

# TOWN OF WARNER – PLANNING BOARD

## Meeting Minutes

January 9, 2017

7:00 PM

Warner Town Hall, Lower Level

**Members Present:** Vice Chair Barbara Annis, Selectman's Representative John Dabuliewicz, Ken Milender, Don Hall, Peter Anderson Alternate, Darryl Parker Alternate

**Also Present:** Land Use Secretary Lois Lord

**Absent:** Chairman Ben Frost, James Gaffney Alternate, Aedan Sherman, Ben Inman

### 1. OPEN MEETING

Vice Chair Annis opened the meeting at 7:05 p.m.

### 2. ROLL CALL

Roll call was taken with six members present and four absent. Vice Chair Annis asked Peter Anderson to sit in for Ben Inman and Darryl Parker to sit in for Aedan Sherman.

### 3. APPROVAL OF MEETING MINUTES

The meeting minutes of 12/19/16 were brought forth for the Planning Boards approval. A **MOTION** to approve the minutes was made by Peter Anderson, seconded by Don Hall. There was no discussion; a voice vote was taken with all in favor. 6-0-0

### 4. DETERMINATION OF SUBDIVISION APPLICATION

**Applicant:** Tom Dombroski

**Property Owner:** Beverly Mock

**Property Location:** 33 Couchtown Road, Map 11, Lot 38, Zoning District R-3

**Description:** Subdivision of one 32.78 acre lot into two lots, Lot 38 to be 12.52 acres and Lot 38-1 to be 20.26 acres.

- a. Review application for Acceptance
- b. Close meeting and open Public Hearing (if requested by abutters)
- c. Close Public Hearing and reopen meeting
- d. Action Taken – Approve/Deny/Continue

#### a. **Review Application for Acceptance**

Vice Chair Annis brought forth the application for a minor subdivision and asked Lois if all the fees had been paid and she replied they had been. Vice Chair Annis asked Mr. Dombroski for an explanation of the application.

Mr. Dombroski stated Beverly Mock wants to separate the farm buildings from the rest of the property so they are creating a 12.52 acre lot for that which leaves a little over 20 acres without any buildings. He noted there is a good area of 2.5 acres within that where a house could be built. He pointed out features of the property on the color coded plat he had submitted with the application. Tom pointed out a typo on the plat regarding soil types and said that would be corrected and described the various soils. He said he added a note for the Planning Board to sign, if necessary, regarding the septic as he is a designer of them. They didn't do soil tests as he felt it wasn't necessary with no new building being proposed.

Barbara asked if there were any questions and Selectman Dabuliewicz asked what the frontage is on the 20 acre parcel and it was determined to be 353 feet. Don Hall asked where the old gravel pit was and Mr. Dombroski pointed it out and said there was some taken out of a field where there was a hill that is now gone. He noted the soil is good soil.

Vice Chair Annis stated that the Planning Board Chairman who was not able to attend tonight has reviewed the plan and had a few comments. The first was regarding the Right of Way shown on the plan leading from the new lot 38-1 and the existing lot 15-60 which is the Rogers lot. There should be a note on the plan indicating this and whether there will be any limitations on its use. Barbara said she agrees with the Chairman on this but if you look at the bottom note it says see Note 2 which is the beginning of the Right of Way. The ending is up by Cal Rogers's lot so she believes Note 2 does explain it but it isn't shown accurately.

Tom stated it might be getting confused with something else, there is a 20 foot right of way that Cal uses for sugaring. If someone bought the farmhouse piece of property it would still be used to maintain his sugar orchard. He noted there is another right of way going to a different piece but it is more of a license than a right of way and goes away when Beverly no longer owns the property.

Barbara stated there is nothing in the notes about the right of way for Cal Rogers, or to that lot. Tom noted the owner of the new lot will use that driveway and do what they want with it. Vice Chair Annis said that was the Chairman's concern, that if there is some sort of limitation it should be noted. Mr. Dombroski said he understood and that there could be some clarification that the right of way only goes to the new lot, not to Cal's. Tom said he will add another note.

