

TOWN OF WARNER – PLANNING BOARD
Approved Meeting Minutes
June 5, 2017 **7:00 PM**
Warner Town Hall, Upper Level

Members Present: Chairman Ben Frost, Vice Chair Barbara Annis, Selectman’s Representative John Dabuliewicz, Ben Inman, Ken Millender, James Gaffney Alternate, Don Hall, Peter Anderson Alternate
Also Present: Land Use Secretary Lois Lord

1. OPEN MEETING

Chairman Frost opened the meeting at 7:07 p.m.

2. ROLL CALL

Roll was taken with eight members present. Chairman Frost asked James Gaffney to continue voting in the place of Aedan Sherman.

3. MINUTES APPROVING – The meeting minutes of May 15, 2017 were not approved as the board had not received all of the pages in their meeting packets. It was decided they would be approved at the June 19th meeting after everyone had a chance to review them.

4. NEW BUSINESS

Predetermination of Site Plan Review

Property Owner/Applicant: Kay Steen & Sandra Bartholomew

Property location: 19 East Main St, Map 31, Lot 60 Zoning District B-1, formerly Wingdoodles

Plans to convert downstairs retail store to apartment

It was noted that this application had been withdrawn. The applicant, instead of converting the space to an apartment which was the plan on the application, will be using the retail space for retail purposes to sell vintage furnishings. Chairman Frost stated this is consistent with the preceding use of the property as retail. The board had no concerns and consensus was that it did not require site plan review. Chairman Frost did note the applicant would need to get a sign permit from the Board of Selectmen.

Predetermination of Site Plan Review

Property Owner: Ron & Randy Charlebois – CS Property, LLC/Coach Bus

Property location: 780 Rt. 103, Map 3, Lot 60 Former Milton Cat building

New signage for Coach Bus

Chairman Frost noted this is for the existing Milton Cat building. The proposal is to use this as the Coach Garage and repair which is the same use that existed down the road. There was no one present to represent the applicant.

Chairman Frost continued that the question for the board, based on the information submitted to us, would this require site plan review. James Gaffney said that based on other applications where there have been traffic issues; does the board have a requirement to discuss it? Chairman Frost noted the question before the board is, is the use that is proposed sufficiently different from what was there before for us to require a deeper look at it.

Discussion continued on the use, if it would affect traffic, that this site was previously used for commercial vehicle repair and maintenance and the sign submitted is a modification to the existing site plan. However the

sign permit application would go to the Board of Selectmen. Selectman Dabuliewicz asked why traffic was raised. James Gaffney stated we are looking at another business going into an existing location where there have been questions about traffic. Barbara Annis made the point that all the bus company is doing is moving the business from one side of Old Warner Road to the other side so it would not increase traffic. Discussion continued that the business will still be on the same side of the road and will most likely not affect traffic patterns.

The board was in agreement that this use is similar to the previous use at the site. Don Hall asked for verification on the previous sign that Caterpillar had. Chairman Frost asked Lois Lord to check and see what is on file for this property. Consensus of the board was that no site plan review was necessary.

State Liquor Store Site Plan Notice of Decision Fulfillment – Signage Design

Property Owner: DSM MB LLC

Representative: Andrew Davis, Administrator Real Estate & Leasing Department, State Liquor Commission

Chairman Frost brought forth the State Liquor Store signage design and Andrew Davis introduced himself as being present on behalf of the State Liquor Commission. Chairman Frost noted he had submitted materials regarding the proposed signage of the property and asked Mr. Davis to review them.

Mr. Davis noted when they had appeared before the board earlier, they had a very preliminary sketch of the sign and the concept was still evolving. He noted what they have come forward with is the final concept and showed the board an aerial view of the site. Mr. Davis stated they are trying to brand themselves and have a very successful brand, part of which is visibility and announcing to the traveling public who and where you are. He pointed out the location on the aerial view and said that because of new and past legislation which limits their ability to have highway signage which is mandated by the DOT and the Federal Highway Commission, they have very little access to highway signage. When they do a building like this they look for other ways to use the building to announce their presence. Mr. Davis pointed out a tree line on the aerial view that is in the right of way of the Bureau of Turnpikes and which they're not willing to trim.

Mr. Davis noted he has explained all of that as they have elected to go with a higher level of signage on the roof and pointed out the design drawing. He stated that is the only new element they have added which is consistent with what they have done in 5 other locations in the state. They are individually lit with LEDS and the lumen level is lower than what is currently at that location as far as Market Basket, McDonalds and Irving. The sign will be controlled by the same timer as the logo sign and will come on at dusk and turn off an hour after the last employee leaves the store.

