

APPROVED MEETING MINUTES
TOWN OF WARNER PLANNING BOARD
MONDAY JUNE 4, 2018
7:00 PM
WARNER TOWN HALL - LOWER MEETING ROOM
5 East Main Street, Warner, NH 03278

- **OPEN MEETING**

- **ROLL CALL**

Present: Peter Anderson, Donald Hall, Clyde Carson, Ben Frost (Chair), Ben Inman, James Gaffney

Absent: Barbara Annis (Vice Chair)

Ben Frost appointed James Gaffney to vote in place of Barbara Annis

- **APPROVAL OF MINUTES**

- May 7, 2018

Motion to accept minutes Don Hall

Second by Clyde

Approved 5-0

- **NEW BUSINESS**

Zoning Ordinances:

General information about the process: Zoning amendments are submitted by the Planning Board to town meeting for vote at the annual town meeting in March 2019. The PB, generally speaking, in the fall, starts the process of changes that they want to put forward, and, generally speaking, hold public hearings in November and December, and sometimes as late as January if needed. The Planning Board is required to submit recommended amendments to the Town Clerk five Tuesdays in advance of town meeting.

We are starting with a preview of things we might want to submit for town meeting and we try to keep the number of amendments low in order to help the voters get through the material.

Andy Bodnarik is working with the planning board and members of the ZBA on changes to the zoning ordinance document.

Andy would like to determine if we need a definition for everything, and he is working with Sam Bower and Barbara Marty of the ZBA.

There was discussion about using an RSA definition, recognizing that it may change at some point, or creating a link to the definition so that as it changes, our document also changes. Definitions change by other variances, for example community input, or legislative process.

ACTION ITEMS:

Andy Bodnarik will review the definitions that he has collected so far, (some are hundreds of pages), look at a copy of the definition in the RSA to see what is included, and write the definitions that are consistent with the RSA. Then what the planning board decides to regulate will be a different discussion. If there are commonly understood definitions, they do not need to be defined. If there is ambiguity, then it will need a definition.

Don Hall suggested that we not make it so picky that businesses are turned off due to the long process, or due to guidelines that have no flexibility.

Ben Frost will look through the document and identify where he knows there is a statutory definition. The board will look at the terms.

Andy will email the document to Diane, **and Diane** will mail to the board. Diane will convert back to a word document.

GREEN HOUSES AND OTHER AGRICULTURAL USES:

Within the past few weeks, we have had two requests for green houses to be erected on property in town. How do these fit into the use table?

From our ordinance:

Agricultural Use

1. *Agriculture, aquaculture, horticulture, commercial forestry, and floriculture except a greenhouse or stand for retail sale.*
2. *Year-round greenhouse or stand for wholesale and retail sale of agricultural, aquaculture or farm products.*
3. *Temporary (not to exceed erection or use for a period exceeding six months in any one year) greenhouse or stand for sale of agricultural or farm products raised primarily on the same premises.*

Ben Frost asked the board: How much do we want to regulate agriculture?

Robert Bailey (audience member): Would like to erect a greenhouse at Davisville. It will not be part of the flea market. It will be by Schoolhouse Café. He is asking the board what he needs to do in order to erect the green house and vegetable stand.

There was discussion about residential vs. commercial space for greenhouses. Davisville is in the C1 district. If you are selling a product (on or off-site) then it is a retail business.

Ben Frost: We have statutory standards for how zoning should treat agricultural uses. I don't think our zoning ordinance is perfectly consistent with the law. We are regulating some things in a way that I don't think we have statutory authority to do.

James: There is something about farm stands, in a town, that attempted to regulate a farm stand in contradiction of state law.

Ben Frost: Yes, and it is either in the definition of agriculture or it is in the planning and zoning statutes treatment of agriculture. It has to do with the percentage of product sold that is produced on site.

Clyde: So if I have a corn farm, and sell peaches on the road, then it might not be an issue?

Ben Frost thinks that it is something like 35% produced off site, then it is something that can be regulated through zoning. Ben is not certain of the percentage.

ACTION ITEM:

Ben Frost will work on re-writing this portion of the use table to simplify it, and to be sure it is consistent with enabling statute, and the statutes dealing with agriculture.

James: For the purpose of Robert Bailey's question – isn't this a permitted use for agriculture?

Ben Frost: I believe it is, and looking at the zoning map, that entire area is all commercial almost up to the river. Virtually certain that you are in the C1 district. Then we look at the use table, in the C1 district, it is permitted. That means you do not need to go to the ZBA. You need to come to the planning board for a site plan review. We will look at traffic flow, parking for employees and patrons, lighting and signage. You will need to talk to the department of transportation because the road is a state highway. Because this is different than a flea market, then it is subject to planning board review. The activity would be used that is different from the flea market for 7 days per week so will require approval of the planning board. The flea market is grand-fathered pre-existing use but the new greenhouse and 7 days per week is a new use.

Robert Bailey would like to use the existing driveway, and would be in use 7 days a week for 7 months.

