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**TOWN OF WARREN**  
PLANNING BOARD  
WARREN, MASSACHUSETTS 01083

**WARREN PLANNING BOARD**  
**MINUTES OF July 17, 2023**

**PRESENT:** Mr. Derick Veliz: Chairmen Mr. David Dufresne: Vice Chair; Mrs. Drue King; Mr. Edward Londergan; Mr. Richard Eichacker

**Absent:** None

**ATTENDEE:** Mrs. -Brenda Church: Warren Building Commissioner; Mr. Richard Dimitrius; Mrs. Rebecca Acerra; Mrs. Charlene Farris; - See list.

**Meeting was called to order at 7:18PM**

ANR-Michael Miele-Dean Street- Map 15 Lots 7 & 10- to create 3 buildable lots that comply with zoning requirements of 2-4 family dwellings. Parcel A is not considered a building lot and is to be conveyed to Lot #1 giving Lot# 1 and Parcel A with a total of 24,000 square feet. Parcel B is not considered a building lot and is to be conveyed from Lot #2 to Lot #3, leaving Lot #2 with 12,000 square feet and giving Lot#3 & parcel B a combined area of 85,366 square feet.

Motion to approve the ANR for Michael Miele- 18 & 50 Dean Street, Map 15 Lots 7 & 10 made by: Mr. Eichacker second Mr. Londergan - 5 yes votes.

Public Hearing on Special Permit No. 310 & Site Plan Approval No. 68 for Cal Rolling Hills, LLC under Section 3.25.1 and Section 8.4 of the Town of Warren Zoning By-laws. The applicant is seeking a special permit to remove earth material from the property located at Gilbert Road, Warren. This parcel is also known as Assessors Map 5 Lots 22-25 which is in the Rural District. **A copy of the application may be inspected in the Office of the Planning Board or Town Clerks Office during normal business hours.**

Representatives- Donald J. Frydryk, PE, PLC of Sherman & Frydryk; Michael Shay ; John Callahan Owner

Documents Submitted:

- 3 Copies of Application of Earth Removal
- 3 copies of the Special Permit Application
- 3 Copies of Site Plan Approval Application
- Abutters List with 2 sets of mailing labels prepared by the Warren Assessor's Office
- Checks for Special Permit & Site Plan fees
- 7 Copies of Site Plan by Sherman & Frydryk Dated 05/03/2023
- 7 Copies of Site plan revised 7-acre work area & added proposed contours Dated 6/22/2023

The Planning Board read an opposition letter from abutters Mr. & Mrs. Roy. Their concerns are-

- The increased number of trucks on Gilbert Road and their concern of disrepair of the road from increase in truck traffic
- The early morning operations of trucks and equipment before the allowed time
- Would like fair notice (24 hours) prior to any blast

Mr. Callahan spoke about the trucks stating that they cannot use Gilbert Road. He stated that the abutters may be referring to a flatbed truck going through pulling a bulldozer. Mr. Shea pointed out the route that the trucks take, and it is not via Gilbert Road.

Mr. Callahan requested to allow for an earlier Saturday morning starting time but decided after discussing with the Board that 8 am – 4 pm is fine. He wants to stick to the by-law. He does not want to ask for a variance. He also stated that they are not required to contact the abutters but they work very hard to make sure that the Roy's', get their notices. He also agreed to do a robo call to any abutters who would want it. The Board spoke about restoration of the site they are currently closing. Mr. Callahan explained that the non-active areas are covered with crushed stone to keep them stable. When the area is closed they will remove the slopes. Mr. Dufresne asked about reseeding the area and was told by Mr. Callahan that the written by-laws were designed for gravel pits for safety reasons, but this is not gravel, it is rock face. There are rock quarry regulations that must be followed. Mr. Demetrius, town resident, spoke about how 4" of loam will wash out and cause environmental hazard. Mrs. Mazur, whose father is an abutter spoke about her concerns which are:

- Gilbert Road has aged and softened.
- She also is worried about all the turtles that are getting struck by trucks, many of which are big snapping turtles and wants to know if the town can require a berm.

Mrs. Mazur supports the approval of the special permit if a condition could be put in about the turtle berm.