Chairman Frost asked for comments from the board. Peter Anderson asked the size of the circular logo sign and Mr. Davis answered it is about 8 ½ to 9' in diameter. Ken Millender noted with the new illuminated light, does that change the lumen plan of the original plan? Mr. Davis said the earlier rendition had two dormers which have been done away with and this will increase the overall lumen count but at the same time has been placed strategically, is intentionally lowered and is meant purely for the traffic on the highway.

Barbara Annis said she doesn't like the sign and is very concerned, if you live up on North Village Road and look down it's getting to be light pollution and this will add more. This is internally lit which is against the towns zoning and she realizes the state has the right to do that per state law but it bothers her the state will supersede the towns and how they are trying to keep their "country" look. Mr. Davis stated Barbara had expressed that to him at the previous meeting and he is sensitive to that and is why he is here. They are not trying to come in and tell the town we are the state and we're going to do this and he asked that she look at some of the other features to which Barbara replied that she loves the building. Mr. Davis continued they did a very similar project in

Bedford and the sales have exceeded expectations. They are not trying to look like a mass package store but like a true retailer. He noted that Market Basket lights are still illuminated on a Saturday night at 11:30 so they are not adding to that and the lights will go off probably by 10 p.m. and the only thing left on will be the wall pack lights.

Selectman Dabuliewicz said he is wondering about the fact that Mr. Davis is representing both Market Basket and the State Liquor Commission. Market Basket came to the board for a site plan approval and they are subject to our Zoning Ordinance and it's not clear to him how that works.

Chairman Frost said he had the same reaction and initially this was presented to us by R&D the owner of the property and he believes at this point the Liquor Commission has control of the property. It is the state that is submitting this final plan and they are not subject to zoning. Mr. Davis explained the state is leasing the property under a traditional lease hold agreement from DSM Realty which is Demoulas Supermarkets. He noted there are two different sign companies, one doing the logo and one the roof sign as they both have their area of expertise. He explained the state statute that gives the exemption, that he is not taking it lightly and he wants to hear what the board has to say. Mr. Davis said he is not here to pay kudos to the landlord but what they have done with respect to landscaping and site improvements, he feels are a great improvement for the town.

Don Hall said he is not a big advocate of roof signs and as a member of the board he would appreciate it if it was toned down a little bit if they can and not make it such a distraction. He noted it is a marketing tool but on the other hand, when you get into these commercial developments everybody is out there vying for a piece of the action.

Ben Inman stated he doesn't think the roof sign is needed as people will know they are there. James Gaffney asked what the square footage of the signs was and Mr. Davis said he isn't sure but it is on the edge of the ordinance limit and may be exceeding the allowed. James said he loves the branding with the round signs and the architecture of the building but he doesn't love the lettering personally and it doesn't add to the building.

Chairman Frost said he is not thrilled with it and asked Mr. Davis to compare the size of the roof lettering signs to those in Hooksett. Mr. Davis said these are substantially smaller and some of the letters in Hooksett are as tall as him or taller and these are 50-60% of that size. He guessed that some of the ones for the Warner store are 4-5' high and the others 3' and everything is contained on the roof, above the soffit and below the ridge. Chairman Frost said this does not make a more attractive building and reminds him of a 1950s restaurant along the highway and noted the state has the prerogative to do this. He continued the board does not have the roof mounted sign diagram and asked Mr. Davis to submit it to the Land Use office to be included in the file. He noted with this the requirement put forth as a condition of approval has been fulfilled and barring an application for a sign permit to the Board of Selectmen if that is necessary, and they will need a building permit for the electrical. Mr. Davis noted he has been informed by both sign contractors that they filed applications and permits for electrical work and were just waiting for him to come before the board.

Chairman Frost said they are not in the position to modify the site plan approval but if at such time in the future the property is no longer occupied by the state, the roof mounted sign should come down. Mr. Davis said that is clearly in their lease agreement with Demoulas which is for a 10 year term. Chairman Frost noted this would not be regarded as a nonconforming use that could be replaced by another sign not used by the state but simply would be gone. Chairman Frost asked Mr. Davis when the timing for opening would be and he stated that they were hoping to be open for the 4th of July weekend but unfortunately setting up a store requires the help of staff from all the other stores. To get it done right, they are not going to rush it and are going to open the first or second week of July with a soft opening around the 17th of the month. In August they will have a formal grand opening.