The second comment from the Chairman was regarding Note #2 on the plan which he thought was confusing and seems to suggest that the Subdivision plan is creating this license but it is not and from reading the deeds it is known that it goes back to 1981. The Chairman suggested changing the note to say "license to access" and note the Merrimack County Registry of deeds book and page number rather than inaccurately and incompletely represent the nature of the license. In other words, don't describe the license but instead refer to the book and page number. Mr. Dombroski said they would change that.

Vice Chair Annis directed the board to the application and split the checklist into sections for each group of board members to review. The Planning Board took a few minutes to do this. Darryl Parker reported they had found two issues; one was determined not to be an issue and the second was V.A.7 regarding the locus being at 1" to 2000" versus 1' to 1,000" as required. It was decided that the applicant would request a waiver for this.

Peter Anderson had a question on V.A.9 regarding zoning districts and district lines. It was noted that the Zoning is indicated on page 1 of the application so was not an issue. The other question they had was about the brook on the property and if there was water in it all year long. Tom Dombroski said there was.

Don Hall asked if the owners are aware of the ecology of Frazier Brook which has been an issue before and could be again. Vice Chair Annis said we could discuss that once we open the meeting up to the public.

Barbara noted we would like a motion to accept the plan. Darryl Made a MOTION to accept the plan as presented, seconded by Ken Millender. A voice vote was taken with all in favor 6-0-0. Selectman Dabuliewicz asked for clarification on the waiver and Vice Chair Annis stated we should have voted on the waiver before we accepted the plan but under the circumstances, she would like a MOTION on accepting the waiver. The motion was moved by Darryl Parker, seconded by Ken Milender. With no discussion a voice vote was taken with all in favor 6-0-0.

#### **b. Close meeting and open Public Hearing**

Vice Chair Annis opened the public hearing at 7:27 and noted the owners of the property were present. Don Hall revisited his question regarding Frazier Brook and asked the owners if they were ever affected by any of the nature problems as far as what wildlife lives in the brook and if it's protected specifically turtles. He asked Kevin Mock how much he and his Mom Beverly Mock knew about that.

Darryl Parker noted there was a Heritage Report in the application package that addressed the wildlife. Don said it didn't matter if he had seen it, he was asking the owners to give their explanation as to what they have been blessed with. Kevin replied that other than fish, there could be turtles and he didn't know if Turtle Man had been through there but as far as he knew there were just fish. Don said it was a point of interest and he wanted clarification because when you get into wetlands, watch out. Barbara asked if there were any other questions and there were not.

#### **c. Close Public Hearing and Reopen Meeting**

Vice Chair Annis closed the public hearing at 7:30.

#### **d. Approve, Deny or Continue the Application**

Barbara asked what the board desired to do, approve, deny or continue the application. She said she would like to make a recommendation that the board do a conditional approval with the following:

1. Correct the typo on the plat under soil legend.
2. The Right of Way on Lot 38 be so notified that it only extends through that lot or verbiage to that effect.
3. Note #2 be corrected so that it only refers to the Book and Page that is in the Merrimack County Registry of Deeds so that it will be explicit.
4. Receipt of the Waiver request for V.A.7 of the checklist. (added by Darryl)

Selectman Dabuliewicz MOVED the board conditionally approve the plan with the conditions as stated above, seconded by Darryl Parker, a voice vote was taken with all in favor 6-0-0.

Vice Chair Annis asked for a MOTION that as soon as the conditions of approval are presented in the Land Use Office she will have the authority to sign the Mylar. Motion was moved by Darryl Parker and seconded by Ken Millender. A voice vote was taken with all in favor 6-0-0.

## **5. NEW BUSINESS**

### **Mike McChesney – Conceptual Consultation.**

Vice Chair Annis noted it has been a custom of the Planning Board that if someone wanted a Conceptual Consultation, they could come in the night of the meeting. It has been done before and Mike McChesney has asked for a Conceptual this evening. A copy of the Conceptual was handed out to board members and they took a few minutes to review it.

