

**Town of Warren
Zoning Board of Appeals
Regular Meeting- Minutes
Wednesday, March 28, 2018- 7:30 PM
Warren Town Hall – 50 Cemetery Road**

Present: **Chairman:** Jon Garvey **Vice Chairman:** Ray Furse **Regular Member:** Rick Valine, George Githens, and William Hopkins **Alternates:** Robin Ploch and Tom Paul **Zoning Enforcement Officer:** Stacey Sefcik **Recording Secretary:** Heather Perssonatti.

1. Call to Order:

The meeting was called to order at 7:30PM. All regular members were seated for the meeting. The proceedings were recorded digitally, and copies are available in the Land Use Office.

2. Executive Session With the Board's Attorney To Discuss Strategy and Negotiations with Respect to Pending Litigation in the Matter of *Lake Waramaug, LLC v. Zoning Board of Appeals of the Town of Warren*.

MOTION Mr. Furse, second Mr. Hopkins, to enter executive session at 7:30PM for the purpose of discussing Pending Litigation in the Matter of *Lake Waramaug, LLC v. Zoning Board of Appeals of the Town of Warren* with the Board's attorney, Gail McTaggart; unanimously approved.

At this time, the recorder was turned off, and Ms. Sefcik exited the meeting room.

At 8:48PM, the Board came out of executive session and the recorder was turned back on. Ms. Sefcik returned to the meeting room for the remainder of the meeting.

MOTION Mr. Garvey, second Mr. Furse, to end discussions regarding agenda item #2 and to resume the rest of the meeting agenda after a brief recess; unanimously approved.

Ms. Sefcik then invited the applicants and public into the room for the remainder of the meeting.

3. Public Hearings:

The legal notices for both public hearings were read into the record.

- a. **Susan Columbia & Jim Farmer, 55 Rabbit Hill Road – Request for variance of Section 6.2 and 6.4 of the Town of Warren Zoning Regulations to Construct Addition to Single Family Dwelling in the Side Yard Setback.**

Steven Kalur from F&H, LLC of Washington, CT presented to the Board the proposed plans for the property. Among other work planned on the property that complied with the zoning regulations, the property owner wished to enclose an existing 275 square foot porch located between two wings of the house for year-round living space. The applicants' house straddles the Warren-Washington town line and as a result, nearly all of the Warren side of the house is located in the side yard setback area. Per request of Jon Garvey, Mr. Kalur submitted proof of variance issued by the Town of Washington, CT.

Mr. Valine referenced the report prepared by Ms. Sefcik dated March 14, 2018, and he agreed that this was truly a hardship.

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Mr. Garvey opened the floor to public comment; however, no one present wished to comment at this time.

Hearing no further comments or questions, the Board agreed to close the Public Hearing at 9:04PM.

b. Andrei & Olga Pozdnyakov, 99 Town Hill Road – request for Variance of Section 6.2 and 6.4 of the Town of Warren Zoning Regulations for Boat Storage Building within the Front Yard Setback.

Andrei Pozdnyakov of 99 Town Hill Road presented to the Board photos of the structure, and he explained that he did not know he needed a zoning permit, a health permit, nor a building permit. He also stated the building is approximately 3 feet too close to the property line on the Town Hill Road side of the property. Mr. Garvey asked Mr. Pozdnyakov what the hardship was. Mr. Pozdnyakov stated it was physical because he would have to demolish and rebuild the building, and it would cost a lot.

Mr. Garvey opened the floor to public comment; however, no one present wished to comment at this time.

Mr. Furse stated there is a location issue and a building permit issue. A question was raised as to whether the applicant was aware of the zoning requirements. Ms. Sefcik noted that, back in 2015, a garden shed had also been constructed on the property without prior zoning approval. Fortunately that structure met setbacks, so she could issue a zoning permit after-the-fact; the shed was less than 200 square feet and did not require a building permit. Unfortunately, this time, the structure was constructed without prior zoning approval in the front yard setback and it was 200 square feet, which therefore required building permit approval as well. Other members questioned Mr. Pozdnyakov as to why he did not know he needed permits now if he had had a prior experience in 2015. He responded that he did not think it would need permits if it did not have walls.

Members discussed the ramifications of denying this variance request. Mr. Pozdnyakov stated that he would have to tear it down. Several members expressed sympathy but reiterated that this was why the Land Use Office should be contacted prior to commencing a project. Mr. Pozdnyakov asked what he should do if he was denied this variance, and Ms. Sefcik explained that he should contact the Building Official to advise him of the plan to remove the structure, and if he wished to rebuild it elsewhere on his property, contact both her and Mr. Manley so that they could discuss the project and its location prior to any work being done. She stated that she would work with him to find a conforming location on the property.

MOTION Mr. Garvey, second Mr. Githens, to close the Public Hearing at 9:15PM; **unanimously approved.**

The Board agreed to address agenda item #6 and then return to the agenda as written.

6. Old Business:

a. Susan Columbia & Jim Farmer, 55 Rabbit Hill Road – Request for variance of Section 6.2 and 6.4 of the Town of Warren Zoning Regulations to Construct Addition to Single Family Dwelling in the Side Yard Setback.

Four members stated that this was a true example of Hardship. Members noted that the Class D survey and the confusion on the location of the town line contributed to the hardship. Mr. Valine said that this was obviously a hardship of longstanding, given the age of the house. They complimented Mr. Kalur on a thorough application and expressed their appreciation for the property owners working so hard to adhere to the Town's regulations. Ms. Sefcik stated that, in her 11 years of working in land use, she had never seen a better example of hardship than that which was present for Mr. Farmer and Ms. Columbia.

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MOTION Mr. Githens, second Mr. Valine to **approve** the application; 5 votes in favor, none opposed.

The request for variance was granted.

- b. **Andrei & Olga Pozdnyakov, 99 Town Hill Road – request for Variance of Section 6.2 and 6.4 of the Town of Warren Zoning Regulations for Boat Storage Building within the Front Yard Setback.**

Members all stated that this was self-imposed Hardship. Mr. Garvey stated that he did not see any hardship that would have merited a variance even had the applicant followed proper procedure and attempted to obtain a variance prior to completing the work. Members again expressed sympathy, but stated that this was clearly a self-created hardship, which left them very little choice.

MOTION Mr. Garvey, second Mr. Githens to **DENY** the application; 5 votes to deny, none in favor.

The request for variance was denied.

4. Approval of January 10, 2018 minutes

MOTION Mr. Valine, second Mr. Githens, to accept the minutes of the January 10, 2018 regular meeting; unanimously approved.

5. New Business:

No business was discussed.

7. Other business proper to come before the board:

- a. **Discussion regarding FY2-18-2019 Budget Proposal.**

Ms. Sefcik explained her recommendations. Postage was discussed. Mr. Garvey stated \$100.00 is not enough for training, and he would like to see it at \$200.00. Members discussed the difficulty in estimating the amount needed for legal expenses given the status of current litigation.

MOTION Mr. Furse, second Mr. Valine to recommend the FY2018-2019 budget to the Board of Selectmen and Board of Finance as written, with the exception that the training budget should be increased to \$200.00; all in favor, none opposed.

8. Adjournment:

MOTION Mr. Valine, second Mr. Furse, to adjourn the meeting at 9:31PM; unanimously approved.

Respectfully Submitted,

Heather Personnatti

Recording Secretary