5. OLD BUSINESS

Continuation of Site Plan Application from May 1, 2017 Meeting

Applicant: Dragonfly Holdings, LLC – Eric Miller

Property Owner: Richard M. George

Property Location: Warner Road, Map 3, Lot 33, Zoning District C-1

Site Plan for new construction of two buildings connected by a breezeway for use as an indoor gun range and retail store.

Approve, Deny or Continue Meeting

Chairman Frost noted they had received further communications up to noon of May 16th and they are in the board's meeting packets. They also received a communication today from Ken Norton at the National Alliance of Mental Health. The communication dealt with issues regarding associations that people have made regarding mental illness and gun violence. Chairman Frost continued that given that was received after the cutoff he is suggesting it not be added to the public record out of fairness to everyone. The board did not object to this. He asked Lois Lord to communicate back to Mr. Norton's office thanking them for the input.

Chairman Frost stated at the last meeting the board had made a few iterative decisions moving the application forward. One was to seek out a third party independent consultant to look at issues of lead control and mitigation on the property relative to the proposed use. He noted that Ken Millender had sent him the names of 4 different firms and he chose one because of their prior experience working on the Sig Sauer project in Epping. The firm is called Aries Consulting, is located in Concord and he has negotiated a contract with them and they are reviewing the materials and making recommendations prior to the board's meeting on June 19th. He noted the materials submitted to Aries Consulting were the lead mitigation proposal that was part of the application, the two reports submitted to the board from the abutter prepared by Stone Hill Environmental, and the minutes of all the meetings at which this was discussed. Chairman Frost said he had met with George Holt of Aries and offered any assistance he might need and suggested he contact the applicant if he has specific questions regarding design and processes.

Barbara Annis asked that the board receive the documents the Thursday before the meeting so they have the weekend to read them. Chairman Frost said they should be part of the June 19th meeting package. He noted at the time it is made available to the Planning Board it is also available to the public so anyone can request it.

Chairman Frost said the record is closed except for the report we expect to receive from Aries Consulting. He asked the board if there was any other information they feel is needed in order to make a decision other than that. Don Hall clarified that the overall package is complete. Barbara Annis asked where the 19th is in regard to the 65 days in which a decision must be made. Chairman Frost said it is a few days before the 65 day statutory deadline. There were no other concerns or questions from the board and Chairman Frost stated that at this time the board feels that it has, other than the Aries consulting report on lead, sufficient information to make a decision.

Barbara Annis commented that she had spent quite a bit of time reading the Thalheimer report and requested that in the future when the board has a report similar to this, that the engineer or the consultant put it in laymen's English. She said she is looking at the report, Table 1 and the results are expressed as "at maximum LMAX aweighted dba using an RMS" and what the hell is that? He may know what he's talking about but the Planning Board or the Zoning Board are made up of common everyday people, not engineers. She asked that it be put in English so they understand.

Chairman Frost said he would encourage the board to focus on the discussion and conclusion, the assumption being the scientific analysis stands for itself and the conclusion and discussion are based upon that but he

understands what Barbara is saying. He stated that given that we are waiting for that last piece of information, the application will be continued to our next meeting on June 19th, Monday at 7:00 p.m. at this location.

6. SUBCOMMITTEE REPORTS

Master Plan - Chairman Frost reported that the subcommittee was going to meet but he was the only one present so it would not be considered a meeting. He did have a discussion with Ed Mical, Tim Blagden and Christine Frost. They talked about the transportation chapter and he will bring more material forward regarding suggested amendments to that chapter regarding the Rail Trail and a few other things.

CIP – Peter Anderson stated the forms have been revised with one small change to include a statement asking how much of the request is going to Capital Reserve Funds, otherwise it is the same form as last year. It will be going out later this week with a return of July 20th. He and the Land Use Secretary will be doing the bulk of the work to compile the information and then it will be put to the board for review hopefully in August.

The board discussed Capital Expenditures and what the definition is, what the states definition of it is, and that it is anything over a certain cost. James Gaffney gave some examples of these expenditures for the town in the past. Chairman Frost clarified that there is no definition in the CIP statutes as to what is a Capital Improvement. The purpose for that is if you are looking at the 234 municipalities in the state they vary widely. For example the town of Orange with 430 people and the city of Manchester with 115,000, what goes into Oranges Capital Reserve is going to be dramatically different than Manchester's. He continued that going back two years there is a definition of what a Capital Expense is for the purposes of developing the CIP which was adopted by the Planning Board some years ago. He said he believes it is \$15,000 with an expected useful life of at least 3 years, which is kind of a durable goods definition. Chairman Frost said that doesn't mean that the absence of something from the CIP means it can't be done, the CIP is simply a planning document and its sole purpose is to serve as a guide to the Board of Selectmen and the Budget Committee. James Gaffney suggested that guidance go out with the request.

