



## TOWN OF WARNER ZONING BOARD OF ADJUSTMENT

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Key: Inaudible means cannot hear the tape

### APPROVED MEETING MINUTES

**Wednesday, January 10, 2018**

7:00 PM Warner Town Hall, Upper Meeting Room

#### 1. **OPEN MEETING** and ROLL CALL

In attendance:

Elizabeth Labbe    Barbara Marty  
Janice Loz         Sam Bower         Howard Kirchner

Absent: Beverley Howe

Meeting called to order by Chair Janice Loz

Alternates sitting in Sam Bower and Elizabeth Labbe for resigned member (Rick Davies) and absent member (Beverley Howe).

#### 2. **APPROVAL OF MINUTES** – December 13, 2017

**Barbara Marty:** Page 8 at the bottom. Last “you look at the ordinance”

Page 12 at top: 5 lines down. “I also talked to” (instead of town)

2nd paragraph: Apply the Warner Zoning Ordinance

Page 17. Mr Puffer: Second sentence: A proposed USE.

Three lines from bottom. Town name "WARNER" capitalize.

Page 25: 2<sup>nd</sup> paragraph, Andy Butinero's name is misspelled.

Page 29: under Janice, it says Comforting, and should be conforming.

JL Page 10. Starts with another. APTLY, instead of ably.

Page 23: third p from bottom, starts Kirchner. "if a person wants to shoot" instead of shot.

Page 26. Up from the bottom. Beverley will be a voting member.

Page 28. Barbara Marty. "Feel the..."put a space.

Page 30 in the middle Janice Loz, 'Frontage, I would find that to be acceptable.'

Howard K: Page 11. 2<sup>nd</sup> paragraph. "the applicant has not meet his burden "instead of met.

Attorney Mentelli: So 6 months from now....they may be gone."

Our last case: Page 37. Howard. It is an odd lot. I do recall saying that,"

DR: That is what is says on the tape.

hK: it doesn't really matter.

**MINUTES APPROVED** from December 13, 2017.

**Janice Loz:** Two cases before us tonight.

## **VARIANCE APPLICATION**

**Case: ZBA 2017-04 Variance**

**Applicant:** Robert Nute and Heidi Holman

**Property Owner:** Robert Nute and Heidi Holman

**Property Location:** 115 Bible Hill Rd, Map 12, Lot 5

**Description:** Variance to the terms of Article VII/VIII, Section R3/OC-1 of the Zoning Ordinance; creation of two lots with less than the required road frontage for the district.

**Janice Loz:** We ask the public to refrain from making comments during board deliberations when we do go into board deliberations.

No one is to physically approach the table to thank or make any comments to the board for any reasons. Move away from the front table. You may stay until the end, or leave if you need to.

We had a vote to close the public hearing, and open the board meeting at the last meeting. Start the board deliberations. There is no public comment accepted during this time, under deliberations.

Applicant does not speak at any length , but applicant can speak to answer questions. Usually to clarify a number.

Anyone want to start us off?

We are just going to talk through what we heard, what our thoughts are. We are done with questions. We are making our way toward making a decision.

**Sam Bower:** As far...you are applying for 2 variances. You will need a variance for each property. Is that correct? I believe that is the case. There is going to be a variance for the residential that is right next to the road, and then a variance for the driveway that will going in on the OC1.

**Janice Loz:** But we only have one application before us. We have an application for a variance on the road frontage for two lots, to potentially make two lots. And then he would go to the planning board for everything else.

**Sam Bower:** One application could feasibly cover two variances. From the beginning, he has stated that he is applying for two variances. I don't know if that is written on the original application, or not. But I know that each parcel will require its own variance.

**Janice Loz:** Potentially.

**Sam Bower :** We've talked it over and the neighbors are OK with the proposal. OC1, as long as it does not become over-developed, it is zoned for light residential, there are no other houses up there, as far as I'm concerned, it looks good to me.

**Barbara Marty:** It is very clear that in our regulations it says that any lot created by a minor subdivision, which is what this would be, that the frontage in an OC1 buildable area requires 300 feet of frontage.

I just don't feel that even if we grant the subdivision non-conforming lots in the R3 district, that it really addresses the other requirements in the OC1 district.

**Sam Bower:** I think that's what the Variance is specifically is. If the Variance is granted, It is the purpose of the Variance, we are allowing it not to conform. There is a rule in place, but with the granting of a Variance, we are saying we can wave this rule for this case. Otherwise the variance would not be necessary.

**Barbara Marty:** Really the application is addressing the Variance for the splitting of the R3 frontage.

**Janice Loz:** Right. Because there is no frontage for that OC1 area.

**Barbara Marty:** And I think the reason that our zoning district was created with open spaces in that way was to keep that for agricultural and forestry uses. I know it is permitted, in an OC1 district, to have light residential use. But, for all of the three surrounding roads, every lot is in the same situation. Nobody has road frontage in the OC1 district. And that hill is meant to be kept as open space. It is my opinion, and the way I am reading the zoning ordinance, I think that was the spirit when the ordinance was written, but

**Janice Loz:** You can put residence in OC1.

**Barbara Marty:** With the correct frontage.

**Sam Bower:** Or a variance.

**Janice Loz:** So it is not like it was meant to have nothing on it at all.

**Elizabeth Labbe:** There is no OC1 road frontage.

**Janice Loz:** But he owns both the R3, and the OC1 property, so together he does have frontage on the R3.

**Elizabeth Labbe:** So would that just be the ordinance on the R3? Aren't we just discussing the splitting of the road frontage. Right?  
Are we discussing permission to build a home or breaking the frontage in half?

**Janice Loz:** Yes. Both.

**Elizabeth Labbe:** ;If he was not asking for permission to build his house. If that's not a question, or for our zoning board to discuss then...

**Janice Loz:** He is asking for permission to develop that land.

**Sam Bower:** I think he is asking for permission to have a non-conforming driveway. He could go build a house up there is totally within his right. Light residence is allowed under OC1. He could knock the house down, and put something on the hill, and nobody could say anything about it. It's kind of a question of a little-minnie subdivision. He wants to make it two lots so he can have two houses, and two driveways. The only way that would be able to work is , technically, we could make him push the driveway all the way over so that one lot does conform all the way That is an option, but due to convenience, he is asking that we do them both. And apparently none of the neighbors have a problem. One neighbor does have a problem? On the record?

**Janice Loz:** She came to a meeting, after that email, and she was OK with it.

**Barbara Marty:** they withdrew their objection?

**Janice Loz:** Yes.

**Janice Loz:** He could build a house on that lot right now. But he could not sell the antique cape without permission to pass over that land. He either has to knock down the antique cape. This would give us two houses on the tax books. Which is a benefit. He did go to the PB and came up with some possibilities. Sub-divide into two lots, one with a non-forming frontage of 250 feet, one with a non-conforming frontage of 80 feet. Or two lots with 330 feet of frontage, and a ROW being granted for an easement to reach to the second parcel. Or creating two lots with a common driveway. So he has proposed a couple of different options.

**Elizabeth Labbe:** Do we have those? I don't. I only have the letter where he would split it into 3.3 and 45.

**Janice Loz:** I found this today. Probably on the PB minutes.

It was addressed to the PB, signed by Mr. Nute. It's all what is most comfortable. I think a shared driveway is problematic at best. A ROW easement might be a good solution. Having one conforming lot and one non-conforming lot is reasonable. I don't think it looks crowded, or out of place for the district.

**Howard Kirchner:** It was going to be one conforming lot and one non-conforming lot. Where would we go with it? Would he need a new application?

**Janice Loz:** We would give him one variance.

**Howard Kirchner:** We can do that without him asking for that?

**Janice Loz:** I believe so.

**Sam Bower:** In the long run it ends up being the same thing anyway. It's just about how you go about it. It seems like. If the board it is a variance, technically applying for two variances. In the long run, it seems like, if we are happy, with one conforming and one non-conforming. If there were a shared driveway, the property could still be subdivided. If we would be OK with end result, it might be easiest to say, we just have a variance, and if we are happy with the end result.

**Barbara Marty:** Did Beverley submit a letter? I know she was in the favor of one conforming and one non-conforming lot. Did...

**Janice Loz:** Does anyone have how he wants the lots to be divided.

**Sam Bower:** It was on the original map that he submitted. There was an original on the map that he submitted. What the road frontage would be. I don't have it in front of me.

**Barbara Marty:** But the original request was not specific.

**Janice Loz:** But he wanted to take the original driveway and make it..check the tape...which would leave two non-conforming lots.

Mr Nute produced a map.

**Elizabeth Labbe:** So if he wants to keep the driveway the same that it is, and wants to use the 200, and wants to have a conforming lot, and use the old case as the non-conforming lot? I thought I heard you say that.

**Janice Loz:** The antique cape with conforming, is what I was hearing. And then the 80-feet to access the house in the OC1.

**Elizabeth Labbe:** but what if he wanted to do it the other way?

**Janice Loz:** We could give him two variances. He would have two non-conforming lots. Where he wants to put the driveway – it eats into the frontage for the antique cape.

**Elizabeth Labbe:** But what if he wanted to use the ...check tape.

**Robert Nute:** Can I clarify?

**Janice Loz:** No.

Map is brought to Elizabeth.

**Howard Kirchner:** So from what I'm seeing here. 250 feet is the standard frontage. And you need a variance, which would leave...

Inaudible, several people talking.

**Janice Loz:** I think it would be easier if he had from here over, 250 feet. Then the cut won't be where he wants it. He'd have to move it across from the other neighbor. It was just for esthetics.

**Sam Bower:** And for convenience.

**Janice Loz:** I think because this house is so close to the road, where you are going to see it makes a lot more difference. It looks esthetically more pleasing.  
Where are we at?

**Sam Bower:** I think one of Barb's main concern is that we don't want to look, as a board, that we give variances lightly. If there is a concern that we don't want to be giving variances too lightly, then maybe we should say that one of the lots, R3 needs to be conforming. Then he could have one variance for the OC1. Then satisfies both parties, to a degree.

**Janice Loz:** I agree. Plus a Variance is something that goes against what is allowed. So you don't want to give them out easily. I think it is a good compromise.  
Are you OK Howard?

**Howard Kirchner:** Yes I understand. I think you are pursuing the proper line of thought and solution. With 250 for the antique cape, that leaves 80 feet of frontage for the larger lot with the house in the back. I'm fine with that, if that is fine with the applicant.