Mr. Chesney described his Brookside building at 51 East Main Street, for which he did an extensive Site Plan in 2007 to restore the old building, set up an apartment and establish some businesses. Currently there is some space that's not finished out where he would like to add two apartments. Mike stated the request complies with all zoning regulations, there will be no external changes, the interior architectural quality will not change and there is more than adequate parking existing.

Mr. McChesney noted he had read the Site Plan Review Regulations, Section V.2 which addresses criteria that, if met do not require a Site Plan of a project. Adding these apartments complies with all of those that apply. He is looking for approval to go ahead with the build. Mike said he had a couple of meetings with Tom Baye who has looked at what is being proposed and understands the egress situation which he approved and is fine with the plan that they have.

Darryl Parker asked if this was something that was intended with the initial Site Plan. Mike replied they had three buildings on the Site plan; they have yet to build the other two and had asked for the Site Plan to have a mix of residential and commercial. It was not 100% spelled out but the flavor of the project was a mixed use. He said there have been a lot of requests for housing in the area coming from people that want to stay in the area and are downsizing and also people who want to move into the area for the quality of life here in Warner. Darryl clarified Mike is renovating part of the existing building.

The board continued to discuss the conceptual with Mr. McChesney, the location of the units which will each be an up/down on the second and third floors, that they will be accessed from the interior, each unit will have two egresses, and that the apartments will each be 900 square feet with some common space.

Vice Chair Barbara asked if there were more questions and noted that according to the Zoning Ordinance, conversion of existing dwelling structures to multi-family dwelling is permitted in this district which is B-1. She asked for clarification on the internal staircase.

Don Hall stated he thinks for the board members to feel comfortable with this they should have letters from the Compliance Officer after doing an inspection and also the Fire Chief that this is going in the proper direction so as to leave no stone unturned. Vice Chair Annis said that was a good suggestion and Ken Millender clarified that would go before the board for approval.

Darryl asked if Mr. McChesney would need to do another Site Plan and Vice Chair Annis said he is changing his original Site Plan in which he didn't ask for apartments upstairs. Mike said it is the same types of businesses in different proportions but in the same footprint and that he had a copy of his original Site Plan. Barbara said she agreed with Don, tonight is a conceptual and she thinks that Mr. McChesney should make a formal request that he wants to amend his original Site Plan and between that time we can get the letters Don mentioned and vote on it at the February 6<sup>th</sup> meeting.

Mike stated when you need a C of O (Certificate of Occupancy) for an apartment, once it's completed, isn't that a check and balance where the Building Inspector goes through and makes sure things are in place? Barbara said they would like it done before because you don't want to do all that physical work and then be told you can't do it, the board is trying to get him ahead of things. Mr. McChesney asked for clarification on what Don was talking about.

Don said, as a property owner, the safety codes do change which is something we all need to be aware of. Therefore, he thinks it's appropriate that he furnish the board with an evaluation of what he needs to do to keep himself and his tenants safe.

Peter Anderson questioned if Mike was really changing his original Site Plan because it didn't specify a particular amount of residential or commercial. Vice Chair Annis said she didn't remember apartments being approved for the main building in the Site Plan but strictly the side apartment. Mr. McChesney agreed with this. The board continued with a discussion of the existing apartment at that property. Barbara noted it is a change of use of the main building, the existing apartment is in an ell and on the ground floor and he is now talking second and third floors.

Don suggested digging out the 2007 information and Vice Chair Annis asked Lois Lord to pull the original Site Plan file from the Land Use office. The board reviewed the application in the file and it was noted that the approval was for retail offices and one 1 bedroom apartment. Selectman Dabuliewicz said he had just looked at the Site Plan regulations that Mr. McChesney referenced before and Section V.B.1.b *Threshold for activities that require a Site Plan Review* and read it as follows:

b. *Any change or expansion in use of a site or structure when such change is materially or substantially different from the previous use such that there is a significant effect on the quantitative or qualitative requirements of these Regulations of the Zoning Ordinance.*

Selectman Dabuliewicz said it seems to him that what Vice Chair Annis is asserting is that because the application was for one 1 bedroom apartment and retail; this is a material change in adding the apartments. He said he's not sure that's right but seems to be what's being asserted.