Mrs. Acerra, town resident, stated that she thinks the Section listed in the Public Hearing Notice is incorrect and should be 3.28 (Earth Removal) not 3.25 (Industrial).

Continue Public Hearing on Special Permit No. 309 & Site Plan No. 69 for Samek Properties, LLC under Section 3.23.15 of the Town of Warren Zoning By-laws. The applicant is seeking a special permit to allow a 60 x 120' steel building with overhang to house and maintain necessary equipment for operation of sand and gravel pit located at 275 Brimfield Road, Warren. This parcel is also known as Assessors Map 30 Lot 04 which is in the Rural District. **A copy of the application may be inspected in the Office of the Planning Board or Town Clerks Office during normal business hours.**

Representatives- Damian Berthiaume Attorney with Berthiaume & Berthiaume; Michael Samek Owner

Documents Submitted:

- Special Permit Application
- 6 Copies of Site Plan Approval Application
- 6 Copies of Plan of Sewer Disposal System by Gobi Land Engineering Dated 08/25/22
- 10 Copies of Plan of Land Dated 7/14/2023

The Planning Board looked at the new plans that were submitted today. The plans dated 8/25/23 were an old septic design that showed the location of the building along with the septic system. The new plans have more detail in terms of the site relative to the boundaries. The Planning Board, Mr. Samek and Mr. Berthiaume discussed the new plans. The entrance is not changing. They will have town sewer and town water. The grade from the wells runs away from the wells. If something spills outside of the building it will not run towards the well. The building will be used for maintenance, storage, and parking equipment. An e-mail with attachments was sent to the Planning Board from abutter Mrs. Farris. She wanted the Board to know that there are wetlands near the site. The Board looked at the maps provided by Mrs. Farris. They pulled them up on the large screen. The Board and Mr. Berthiaume clarified that the proposed building is 120 feet away from the 400-foot West Warren Water District circle shown on the map. It is 200 feet away from the road and it is outside of the wetland zone. Mrs. Acerra asked the Board to get clarification from Mr. Samek and Mr. Berthiaume that they have received an easement from the water district. Mr. Samek stated that West Warren Water Department was on site and stated they did not have any issues. Mr. Samek has electricity and plumbing easements from the water district. Mrs. Farris is concerned that the maintenance will cause hazardous/toxic materials to the surface. There will be floor drains in the building with a separator before it goes into the sewer as added protection from that happening.

Mr. Berthiaume feels that they have met all the criteria for the special permit for a construction business in this location. There are similarly situated uses directly to the North of this site, those being Fountain & Sons building and the Warren Highway Garage. This proposed building seems to be appropriately located; the use is compatible with other uses in the area. The Planning Board has recently found that earth removal is appropriate here. This is an extension of the earth removal business. Samek Properties, LLC. have addressed appropriately adequate setbacks from any surrounding properties. It seems consistent with the town's bylaws.

Mr. Eichacker read the letter from the Warren Water District that states there shall be no storage of vehicles, gas, oil or other chemicals within Zone 1, 400 feet of the wells without a line. He stated that the circle is 450 feet in circumference. He confirmed that a liner will not be needed for this special permit.

Motion to close the Public Hearing on Special Permit No. 309 & Site Plan No. 69 for Samek Properties, LLC. made by Mr. Eichacker second Mr. Dufresne - 5 yes votes. – Roll Call Vote- Mrs. King - yes; Mr. Londergan – yes; Mr. Dufresne- yes; Mr. Veliz- yes; Mr. Eichacker- yes- 5 Yes Votes.

#### **Discussion on Agilitas Energy Special Permit expiration and Building Permit issuance-**

Representatives for Agilitas Energy: Mr. Zac Osgood: Vice President of EPC for Agilitas Energy; Mr. Kris Fournier: Senior Project Manager; Nicola Fancendola, P.E.- Principal/Project Manager for Agilitas Energy and Mr. Chris Davin: Project Manager

Mrs. Brenda Church: Building Commissioner

Mr. Dufresne brought up his concern: whether the special permit has expired because of the lack of work being done or the continuation of work. He said that the Board took a vote a couple of months ago stating that permit had expired based on peer reviews that work was not progressing forward. After the Planning Board determined the special permit had expired, the Building Commissioner issued a building permit.

