TOWN OF WARNER – PLANNING BOARD
Meeting Minutes
February 1, 2016 7:00 PM
Warner Town Hall, Lower Level

Members Present: Chairman Rick Davies, Barbara Annis, Ken Milender, Ben Frost, Aedan Sherman, Alternates Ben Inman, Peter Anderson, James Gaffney
Land Use Secretary: Lois Lord
Late Arrivals: Clyde Carson Selectmen's Representative (arrived at 7:06)
Members Absent: Don Hall

1. OPEN MEETING
Chairman Davies opened the meeting at 7:00 p.m.

2. ROLL CALL
Roll call was taken with one member absent, and nine present. Rick Davies asked Ben Inman to sit in for Don Hall. Chairman Davies noted Clyde Carson was not present but was in a meeting upstairs and should be arriving late.

3. FIRE CHIEF ED RAYMOND
Chairman Davies stated there are two areas the Planning Board would like to discuss with Chief Raymond.

The first is Title 49 which is a Federal requirement to categorize hazardous materials. When Ed Mical was on the Planning Board he helped Rick, Barbara Annis, and Peter Wyman put together the Site Plan Review requirements, one of which is that any new project that comes in has to inform the Planning Board of any Title 49 materials they may have on their site.

Chairman Davies said we're not experts on hazardous materials and have a general understanding of them but don't know what should be red flagged versus not.

Chief Raymond replied it depends on what a site plan is for and gave the example of Knoxland. He looked the site over, didn't see any problems with it and talked to the owner about what on site materials they have. We want to have an idea of what and how much material such as gasoline or different types of oils and also need to know where it's going to be stored. If there is a large amount, for example a gas station or someplace like Rymes, they have to fill out a form which gets sent to the State and I receive a copy of that in a report and Fire/Alarm has it in their folder to reference.

Rick said if it's a particular project we have a description on the application and that might start your questioning process which Chief Raymond agreed with. Chief Raymond said the bus station at Exit 7 gives him a yearly report and MSDS information which tells him what they have, how much and how they dispose of it.

Chairman Davies clarified what gets submitted directly to the Warner Fire Department and said our regulations are set up to imply that information should come with the application to the Planning Board. Maybe the intent should be to communicate with you.

Chief Raymond said we don't have a lot of companies in Warner with those types of materials. The ones that do, their reports have to be in the first quarter of the year and they are on file at the Fire Station. He said the bigger companies are proactive in doing what they need to do.

James Gaffney asked about the amounts of materials and were there any examples of thresholds that would catch their attention. Chief Raymond replied that it depends on how and where they store it, how much and for how long it will be stored. A lot of those materials, a company comes in to remove and some companies have holding tanks that get pumped out periodically. When that is done, the town and the state get a report as to who removed it and where it was disposed of.

Rick said it seems that it's out of the Planning Boards realm to keep track of it but as part of the review process we're charged to due diligence by asking and if it's not something Chief Raymond has picked up it might be a condition to seek information.

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Aedan Sherman asked if there was anything Chief Raymond would like the Planning Board to do. Chief Raymond replied that when he gets the site plan it should include notes about underground tanks or materials that are going to be used and if there are in ground tanks they like to know the size, locations and any testing that needs to be done. Those types of things would be permitted by the state just like a gas station.

Chairman Davies noted that if a building gets built, the Planning Board doesn't have anything to do with the construction from a building code point view and asked Chief Raymond if he was required to walk through a commercial building such as Knoxland when they're ready for substantial completion. The Chief replied that the Building Inspector has to inspect the building for construction and on their own the Fire Department does things like walking through buildings as a drill and at that time asks about hazardous material. If they see something that's not fire rated they will bring it up. At Knoxland, they have to be fire rated between the office and the machine shop so the sheetrock thickness needs to be thicker which the Building Inspector would see.

Rick said he was looking through a federal book online when Nicom came in for their addition a few months ago and it was many pages long listing materials that are considered Title 49. It comes down to what the quantity is and the way it's written in our regulations we're supposed to get that information which is a little over the top of our capacity.