**Sam Bower:** we would deny the variance for R3, and would accept the variance for OC-1.

**Barbara Marty:** I don't know. That seems like convoluted way to do it. Because we aren't really addressing it as an OC1. We are addressing it as an R3 frontage issue. The 250 feet is an R3 regulation. An OC regulation is 300 feet. By making a conforming lot with 350 feet of frontage...I am still not comfortable that we are addressing the OC-1 problem. But I understand the logic.

**MOTION:**

**Sam Bower:** I would like to make a motion to accept the variance application, to grant the Variance application for the OC1, with non-conforming driveway frontage of 80 feet. Robert & Heidi Nute... 115 bible hill road. Map 12 lot 5. Relief from Article VIIA of the OC1 zoning ordinance.

**Howard Kirchner:** second.

**Elizabeth Labbe:** may I ask another question? Is there any R3, just for the subdivisions?

**Janice Loz:** just the 80 feet.

**Sam Bower:** So it would still be.

**Janice Loz:** Get through this and amend the motion. Just to clean it up. Any other discussion?

**Elizabeth Labbe:** So we are voting to approve one of his variances.

**Barbara Marty:** But we only have one.

**Janice Loz:** For the non-conforming 80 feet.

**Sam Bower:** Leaving the lot that is conforming with 250 feet.

**Elizabeth Labbe:** That is not exactly what he asked for, but we can still do that?

**Janice Loz:** Yes. Any other discussion?

Voice vote:

YES agrees,\

**Passes** with a 4-1 vote, Barbara Marty voting NO.

**Janice Loz:** I would like to make an amendment to make it an OC-R3 district.

**Passes** with a 4-1 vote, Barbara Marty voting NO.

**Janice Loz:** Do we have any other motions to make?



Mr. Nute, your request for a variance has passed. Any appeal must be made within 30 days.

We will move on. Dragonfly.

**3. SPECIAL EXCEPTION APPLICATION - Case: ZBA 2017-01-02** Special Exception

Continuation of Public

Hearing from September 13, 2017 and October 11, 2017, November 8, 2017, and December 13

**Applicant:** Dragonfly Holdings, LLC

**Property Owner:** Dragonfly Property Management, LLC

**Property Location:** Warner Road, Map 3 Lot 33, Zoning District C-1 **Description:** The application will be reviewed in accordance with the

Merrimack County Superior Court order dated July 28, 2017 in the Zoning Board of Adjustment appeal

of Warner Road Holdings, LLC v. Town of Warner, Docket 217-2017-CV-00199.

Special Exception to Zoning

Article XI.B, Use Table Retail and Services Number 20 Other amusements and recreation services, indoor.

**Proposed use:** Indoor gun range and retail store

As noted in the December 13 minutes, we will continue the public hearing where we left off, questions from the board, and responses from the abutter and applicant. Do board members have any questions?

**Howard Kirchner:** About the question of recusal.

**Janice Loz:** Howard would like to make a statement at this time.

**Howard Kirchner:** Could you frame it?

**Janice Loz:** We received a letter asking Howard to recuse himself and Howard would like to address that.

**Howard Kirchner:** It is not ... I have no intention of recusing myself in this case. I do wish to inform the public that I read this case with no pre-judgement as to the desirability of the applicant's plans. There was a question in the letter from a resident, that stated that my question to the resident's counsel, or the renter's counsel, on the property about a

lease. I did make a question and I asked them if they had a lease on the property. The reply was, “no.” My question for that was it was only to clarify something, which I believe I read in Planning Board meeting minutes from this past summer, which I did not believe was on the record for this Special Exception review, which is why I asked the question about the lease, for clarity. I was accused of, the minutes show that I made no statement that their welfare was not important, since they were only renter.

**Janice Loz:** That was not your intention.

**Howard Kirchner:** I was accused of that. I feel I was falsely accused of saying their welfare was not important. I was also quoted in the minutes that I wanted to see this thing through. What I meant by that, I was not advocating for approval, but rather meant that I wished to complete the public hearing that night, so that the board decision process could begin. I was asking the Chairperson, and was corrected on that, that it was not the proper time to do this. This has been a long and stressful experience and I can understand why one longstanding member of the board resigned rather than endure this process. I did state that the applicant deserves closure one way or the other. Both the applicant and abutters have done an excellent job presenting their cases. I believe that it is time to bring this to a vote, so everyone can get on with their lives.

**Janice Loz:** Thank you, Howard. OK. Elizabeth. You will need this microphone.

**Elizabeth Labbe:** I am wondering if you have reached out to the town of Hopkinton at all?

**Eric Miller:** I attended their meeting, and addressed the board directly. I made a 20 minute statement, and answered questions.

**Elizabeth Labbe:** Have you contacted the School Board?

**Eric Miller:** I have not.

**Eric Miller:** Would you be open to connecting with the School Board and the teachers, maybe there are teachers who wanted to be trained.

**Eric Miller:** We are striving to be an educational facility. *Inaudible*

**Elizabeth Labbe:** Have you reached out to the Warner EMTs and emergency service personnel?

**Eric Miller:** Yes. I have had two or three conversations with Fire Chief. Have at least on two occasions sent them a copy of the plans. When I had a conversation with the Fire Marshall's office with regards to the application. They asked me to be sure I send a life

safety code elements of my plan to the Fire Chief, and ask for his feedback, and ask if he had any concerns. I did email to the Fire Chief and have not heard anything since.

**Elizabeth Labbe:** So that would be the emergency action plan, I was going to ask about that.

So if something goes down, you have a contact and have a plan, and are prepared if something were to happen.

**Eric Miller:** Yes, well this is not in the record yet, but one of the things I will have onsite will be an emergency radio. Many of my *inaudible* safety officers will be active Police Officers who are moonlighting, working as safety officers. They will have the legal authority to call directly into dispatch, cutting two or three minutes out of the process should an unfortunate event occur.

**Janice Loz:** Barb?

**Barbara Marty:** I have no questions.

**Janice Loz:** Sam, you had questions. Didn't you?

**Sam Bower:** I still have a few questions. Yes.

I think we can get through these pretty quick. How many employees will you be having, and how many hours per week will they be working?

**Eric Miller:** I was going through the model this week. It calls for 4 FT employees. And we have 6 Range Safety Officers. There are 70 hrs per week, max, that the range will be open. What I use as a factor there is 225%, so staffing will be 225% of the hours we are open. And the reason for that is even though it is an 8 hour shift, my intent is to have 4 hours when they are in the range, and 4 hours when they are in the retail store. That is to cut down on the environmental stress to the employees themselves.

In addition to the Range Safety officers and staff, I expect to have educational staff, most of them will be contract employees, independent contractors. Out of that, I hope to find one person out of that that will be full time person for the education piece, but will start out as independent contractors. Who have *inaudible*.

**Sam Bower:** So that was 4 full-time employees, up to 70 hrs per week?

**Eric Miller:** Yes. But if you look at staffing for the Range Safety Officers, In terms of number of hours, I forget what that amounts to. It takes 225 times 70 hrs, divided by 40 will come to how many full-time employees that will equate to. The intent is to have position of Safety Officer, you know, I've said repeatedly that would qualify for that. What that means is that I don't have to have quite a number of them so I can be flexible

for their primary shifts. In terms of coverage for the range, in fact what I am using is at least 225 percent. At least two, and And on weekends I will have more.

**Sam Bower:** Addressing the waiting period. If the background check is passed right away, then there is no waiting period. Is that correct?

**Eric Miller:** Correct. However long it takes. And there are three states that come back - approve, denial, or wait. The law says they have 72 hrs to resolve the waits.

**Sam Bower:** Do you think the range could operate just as a range, without the retail store and the education classes as a business? Or do they need each other for the business to survive?

**Eric Miller:** The financial engine of this operation is the range. If you were to remove the education piece of it, I would lose interest in this project. This is where I feel I am contributing to society as a whole by providing education to novices who are interested in firearms. As for the retail portion? I am indifferent about the retail portion. If you look at the number of major national retailers that are slated to go bankrupt this year alone, and they are dealing with general merchandise that has 30-40% markups. I don't see where the profits come in from the retail sales. So it's not a big part to me.

**Sam Bower:** Gun rental. My assumption is that the gun rentals stay in the building and are used in the range.

**Eric Miller:** That is correct. The rentals are critical. That really becomes the tool for the educational staff to use. There are an infinite number of shapes and sizes of firearms that have different ergonomics associated with them. So a novice with firearms typically says, "I want that one because it looks cool." That one may not be appropriate for their circumstance. So what you need to do is get that weapon in their hands, under the watchful eye of an instructor and teach them the realities of that firearm and see if it meets with their needs.

**Sam Bower:** Soil? Do you know the soil types on the property?

**Eric Miller:** If I were a farmer. It is a mixture of course and fine sand. Because it was a managed forest for 100 some-odd years, there has to be 14 or 15 inches of perfect black top soil. And we have not found a rock yet.

**Sam Bower:** I think that makes it most of the way down my wish. Would you sell bump stocks, silencers, noise delimiters, or blasting caps?

**Eric Miller:** I see no reason for a bump stock. The whole idea of teaching firearm safety is to teach them about control. The bump stock is designed, by its very nature, is to have

the user lose control. Instead of trying to control the weapon, you are using allow the weapon to move freely, and use the stock as a way to increase the pace of fire. It is a terrible idea. We will not sell bump stocks.

As for suppressors – I absolutely believe that suppressors are “*inaudible*”. The questions I would have for someone that doesn’t understand. Suppressors - Is my motorcycle too loud, or is my firearm too quiet? In other words, if you were to take a Beretta pistol and put on a silencer, that would still be about 100 decibels after the suppressor is on the there. My motorcycle, which has after market types, after I downshift, I can probably get it up to about 90 decibels, and several towns in NH, I can get a ticket for it being too loud.

I think suppressors are the most misunderstood element when it comes to firearms. So yes, we will sell silencers. I’m not sure I heard about the 3<sup>rd</sup> item?

**Sam Bower:** Blasting caps.

**Eric Miller:** No.

**Sam Bower:** Would you keep records of who bought ammunition and firearms?

**Eric Miller:** Firearms yes. Ammunition no. We use State and Federal law.

**Sam Bower:** I think that’s all I’ve got.

**Janice Loz:** Can I interrupt? I just want to say that Mr. Alfano does have experts here, that he sent us a letter about, so if we have any questions for them.

