

**TOWN OF WARNER – PLANNING BOARD**  
**Approved Meeting Minutes**  
**July 17, 2017**                      **7:00 PM**  
**Warner Town Hall, Upper Level**

**Members Present: Chairman Ben Frost, Vice Chair Barbara Annis, Ken Millender, Don Hall, Peter Anderson**

**Absent: Selectman’s Representative John Dabuliewicz, Ben Inman, James Gaffney Alternate**

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

**1. OPEN MEETING**

Chairman Frost opened the meeting at 7:00 p.m.

**2. ROLL CALL**

Roll was taken with five members present and Chairman Frost noted the Board of Selectman have appointed Peter Anderson as a full member of the board and confirmed with Peter that he had been sworn in.

**3. MINUTES APPROVING** – The meeting minutes of June 19, 2017 were brought forth for review. Chairman Frost stated that when the board met on the 19<sup>th</sup> regarding Dragonfly it was his intention that the Findings would be included as part of the minutes and assuming the application will be appealed to Superior Court the court will have a complete package. A copy of the Final Findings was handed out to board members.

The minutes were reviewed with several corrections noted and it was discussed and decided that any excerpts included in the meeting minutes from other documents be italicized. Barbara Annis made a MOTION to approve the minutes amended, seconded by Don Hall. A voice vote was taken with all in favor 5-0-0.

Barbara Annis suggested and made a MOTION to attach the Final Findings to the meeting minutes. MOTION was seconded by Ken Millender; a voice vote was taken with all in favor 5-0-0.

**4. NEW BUSINESS**

**Preliminary Discussion – George Pelletieri on addition to existing business at 169 Kearsarge Mountain Road, Map 14, Lot 26, Zoning District C-1**

Mr. Pelletieri presented a drawing of his original approved site plan from about two years ago of the building he moved his business into on October 2, 2015. He said that plan has been their basis for operations and as discussed then, there were a number of issues of concern including lighting, dumpsters, temporary storage trailers, container boxes and parking. Mr. Pelletieri addressed these issues and how they had been handled.

George noted as part of the original plan, they included a 9,000 sq. ft. single story building as a workshop and storage space. He stated he knows he needs to submit an amended site plan for this building with more detailed plans. Before this is done, he wanted to have a consultation and see if the Planning Board had any concerns or thoughts.

Mr. Pelletieri stated they plan on enlarging the parking but not paving it, intend to keep a fully landscaped buffer, and have installed large box containers for sand, gravel and other materials they regularly use in their work. Mr. Pelletieri discussed the right of way which they have decided not to use and the fact that the temporary storage containers have been removed. He said to keep their employees year round, they construct patios inside in the winter, number the pieces and transport them to job sites for spring and summer installation.

George explained the additional building will be smaller than the 9,000 sq. ft. initially proposed, may be expanded in the future, and will be connected to the existing office building with a breezeway. The new building will have multiple uses to include tool storage, desk space for field personal, and a shower for safety and employee benefits. Mr. Pellettieri discussed his seasonal employees many of which are interns from universities who need lodging for their internship. Currently they stay in Henniker but he would like to have a communal living space in the new building with a second floor to consist of individual bedrooms and a common kitchen/living area for 4-5 individual. This will also provide security for the business as someone will be there all night. George stated he understands that if they change the use for the property that will probably entail going before the ZBA. Mr. Pellettieri also discussed situations when an employee is not able to drive and this would provide a place for them to live temporarily at the business location.

Mr. Pellettieri said he would like to get the boards feedback this evening and come back with an amended site plan showing exactly where the building will be located and what changes there would be from what was approved earlier. They would hope to construct this over the winter and are considering using Charlie and Shoe as builders.

Chairman Frost asked board members if they had any questions or comments. Don Hall asked if Mr. Pellettieri feels there is adequate space going forward or would they be looking at Danny's property. Mr. Pellettieri said that is always a possibility and Danny had approached them about renting space. George clarified that they haven't utilized all the space in the current building and have both field and office functions going on there. Some of the field use would be moved to the new building.

Barbara Annis noted when Mr. Pellettieri came in for a site plan before he was renting the property with the option to buy and asked if he was now the owner. Mr. Pellettieri stated Jerry Barnes and his investors made them a good offer on the purchase price so it is now Mr. Pellettieri's property. Barbara referred to page 15 of the Zoning Ordinance, F2 which talks about the area of a building. She asked if the area in the current building, storage building, and additional building combined would meet the zoning ordinance and it was determined that it would.

Ken Millender asked Mr. Pelletteri how many employees he has. He replied that they have almost 35. They used to have 6-7 year round employees and that has increased to 15 year round.

Chairman Frost clarified the zoning district which is commercial. Mr. Pellettieri referred to the Land Use Chart in terms of the Use Regulations and read the uses under Residential which are: One-family detached, Two-family dwelling, Multi-family dwelling, Conversion of existing structure to multifamily dwelling and Accessory Apartment. He noted what they are proposing is none of those things. Chairman Frost asked George if he is thinking something along the line of communal living and Mr. Pellettier said yes, with probably 3 bedrooms.

