

WARREN ZONING BOARD OF REVIEW

August 20, 2014

Minutes

The regular meeting of the Warren Zoning Board was called to order at 7:05 pm by Chairman A. Harrington. Also present Vice Chair S. Calenda, P. Attemann, M. Smiley, A. Ellis and 2nd Alternate W. Barrett Holby, Jr.

Approval of Minutes – July 8, 2014 meeting. It was moved by S. Calenda to accept the minutes. Second by M. Smiley. Yea - Chairman A. Harrington, Vice Chairman S. Calenda, P. Attemann, M. Smiley and A. Ellis.

New Business:

Application #14-23, Florence M. Kenny, owner and applicant; 27 Shore Dr., Plat Map 17, lot 130, request for a Variance from section 32-89 of the Warren Zoning Ordinance to install a new OWTS within 150' of a water body.

Robert and Florence Kenny of 27 Shore Dr., were available to give testimony for Application #14-23, request for a Variance from section 32-89 of the Warren Zoning Ordinance to install a new OWTS within 150' of a water body. Mr. Kenny stated that they are required to replace the current system with this OWTS system which will be located within 150' of the river. He also stated that they do currently have approval from DEM and need approval from this board prior to getting approval from CRMC.

Public Comment – NONE

It was moved by S. Calenda to approve Application #14-23, Florence M. Kenny, owner and applicant, 27 Shore Dr., Plat Map 17, Lot 130, request for a Variance from section 32-89 of the Warren Zoning Ordinance to install a new OWTS within 150' of a water body. After hearing from the applicants and there being no opposition from the audience, he found a finding of fact that there is a hardship that does exist due the unique characteristics of their lot, the applicant did not cause any prior action. He also found a finding of fact that the granting of the variance will not alter the general characteristics. The applicants have testified that what they are requesting is the minimal relief necessary to install this system, conditional on all necessary approvals from DEM and CRMC. Second by M. Smiley. Yea - Chairman A. Harrington, Vice Chairman S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #14-24, Edward Allen Kaiser & Regina N. Swanson, owners and Paul & Diane Brule, applicants, 335 Market St., Plat Map 23, Lot 23, request for a Special Use Permit from section 32-164 of the Warren Zoning Ordinance to demolish and replace existing structures to enable the operation of a farm with residence in a rural business zone.

Robert J. Healey, Jr., Esq., 665 Metacom Ave., Warren represented applicants Paul & Diane Brule and gave testimony for a Special Use Permit from section 32-164 of the Warren Zoning Ordinance to demolish and replace existing structures to enable the operation of a farm with residence in a rural business zone. Mr. Healey explained that this is an existing farm in town and they are asking for a special use to be a farm, the reason being is the current existing farm is not necessarily in compliance with the setback requirements. The buildings are all decrepit and would be pretty much inhabitable. However, if the building is removed according to the opinion of the Solicitor then this would become Rural Business. Rural Business would need a special use permit to put a farm back there. Mr. Healey believes that if you cut the front corner off, then you could rebuild a new house on the remaining farm land. Another way of doing it is to not necessarily do anything other than farm it the way it exists and a farm has a right to put buildings up. His client wanted to come before the Board to give everyone an opportunity to at least understand it all. The real issue is whether or not a farm is a special exception to Rural Business in that area. For decades this property has existed as a farm. A farm under Rhode Island General Law and under the comprehensive plan in the Town of Warren is one of the highest uses that you are supposed to preserve. The farm has existed prior to the neighborhood, so it will be compatible with the neighborhood. The farm would not be creating a nuisance or hazard in the neighborhood. The comprehensive plan clearly states that agricultural land should be preserved. His clients are seeking to demolish the existing house and they plan to set the newly constructed house further back. They are also seeking to replace the other existing structures with a barn, carriage house, a place for animals as well as a farm house. The public welfare and convenience will be served sense it has been an operating farm, offers open space and serves the comprehensive plan. Mr. Healey stated that they have been before the Planning Board to go over the project and they endorsed it. The Planning Board had suggested that the applicants should submit to the Zoning Board a plan that would indicate the location size and setbacks of the new proposed residence. The suggested new residence would be down sized and moved back in comparison to the existing house. Mr. Healey also brought to the Board's attention Rhode Island Right to Farm Act 23-19.