**Howard Kirchner:** Just to reiterate a couple of things that may have been brought up in other meetings. Only a NH resident can purchase a weapon?

**Eric Miller:** Correct. You need a driver’s license.

**Howard Kirchner:** And that starts the process of State police, background check. Procedure that takes maybe 15 minutes or several days depending on how things are going.

**Eric Miller:** It varies, most of the year it’s just a couple minutes or so. You get to black Friday, and near Christmas, and the wait becomes substantial.

**Howard Kirchner:** I believe you said that no one would be allowed to bring in ammunition of their own? It’s only house ammunition that you’ll be using?

**Eric Miller:** No, no, no. There are two types of people that will use the range – the general public and they will be using ammo that is sold at the range itself. Members will

be given a list of acceptable ammunition and they can purchase it themselves through other means.

**Howard Kirchner:** No reloads. Is that correct?

**Eric Miller:** Absolutely no reloads. That has to do with a manufactured cartridge has up to an 8-10% variation in terms of the amount of powder that's in it. When you go to reload, those "inaudible" go way beyond that. And you could have accidents. So as a strict protocol, we will not allow reloads in the range at all and we will not sell the equipment for reloading, smoke-less powders associated with that, the primers that would have to be reloaded back into the cartridges themselves.

**Howard Kirchner:** And there is an option of some projectiles that are completely non-lead, that are ceramic or something like that?

**Eric Miller:** Frangible. Part of what I am trying to do is create an experience that is similar to ...bring in a couple of friends. Targets themselves that allow for scoring, so that in that environment, what I have done is I have worked the trigonometry so that even if you are using lead ammunition, the ricochet that comes off of the plates, can come off at a 20 percent angle and go towards that walls. What we will use instead will be frangible and when it hits that steel plate, it turns to dust.

**Howard Kirchner:** I imagine...Is there an incentive to promote more of that use?

**Eric Miller:** The center of the range, the ten lanes in the middle will have lead. What I will sell is jacketed ammunition. You take a lead bullet and you cover it with primarily copper, there can be other materials. What it does is cut down on the lead by 70 pct. I should be clear that for members bringing in their own ammo, I will not require them to use jacketed ammo. Cost is a consideration. You can easily spend 150- 200 dollars for an outing based on the range time plus all the "inaudible."

**Sam Bower:** As far as the lead goes. You said that at the end of the day, the range will be cleaned with a lead vacuum cleaner, is that right? After it has been sprayed down, the lanes have moisture in them, to collect the lead, right? At the end of the day, the lanes will be wiped down? And that moisture will be...what will happen with that?

**Eric Miller:** Good question. What will happen. Is a compressor in the attic, will also have an explosive proof vacuum. So instead of having an electric motor, because that would make a spark, it has compressed air. That vacuum itself, leading to the vacuum end of the hose, is spraying water in front of that, and sucking up a combination of water and lead. Inside that explosive free vacuum is lead sludge. That sludge is put into containers and sealed. You don't want that water to evaporate.

You want to keep that in a sealed container to keep it from becoming airborne. Then you follow up with a Swiffer.

**Sam Bower:** And there will be hand wipes? After a shooter uses the range, you wipe your hands, and the wipe goes in the receptacle.

**Eric Miller:** When you fire a “inaudible”, inside the primer is “inaudible” and that chemical contains a lead sulfate. That ends up coming back onto the hands in microscopic amounts. What we are doing is that as you leave the range, there is a hand washing station. It has wipes that are designed to pick up lead, those wipes will go into a hazardous waste garbage can that is just for that. Trying to avoid cross-contamination. If you shoot a thousand rounds in the range, and walk out and shake someone’s hand, you “inaudible”, this gives them an opportunity before they leave.

**Sam Bower:** If the waste basket fills up, how is it taken care of?

**Eric Miller:** Generally the waste that will come out of the swiffers...the lead that comes out of the “inaudible” all those will be put into sealed containers. They will be marked as hazardous waste, and properly labeled for the category, the federal category that has to go on there, and kept in Even though we will not produce anywhere near the amount of lead that need to get a hazardous waste certification, one of the ways that .... I would personally take the class, and update my procedures manual, with a couple of things. One is so that anything they have to suggest that I do to include in the operations manual. Kept in a non-public storage facility, until when it is removed by a licensed and certified lead contamination company, that will dispose of it and in the case of thing like the lead itself we won’t have an issue because of the lead.

**Sam Bower:** You said that is was the evaporation that would be the risky part of that. Right? That’s what the sealed container is for, mostly to prevent the evaporation.

**Eric Miller:** You want that water to stay there. If you let all that water stay there, and let all the water evaporate, and then someone were to open up the top of that container, you could get a blast in your face of lead. During like, thingslike, during the cleaning, one thing we touched on at the PB, and have not touched on here is that the employees that are going into the range, the have a “inaudible”, they have a hood, gloves, separate shoes. If you looked at the operations manual, each of the employees, are changing into a dragonfly uniform. So prior to leaving, they are leaving in their locker, they are changing into work shoes, end to end management of the lead for the employees and for the general public.

**Janice Loz:** You said you didn’t have enough lead to qualify for hazardous waste certification? What is that?

**Eric Miller:** I'm not sure about the exact poundage. Something like 200 pounds of hazardous waste created. We would have roughly ten pounds.

**Janice Loz:** You would have ten pounds?

**Eric Miller:** yes. I'm guessing. It's the swiffers. It's the "inaudible" that we just talked about. The tiebacks themselves are disposable. The filters are ...recycle use. They will weigh more. But in terms of being able to...

**Janice Loz:** What is a hazardous waste certification?

**Eric Miller:** I am looking for A license to certify hazardous waste disposal company. There is a list that is provided by the Environment Services in NH. I had a conversation with them, they made a couple of recommendations. Part of agreeing to go to this class, even though I don't qualify for this class, is to create a resource for the range so that as new players come in, or as certified waste disposal companies...that type of thing.

**Janice Loz:** So it would be a company that does create a lot more waste than what you are expecting.

**Eric Miller:** Their business is disposal of hazards.

I'm not going to try to...as a small hazardous waste generator I could pack it up and put it into the back of my pickup truck, and drive it to some hazardous waste disposal site. Not interested. For the extra dollars, they will come in and remove it from the building itself.

**Elizabeth Labbe:** So you will have a special haz mat team to come in and clean? Did I understand that? Or are they just going to remove it once you clean it.

**Eric Miller:** So my staff, effectively takes all the items that have lead in it and treat it as hazardous waste, with the exception of the lead that is in the trap itself.

So then we store that...the company comes in and remove that from the site itself. ...but they aren't physically cleaning the building themselves. The exception to that is the lead goes into the bullet trap intself, so you'll have forty tons of rubber based on the estimates that I have. The lead that is fired out of the guns will be suspended inside that lead. When it gets to a certain point, you pay a lead "inaudible" company to harvest and recycle all that lead. I shut down my range for a couple days, and they go through the process. I also bring in new ballistic rubber. The lead itself has a value. Most ranges either break even or make money off of selling the lead for recycling. So two pieces. Getting rid of the lead in the bullet trap plus the day-to-day cleaning and the by-products of that.



**Elizabeth Labbe:** Did I understand that you said you will have independent contractors and employees?

**Eric Miller:** I'm starting with the educational staff will be independent contractors. I don't have enough hours to have a full-time educational staff. I have been very fortunate. I have received an overwhelming number of applications to fill the educational spots. I am very interested in pursuing that. What they will end up doing. I am guessing we will have 10 classes per month. Some of them are two day classes of three hours each night. Some of them are three hour one night class. If you add all that up and you target those classes, you aren't going to have the same teacher teaching all those classes. I will have a number of different contractor that will come in and do that.

The rest of the staff is either full time or part time employees.

**Elizabeth Labbe:** And will any of the independent contractor be cleaning the lead?

**Eric Miller:** Oh no.

**Elizabeth Labbe:** And all of your employees will have specialty training. You said they would have their respirators on, and masks and gloves...

**Eric Miller:** So the staff that does the cleaning itself will "Inaudible. ambulance going by, cannot hear."

We will get there an hour before the doors even open and go through a start-up process. And part of the range is the retail store. As far as I know, no other firearms store in NH is doing this.

Putting firearms into a vault. Partly because I don't want to live behind bars. We will have glass windows on the front of the building. There is nothing that is lethal that can be stolen without having to use a jackhammer and a three hour effort of trying to break a wall. Did I answer your questions?

**Elizabeth Labbe:** Yes. Thank you very much. I have one more question. There are gun locks that you can put on guns and protect them? There are locks? Do you have those?

**Eric Miller:** There are locks. Everything has a chamber or trigger lock. It is required. If you walk into any police station, they have them sitting in the lobby. These are readily available. We will also sell safes. Our position as an organization, is there is have a responsibility with firearms, "inaudible" that's not state law, there's no way I can call "inaudible" and enforce that, but, um, Our teachings with any firearm is whether you have children in the house or not, it should be secured when it is not out for a particular purpose.

**Janice Loz:** I have a couple of questions. Why did you pick this property?

**Eric Miller:** I think it is the best location I can find. Roughly 2 pct of the property in NH is zoned for commercial. Starting with that as the first criteria. Then I looked at what are the neighbors? I looked at MadgeTech, and at the time, there were industrial parts all over the yard, basically from one end of the yard to another, and it has since been cleaned up. In terms of distance, I looked around and realized that the surrounding environment was ideal.

**Janice Loz:** In what way?

**Eric Miller:** If I were in a commercial zone at exit 9, what I would have is multiple neighbors, and much more visibility. Having a vacant forest across the street, And then discovering that the NH DOT shed has the highest concentration of law enforcement officers in any one particular area in this particular county, that was a plus. I didn't see any , "Inaudible," that wasn't part of my plan.

From an economic standpoint, I did some studies of demographics. If you look at the state of NH, from Concord to the Massachusetts border, a million people live. From Concord north, Concord to the upper valley there is another 300,000. to the other border. I wanted to be was get close enough to that population center, and be close to the interstate, but not be close enough That I would adversely effect the existing ranges. You have one in Manchester, one in Belmont, there's one down in Hudson, those are public ranges.

The cost of the HVAC system for this operation is huge. The layout in terms of all the different elements to accommodate the safety, It is a substantial investment. In order to be sure I am not negatively impacting the pricing of these other ranges, and not negatively impact the prices of my range...I picked a place that was 30 miles away from here. There are a lot of things that went into the selection of this particular location. But the key being that it is commercially zoned which is hard to find in NH.