Mr. Londergan read the letter from Mirick O'Connell stating that the applicant appears to have commenced "substantial use" of the special permit and, therefore, the special permit has not lapsed. These issues should be brought to the attention of the Building Inspector for her determination. Mr. Eichacker stated that the town's legal council's opinion is the special permit never lapsed.

Mrs. Church firmly stands by the town council's opinion. The legal opinion states that the special permit has not lapsed. The Planning Boards interpretation was incorrect. The building permit stands. She explained that the statements she heard regarding 2 years of nothing happening on the site. In the two years she has been working for the town this is not what she has seen. From the first day she met on site with Conservation and Planning Boards in April 2021 until the present there has been continuous work going on. You can see on Google Earth and see the substantial work that has been done on this site of 26 plus acres, not limited but including the sign that was requested has been installed, the surety bond has been paid, the Peer Review has been continuously funded. Agilitas Energy in her opinion, review and research has done everything the town has asked them from the start and continues to do so. Following the advice of the town council that the decision falls to the Building Commissioner she made her decision and stands by it. They have spent 8 million dollars on the site to date.

The Board agreed that the building permit stands and is valid. Mr. Dufresne asked Agilitas to remove trash that was seen by their fence. He thanked them for the sign they had installed. Mr. Veliz mentioned the West Brookfield and Warren town line sign was knocked over. The Board would the sign fixed. The Board also mentioned unresolved items from past Peer Review reports regarding debris in the wetlands from heavy rain and would like it removed. Agilitas would like all peer review and historical reports from O'Reilly, Talbot & Ogun Assoc. (OTO), they currently have some of them but not all. Ashley of OTO stated that the reports will be sent to Agilitas. The Board would like Agilitas to review the reports and make any changes needed. Once complete contact the Board and they will determine how frequently future visits will be needed.

**Discuss Rules & Regulations for Site Plan Approvals-** Mr. Londergan stated that site plan regulations for larger communities are online. He would like more time to review those and work on the Warren Planning Boards.

#### **Payroll/Bills/Budget-**

Motion to approve and sign payroll in the amount of \$ 270.81 for Jill Chalifoux-Miller made by: Mr. Edward Londergan second Mrs. Drue King - 5 yes votes.

Motion to approve and sign 4/30/23 invoices for O'Reilly Talbot & Okun Assoc in the amount of \$ 396.35 (Lot 3) and \$ 351.61 (Lot 4) for Agilitas Energy made: by Mr. Edward Londergan second Mrs. Drue King - 5 yes votes.

Motion to approve and sign June 26, 2023 and July 10, 2023 minutes made by: Mr. Dufresne second Mrs. Drue King — 3 yes votes.

**New Business/Old Business-**

None

**Comments & Concerns-**

None

Motion to Adjourn made by: Mr. Richard Eichacker second Mrs. Drue King –5 yes votes @9:30pm

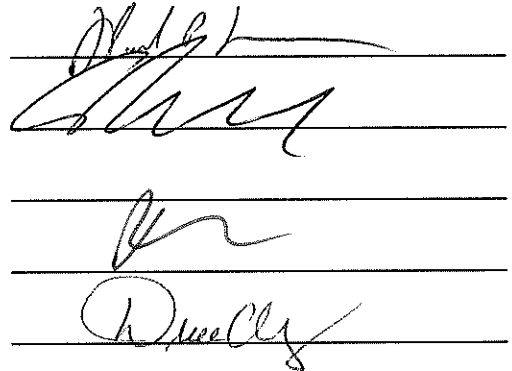
Next Meeting Date: August 14, 2023 @ 7:15pm

Respectfully submitted,

Jill Chalifoux-Miller  
Secretary

07/17/2023  
Date Approved

Members of the Board Signatures

Four handwritten signatures are written on four horizontal lines. The first signature is a cursive name, possibly 'Richard Eichacker'. The second signature is a cursive name, possibly 'Mrs. Drue King'. The third signature is a cursive name, possibly 'Mr. Richard Eichacker'. The fourth signature is a cursive name, possibly 'Mrs. Drue King'.