Chief Raymond had a question for the Planning Board, and said the former Fire Chief had some thoughts about driveways going to residences. There are some driveways in town that they cannot get a fire truck into and he doesn't know if, as a board, they can discourage that. Home owners need to understand we might not be able to get up to their house in time to save it and there are a lot of places where the driveway goes in and stops right at the house. If you bring a fire truck in and park behind their car they may not be able to get the car out.

Ben Frost noted the board does have some authority over driveways at the time of subdivision approval and can make certain conditions in cooperation with Chief Raymond and the Board of Selectmen. The town can refuse building permits and certificates of occupancy where it's not feasible to get to a building, unless there are extenuating circumstances and/or the building is going to be sprinklered.

Chief Raymond said he gets 2-4 calls a month from insurance companies and the most frequent question is how far a building is from the fire station, if you're 4 miles or more your rate is a little higher. They ask how close a pressurized fire hydrant is to the building. He lets them know we have dry hydrants in certain areas which helps but he never hears them ask about the pitch of a driveway or if a fire truck could get in to a building. We have a lot of water on wheels which is required by the insurance companies but if we can't get in, that's no good.

James Gaffney said it sounds like the grade of a driveway is an issue and asked how close they need to get to a house to fight a fire. Chief Raymond replied it depends on the situation and you don't want to be right at the front door because if things go south you're putting the truck in jeopardy. They have lengths of hose that come off the truck that are 200-300 feet long so there is some leeway. If they know it's one way they'll lay a line from the street and can go up to 2,000 feet. He emphasized the steepness of a driveway as a problem.

Chairman Davies followed up on what Ben had mentioned and said the Planning Board itself doesn't review site plans for single or two family dwellings. With a subdivision some of these questions might come up and they look at topography and buildable area.

Ben pointed out the board needs to be careful about what their jurisdiction is and do not have authority over anything on a state highway. If it's a driveway on a town road, by statute the Planning Board has the authority to issue the driveway permit but their jurisdiction just goes so far and in most towns it's delegated to the DPW director.

Aedan asked Chief Raymond what would be best for a driveway grade. He agreed that would be no more than 5% in 30 feet.

Chairman Davies said a lot of the site plan review the board does is for multi-family or commercial properties, asked Chief Raymond what he looks for in general and mentioned a situation at the Brayshaw property. Chief Raymond said the fire department should be able to gain full rotation around the building. The NFDA is coming out with a book that encourages sprinkler systems. He said at Brayshaw they can drive around that building but a problem you would have with a fire there is worrying about the backside wall falling out. You would need to size

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it up and determine if there's any danger of it falling back and if there is they would put the trucks on either end and run lines in back. To be able to go around the building is a great safety asset.

Chairman Davies said that might be something we would want to get Fire Department feedback on if it's a larger building.

Chief Raymond said because of the NFDAs new safety rules, the Market Basket would be looked at differently today than when they built it. He has reminded them several times they can't put their plants outside of the building in the fire lane.

Barbara noted the building out in back at the subdivision at Warner Business Center and that Chief Raymond wanted the lot line 35 feet so they could make the turn around the building. Chief Raymond said they did go to that property because they wanted to have one open area and because of the square footage it had to be divided into pieces or sprinklered and they worked with him to put up a firewall.

Chairman Davies clarified the best way to get in touch with Chief Raymond in the event that the Planning Board wanted his feedback on a site plan is to email him and put a copy of the plan in his mail slot in the Selectmen's office. In the event he is not available Sean Toomey should be contacted.

4. APPROVAL OF MEETING MINUTES

Chairman Davies brought forth the Meeting Minutes of January 4, 2016 for approval. Barbara Annis and Rick Davies had a few changes. MOTION to approve the minutes with the noted changes was made by Barbara Annis, seconded by Ben Frost. A voice vote was taken with a unanimous yes.

5. OLD BUSINESS

Traffic Count Program Update – Rick asked Barbara or Aedan to give an update.

Barbara said they met last Wednesday at the Highway Department with Tim Allen and Dean Williams from Central NH. They discussed the format for the traffic count, that we are allowed to have traffic counts done annually on ten roads, and Dean recommended we do the same eight every four years with two alternates each year.