**Janice Loz:** Is there any evidence that gun ranges incite violence or are violent entities in our communities?

**Eric Miller:** None. What they are is an opportunity for people who are interested in safety to go get training. It's a skillset that needs to be continually updated. If you master a particular firearm, and then don't touch it for two years, the next time you pick up that firearm, you won't be accurate at all. If you have ongoing repeated use of that .. Part of what you are trying to train, people in terms of Teach the proper techniques when you are in a stressful situation...your peripheral vision, your ability to think, your heart rate goes up. Your ability to think goes down. You have to have practiced enough so that if you are in a life threatening situation, or forced to defend your home, you don't injure yourself or your family members... Or

accidentally discharge the weapon toward someone who is frightening you, prior to making the decision that you are effectively.. You have to have practice so you don't

**Janice Loz:** But you haven't done any research whether they are , if they are inherently violent, or heard of that when you did your research to get your business model put together?

**Eric Miller:** I looked at the industry from one end to the other. I talked to "inaudible" national sports foundation , and had extensive talks of issues that ranges experience. There is no documented basis to think that violence comes out of training. You have a certain number of firearm owners that are criminals. They are not the ones who go to a range for classes. The reason I keep going back to my range safety officer being active police officers, to moonlight in the range is that without saying a word, I have set the tone for the range. The individuals that that officer runs into in their professional capacity, they will feel awfully uncomfortable if they walk into a range and there's the guy who is the guy having seeing them in the range, having arrest them, "inaudible." Without saying a word, they will feel unwelcome. It's not that I'm judging anyone. It's just that there are certain personality traits and those that come to the range are interested education, interested in in practice. Interested in target shooting. Target shooting is an NCAA Sport at 23 college. There are fifteen Olympic events for target shooting. There are lots of people who have interest solely for a sporting point of view. We get quite a number of people with different motivations. What we are trying to do is to be a positive influence in their choice to develop their skills and develop their education.

**Janice Loz:** In developing your site plan for the property. Did you think about the neighboring did you think about MadgeTech at all and how you would place the building on the property?

**Eric Miller:** No. What I looked at was a factory. And What I'm looking to do is take a property that is 850 ft long and design the range so it fits within that property correctly. Now that you brought up MadgeTech.

**Janice Loz:** Don't go into the weeds here. Don't go into the weeds here.

**Eric Miller:** I want to reference a meeting and a quote from June 19 Planning Board meeting. Chairman Ben Frost said it was illegal for either the Zoning Board or the Planning board to consider the business other than Dragonfly in this application. My application is in front of this board. And all of this correspondence that has come in from MadgeTech that says you need to consider what we are going to do . No. That is against what the New Hampshire Supreme Court has said on the issue. That is the reason on the June 19 meeting that Ben Frost that it is in face illegal to try to pick winners and losers

between commercial businesses. The role of the Zoning Board is to see that I fit into the commercial rules both for Zoning and for Planning Board.

**Janice Loz:** I understand that. I have a question for MadgeTech. I read recently in a packet that you bought some other business entities, which is wonderful. And you said that you wanted to expand. I wondered why, specifically having a business on this property next to you has kept you from expanding on your own property.

**Norm Carlson:** I don't understand the question.

**Janice Loz:** You have said in the past that you want to expand, but you can't. Why?

**Norm Carlson:** Inaudible.

**Janice Loz:** But you have said in the past that you can't expand. Do I remember that right? That you can't expand because of Dragonfly and I didn't know why that was. I was confused by that.

**Paul Alfano:** I'll address this. I understand it is, from Norm, is that he could but he does not want to because his employees would be not want him to. Part of what he is trying to do is keep his employees happy, to be able to recruit people, and having a gun range next door, that is it going to make it hard for him to retain his employees. That is why his employees were here from the very beginning expressing their concerns about this. I assume he could, I don't know what the setback requirements and, but he would give long thought to it in a large part because of the viability of his business here.

**Janice Loz:** But he could...

**Paul Alfano:** I'm assuming he could.

**Janice Loz:** Thank you.

**Sam Bower:** I have a question. How do you address the concern about the property values declining?

**Eric Miller:** If you take a look at the appraiser who did that study. There was only one range that was an indoor range, all the others had an outdoor exposure in them. You can't be a little bit pregnant. An outdoor range is an outdoor range. If you heard 180 decibel pops all day, that would have a negative impact on the surrounding homes. But you would not have that. We have gone through the sound abatement process will be. We went through the Planning Board we made a plan and an agreement based on what the noise would be at the edge of the property.

If you strip away the outdoor range, what you are looking at is a single data point. It's a statistical study based on a single document. "inaudible" that violates the basic rules of mathematics. That is gross negligence on the part of the appraiser. You cannot make a statistical conclusion based on a single piece of... a sale. Did that family have a death? Was it an estate sale? Was it a divorce? Was it a house of "inaudible" condition. There are infinite number of reasons why a single piece of property could have a negative impact on the resale value. That study does not stand up to scrutiny at all. You cannot make a conclusion on a single data point. It is just not possible.

**Janice Loz:** all set? Any there other questions from the board members?

**Elizabeth Labbe:** One more.

I read the Hopkinton School district's note from May 5<sup>th</sup>, from a while ago. Their main concern was traffic. They have the "inaudible" up there. And the footballs, and everyone is using the district right there, that road, the Warner road. How do you feel about reaching out, and connecting with them? You already said you would approve the trail? There is a walking trail. How would you address their concern?

**Eric Miller:** I would be happy to have a conversation with them. My understanding is that that trail, that organization, will get gravel,...they will get gravel along the side of the range. It will open up that trail, the snow trail, it will be all year round.

**Elizabeth Labbe:** That's the rail trail. But what about the road and the connection with the actual traffic?

**Eric Miller:** what I need to do is to get them to understand the engineering that goes behind the range. They are choosing where that X-country team run. They should be running on that trail by my property, getting them off the road all together. That rail trail will bring them all the way down near the high school. That is the safest place to run. I gave you a study in...whatever that state was...

I took the 30 mile radius, from the range itself, and if you were to take google maps, what % of the houses would choose to go down Kearsarge Avenue that stretches into Warner road? On average, it worked out to be about 3.9 cars a day to use that as their primary route to get to and from the range. To give you a point of comparison, I have 5 children. We have 6 cars in the house. The traffic going to and from my home should be more than what would go down Kearsarge Avenue. The exception to that would be, there are a number of great restaurants down there, and we will certainly encourage those who are visiting the area to frequent those restaurants. I believe that is traffic they would like to see. That goes back to the misunderstanding of what a gun range is. If they understood the safety protocols, they would realize that running on that rail trail is the safest option for their children.

**Janice Loz:** Are we almost ready to wrap it up?

**Sam Bower:** Would it be appropriate to give 2-5 minutes to the abutter who has brought a couple of people, to address environmental hazards and property values.

**Janice Loz:** I don't know. I think we've had tons of that kind of information, we read all their reports. So I don't see how talking to it would be any different. That's for me. I'd like to know how all the board members feel? Do you need to hear.

**Barbara Marty:** I think they did make the effort to come here.

**Howard Kirchner:** We could address questions to them. I have no questions.

**Janice Loz:** So maybe 10 minutes? Is that all right with you and your experts?

**Sam Bower:** Maybe 2 – 5 minute recap. Or concern, or not-concern.

**Janice Loz:** Anything you want to say that will be relative to the conversation.

**Sam Bower:** Yeah. To the questions that we asked.

**Janice Loz:** And Eric gets to reply, absolutely.

“inaudible from MadgeTech's table...private discussion.”

**Paul Alfano:** We have an appraiser and have him address the question.

**Mark Carrenti.** I'm a real estate appraiser of 20 years, licensed appraiser in the State of NH. I have a broker's license. I served on the board state of appraisers for 3 years. I'm not going through all the studies. I want to address some of the concerns. There was one control point next to an indoor range, which was compared to 180 data points.

That was an indoor range in Manchester. There was a 6 pct drop in value. The distressed properties were not used. I did reach out to the broker and the appraiser on that transaction to make sure it was a fair transaction. We also had 2 in Mass and 2 in NH. My understanding that the study also has comparisons to other gun ranges. It is my understanding that you have an expert report that it will be “audible.” There is also the issue of stigma. An appraiser does not determine value; they measure it. Sometimes that Stigma does apply. They will just pass on the property.

I do want to say that out of the range of properties that were there, it is a 6 pct loss is because the Manchester range was the loss, so “inaudible.”

**Tim Stone.** Environmental consultant in environment contamination for 35 years. You have all my letters in your packets. There are many items I have identified that I feel not enough detail has been provided, as to the monitoring and handling of the lead to protect the environment, the public, and the employees. In the business I am in, we do all sorts of things, to validate the performance of what's going on, by the frequency of samples we are collecting, and the location and things like that. I have not seen any evidence as to really understanding what needs to be done to understand that to be sure the employees are not contaminated. The emissions coming from the facility, You can say you are doing to line up so many filters. And there is no doubt that filters will collect a lot of lead, but what is getting passed to the filers. You need to do this validation. to date, I have not seen evidence that all these things you would do anything that contamination is being contained. I will give you a quick example, if an employee has an elevated lead level, there is a procedure to have that employee taken out of the rotation, but there is no procedure to determine why that employee had an elevated lead level. These are all things that in our industry we deal with to have quality control, systems in place, and that has been my main concern regarding what I've seen here. Lead, in my opinion, is one of the most important contaminants for us to control, in old homes, in old neighborhoods, and things like that. When you are exposed, it gets readily tracked back into the home.

It is fine to say you are washing your hands, but is there a magic line at your cuff right here? Are you bringing it home on your sleeves? And you bring it into your home, and play with your children. I think it is a problem that needs to be very seriously thought about and addressed. I am not necessarily against gun ranges, shooting ranges, but I do recognize there are significant safety issues. I have not seen enough here to know that Dragonfly has a grasp on things enough.

To make sure the public is not contaminated and that employees will be safe.

**Janice Loz:** If they found that an employee had high levels of lead contamination. He could have someone come in and evaluate that though, to figure out why and try to rectify it. Potentially?

**Stone:** Of course. What I'm saying is that when you have an operation, planning business, you should have those procedures in place in advance. It's not like, oh it happened, what do we do?