7. COMMUNICATIONS AND MISCELLANEOUS

Chairman's Report – Chairman Frost noted there is email (copies of which were passed out to the board) from Nancy Martin regarding a Flood Resiliency workshop on June 14th and 28th, 4-6:30 being held in the Warner Town Hall.

Compliance Reviews – None.

Secretary's report on Land Use Application Submittals – No new submittals.

Selectman's Representative Report – Selectman Dabuliewicz noted the Board of Selectmen have been meeting with the Fire Chief and the Deputy Fire Chief in regards to what the town needs to do in order to potentially get some consideration of using the lower meeting room before the sprinkler system is installed. He stated no one has said we can do that but we started working with them on a firm schedule for meeting other aspects of the Fire Marshalls report which is in the hands of the Fire Chief. After we're done fixing it the Fire Marshall will inspect it but we're dealing with our own Fire Chief and Deputy Fire Chief so we started that process and are very aware that it's really cramping our style not to be able to use the lower meeting room. Don Hall made the point that the town has known about this issue for 25 years which is a long time.

Selectman Dabuliewicz stated that we are looking at town owned parcels that might be able to be put on the market. Martha Mical and the Town Administrator are working on that and have identified the lots that we have. He said a ballpark figure for how many lots there are would be 20.

The next item Selectman Dabuliewicz brought forth was Class VI driveway permits and development which the Board of Selectman discussed at their last meeting. The policy is that you can't build on a Class VI road and getting a driveway permit doesn't allow you to. An application had been received for a second driveway permit on a different road that the property abuts up Joppa Road and the second driveway was for Kelly Hill. It's not allowed unless the road is updated to Class V status. Chairman Frost asked if anyone had ever attempted to go to the ZBA for a building permit on a Class VI road which is the alternate route. Selectman Dabuliewicz said not that he knew of and Chairman Frost said he would not encourage that.

The Board of Selectman will be meeting on the Odd Fellows building on Wednesday in a nonpublic and it has been a challenge.

8. PUBLIC COMMENT

Ed Mical said, in reference to the CIP Program, he can remember the capital outlay used to be \$10,000 and was increased to \$15,000. As Emergency Management he was tardy in his submittal but it would be nice to touch base with the Department Heads to motivate them to get the information. Peter Anderson stated that every Department Head receives a copy of the form. The discussion continued that in the past a member of the committee would meet with departments to move things along and that there are 5 Department Heads which didn't submit anything last year even with Peter calling them. Selectman Dabuliewicz said they are encouraged to be responsive. Don Hall said the Department Heads know what their responsibilities are and they have assistance to get these things done.

Barbara Annis said there is one thing she would like to bring up which is the Selectmen's job and part of the zoning and that is signs. She said Rick Davies and she spent quite a bit of time rewriting the entire sign ordinance and then the law changed and the next year Ben, James and maybe Rick were on that committee also and had to do it because of nondiscrimination. However, right now the way the electronic sign across the street is being used, it might be discriminating. Barbara said she has no problem with the town using it as far as having Town Meeting, Elections and that sort of thing and no problem with non-profits using it for a benefit. Where you have a sign that has a business name but says nothing about a non-profit organization, it sounds like the business is putting on the event. We are basically subsidizing and advertising for some private businesses and are we opening ourselves up to a can of worms.

James Gaffney said there was discussion about that sign as part of the subcommittee work and that the use of that sign was a bit of a sticking point. It was discussed that the sign is to be used for government use which Chairman Frost agreed with. There was continued discussion about the placement of the sign, the town's usage of the sign for messages is no problem, but if it is being loaned to the town and they are effectively using it for private business, then there is a problem. The permit for the sign was discussed, whether there is one and that there should be one. Chairman Frost asked Selectman Dabuliewicz to take these concerns to the Select Board.

Chairman Frost announced that Barbara Annis and he had been to a luncheon earlier today where Barbara was awarded the Citizen Planner of the Year award by the NH Planners Association. He stated he was very honored to make that presentation to her and wanted to recognize Barbara for that award and thank her for her service to the town and to the state. Barbara Annis said there is one more thing that we didn't know about Chairman Frost and that is that last year he won the New England Planner of the year award.

9. ADJOURN

Chairman Frost declared the meeting adjourned at 8:16 p.m.