Paul Brule, 160 Kickemuit Rd, Warren, gave testimony as to his plans for building and replacing the residence as well as the barns. He also explained that he would like to put 45-50 cows, a couple hundred chickens and there would be a garden or orchard on this property. Mr. Brule gave testimony that what he proposes to build is state of the art. He explained that he would be rebuilding the chicken coop in a different location, about 200' from the neighbors. He also

stated that there would be no animals along the wall which abuts the neighbors but would plant some blueberries and apple trees. Mr. Brule also testified there is a ditch, not a water way, that runs along the property which does not have standing water in it, it is a swale.

Thomas Wright, Esq., Main St., Warren represented the owners, Edward Allen Kaiser & Regina N. Swanson. Mr. Kaiser gave testimony to the age of the residence and property, stating it was built approximately in 1890-1892 and farmed all of these years by his family. Then Mr. Nunes farmed this property for about 30 years at which time cows and horses were on the property. When Mr. Nunes no longer farmed the property Mr. Dallesandro maintained farming the property but he has become ill and as a result will not be able to farm the property any longer. Mr. Kaiser also explains that he has spoken to the State of Rhode Island and they have inspected the property. Mr. Kaiser stated that he will be relocating to another state and will no longer be able to financially afford to keep the property, pay insurance, pay taxes, just for the sake of keeping it.

Public Comment

Michael and Mary Ann Stabb, 1 So. Grove Ave, Warren, stated they do not want to deny the Brule's their dream or pursuit of happiness, however, they don't understand fully the regulation and what is coming from this application. Mrs. Stabb's concern is that she spends a lot of time in her yard. The carriage house is going to be a disturbance, so are all the flies. She stated that she doesn't want to bring her grandchild outside with a glass of lemonade, put it down and have flies swarming all of because she is living next to an existing farm. She also explains that the neighbors have had meeting and talking. She stated this property has been farmed, but only as fields. Mrs. Stabb's also submitted a petition for the record of all the people who are not in favor of this farm. They are concerned about the cow manure and the potential hazards to their wells. They would also like to know who will be responsible if their wells do become contaminated.

David Brown, 25 So. Grove Ave, Warren, is a 23 year resident of So. Grove, is concerned about the impact this may have on his well. There is already contamination potential from the golf course, existing farms and unchecked leech field and he feels this will only contribute to make this issue even worse. He is extremely concerned about his well and would like to know what the plan will be in place should his well become contaminated.

Nathan Keesee & Alexis Bouchard, 15 So. Grove Ave, Warren. Mr. Keesee is a preventive medical technician who brought to the Board's attention the drainage gully. He also brought to the Board's attention that his well cap is located less than 10' from the abutting farms property line. He submitted documentation from CDC web site. His concern is also the parasites from

the animals and who will be responsible for the testing of the wells, if they become contaminated who will be responsible and how they are going to control any run off.

Maria Ramalia, 9 So. Grove Ave, Warren, stated that she grew up in Swansea on a farm and there are always mice, rats and dirt. If she wanted to live on a farm she would have stayed on her farm in Swansea, but she didn't want to deal with the rodents, flies or the smells. She stated she pays taxes in Swansea because her farm is in Swansea. She also testified that she has lived here for 16 years and there has never been livestock there.

Beth Carter, 12 So. Grove, Warren, has lived at this location for 18 months and moved here from CT. She stated that she moved to that area because she wanted to be a part of a great community. She testified that she was under the understanding that this property would never be used for cattle or chickens. She stated that she didn't come here and invest in Warren to have to sit here and look at cattle and everything else. She explained that she is going to stop investing here and may move her children to another community if this goes through.

Wayne Van Marter, 29 Taddy Ave., Warren, he has lived here for the past 24-25 years and came from a farm of 275 acres that milked 50 heads a day. There were stock piles of manure constantly in the winter. He would like to know how the manure will be stored, where is the product going to be stored, where are these cows going to be fed and how will this manure be disposed of. He also pointed out there is a clam bed located nearby.

Frank and Theresa Silvia, 510 Child St, they have been friends of the Brule's for many years and they have visited at their home for cookouts. They have never seen mice, rats, mites and there have never been flies and smells.