She noted we could have special counts done; they are normally done on Tue/Wed/Thurs and not on a weekend but that could be requested. We can also ask for a directional count as we did when Market Basket went in, one at Park and Ride and one at Stevens Brook to see how many were going through town and how many were turning at Market Basket. That would be counted as one request.

James confirmed the count is only done once a year which might be fairly representative for some roads but for others that contain a lot of seasonal traffic, that is a snapshot of traffic that can vary greatly at different times of the year. Chairman Davies asked if they could request the time of year for a count to be done and Barbara replied they normally don't do them in the winter but can.

Aedan said we can try to get a count done in a certain timeframe but they're trying to get a rotation going so they can economically and efficiently get all of their counts throughout the state accomplished. As far as a time window, they have generated counts and done the history, it's a weeklong average and they can surmise within certainty what the changes to traffic flow will be month to month.

Rick asked if they had a goal for getting the program before the Planning Board and Barbara said that she needs to meet with Tim Allen again. They had been given the town and state counts and some of those the town has had done are already done by the state so we can eliminate those from our program.

Aedan said they are going to put a list together, give it to Dean Williams and he will cross reference so we don't have for example, Hopkinton doing one on their side of the town line and Warner doing one on the other. Dean will also make recommendations to get overall better traffic data.

Barbara said Tim wants to include roads that need maintenance, resurfacing, and construction as his priorities. Chairman Davies noted that Chief Chandler last year was requesting a couple of roads off of Rte. 103 so that might be something to include. Barbara and Aedan said they should have something for the next Planning Board meeting on March 7th and that the requests usually go to CNHRPC in April.

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Ken Milender asked what kinds of criteria the Planning Board would use to determine where the counts should go for the permanent locations. Barbara suggested Kearsarge Mt. Road because according to the Master Plan we should have a road from there over to North Road. At the college there are over 800 people and there's no access road if there was a disaster. Chairman Davies recalled that when Dean met with the Planning Board last year, he had five major arteries in town that he thought could be reoccurring and the additional would be on secondary roads.

Aedan said what he has a list of primary and secondary feeders to get an idea of travel flow as far as main areas of concern and where the general population is going, heavy pockets and less heavy pockets. Once we get a good base idea of what people are doing in and around town we can fine tune it and utilize the two wildcards.

James asked how good the state is in predicting traffic throughout the months they haven't surveyed. As an example, Kearsarge Mt. Road has a population of people there whose presence is dictated by season. That schedule doesn't agree with public school calendars. He said I think there are a lot of variables that need to be kept in mind.

Barbara said that Aedan has suggested starting defining the list so that next year we would know what was done this year and what is scheduled for the following year. Rick Davies asked the Land Use Secretary if there was a file of traffic counts in the office and she clarified there is.

Aedan replied to James statement about level of accuracy and this is by no means perfect, there is no way to do that. The only way to get more accurate data is to pay for it and right now the state covers the cost.

Chairman Davies noted the state uses statistics to embellish the number relative to the time of year. Other times of years there are peaks and valleys. Aedan noted there are trends, historical data and ways and means based on the traffic in Warner, the surrounding towns, time of year, and seasonal activities and it's probably about a 75% accuracy rate.

Ben said the modeling they use is pretty sophisticated and used by engineers across the country that devote their lives to understanding traffic patterns and it's accurate within a margin of error but precise. You can't predict what's going to happen on any given day but it looks at general trends.

Ken Milender asked when we set up the files to include all of this data will that include the state counts or is it just going to be the towns. Aedan confirmed we will receive the states as well as the towns. Ben said the state numbers are available online.

Rick asked Barbara to update him as far as this being on the agenda for the next meeting.

Review Warrant Article's Ballot Wording – Rick said he had one change for this and asked if anyone else had any suggestions. Clyde asked about the part referring to the Supreme Court case and the substitution clause and whether that needed clarification. Rick said a copy of the complete change will be posted on the website notices section so that voters can read it. Ben explained the substitution clause as saying that it's a provision that allows for the replacement of any legal wording on a sign with any other legal wording on a sign.