Don Hall: The two driveways at Davisville are not authorized by the state. The owner, Mr. Nickerson, put them in himself and they are an escape route. If the intent is to use those, Mr. Bailey will need to do some research with Mr. Nickerson and the state.

Robert Bailey: How much can be done now?

Ben Frost: The flea market is a grandfathered pre-existing use. Because this is different than a flea market, then it is subject to planning board review. It is merely that there is commercial activity that is different from the flea market. If it fits it into the flea market, then Robert can start now. To do something 7 days per week is different. You don't want to setup something and get shut down by the state.

Robert Bailey: Right now we are selling perennials, and will be selling fruits and vegetables.

Ben Frost would like to work on the agricultural use section of the use table. The board agreed.

James: With regards to agriculture, would there be value in distinguishing between commercial and non-commercial?

Ben Frost: Anyone can put up a green house, if they comply with setbacks, and building permits.

Don Hall: This gentleman has fallen into the confines of a flea market. The owner of the property is interested in renting space to Mr. Bailey.

Mark Gavone (audience member): I spoke to the commissioner of agriculture. In reading our definitions, I found it is very confusing. According to the state, you have to have \$1,000 in sales. What I want to do is to attend a few meetings before I come in here and ask for things that I will not be able to get through.

Ben Frost: This is a public board, all our processes are open to the public. We appreciate feedback, and assistance. As we work to re-write the section of the zoning ordinance about agriculture uses, reality checks will be very helpful.

Mark Gavone: If you are making anything, and selling, then you are commercial. You are not a farm in the eyes of the state.

Ben Frost: When you talked to Commissioner Jasper, do you recall, I don't recall seeing the \$1,000 in sales. I recall something for lots under 10 acres. Please let Diane know what you find and when you find it.

Mr. Gavone produces hops, currently.

James: We may want to look at the potential that the home occupation ordinance has, how that may dovetail with this. We have a form that the town expects, where the BOS thinks that everyone has to ask permission to have a home occupation. If we are looking at this whole thing and look at how this dovetails with what we are trying to do, if there are conflicts, then let's de-conflict it.

Don Hall: If someone plans one of these things near a residential area, you will have traffic. It is justified to look at the different aspects, how big it will be, and what it is doing.

ELECTION OF OFFICERS:

Ben Inman nominated Ben Frost for Chair and Don Hall for Vice Chair.
Unanimous approval 6-0

MASTER PLAN:

Ben Frost: Tim Blagden prepared amendments to the transportation section of the master plan, regarding rail trail and pedestrian uses. There is an opportunity for the town to apply for state funding. The application (with a deadline of September) would be stronger if the master plan contained references to rail trails. For the master plan, only the planning board needs to approve it, with a public process and public hearing. And following that process, the planning board can amend the master plan. Ben Frost would like to prepare the transportation portion of the master plan for our next meeting. There may be some other amendments to the transportation chapter that need to be made. Recognize that the master plan is an advisory document only.

The Energy Committee and the Historical society are also working on chapters of the master plan.

James Gaffney: With regards to the master plan, I feel that we should try to at least to make an attempt, if we are seeking to add resources, services, etc., we should try to capture whether or not it will cost the town over time, or not, to add x, y or z, to the master plan, and by extension to the town budget, or not. e.g., identify financial impact. For example, we can get grants for sidewalk, but then we have to maintain them.

Clyde: If you did that, would you also have to look at the economic impact? You have to look at both sides of the equation.

James Gaffney: Building a sidewalk, incurs cost. Building a ballfield does not mean that people will come to play. One has an infrastructure necessary cost that is guaranteed.

Ben Frost: It is appropriate for the master plan to identify things that will have a cost: construction, operations, maintenance. And then reconstruction after so many years. The master plan, while accounting for those things, should say that this is why spending is a good idea.

Don Hall is concerned that a new trail will be put together with volunteer. Three or four years down the road, the volunteers will no longer be available and the high department will take responsibility for clean-up and maintenance of the trail.

TRAFFIC COUNTS:

Diane will talk to Tim Allen about being more specific about the traffic counts, and questions from Dean Williams.

ACTION: Diane will ask Dean Williams if we can do traffic counts on a class 6 road.

• **COMMUNICATIONS**

LETTER FROM ZBA:

The ZBA shared a letter with the planning board regarding manufacture homes/tiny homes. The variance for tiny houses/clustered development was denied by the ZBA. Mr. Mendola could still come before the planning board with the un-clustered version that does not require a variance.

Ben Frost spoke to Barbara Marty (ZBA Member) about providing lower cost housing. They agreed this was something that was important for the town.

MEMBERSHIP:

Ben Frost asked everyone to think of people who could become members of the planning board.

CELL TOWER:

Clyde: Point of information. BOS have received a request from some people for permanent easement to the cell tower on North Road, to access the property across town line. They would like permanent exclusive easement and asked for the BOS' consideration.

- **PUBLIC COMMENT**

Meeting adjourned at 8:26pm.