Kevin Cabral, 125 Birch Swamp Rd, Warren, has been in the home and in his opinion it is not about to fall down. He also is opposed to the demolition of the house due to its historical value. However, his well is located within 400' of large farms, Dallasandro's Farm and less than ½ mile from Chace's farm and there are also four other smaller farms in the neighborhood. He has had his well tested and has never had negative results. He also stated that he is surprised to see so many people from the town be so anti-farm, everyone here is opposing each other and wonders shouldn't everyone be working together. He also testified that he was a former president of the Lincoln Chapter of the Future Farmer's of American and a former property manager it is his opinion that these farms actually add to the value of his property and the quality of live in his neighborhood. He stated that he hopes that the opposition in his backyard will be reconsidered as Warren has a long history of well run small farms that add to the scenery, the dinner table and the work ethic of this town. He concluded that as a guy with a farm in his front yard by adding another farm in the town he sees it as a huge bonus.

Joelle and John Fontana, 23 So. Grove Ave, they were concerned with the impact on their property value as well as the impact on their well. Mrs. Fontana asked if the demolition were to be allowed she would like to know what the process would be for containing the lead paint and hazardous material. She also questioned, how much of the 21 acres would livestock be able to grazing on? How will the animals be contained? Mr. Fontana would really like to see plans and information in place before the decision is made.

Alden and Julia Simons, 7 So. Grove Ave, Warren. Mr. Simons stated that he has never seen animals on the property. He stated that he is concerned about the smell and the rodents. He also stated that he is concerned about his daughter who won't be able to go outside and how they will have to keep everything closed up. Mrs. Simons stated that her concern is her daughter and that she needs a place that she can go outside. She also asked, "My daughter is a cripple in a chair does she have to be imprisoned in the house too?"

Connie Watrous, 11 So. Grove Ave, Warren, Ms. Watrous explained that she is a single mother who has lived in the neighborhood for the past 22 years. She gave testimony that she grow up on a farm. She is concerned due to the size of this property and wondering where the manure is going to go. She is concerned that the property will become run down and would like all of their properties to be re-evaluated should this be moved forward. Mrs. Watrous submitted pictures into the record. She would also like, if this were to move forward, she wants her property reassessed.

Karen Phillips, 5 So. Grove Ave, Warren, she is one of the original properties on So. Grove Ave and she would like someone to tell her when the last time horses and cows were at this location. Her concern is her kitchen window faces this property and she won't even be able to open her windows. She also stated concerns of not being able to use her backyard and of the potential rodent issue.

Public Comment – Closed

Chairman A. Harrington enters into the record the recommendation letter from the Warren Planning Board to the Zoning Board: (excerpt) After careful Warren Planning Board review of the proposal for the former Kaiser farm property, in accordance with the Town's Rural Business Zoning District, Article 28-165, District Requirements and Standards, the Planning Board unanimously and with enthusiasm, voted review approved the proposal specifically the demolition of the existing buildings and the rebuilding while maintaining the agricultural use.

It was moved by M. Smiley to approve Application #14-24, Edward Allen Kaiser & Regina N. Swanson, owners and Paul & Diane Brule, applicants, 335 Market St., Plat Map 23, Lot 23, request for a Special Use Permit from section 32-164 of the Warren Zoning Ordinance to demolish and replace existing structures to enable the operation of a farm with residence in a

rural business zone. The applicant has asked if his property could remain a farm should the house be demolished, he has testified to the hardship that is due to the unique characteristics, the special use will be compatible with the neighboring land uses, frankly it has been a farm for the past 250 years, the special use will not create a nuisance or hazard in the neighborhood, this special use has been ongoing for the past 250 years. The special use will be compatible with the community comprehensive plan as it is in favor of open space and farming, the public convenience and welfare will be served by the continuation of the farming activity which is approved through the comprehensive plan. Approval is conditional by all guide lines set by the demolition of the building as well as the guidelines the Building Official will set forth pertaining to the site of where the buildings will go, setbacks, frontage and any other conditions that would be indicated by DEM, CRMC, Dept of Agriculture and any other regulatory body that regulates on the activity of storage and disposal of farm animal waste. Second by A. Harrington. Yea – Chairman A. Harrington and M. Smiley. Deny – Vice Chairman S. Calenda, P. Attemann and A. Ellis. **Motion fails.**

Administrative Matters - NONE

Adjourn: S. Calenda moved to adjourn the meeting at 9:28 PM. Second by M. Smiley. Yea - Chairman A. Harrington, Vice Chairman S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Respectfully Submitted,

Rhonda Lee Fortin