Chairman Davies said that a substitution clause could occur if there is a contention about whether or not something within the other parts of the ordinance misleads to think it is restricting. Ben gave the example that it can be construed in the ordinance that somebody is permitted to say "for sale" on a sign, which is legal, they can substitute something else which is also legal. Rick noted it's a little bit of protection in case something in the ordinance is not quite right and his one suggestion was in the first sentence adding "temporary" before permits as it's really those types of signs that are affected. His other thought was that it's a lot of information.

The discussion continued with suggestions of verbiage that could be omitted to simplify the warrant article, that the board's perspective and understanding is much different from voters, and there are most likely a small number of voters who will read it in its entirety. The board concurred that adding the clarifying word of "temporary" was a good idea and discussed other changes that might be made.

The final version of the Warrant Article that was arrived at reads as follows:

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The following Zoning Ordinance Amendment is the condensed versions of the full zoning changes that is being proposed and recommended by the Warner Planning Board. The complete version is available at the Land Use Office, the Selectmen's Office, the Town Website, and will be available at the polls on Town Election Day, March 8, 2016.

Are you in favor of the adoption of Amendment #1 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

*Amend **Article XII Sign Requirements** by reducing the number and types of temporary signs that require a permit, eliminating certain flags from regulation, clarifying certain items by rewording, and allowing signs painted directly on a building; and further to make the ordinance consistent with a recent decision of the U.S. Supreme Court by revising the purpose and creating content neutral sign requirements.*

A MOTION to approve the Warrant Article as amended was made by Ben Frost, seconded by Aedan Sherman. A roll call vote was taken with the result of 7-0-0.

Status of correcting Town Website's Planning Board documents – Chairman Davies said he had received an email from Dan Watts that he would allot time on Tuesday for this. Rick said Dan would set up the Planning Boards tab section but Rick wasn't sure about the long list with all the town documents on it.

Approve revised application forms – Chairman Davies noted the Site Plan and Subdivision applications are revised and the board had already approved them at the last meeting.

Barbara said that on the Subdivision application it refers to a Site Plan drawing and it was decided it would be changed to Subdivision Plat. The board reviewed the Lot Line Adjustment application and decided this should also be changed from Site Plan Drawing to Plat. There was a discussion on the items included for coloring and it was determined that not all of them were necessary. The board agreed to eliminate everything but Lot Boundary & Buildings, Property A, Property B and the Lot Line Adjusted area and to change the color of Property A from yellow to orange so that the Lot Line Adjusted area would be orange and purple.

A MOTION to approve the changes to the Lot Line Adjustment application was made by Rick Davies, seconded by Aedan Sherman. A voice vote was taken with all in favor. 1:16

Chairman Davies noted on the Lot Line Adjustment application the property owner information has been changed from information and signature for one Property Owner to one for Property A and one for Property B. Barbara Annis made a MOTION to approve the changes of adding Property A owner and Property B owner to the Lot Line Adjustment application. Seconded by Ben Frost. A voice vote was taken with all in favor.

6. NEW BUSINESS

K. Milender – CNHRPC Rep – recap State Bridge Aid and FAST Act presentation – Ken said the Central NH Regional Planning Commission had a speaker at their last meeting. He was not there but has the handouts which he will leave with Lois if anyone is interested. Nancy Mayville who is in charge of the State Bridge Aid program at the DOT gave a brief and general presentation about what the program is and how to use it. The bottom line is the municipalities are in charge of their own bridges and are supposed to keep track of them, maintain them and plan ahead for them. When it's time to replace a bridge or do heavy maintenance this program helps.

Ken said he had taken a look at the CIP and there are five bridges up for repairs or replacement and only one of those five is denoted as having applied to the Bridge Aid program and asked for confirmation of that. Ben said there are reasons and he believes at least one of them, it was felt because of the proportional contribution when redoing a bridge with state aid, the town could do it cheaper than if the state were involved. Ken said it's an 80/20 match and is a reimbursement, not paid up in front. It would make sense that the $300,000 bridge would be in the state aid program and the lower amount repairs are not. The board discussed where those repairs are slated for, potentially Melvin Mills, Bible Hill and Schoodac Road. Ken concluded with the FAST Act was a summary to show how the money would trickle down from federal to state to municipal.

