Harrington, S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Respectfully submitted,
Rhonda Lee Fortin