**Janice Loz:** So he should have those in place before hand.

**Stone:** So for example, we heard a discussion about the lead from ballistic wax. so how are you heating that wax? What happens to the fumes that come off the wax? Maybe as we heard tonight, this is a contractor that comes in, and shuts down the range. That's the first time I've heard that. Maybe all that is done in a truck. Maybe it is done in the parking lot. There are a lot of loose ends. We have not heard the details. We are talking

about fugitive dust and fumes that is hard to contain. There is not enough to control the performance. There is not enough to say, enough to hang your hat on.

**Janice Loz:** That is something that the Planning Board could deal with if we got to that point.

**Board members:** Thank you, Mr. Stone. for coming.

**Eric Miller:** Let's start with the property. If you heard what I heard. He based the 6 pct on the single sale of a house in Manchester. That on ...it is statistically impossible ...every other data point he had was based on an outdoor range. He said he heavily weighted on the 6 pct that is based on one sale. From that single sale. It is honestly, 25 years of studying actuary reports...what you look for is does this adhere to...is this a reasonable outcome? When you talk about a single data point. It is not physically possible to do a study on a single data point, that, I think addresses that issue.

**Janice Loz:** If I can interrupt. Also, I think it is important to know that, and we will get into if this is a Special Exception or not, that this is a Special Exception. And one of the criteria is not diminished values of surrounding properties. That is the criteria for a Variance. I think it is assumed with a Special Exception in a commercial district, with a commercial entity, we are talking about a whole different set of conditions than we would for a Variance in a residential zone.

We are talking about a different set of, I think ,that is an important point to remember here.

**Eric Miller:** Lead. If I were to go to Warner Fish and Game, and bring AR 15 1000 rounds, and practice for the afternoon. I would be putting roughly 7.8 pounds of lead into the ground. If that is the standard in terms of what lead can be put out into the environment. When you go to my range, the filters are emitting lead at 1 millionth of a gram quantities...it would take, if my range were full all day, every day, for 374 days, it would take that long to create a single gram of lead outside the building. Those filter need to be replaced on a frequent basis. Part of that process is going to be where that filter sits and where the new filter is fitted properly. That is standard.

Part of the operations manual has yet to be written. I am still accepting bids on the HVAC system. Each of them are custom built. Along with that will come the manufacture criteria as to how to properly maintain the filter. I have yet to finish the manual. I will amend that manual when I have the information.

In terms of the elements he is referring to, in terms of lead levels. What the manual reflects is what OSHA says. There are standards that were put in there to adhere to the OSHA standards. Those are the procedures that the federal government tell you to follow. One of the things that the abutters are not aware of, is that there was a conversation between the environmental engineer and the chair of the Planning Board, where it was



decided half way through the and why don't you talk to the environmental engineer and collectively come up with this operations manual. I agreed to that because I thought it was an ingenious plan. If the independent engineer, hired by the town of Warner wrote it completely independent of input from me, I would be suspicious of it. If I wrote it without input from the town, the town would have reason to be suspicious. Working together. The reasons there were iterations, it went back and forth between my original manual and what the final draft was, and it still marked up because there are updates still to happen. There was an ongoing dialogue. Three things: State law, Federal law, and the agreement that I have with the town of Warner. So those are the only 3 standards I need to adhere to. Part of this environmental engineer, who is here tonight, is to lead you astray. He is not the standard I need to meet with, The standard is the Warner Planning Board, with the help of this independent environmental engineer.

**Janice Loz:** Anyone else?

Motion to close the public hearing and open the board hearing. Voice vote. All yes.

**Sam Bower:** I will start the conversation. I think there are four criteria to the Special Exception, I think we can get a couple of them out of the way. The first is the fourth criteria which does not apply.

**Janice Loz:** Yes.

**Sam Bower:** Maybe we should go through them one at a time as a group.

**Janice Loz:** Do you want to start at the top?

**Sam Bower:** Start at the top....for which the application is made. Is it a special exception?

**Janice Loz:** Is it a special exception and is it identified in the use table?

**Sam Bower:** I think it is there under indoor amusement and recreation.

**Howard Kirchner:** I agree.

**Barbara Marty:** Our zoning is pretty vague. We don't specify a lot under that.

**Janice Loz:** Sometimes it is a good thing and sometimes a bad thing.

**Barbara Marty:** In our vagueness, we have left it open to this use, so I think that it does...

**Janice Loz:** Just so that we can say that it is Warning Zoning Retail service number 20. The other amusement and recreation service. Everyone is in agreement that it meets that definition.

All agree: YES.

**Janice Loz:** So. B. The requested is essential or desirable to the public convenience or welfare.

**Sam Bower:** This one I struggle with. And when I saw this one I struggle with. It is hard to identify essential, if you look at Webster's dictionary it says that Essential is something that is necessary, indispensable or unavoidable. There are shooting range options in the town of Warner. Indoor shooting range? No. The Warner Fish and Game department is here and it accepts people. You can go and shoot and sign up; it is available. You can go shooting. And you can go indoor shooting within 30 minutes, in a couple of different directions. I play indoor soccer every week, every Tuesday; I drive to Grantham 45 minutes away. And I do it because I love it and because it is my indoor recreation. Is it essential for it to be in Warner? I find it, I enjoy it, and I drive to Grantham for it.

As far as desirable? Desirable, to whom? Probably to the district, right? And to the adjoining districts, we all voted that this has regional impacts. We had to alert the adjoining districts. How do you measure desire if not by public input? What does the public desire? It is not for me to say this is the desire of the board, or the desire of the individual. I think it would be the desire of the district.

**Janice Loz:** I think the district by definition is a light industrial commercial district. And by definition things of that nature will go in and that makes it desirable. I think the ordinances were voted on by the town of Warner and it fits into the ordinance by definition. I say that you cannot ignore that it isn't an included use. Therefore is desirable.

**Howard Kirchner:** Is it not desirable to have, from the town, for the residents of the town, to have another million dollars of tax base in a commercial zone? That is desirable. I might point...it is or, not an and. Essential or desirable but does not have to meet both.

**Janice Loz:** When you define it in the use table as a recreational use, and you have people who are sportsmen who like guns, and who do sportsmen things to practice their craft. And you do not have an indoor gun range in Warner. You could say we have a grocery store in Warner, so it is not essential that we have another grocery store. It does not mean that you might not want another grocery store.

**Sam Bower:** If you read the whole thing through, the requested use is essential or

desirable to the public convenience or welfare. And how do you determine? It says it right there, To the public. It does not say to the district convenience or welfare. It says, to the public, you are never going to have 100 pct agreement. We just deliberated for 20 minutes on that little Variance thing, it was a back and forth. We could barely agree as members of the board. When you get 81% from Contoocook opposed, 84 from Warner, and 88 % from Hopkinton. That is public...

**Janice Loz:** We were also told. We would also keep in mind that it is not a competition.

**Sam Bower:** Right.

**Janice Loz:** And it isn't a vote. And 80 pct don't win because they are 80 pct.

**Sam Bower:** Absolutely.

**Sam Bower:** No, but we do have to take into account that which direction is the desire meaning, it's the public convenience and welfare.

**Howard Kirchner:** I don't really feel. We have brought this in on regional impact. But, I'm not sure. That mostly accounts for the actual municipality for the town government of Hopkinton to be treated as an abutter. Not every resident of Hopkinton to have equal status of every resident of Warner. We have received nothing but minutes of a meeting of the select board meeting from Hopkinton. They sent no representative, officially, other than citizenship that we allowed to make public comment.

**Janice Loz:** Right

**Howard Kirchner:** I think we might be expanding this out a little bit too much too, in terms of desirability.

**Janice Loz:** I think the use has a desirable recreational value to it.

**Howard Kirchner:** We've gotten a number of letters from people who do desire it.

**Janice Loz:** We have a lot of people who own guns that do not want to shoot in an outdoor range. And that there is something indoors where they can shoot.

**Howard Kirchner:** There was no public comment on this, but I talked to Officer Ron Carter, of Warner Police Department, and how he felt about it, how they felt about it. And it was not in the hearing. We did not have the Police Department representative, ...felt it was desirable. He felt the use of a range like that would cut down on complaints that we may receive in the future of outdoor shooting.

**Janice Loz:** Right.

**Howard Kirchner:** In that respect, he felt it was very desirable for the Warner Police Department because they would have less frivolous type duties they had to go on.

**Sam Bower:** So a little hard to weigh that when it is not a part of the public hearing, but I do see what you are saying.

**Janice Loz:** I have to say. I have never been to a gun range in my life. It is not something that I'm familiar with or comfortable with. I did go to the Manchester gun range, and I don't know if any of the rest of us did. I parked out front, I heard nothing. Nothing. No noise at all. No gun shots. Nothing. I went to the side of the building, right up against the building, and I could hear gunshots. And I've given this a lot of thought. If you heard a champagne pop, and that was a 10. It was 10 times softer than that. And when a car went by, on Brown Ave, I could not hear it at all. When a gun went off, I could not hear any gunshots. When I went to the other side of the parking lot, I could not hear any gun shots at all. When I went to next property, I could not hear any gunshots. Also he made a statement that people would be coming in to the gun range with their guns in bags. And I thought how are you going to do that? And sitting in a car in the parking lot, it is the culture of the range, just like a golf course. People were getting out of the car and bringing in their guns in cases, and over their shoulder. And I thought how are you going to monitor that? Sitting in the parking lot for a while, it is part of a culture like in a golf club, which I also have never been to. It is like the culture of a golf club that you don't just bring your golf clubs tucked under your arm and drag them into the golf range. People were getting out of their cars, bringing their guns in in cases, or over their shoulder with barrel pointing up. I asked the owner, well it wasn't the owner, it was the Manager if it was a regulation of their gun range. And he said it was. And people buy all this accoutrement to bring their equipment in, just like if you had a golf bag your golf clubs. When I went inside, it was very clean, very professional. I was hugely intimidated, but it was not threatening at all. I was rather shocked by that. The owners bought the building from someone else who built it 8-10 years ago, so did not know what the specifications were for the building, and if the specifications had changed or whether we can compare it to what Dragonfly is trying to do.

I just wanted to share with you that that's what I decided to do. ...I was pleasantly surprised not to hear the gunshots, especially when traffic goes by, especially when you talk about a location that is so close to 89.

Then I did some research and found that the Belmont gun range, Hudson and Manchester. Belmont is placed in a light industrial area in proximity to a vocational school, a dentist, multiple residents, a residence across the street, a trucking company, 1 mile to Lake Regional Community College, 3 miles from Belmont High School.