State Legislative update pertaining to land use – Chairman Davies said he brought this up for discussion

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because the Planning Board is going to be looking at items relative to housing this year.

Ben noted there are a couple of bills coming before House Municipal and County Government Committee tomorrow. The first is HB1202 relative to applications submitted to a Planning Board. What it proposes is a very simple change to the statute that governs when an applicant must submit a completed application for consideration. Currently it is at least 15 days prior to the meeting at which the application is to be accepted. That tends to be problematic given the timing required for notice of hearings and meetings so the bill changes it from 15 to 21 days. Rick asked the Land Use Secretary if that was ever a problem and she replied that sometimes it's a bit of a squeeze.

HB1203 instructs Zoning Board of Adjustments on how to vote on variances.

HB1259 regards third party review. The Planning Board can hire consultants to review applications which the applicant pays the cost of. This bill would change that statue to say "and provided further that no reimbursement shall be required for third party review of a site plan designed by a licensed engineer that only pertains to one lot".

Chairman Davies said there were a few things the board was chasing after last year relative to housing which passed so it might be work for next years warrant articles. Ben mentioned legislature relative to accessory apartments which might require changes to the zoning ordinance and said there are also two bills relative to Agritourism. Rick said the board would discuss in April what they will do relative to these legislative changes.

7. SUBCOMMITTEE REPORTS

Fee Structure Subcommittee update – Rick noted that the wrong draft had been mailed out in the meeting packets and copies of the correct one were passed out.

Chairman Davies said he and Barbara as the subcommittee met with Lois and finalized the fee structure document. One thing that had been changed was the Abutter Notification which had been bumped up substantially and to balance it the base fee was backed down by $50. The thinking was that there would typically be 8-10 notifications to mail out and the $50 that's lost is made up with fees for notifications. In a situation where there are a significantly larger number of notifications going out, the party would pay additional money.

Rick asked Barbara or Lois if they had any comments. Lois did not and Barbara said she thinks it's pretty straight forward. Rick said an item added under Site Plan Review was *+$5 per 1,000 gross sq. ft. for a new building over 10,000 sq. ft* which was added for discussion purposes. It's hard to put a specific number on an unknown project without seeing how intense it is, he doesn't know if it's necessary but some towns do have that type of language.

Barbara said what they have done in the past, for sites like RAW and Market Basket, when presented to the board they realized it would need third party review. Depending on the situation the board contacted the third party to find out the cost and the applicant paid that. Rick said part of the point here is relative to a Subdivision where we have $50/per lot so if you have 10 lots that adds up significantly. But there was no such factor with Site Plan.

James Gaffney commented that he thinks more than doubling the notification fee is heavy handed. He said they had talked before about charging based on the time it takes to do things to which Rick replied that is what we did and it's heavy handed to the projects that have a few notifications and light handed to those with a significant number of notifications to have it the way it was before.

James said he has raised concerns about the fees in the past and gave his example of someone wanting to put a simple pole barn on their property who has to come up with $300+ in order to do that in comparison to a large enterprise like Market Basket whose plan is much more involved and that he doesn't feel it's equitable.

Chairman Davies asked the board members to voice their thoughts on the fee structure changes. Ben Frost said he thought $15 was high given the actual postage cost which was confirmed by Lois to be almost $7.00. Ben Inman said he agreed with James as far as how it impacts the little guy but other than that had no problem with it.

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Peter Anderson asked for clarification on the postage cost and Lois said that includes return receipt so there are a couple of pieces to it. He suggested increasing the base fee and lowering the notification fee which would keep it simple.

Rick reviewed each line of the revised Fee Structure form with explanation. He noted that the Merrimack County recording fee might not be required for a plan but would be required for a decision. If the plan has legal easement language it would require recording. He said there are two different levels of Home Occupancy, one requires a hearing and one does not.

Chairman Davies noted the last item on the Fee Structure document is for Re-Notification and explained this would be if they were partway into a review and the applicant came in with a significantly different document and that some towns have it and some don't.