Mr. McChesney asked if he could request to amend the Site Plan and they could vote on it tonight. Vice Chair Annis said she didn't think it could be tonight, a lot has been presented to the board. Ken Millender noted we had talked about the letters that Don suggested. Barbara clarified that the Planning Board will request letters from the Compliance Officer and Fire Chief.

Vice Chair Annis stated she would like a MOTION that having heard Mike Machesney's Conceptual Consultation presentation tonight, we could like to see him amend the application of the original Site Plan to add two more apartments to the building and have him submit it formally at our next regularly scheduled meeting.

The board discussed the fact that Mike would be amending the actual application, that it would be specific to two apartments and that the parking requirements are adequate for residential and business.

Peter Anderson moved the MOTION; it was seconded by Ken Milender. A voice vote was taken with all in favor 6-0-0.

Lois Lord clarified she would contact the Compliance Officer and the Fire Chief for their input on this project.

## **6. OLD BUSINESS**

Vice Chair Annis reminded the Planning Board that on January 23, 2017 the Masterplan Subcommittee Meeting will be meeting at 7:30 in the downstairs meeting room.

## **7. SUBCOMMITTEE REPORTS** – there were none.

## **8. COMMUNICATIONS AND MISCELLANEOUS**

**Chairman's Report** – Vice Chair Annis said she had a TAC Committee meeting update and reported it was a good and informative meeting. Tim White from DES spoke about emissions and the Volkswagen settlement of which 30 million will be coming to New Hampshire. She said what they're hoping to do is to make things easy and fast with only claims of \$300,000 accepted. The question was would the fleet of the NH DOT qualify to get brand new trucks and/or refittings which is a possibility. Vice Chair Annis said she asked if the town of Warner, Bradford and Sutton could get together with their diesel vehicles and do something to add up to \$300,000 and was

told yes. A resident of Sutton came up to her after the meeting who had thought about the school buses being included as well as getting the Selectmen of the seven towns together. Barbara said they also presented the Surface Transportation Program for the ten year project and Warner isn't on it. It includes intersections, improvements and road surfacing.

**Compliance Officer Inspection Reports** – There was nothing.

**Determination of Site Plan Review Applications** – No new applications.

**Selectmen's Report** – Selectman Dabuliewicz said the public information session on the conceptual for the Fire Station is being held February 15<sup>th</sup> at 7:00 p.m. Darryl Parker added there is a Rail Trail information session at Main Street Bookends on January 22<sup>nd</sup> at 2:00 p.m.

**9. PUBLIC COMMENT** - Peter Anderson said that at the last meeting he was talking about the work of the Economic Development Committee and the board discussed bringing them together with the Board of Selectmen and Planning Board and Barbara was going to speak to someone at the state. Vice Chair Annis stated she did and he was going to call DOT, she saw him last Friday at the TAC meeting and he had forgotten to do it. Barbara confirmed for Peter that it is still in the works.

Don Hall had a quick question on B&Bs and said as a rule, what are our classifications on people living there and claiming residency. Peter Anderson clarified that he meant beside the owner which he did, which would be like a boarder. Vice Chair Annis said to her a B&B is temporary overnight. Darryl Parker asked if it would be zoning or usage and Don Hall said it would be change of occupancy. He said it's something that has arisen and he wondered about it. Barbara had looked it up on the Use Table and noted for a Lodging House or Bed and Breakfast in the Commercial District is allowed with a Special Exception. Don said he understands its revenue for someone who owns such an establishment. Vice Chair Annis said she doesn't think a Bed and Breakfast is intended for a long term month after month use. Barbara asked Lois to research the Site Plan for the Marlon Baese property which was what was being referred to.

**10. ADJOURN**

Darryl Parker made a MOTION to adjourn, seconded by Selectman Dabuliewicz. A voice vote was taken with all in favor 6-0-0 and the meeting adjourned at 8:20 p.m.