Hudson gun range is in a light industrial commercial zone, in proximity to a machine shop company, a building materials company, a Market Basket, restaurants, Goodwill Store, residence, and 1.2 miles from a private kindergarten, elementary and a junior HS.

Manchester gun range is in a light industrial zone. Near gas stations and hotels. 0.9 miles from a school, Highland Goffes Falls Elementary School Directly abutts a baseball field, jr. league baseball field which they donate money to and have a good relationship with, and some residents.

By comparison this property is located, would potentially be located in a light industrial commercial zone, in proximity to MadgeTech, Knoxville equipment, Cyr lumber, A café, a bus company, Davisville State Forest, with the exception of one resident which is very close, all the others are separated by natural vegetation, forest parcels. 2.7 miles up Kearsarge Ave is Hopkinton Middle High School. But I also thought it was particularly interesting to note that we do have a gun dealer who sells guns 0.3 miles from Simonds Elementary school, here in town.

**Sam Bower:** So we already have a place to buy guns.

**Janice Loz:** It is a very small operation.

**Sam Bower:** So we also have the master plan. It is not binding towards boards, but it is there to serve as a guideline for us, to help us determine what type of businesses we want in town. One of the things they say right away is that we are supposed to try to support existing businesses, not just the same kind but to support neighbors as well, neighboring businesses as well. Chapter 2 – in the business and commercial development section of the master plan says residents favor putting conditions on developments such as requiring design of performance standards, encouraging green building standards, protecting water quality, flood plains, and promoting public job creation.

I mean as a board we never asked to if there were any green design performance standards. As far as protecting water quality and flood plans, we have heard that there could be potential risk for flood contaminate. The abutter uses a well, it is not town water, they are on their own well. If they were to have lead get into it...that would be a massive issue

**Janice Loz:** I think a lot of this, I think the lead and things of that nature could be handled in Planning Board .

**Howard Kirchner:** Already has been dealt with..

**Sam Bower:** The other things, as a board, there is expert testimony on one side, and not the other. That being said, using our knowledge, our general knowledge as board

members, and knowing the surrounding area and the district. We don't have to conform with what the expert testimony was, but not being rebutted, but To me, it does weigh more, slightly more. We heard that there was a risk, it does have weight, slightly more in that we heard that there was a risk.

**Janice Loz:** There is always a risk in anything.

**Howard Kirchner:** We have the town, the Hopkinton town place across the street, ...the state garage if there is any lead in that well, it will be coming from there and not from the range.

**Sam Bower:** Perhaps.

**Howard Kirchner:** I believe that Mr. Miller is really ...

**Janice Loz:** I don't think it is fair to...

**Howard Kirchner:** State of the art...range...and all the standards that are required.

**Janice Loz:** I don't think it is fair to judge because one side had experts and the other side doesn't.

**Sam Bower:** I think it is up to board members to weigh that. All I'm saying is that, to me, it is hard to overlook that. Again. Using the master plan as just a guideline. In the master plan, chapter 10 existing land use. 2.2 % of Warner is zoned C1. A lot of that is already taken up. Already developed. Warner does not have an infinite amount of C1 district. We should think about as far as using the master plan, chapter 2.3 – A vision for the future – appropriate commercial industrial development in the exit 7 and 9 area, that serve as gateway areas to the town, and offer significant employment opportunities for Warner residents.

**Janice Loz:** I also think this might not offer huge employment opportunities. But I do think it could draw significant patronship. The amount of people that could come to use this gun range, who would be coming to use the grocery stores, the cafes, use the restaurants, the shops, and those other entities in that industrial area don't do that. Even though you don't have employees, I think the balance of, the fact that this could bring a lot of patrons to Warner is a good thing. So are you going to say no to this guy, and so the next guy can bring more employment, and you have no guarantee of that. And we can't judge what we don't know.

**Howard Kirchner:** The master plan is a guide line but it is not the zoning ordinance.

**Sam Bower:** I agree.

**Janice Loz:** Can I just say one more thing about the Master Plan. The Master Plan also says that the C-1 district in the exit area, it is their hope that the C-1 district and the exit 7 area were to be expanded to match the future land use map. And residents and board members feel developers can potentially take advantage of additional commercial opportunities in this area if it could be expanded. Commercial industrial area should be developed at, specifically at exit 7, or along 103/127 to Webster and Hopkinton town line. So it does fit, so that we are getting somebody there, and we have not had a lot of growth in that area as of late.  
Sorry Howard...go ahead.

**Howard Kirchner:** We have not brought up education aspect which is the training aspect. The applicant has brought that up as a desirability factor. A certain percent of the community would like to have that, and learn firearm safety, and take their children there, if they wish...young adult children, and teach them proper use of firearms. Police training facility would be desirable, for both town police force...multiple towns.

**Janice Loz:** Ladies. Do you have anything you'd like to add?

**Elizabeth Labbe:** How many employees were there going to be?

**Janice Loz:** 4 ft, a couple of PT, and independent.

**Barbara Marty:** I would like to address the noise issue. In the original application, it states that sound would be contained. As we have learned, that is not the case. The sound is not going to be contained. And in last month's testimony, page 24, When the applicant was asked what was the sound going to be outside the building, he said, "I don't know." There was talk about between 45 and 60 decibels. I totally understand that there would be normal from the sounds of commerce, and any business that goes into that location...there is going to be traffic. Any business development is going to bring traffic. But a gun range brings a certain type of sound, it is a combusive, unpredictable type of sound that becomes noise.

**Janice Loz:** Have you been to a gun range?

**Barbara Marty:** I have many neighbors that shoot outside, so I know...

**Janice Loz:** But it's not outside. It is not the same sound.

**Barbara Marty:** No, it's not outside. But at a distance, it is the same sound.

**Janice Loz:** No it isn't, because it's inside.

**Barbara Marty:** It is inside, and it is going to be muffled. I understand that. There is still going to be outside sound.

It is predicted that that sound will not be stopped at the perimeter. That sound will be heard by the perimeter and will be heard by the neighboring business who can't move. The cannot pick up their building and move somewhere else.

**Janice Loz:** Do you think that the planning board could be tasked to make sure they get...?

**Barbara Marty:** No, because as testimony was written, and I will read it, As for the exact amount of sound that will be heard outside the building , " I don't know. In fact, Everything I've read, until you put the system together, no engineer can give you a definitive answer because the system has to work in conjunction. " So there is no way at this point to know how loud that sound is going to be.

**Sam Bower:** Howie also said it, and I think you were trying to make the opposite point, it is the rumble of the highway when someone hits that rumble strip. To me, and of course you do, you pick it up right away. Brrrrrrdddit, brrrrrrdddit, brrrrrrdddit, It's that uncommon noise, the (claps his hands), clap, clap, clap, clap that the ear picks up. ...you don't hear the hmmm mmm.

**Janice Loz:** I don't think it's fair to judge it if you have never heard it. If you haven't been there.

**Howard Kirchner:** Mr Miller says he is going to keep working until it gets to almost inaudible.

**Barbara Marty:** But it is not going to be nothing.

**Howard Kirchner:** Nothing is going to be that way. Even nature is going to make some noise.

**Barbara Marty:** There is noise from the highway.

**Janice Loz:** There are shipping bays and buses, and MadgeTech. It is a light industrial I think there is an amount of noise that I think is acceptable.

**Barbara Marty:** Absolutely, but this is a particular unwanted...from the sound of commerce to the noise of the unwanted sound.

**Howard Kirchner:** It is not in a residential zone.



**Barbara Marty:** It's in a commercial zone. 25 feet from the border of an existing business.

**Howard Kirchner:** It's not in a residential zone.

**Janice Loz:** It isn't a residential zone.

**Sam Bower:** If it affects a residential zone, if you look at the next piece - the requested use will not impair the integrity or character of the district, nor be detrimental to the health morals or welfare. ....we talked about property values earlier. And property values fall squarely into the integrity of the district. And if, again, there is the expert testimony that we got, and portions that we heard today. What sits almost more with me is our local realtor...Steve Brown who wrote in, and said there would be significant impact on residential and commercial property values - right there. And that has been undisputed.

**Janice Loz:** I don't agree.

**Howard Kirchner:** I dispute...

**Sam Bower:** How can you dispute the expert testimony and Steve Brown? How long has Brown Family Realty been doing real estate in the town of Warner? I don't think you can find any better,

**Janice Loz:** I think you get a room full of realtors and they are all going to give you a different response.

**Sam Bower:** So far I have heard from two, and they gave me the same response.

**Janice Loz:** And they were both asked that by the abutter.

**Sam Bower:** One was a public comment, and one was an expert. I would hope that an expert would tell the truth.

**Janice Loz:** It is not in the criteria for a special exception to look at values.

**Sam Bower:** It says Integrity...

**Janice Loz:** It all depends on what you think integrity is. For me, it says Integrity or character.

Gun ranges go in light industrial zones. That is where all of them are in New Hampshire. And that is in keeping with the character of the district. And you have the word morals, and morals can be defined as a standard of behavior for the district...and it fits the standard behavior for this district.

**Sam Bower:** The request will not impair the integrity or character of the district, nor adjoining districts. Nor be detrimental to the health, morals, or welfare of that district.

**Janice Loz:** I felt that character fit it better for me. Character fit it better for me. Then I used morals which can be defined in Webster's dictionary as a standard behavior. We are not determining the ethics.

**Sam Bower:** We all voted that this has regional impact.

**Janice Loz:** C-1 industrial districts are not islands, they are going to touch other districts, and when the ordinances were written, and the use table was developed, ....now if he were to make this a club tomorrow, and go under a different use, he could build it without even coming to us. So why not making it a club makes is that much of a distinction, that he can't build this. It makes no sense to me.

**Sam Bower:** The welfare of the adjoining district. The adjoining district is a residential district. So we have to take into account the welfare of that district.

**Janice Loz:** One of the adjoining district is an OR-1. Is that right? So if you look at the future land use map, They want to expand out, and push those residential areas even further. And the OR-1 District, as noted in our other discussion, is potentially kept there because it is un-developable for some reason. Of that it is not desirable to put residents on in the area.

**Sam Bower:** Also within that adjoining district is the Hopkinton school. We heard from education professional, their sole task is to create a healthy and safe learning environment for their students.