James clarified that what is being proposed is there is a $250 base fee plus $15 for abutters but when he goes back to the Fee Structure hours there are two hours in there for writing/sending notification to abutters. Rick said those are based on their determination with the Land Use Secretary on the time these tasks take. He said it's something they are going to keep tabs on and adjust in the future if needed.

James questioned the fee per notification, $7 of which covers the postage and is assuming the other $7 covers the time it takes to write them so he is confused as to why there are two additional hours built into the $250 base fee.

Chairman Davies explained the reasoning that had been used to arrive at the lowered base rate and the $15 increase in abutter notices. Ben said that if, for example based upon the informal study, site plan review costs $365 to process and we're only charging $250 as the base fee then the town is in effect losing money. A way of recouping that is adjusting the fee per notification which he believes is probably, from one application to the next, the thing that varies the most. He said he understands the justification for charging $15 per notification and in some respects it favors the smaller development with few abutters in which case the town would probably take a loss in processing the application. Ben continued, it's an imperfect calculation and we will never get it right but this is a decent approximation.

Rick Davies made a MOTION for the Subdivision and Lot Line Adjustment application fees to stay as per the draft dated January 14, 2016 with the lower base fee and $15 notification fee. Seconded by Ben Frost. A roll call vote was taken with the result of 7-0-0.

Rick Davies made a MOTION to add to the Site Plan Review application fees, +$5 per 1,000 gross sq. ft. for a new building over 10,000 sq. ft.

Aedan asked how many towns Rick researched have that kind of language and Rick replied there were two that he saw and most do not. Ken clarified that for those towns that don't have it, the fee would be just the base fee. Rick said if it gets to be a large project most likely there will be a third party review.

Peter Anderson asked if there is a difference in the Land Use Secretaries time expended on a project if it is a 10,000 sq. ft. pole barn versus a 10,000 sq. ft. manufacturing facility. Rick replied each project is going to be different and it depends on how the engineer presents things. Lois replied that she doesn't think there is a significant difference in the time.

There was a consensus among the board to delete the change Rick had made a motion on.

Rick Davies asked for the Planning Boards thoughts on the re-notification fee. There was some discussion of what re-notification entails and that a different word might be a better choice.

Aedan Sherman made a MOTION to approve changes for the January 14, 2016 draft version of Site Plan Review fees as written with the elimination of the fee of +$5 per 1,000 gross sq. ft. for a new building over 10,000 sq. ft. Seconded by Barbara Annis. A roll call vote was taken with the result of 7-0-0.

The board discussed and agreed that these fees should be included with each application as had been done in the past and that it should also be put on the Town Website as a separate document.

Timeline and charge for Master Plan Subcommittee – Chairman Davies said that he, Barbara Annis, Ben Frost and James Gaffney are on the Master Plan Subcommittee and had agreed to address it once the

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Warrant Articles were completed. Rick referred to some OEP documents from the 2015 conference and that the last 2/3rds have a process to go through in updating the Master Plan. He stated he would email that out to the Subcommittee. It was decided the Master Plan Subcommittee would meet and come back to the Planning Board with a charge and a timeline. It was agreed that their first meeting time would be scheduled through email.

9. COMMUNICATIONS AND MISCELLANOUS

Chairmans Report - The OEP Conference is being held April 23rd in Concord.

Compliance Officer Inspection Reports – No new Reports. The Bourke Lot Line Adjustment has been approved, inspected and registered.

Determination of Site Plan Review Applications – The Land Use Secretary stated no new applications had been submitted.

Selectmens Representative Report – Selectman Carson stated there are three public hearings this week; Tuesday is the Grader Purchase, Wednesday is the Solar Array and Thursday is the Budget Committee.

10. PUBLIC COMMENT

James Gaffney mentioned the Planning Board had discussed linking their meeting agenda with the towns Google Calendar. Chairman Davies questioned if that is done by other town departments, it was determined it is not and Rick suggested we do what other departments are doing and perhaps it could be discussed with the Board of Selectmen at some point.

11. ADJOURN

MOTION to adjourn was made by Aedan Sherman, seconded by Ken Milender. A voice vote was taken with all in favor. Meeting was adjourned at 9:29 p.m.

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