

TOWN OF WARNER – ZONING BOARD OF ADJUSTMENT

Meeting Minutes

July 13, 2016 7:00 PM

Warner Town Hall, Lower Level

Members Present: Chairwoman Janice Loz, Vice Chair Rick Davies, Andy Bodnarik, Howard Kirchner, Alternate Barb Marty

Land Use Secretary: Lois Lord

Members Absent: Gordon Nolen, Alternates Beverly Howe, Corey Giroux

1. OPEN MEETING

Chairwoman Loz opened the meeting at 7:00 p.m.

2. ROLL CALL

Roll call was taken with 5 members present and three absent.

3. APPROVAL OF MEETING MINUTES

Chairwoman Loz brought forth the Meeting Minutes of June 6, 2016 for approval. There were no changes or corrections.

A **MOTION** to approve the minutes as submitted was made by Rick Davies, seconded by Andy Bodnarik. A **roll call vote was taken** with the results of 5-0-0.

Chairwoman Loz elevated Barb Marty to sit as full board member in Gordon Nolen's seat.

4. UNFINISHED BUSINESS

Site Visit Procedure Document third reading - Chairwoman Loz asked for comments on the document or a motion.

There was discussion on what the process would be if a Site Visit was held and there was no quorum and that the meeting could disband and reschedule. Rick suggested if individual site visits were done, it would be mentioned at the regular meeting but no particulars should be discussed.

Barb Marty asked if a Site visit was held and there was no quorum, could you go ahead and do individual site visits since members would already be there? The board decided that could not be done as individual visits need to be done with only one member and are for silent observation, there should be no back and forth interaction.

Andy Bodnarik made a **MOTION** to approve the Rules of Procedure document Section XIV Site Visit as being accepted for a third reading. Howard Kirchner seconded. A **roll call vote was taken** on the motion with the results of 5-0-0.

Rules of Procedure XV additional rules of order third reading – The board discussed a formatting change that was made to Section II, Item 6 which was previously approved and a change made to Section II, Item 7.

Rick Davies made a **MOTION** to approve the revised Rules of Procedure per the draft dated 7/13/16, Section II Items 6 & 7, Section XIV Site Visit and Section XV Items Q and R. Andy Bodnarik seconded the motion. A **roll call vote was taken** with the results of 5-0-0.

Andy asked what happened next with these two documents and was told they are adopted, today's date will be added, copies will be made and the revised documents will be posted on the town website.

5. NEW BUSINESS

Review of OEP Handbook for Zoning Board of Adjustment – The board reviewed and discussed the document and noted sections including Chapter II Powers and Duties of the ZBA, Chapter III Appeals, and Chapter IV Special Exceptions. Discussion continued on the differences between a special exception and a variance, special exception running with the land, whether anyone monitors the two year limit placed on this, and whether the applicant would be notified if it becomes null and void.

Rick Davies said we don't have a fulltime Compliance Officer and it's not up to the town to notify an applicant in that situation. They would have gotten a letter with the date of approval in it and they have two years from that date.

This led to Andy asking what the role of the Building Inspector plays in all of this. Before they issue a building permit or a revised building permit, do they need to know if a special exception has been granted? Rick said when he was the Planning Board Chair last year, he, Lois, the Building Dept. Secretary, Town Administrator and Building Inspector met to make sure the process was understood and that there was good communication between all parties. He explained the Planning Board is strictly commercial or multi-family and in some cases, the Building Inspector needs to find out what the situation is.

Variations were discussed at great length as well as the five questions that are addressed when a variance is applied for and reviewed by the Zoning Board of Adjustment. Andy made the point that some of the info in the handbook regarding this may be an opinion, for example the opinion of a lawyer at an OEP Conference, so that should be taken into consideration. He noted that in Appendix C-10 there is an individual board member worksheet which is really helpful as it talks about all the items and gives an outline to start with when thinking about a particular case. Andy also pointed out C-12 and a sample letter of approval which talks about a variance and how long before it expires. Chairwoman Loz stated there are always one or two of the five criteria that stick out more than the others.

The process for a variance when someone builds something and it is found after the fact that it does not meet the ordinance was discussed as well as nonconforming uses and the fact that uses can change over the years. Chairwoman Loz noted the “use it or lose it” clause mentioned in the handbook and questioned if this applies only when it is never used. Discussion continued with abandonment and what it covers, building code issues and that Warner’s building code is pretty simple.

Municipal facilities were brought up with regards to the future new Fire Station with Rick noting that the Planning Board will have to be given a complete set of specifications/design drawings to review and to make a list of items that don’t conform with what would be required of other applicants in similar situations.

Chairwoman Loz asked what other things the board would like to review in the OEP Handbook. Andy said the previous version used to redline changes and the new version does not. That makes it harder to figure out what new RSAs have passed that would trigger an ordinance change. Andy questioned if something changes in the RSA from year to year, when will we see a change in the Zoning Ordinance, sometime after Town Meeting? It was noted the latest one is March of 2016 which makes sense so that anything that may have happened in the legislature this year that would require change to the ordinance will show up in March of 2017. Rick said the town can put parameters on a situation that is allowed per the RSAs.

6. COMMUNICATION AND MISCELLANEOUS

The board discussed having a Planning Board Representative on the Zoning Board and how important it is. Rick said what is important is making sure someone on the Zoning Board understands what the Planning Board deals with.

Rick asked if at the next meeting, the Zoning Board wanted to look at the Zoning Ordinances to see what needs tightening up or fixing. Andy noted that some terms in the ordinance are not easy to understand or well defined and that would need to come from the Planning Board.

Chairman Loz asked if the Planning Board ever invites the Zoning Board of Adjustment to meetings where they are discussing items relative to zoning and the ordinance and it was agreed that should be a joint meeting. The board also discussed sending a letter to the Planning Board chair to let them know what the Zoning Board of Adjustment feels might need to be worked on. Chairman Loz suggested Zoning Board members take a look at the ordinance and past cases and give it some thought.

Discussion continued on the Use Table and the fact that it could use some revision and that there is a blank space for some uses which is confusing. Rick Davies asked Barb Marty if she understands it. Barb replied that she does and thinks if people do their homework they know they can apply for a variance even though it’s blank which means you can’t do it, but some things may get pushed through with a variance. Andy said his thought process is if there is a blank you should explain what the blank means to which Janice agreed. It was decided to address changes to the zoning ordinance and what might be suggested to the Planning Board at the next Zoning Board of Adjustment meeting.

7. ADJOURN

MOTION to adjourn was made by Howard Kirchner, seconded by Rick Davies. A voice vote was taken with all in favor. The meeting was adjourned at 8:21 p.m.