Chairman Frost said he is toying with different ideas that would make this work under the existing zoning ordinance outside of a variance. He said in some circumstances uses like this have been deemed accessory for the security reason that Mr. Pellettier mentioned and he could also design this as a single family dwelling if there are individual bedrooms/bathrooms and common living space for eating and cooking. That is essentially a residence even if they are not related. The discussion continued on the use table and what was allowed in the C-1 zoning district and what needed a special exception. Chairman Frost said it might behoove Mr. Pellettier to go to the Zoning Board for a special exception.

He asked Mr. Pellettieri to characterize the nature and quality of the buffer to the north of the property. George replied that is second growth woodlands with multiple saplings and a few larger diameter trees which are 12" maximum and is a mix of deciduous and evergreen which they can always augment if needed.

Peter Anderson stated he recalls at the original site plan review Mr. Pellettieri said there would possibly be 12 cars parked there but there are always more than that and asked if they had plans to increase the parking. Mr. Pellettier said there is currently a gravel surface which is configured angling towards the existing building. Right now it's not wide enough for another parking row and what they would do is widen it sufficiently to allow for double parking bays as they usually have 25-30 vehicles parked there.

Chairman Frost asked which way the drainage goes. Mr. Pellettieri said it's a very well drained site including the parking area. It's generally away from the street and the property is elevated above the street and it's pitched somewhere to the north. In the back there is a definitive drop behind the material bins and that level is lower.

Mr. Pellettieri said he would be back in a couple of months with finalized plans.

### **Rick Davies Board of Adjustment Chair - Communications**

Rick said this is a broad topic on which he had sent an email to Ben as well as a letter. Rick stated that on the Zoning Board of Adjustment application forms the instructions require a referral and that wording came from the OEP ZBA handbook. The ZBA reviewed forms in a previous meeting to update them and discussed that they haven't enforced this requirement. Discussion continued on the subject, that both a variance and a special exception have this wording and what works in a small town with limited staff and resources.

Chairman Frost said he suspects what the OEP (who has legally changed their name to the Office of Strategic Initiatives) handbook with regard to variances probably reflects the requirement of one Superior Court judge that there be a denial of something in order for a ZBA to hear a variance. He doesn't see why that's necessary and believes that judge has retired. Rick said at their next meeting the ZBA wants to discuss items we are going to potentially hold the applicant to and which ones we can work with applicants on.

Rick said an applicant may show up thinking they need to submit something further and the first step for the board is to determine if they need the variance. There have been cases where they found a different way to do things so if there is a referral the other board would have already have made a determination that something is required or that this is the interpretation of the requirement.

Chairman Frost asked Rick if he was aware of any instances where the Planning Board should have referred something to the ZBA. Rick replied that it might have been good to add to some of the basis of the meeting and it might be something that would come out in a joint hearing although he keeps reading current documents saying don't do those unless you really have to. Chairman Frost said he has never seen that happen. Rick stated the question is, is the applicant aware of what they are presenting or have they missed a step. It's best to get the decision done in one meeting if the information is there which is not always the case. Chairman Frost said some communities have a Zoning Certificate that is done by staff that says this does or does not comply with the Zoning Ordinance.

Barbara Annis commented that it's us that haven't referred but has the Building Inspector ever referred to the Zoning Board. Rick replied that he believes they did but didn't remember what type of document they used to do that. Barbara noted that on page 9 of the Zoning Ordinance with regards to solar being installed within the lot yard setback to abutters or right-of-way, all Bookends got was a Building Permit. She asked Rick if they came before the Zoning Board for that. Rick replied his understanding is that it's not in the setback plus that part of the ordinance came out after that was installed which was a result of that situation.

Chairman Frost noted that ultimately what Rick is getting at is making sure the Planning Board is thinking of the ZBA and their requirements. Rick said he is always in favor of bringing an applicant before the Planning Board

with a conceptual which is not an option with the ZBA. A conceptual gets the conversation going and the Planning Board might find an appropriate alternative to a variance.

Rick said the ZBA also requires, in the abutters notice verbiage, that notice be given to the Planning Board if it's a referral. He continued, if there's a referral the Planning Board should already know what's coming. Rick talked about the staggering of meetings. Chairman Frost questioned if there is a better way of doing this and should we supply each other with each other's agendas which seems like the most reliable way of sharing information.

Rick continued the discussion on to the bulleted item when reads *a brief review of the basic issue on each of ZBA's annual suggestions for Ordinance change/addition* and mentioned the letter sent to the Planning Board from the Zoning Board. He said the Planning Board had addressed a couple of the items and one was a definition for *event venue and function services* on the use table.