**Howard Kirchner:** What is unhealthy?

**Sam Bower:** Don't ask me. The school board themselves said it, they are education professionals.

**Janice Loz:** I am going to ask you: What do you find unsafe?

**Sam Bower:** It is not what I find unsafe about it. It is what the welfare of the district, and adjoining districts.

**Janice Loz:** What did you read? And what has convinced you that this is unsafe?

**Sam Bower:** It did not convince me. It convinced the Hopkinton school board. They are the education professionals.

**Janice Loz:** And what specifically about this business entity did they say was unsafe?

**Sam Bower:** One thing that they said was they said is the traffic. Another thing they said was that they do school census. They said that 14% of the students have talked about suicide in the last 30 days. I am not going to try to pretend that I know why they made their decisions. But I Just know that...and it wasn't just the School Board, there were individual teachers that wrote in as well, that said they felt it was inappropriate.

**Howard Kirchner:** This is a zoning issue. And they are bringing a gun issue into it.

**Janice Loz:** They are bringing a gun issue...

**Sam Bower:** They are bringing a safety issue into their school, and that school is in the adjoining district.

**Howard Kirchner:** By not being there, they feel it will be less safer, and there would be less suicides in the Hopkinton High School.

**Sam Bower:** 80% of suicides are with a handgun.

**Howard Kirchner:** And they can go into Concord and get a handgun at Riley's.

**Sam Bower:** You are 18 years old, and you get dumped by your girlfriend, and you get in your car and go two minutes down the road. I'm not going to say why.

**Janice Loz:** Sam, I just want to say. I just want to say. I'll take a deep breath. I understand where you are coming from. I think the thing that we have to keep in mind . Because I understand that this is a tough case. I struggle about this myself. I have very strong feelings about gun regulations and all of that. I have to put that aside for this case. And look at it unemotionally, literally, and ask is this allowable in this district? Am I trying to come up with reasons not to have it here because it ethically and morally goes against what I feel? It is allowable in this district, and we have to put the whole gun issue aside. When you look at this, and I'm not saying it right.

**Sam Bower:** I agree with you. I have not touched on the issue of guns at all. I have touched on the welfare of the adjoining district. How is one to know what the welfare of the adjoining district is? We, as a board, we all raised our hands and voted that this has the development of regional impact. We all raised our hands and said yes we need to let these adjoining districts know and put their public comment in. As part of that public comment, we heard from the school board.

I'm not saying that ends the whole debate, I am saying that it is something that needs to be considered.

**Janice Loz:** I will tell you that at the court case, the town of Hopkinton was represented there. And they said they had no issue.

**Elizabeth Labbe:** But the Town of Hopkinton , in the letter they sent, they have lots of issues.

**Howard Kirchner:** And that was from whom?

**Elizabeth Labbe:** It was from the Town of Hopkinton Board of Selectmen.

**Howard Kirchner:** The board of selectmen?

**Elizabeth Labbe:** Yes, it was sent on Nov 7. They appreciated us giving them the...

**Janice Loz:** Why don't you paraphrase and pick out some of their issues.

**Elizabeth Labbe:** They are thanking us for acknowledging regional impact. They held a public hearing and invited people to come. They asked us to acknowledge that we are abutting a residential agricultural forest district, they asked us to acknowledge that and figure it out. Basically they said that it gives them limited rights. Hopkinton does not have a lot of rights at this point, because they are just the regional impact. They have a right to notice, and a right to present testimony. They also go on to say that we don't have to acknowledge it to the extend of Warner residents.

For public records, 63 out of 74 public letters received since Nov 6 asked us to oppose. They expressed serious environment concerns. *Inaudible* reclamation. Special exception requires the request to have essential and desirable; they say that it is not. We appreciate your diligence and attention to this matter. So they have received both.

**Howard Kirchner:** They kind of straddle with it. They had some for, and some against, and they thanked us for giving them input.

**Sam Bower:** That is what you find in this in our district too, in Warner. You have some for and some against. It is a little unfair to say some and some because it is dramatically different. ....it is not balanced. I don't know the character and the integrity of the district, and adjoining districts, and I don't think it's up to myself to interpret that. But if you are to look at the public comments, it's the public that makes up who we are.

It is not up to me to interpret.

**Howard Kirchner:** It was not a public referendum. It was just the people who chose to write their letters.

**Sam Bower:** That's all that we can go on.

**Howard Kirchner:** We don't have to give it any weight.

**Sam Bower:** There has to be some weight, otherwise we would not ask for their opinion.

**Janice Loz:** They are allowed to give their opinion. Absolutely. But...um...

**Elizabeth Labbe:** What I heard is that it can't be a popularity contest. It is not a popularity contest. I just need something by the numbers. I can chalk it up here, I can chalk it up here. You have to weight it.

**Sam Bower:** then I start putting all these things together. So where did we start? Is it essential? No.

Desirable to the public convenience or welfare? To the welfare, according to the School Board. And according to the property values assessments. No. To some of the public? Yes. To 22% of the public that put their input in? Yes. Even less than that in Hopkinton.

**Janice Loz:** Don't get caught up in the numbers. We are not supposed to weight it like that.

**Sam Bower:** How would you weigh public convenience or welfare?

**Janice Loz:** For me, it is an acceptable use as long as it does not create chaos. Creating chaos would be having an outdoor range next to an airport. Having an airport next to a mini golf course. On its face value when you walk up to the property, there is absolutely nothing that creates chaos that make it stand out or appear inappropriate to put in that district.

**Sam Bower:** I don't see any...chaos would be terrible to the public convenience and welfare. I agree.

**Sam Bower:** We are talking about essential, desirable, we are talking about integrity and character of the district and adjoining districts.

**Howard Kirchner:** If you had speedway there..that is going to impact the integrity.

**Sam Bower:** And it probably wouldn't pass.

**Janice Loz:** Um....where are we in the process?

**Sam Bower:** We are stuck on B and C.

**Janice Loz:** Well you're stuck on B and C.

**Barbara Marty:** I want to come back to the health and welfare. I want to come to the noise. It is a health issue. For the people who have to work within earshot of the gun range, it is going to affect their concentration. It has been shown that unwanted noise ends up causing anxiety by raising blood pressure. It affects people's ability to work. You are talking about this being next door to engineers and people who need to be able to concentrate and work. In that respect, it does impact the health of the district in a negative way.

**Howard Kirchner:** I think the noise is going to be so minimal.

**Janice Loz:** I do too.

**Barbara Marty:** But, you don't know that. That is an assumption.

**Janice Loz:** You don't know that either. In all do respect, you don't know that any more than I do. That's not true. I think if you went to a gun range.

**Barbara Marty:** This gun range is being built like no other gun range and even the applicant said you can't know. He doesn't know, and you can't know. And believe me, if he knew.

**Janice Loz:** But that's a better sample of not having gone to a gun range, as oppose to not having gone to one. Maybe what we need to do is have some site visits to some gun ranges.

**Barbara Marty;** But you would be going to a place that is not representative of what is being built.

**Janice Loz:** It would be a better representation than not going. I learned an enormous amount by going to one. I really, really did. She's like Oh my. Road trip.

**Barbara Marty:** It is predicted to be between 45 and 60 decibels. I think we can take that at the reported value. It will be audible at the perimeter, which means it is going to be audible by the abutter.

**Janice Loz:** We would not know that until we did an actual test...

**Barbara Marty:** And then it's too late.

**Janice Loz:** Right.

**Barbara Marty:** That's the point.

**Sam Bower;** Right.

**Janice Loz:** I think it fits all other gun ranges it placed better. In a quieter district than the other in NH. I am convinced that it fits well in a light industrial zone. I don't have a problem in the criteria that fits that is laid out in the special exception.

We could deliberate this more. We can make a motion. Whatever it is that you people would like to do.

**Sam Bower:** I just...public convenience and welfare. That is different than to the district. That is to the public. Is it essential? No. Is it desirable? To a few.

**Howard Kirchner:** It is desirable to lots of people. More than to a few but those few are not filling up here.

**Sam Bower:** If they didn't show up and they didn't write a comment, then I cannot pretend to know what they think.

**Janice Loz:** Right. I don't think it is good to be too caught up on being essential. Because what is essential?

**Sam Bower:** Essential to me ...is it available already? Yes. Indoor, well yes you have to travel 30 minutes. Shooting in general, no, you can do it right here in Warner. Purchase and sale of firearms, as you said there are some right here in Warner. You could also drive a little out of town, and find it in surrounding towns.

**Janice Loz:** But it would be desirable...that is fine, if that is how you feel about it. We have a difference of opinion... and there's nothing wrong with that.

**Sam Bower:** That one there does not meet the burden of proof to me. And the requested use will not impair the integrity or character of the district, or adjoining districts. The integrity of the district.

If property values decline because of this business...that would impair the integrity of the district.

**Howard Kirchner:** Any realtor... if you have a lot of friends that don't like guns, it is pretty easy to say that the property value will go down.

**Sam Bower:** So if you want to say that the Brown family has friends that would sway their opinion, then what about the expert testimony?

**Howard Kirchner:** The expert testimony was based on one data point.

**Elizabeth Labbe:** I thought it was 189 data points.

**Sam Bower:** That's kind of what I heard too.

**Howard Kirchner:** The significant value of a 6 % drop was on one value.

**Janice Loz:** Do not lose site of the fact that this is a commercial district. This is a commercial district with a commercial entity that wants to go into it.

**Sam Bower:** we have only 2.2 % of our town that we can put commercial buildings into. And a whole lot of that is already taken up. And if you even took a tiny bit from the Master Plan....

**Janice Loz:** There is also plenty that you can glean from the master plan that would fit. Supporting this.

I highlighted quite a bit that I felt could fit this business entity too. You can go round and round and round about it.

I think the applicant has shown an awareness of sound pollution and lead contamination, and has strategies to mitigate those pollutants. There is an expectation that he will go to the planning board and they would work further to deal with sound and pollution, and lead containment.

**Howard Kirchner:** the Planning Board approved the site plan.

**Janice Loz:** They have not even started working on this other stuff, which is really what they do.

**Howard Kirchner:** they did a lot of work on this. They will do a lot of work on this...

**Janice Loz:** The planning board will do a lot of work on this...

**Elizabeth Labbe:** I had a hard time... if it didn't fit here...where would it fit?

**Janice Loz:** It would have to go in a light industrial zone, and that is the only light industrial zone.

**Janice Loz:**



I am going to make a **motion** to grant the Special Exception because the following conditions have been met: The Zoning Board finds the applicant's request for an indoor gun range meets the definition of the Warner Zoning Ordinance use table retail services number 20, other amusement and recreation service, event venue and function services, indoor, C-1, allowable with a special exception. The board finds the term recreation to be defined as an activity done for enjoyment when one is not working. Therefore, the indoor gun range fits within the definition of a recreation service outlined in the use table. The board finds an indoor gun range to have a desirable recreational value to the public, the contained indoor environment is a safe venue to practice gun sportsmanship. The applicant has satisfactorily exhibited the benefits of an indoor gun range in regards to promoting a quiet, safe environment to practice the skill of gun sportsmanship inside the confines of a building as opposed to an outdoor facility.