Discussion continued on the list that was sent with the letter to the Planning Board earlier this year and items in the letter itself. This included clarification of the Use Table by adding definitions and adding an "N" to signify "Not Permitted". Rick brought forth the fourth bulleted item regarding a certificate of zoning compliance as required by the Zoning Ordinance and Building Code Ordinance. He questioned who is doing this and stated he and Barbara had discussed this 3-4 years ago. It used to be done quite a few years ago and gets back to having someone official making a determination. Rick noted a meeting he, Lois, Mary Whalen, Jim Bingham and Tom Baye had a few years ago to make sure departments knew what the other departments were doing as they are all interrelated. The Building Inspector at that time said he is there for building codes, not the zoning ordinance. Something may be fine as far as building codes but not with the ordinance. Chairman Frost questioned why the practice of issuing a certificate of zoning compliance was stopped. Barbara Annis suggested it was due to a change of personnel which Rick agreed with.

Don Hall asked Rick if the ZBA needs reconstruction. Rick said it is very well defined by the statutes to which Don asked if everyone on the board understands the statutes and said that some people will sit and not comment or ask questions. Don continued, that can be a problem and with the Planning Board we bat things back and forth. He asked if Rick sees the ZBA as sitting back on their hands and not participating the way they should and is Rick the spokesperson. Someone needs to be the leader and that can be an issue. Rick replied that like any board there are some people more attuned to the process, they are all volunteers and do the best they can. There was a question that came up at the last ZBA meeting of how many cases have come up in the past couple of years and it morphed into the discussion that all the cases that should be are not ending up with the Zoning Board. Rick continued that there is a good core of knowledge on the board and it's not always easy when you don't have a lot of cases.

Chairman Frost stated that with regard to the zoning certificate, that's not something the Zoning Board could do legally as that is effectively prejudging something. It would need to be at the staff level and maybe we should have a joint meeting with the Board of Selectmen as that's where that responsibility lies. Rick said it would have been good to have the Selectmen's Representative at this meeting or the alternate. Barbara Annis said she personally feels the Planning office should handle building permits and sign permits as the Land Use Secretary is here at the meetings and understands the zoning. Mary doesn't come to the meetings and doesn't hear the conversations. Barbara gave an example of a sign permit that was granted by the Selectman's Office and was part of site plan that hadn't come through the Planning Board.

Chairman Frost asked for suggestions on how to proceed and Rick Davies suggested bringing it up as an agenda topic for the next PB meeting when the Selectmen's Representative is present. Chairman Frost said he doesn't think it would necessarily be harmful to have some sort of joint meeting. He suggested he and Rick attend a Selectman's meeting to talk about a more orderly and consistent process. Chairman Frost said the first step they will do is to get Selectman Dabuliewicz involved.

Rick had one more item which is the town newsletter going out and said that a recurring issue with both boards is people not realizing things are happening. He suggested a small paragraph letting residents know about the town website alert function he was talking about earlier. Chairman Frost stated he had an article to submit and will add that to it.

### **Discussion of Zoning Amendments for 2018 Town Meeting**

Chairman Frost said it may sound early to consider this but it's really not and there were some things they have taken up in the past and then abandoned like ground water protection and small wind energy turbine systems. There is a state law that gives some place for municipal regulations and there is the information that Rick delivered from the ZBA. Chairman Frost asked if there was anything else that board members could think of that they should be contemplating for 2018.

Barbara said she didn't think they should try for too much because if you overload people with changes, Chairman Frost added, they say no. Barbara said her feeling is to go with the ZBA to make life easier for them and that should be our priority. Ken Millender said it makes sense to have a couple of Land Use type boards singing from the same sheet music. Chairman Frost said what he is hearing is that the board wants to process what Rick (speaking for himself and the ZBA) presented which are things they have come across as they have read through the Zoning Ordinance.

## **5. OLD BUSINESS**

### **Scheduling of Gravel Excavation Site Walks**

Lois Lord asked the board to come up with some dates so she can ask property owners if they are available. The board arrived at the date of Wednesday August 2 starting at 7 a.m.

## **6. COMMUNICATIONS AND MISCELLANEOUS**

**Chairman's Report** – Barbara Annis asked about the Masterplan Subcommittee and Chairman Frost said they would start it up again soon but had to put it aside to concentrate on other issues.

**Compliance Reviews** – Lois Lord noted the board had one in their meeting package for the State Liquor Store. Chairman Frost said that with the change of traffic flow there is now a large bush that presents a visual barrier for drivers and explained it is in the corner of the lot that is directly behind Irving. He said he would take a picture of it and send it to the Land Use office who could then send it onto the Liquor Store in an email and ask if they can remove it.

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

**Selectman's Representative Report** – Selectman Dabuliewicz was not present so no report was given.

## **7. PUBLIC COMMENT**

## **8. ADJOURN**

Chairman Frost declared the meeting adjourned at 8:41 p.m.