Developing a gun range at exit 7 in a C-1 light industrial district is in keeping with the Warner's Master Plan. On page 161 of the Master Plan a reference is made to support additional development of interstate exists. Additional reference is made to the preference for retail and service businesses of a light industrial nature being located at exit 7. Also mentioned in the master plan is the desire for future expansion of the C-1 light industrial district at exit 7 in an effort to promote additional commercial development opportunities.

The board finds the morals can be defined as the standard behavior which is acceptable in a district. This zone is C-1 light industrial. Gun ranges are placed in light industrial districts in the state of New Hampshire. Examples of this can be found in the communities of Belmont, Hudson, and Manchester. The applicant has demonstrated an awareness of lead contamination and sound pollution factors and has strategies to mitigate those pollutants. The Zoning Board expects the applicant to work with the Planning Board to ensure acceptable sound and lead abatement strategies. The OC-R1 districts only is non- applicable. The Dragonfly property resides in a C-1 district.

**Janice Loz:** Do we have a second?

**Howard Kirchner:** second.

**Janice Loz:** Do we have any further discussion on the motion on the floor?

**Barbara Marty:** Discussion on the motion before we...

**Janice Loz:** Vote.

**Barbara Marty:** Before we accept it, or before we vote on that motion?

**Janice Loz:** Before we vote on this motion.

**Barbara Marty:** I strongly disagree. I think it is not desirable to the district. The fact that they cannot give us a decibel level of the sound; I don't think we expect the Planning Board to be able to do anything about it. And if this is approved, the noise abatement issue will be off the table. I don't think it is fair to the abutter to have to endure noise pollution that could affect their business in a negative way. And I am not choosing one business over another. I am saying that there is a business there now that can't move. Their building is there, their business is there. . There are windows that point directly at that property. And to think that we would allow a business to go in, that could have a negative impact on their existing business. it is not desirable. I am really stuck on the noise issue because in the original application it said it would be contained, and then in testimony, even from the applicant, we learn that the noise will not be contained. And I find that very undesirable.

**Howard Kirchner:** Well it's a good thing that interstate 89 did not have to get a permit for noise.

**Barbara Marty:** It is a different kind of noise.

**Howard Kirchner**

It's not. It's very similar. It's very loud. I live beside it. Yeah, you can tune it out sometimes. But a truck goes off the road and hits that rumble strip, you get a lot of noise out of that. When we went to the site visit, it was just roaring. You would not have heard anything come out of the future Dragonfly.

The background noise. It just one of the noisiest spots. Nobody wants to put a house beside it.

**Janice Loz;** It's been a commercial zone for a long time. It is not new to the residents there.

**Howard Kirchner:** I disagree on the noise.

**Sam Bower:** Is there still a motion on the floor?

**Janice Loz:** Yes. I know it is an awkward process, but it is how it is done. I know. Are we ready to vote? It's ok. It's a starting point. Let's see where this brings us. Are we all set?

A yes approves the motion. A no denies it.

**Howard:** Yes

**Sam:** No

**Barbara:** no

**Elizabeth:** no

**Janice Loz:** Yes

**Decision:** The motion fails.

**Janice Loz:** Do we have another motion that anyone would like to make?

**Sam Bower:** I would like to bring a motion to deny the applicant's request for a Special Exception due to failure to meet the standards of the four criteria, falling short and not bringing the burden of proof that the health, morals and welfare of the adjoining districts would not be negatively affected, and that the request is not essential or desirable to the public convenience or welfare.

**Janice Loz:** I think you have to expand a little bit on that not essential/desirable, if you could, please.

**Sam Bower:** The applicants fails to meet the criteria of essential or desirable to the public convenience and welfare, due to the fact that all of the applicant's requested uses are not essential because all can be found in-town, purchase and sale of firearms, education on firearms, and the Warner Fish and Game can supply all of that. Also, within reasonable distance, all of these can be found, not within Warner.

**Janice Loz:** Did you talk about the integrity and character at all?

**Sam Bower:** In that statute, the integrity or character of the district or adjoining districts nor detrimental to the health, morals, or welfare, I think..

**Janice Loz:** I would say, "The board feels..."

**Sam Bower:** the board feels that the applicant falls short in those areas because of the input from school board, education professionals, environmental professionals, and property value assessments. "

**Sam Bower:** Is there a second?

**Janice Loz:** Is there a second?

**Barbara Marty:** I second.

**Janice Loz:** Barb second. All right.

**DISCUSSION:**

**Howard Kirchner:** The one thing I would say about what you are saying about the Warner Fish and Game. I had an understanding that is a private club. And there are only a certain number of memberships. I may be wrong, I was told. It's not an open-door thing. You have to wait. There is a long waiting list to become a member. It is not just a thing that you can just walk up there and use it unless you are a really good friend of a member of something like that. It is not an open to the public facility.

**Sam Bower:** Maybe if not in Warner. You can still find all of these attributes within a reasonable distance.

**Barbara Marty:** My understanding is that Warner Fish and Game is open to all residents. I don't know if there is a waiting list or not.

**Howard Kirchner:** I was told there is a waiting list. That was second hand, but was someone who had talked to someone, a Director from the Fish and Game, they were very much in favor of the Dragonfly because they were maxed out. There are more people that want to use their range than they can let into it.

**Janice Loz:** Any other discussion?

**Elizabeth Labbe:** Could you re-read the motion?

**Janice Loz:** Could you, Diane?

**Diane:** Sam's motion? No. I'd have to go to tape for it to get the whole thing. He will have to read it again. I'm sorry.

**Janice Loz:** Did you write it down, Sam?

**Sam Bower:** In a way.

**Diane:** I can go to the tape.

**Janice Loz:** No.

**Elizabeth Labbe:** Don't worry. Sorry.

**Janice Loz:** No. We are good. Is there anything specific that you want to make sure you hear, or something you didn't hear that you want in there? Something you want to make sure is in there?

**Sam Bower:** The motion to deny the applicant's request for a special exception due to failure to meet two of the required four properties of the Special Exception, including that the requested use is essential and desirable to the public convenience or welfare, it is not due to the fact that it is not essential, nor based on what we heard from residence, overly desirable, falling short and not bringing the burden of proof that the health, morals and welfare of the adjoining districts would not be negatively affected, and that the request is not essential or desirable to the public convenience or welfare. It is not, due to it is not essential based on what we heard from residents, overly desirable. And in the other section, the requested use will not impair the integrity or character of the district, or adjoining districts, nor be detrimental to the health, morals or welfare. Due to expert testimony, and the school board's conclusion in the adjoining district, the health, morals and welfare, falls short. And using the expert testimony of environmental hazards and property values, it does not reach the standards.

**Janice Loz:** Hearing no more discussion, we will vote on the motion.

Yes will approve the motion to deny.

**Howard Kirchner:** Motion to deny.

**Janice Loz:** Yes, it is kind of backwards, but we will approve the motion to deny.  
No will deny the motion.

**Howard Kirchner:** No.

**Sam:** Yes.

**Elizabeth:** Yes.

**Barbara Marty:** Yes.

**Janice Loz:** No.

**Janice Loz:** The motion passes.

**DECISION:** 3-2 vote to Approve the motion to Deny passes.

We will work on the motion and get it to the applicant.

**Howard Kirchner:** Well we got closure.

**Janice Loz:**

Please leave quietly. We are still meeting.

Any aggrieved party has the right to appeal. The appeal must be made within 30 days of the decision. The appeal will be granted if the applicant can show that the decision was made in error.

**UNFINISHED BUSINESS:**

Grandfathered lot for Joe Mendola on the last meeting.

Determination ...it did have the fifty feet.

**Barbara Marty:** does that follow through to any non-conforming lot?

**Janice Loz:** Just the grandfathered.

It can have fifty feet of frontage and support the septic. We did this one right.

**Janice Loz:** I know it got heated in that last meeting. We are representative of the town.

**Sam Bower:** I am just trying to the best I can do.

**Janice Loz:** In the end...we have to make sure we do it right, and do it legal, and that is all that matters.

**COMMUNICATION AND MISCELLANEOUS:**

**Janice Loz:**

I went to the select board and said we have an open board seat from when Rick left.

**Elizabeth:** I thought we had that architect?

**Diane:** Harry Seidel has talked to Jim, and Ben, and John, but has not applied.

**Janice Loz:** They did not want to appoint anybody until I asked if you would be willing to serve as a full board member. I could not remember if I specifically asked. Sam, would you be willing to be a board member.

**Sam Bower:** Yes.

**Janice Loz:** Elizabeth would you?

**Elizabeth:** Yes, if I am asked.

**Elizabeth Labbe:** The other thing they wanted to ask, if Beverly wanted to be re-appointed in 2018. They want to, Diane if you could do that for me. Diane will ask if she wants to be reappointed or not.

They want to know what will be in the balance.

**Janice Loz:** Is there any way we can make email our preferred mode of communication?

**Howard Kirchner:** Not at this time.  
What are you proposing?

**Janice Loz:** we use it for back and forth communications. A follow up if you can come to a meeting. Any information brochures.

**Howard Kirchner:** short messages yes. Large downloads is a problem.

**Janice Loz:** would you be able to get packet that is 8-10 pages.

**Sam Bower:** I can get it, but if it is too big it is too hard to scroll.

**Diane:** You would still get a packet to you.

**Howard Kirchner:** We probably will not have the volume.

**Barbara Marty:** I would love to get the information on Friday.

**Elizabeth Labbe:** Yes to email. Don't limit it to 10 pages.

**Janice Loz:** Large packets will be mailed or picket up by board members. But we will try to do delivering as last effort.  
Packets can be left outside the front door, in the vestibule.

**Janice Loz:** Send by email.  
Just to make it standard. Then left in the vestibule, and mailed if necessary.

Next meeting is February 7<sup>th</sup>.

Motion to adjourn.  
Meeting adjourned at 10:42pm