



Town of Warner  
*Zoning Board of Adjustment*

**APPROVED Meeting Minutes**

**Wednesday, April 11, 2018**  
7:00 PM Warner Town Hall

**1. OPEN MEETING** and ROLL CALL

Harry Seidel (alternate)  
Beverley Howe  
Sam Bower  
Janice Loz (chair)  
Howard Kirchner  
Elizabeth Labbe (alternate for Barbara Marty)  
Barbara Marty (absent)

**2. APPROVAL OF MINUTES** – March 14, 2018

Edits made by Harry Seidel, Barbara Marty (via email), Janice Loz, and Attorney for Joe Mendola

**Motion to** accept minutes made by Beverley Howe.

**Second by** Sam Bower

Unanimous **approval** of minutes as amended

**3. Planning Board letter to discuss**

April 5, 2018

Janice Loz - Chair

Zoning Board of Adjustments

5 East Main Street

P.O. Box 265

Warner, NH 03278

Subject: Manufactured housing definition and "tiny houses"

Janice,

Thank you for attending the Planning Board meeting of April 2, 2018, to discuss the Zoning Board questions regarding the definition of manufactured housing and tiny houses.

In response to your letter of March 27, 2018, the Planning Board reviewed the zoning ordinance and the questions of the ZBA.

The ZBA is seeking the Planning Board's understanding of the manufactured housing park ordinance. Questions arose whether a tiny house could be defined as a manufactured house under the terms of Article XIII.C.1. (see enclosed) Or, defined as a travel trailer (Article XIII.C.5).

Also, manufactured housing is subject to Article XIII G. General Requirements, relative to HUD standards, inspections and occupancy permits. If tiny houses are considered manufactured housing are they subject to HUD standards?

The consensus of the planning board is that only those dwellings that meet the definition of manufactured housing are allowed under Article XIII. This definition is in the ordinance at XIII.C.1, which is identical in relevant section to the state's definition of manufactured housing found in RSA 674:31. Any mobile dwelling that is less than 40 feet long, less than 8 feet wide, or less than 320 square feet area is not manufactured housing. For a mobile dwelling to be allowed that does not meet this definition would require a variance to the definition itself.

The planning board also concluded that anything that is manufactured housing must comply with Federal standards for such dwellings. A tiny home that does not meet that definition would not be subject to Federal standards, but probably would be subject to standards applicable to travel trailers (e.g., title and registration, among others).

The planning board hopes this provides sufficient guidance to the ZBA and we thank you for your thoughtful inquiry.

Sincerely,

Ben Frost, Chair of Planning Board

**Janice Loz:** There were several references about the Planning Board in the ZBA meeting of March 14. It was necessary to get their input. I stated to the board that I would seek clarity from the PB on the definition of the manufacturing housing ordinance and how it applies to Tiny Houses.

**Harry Seidel:** Manufactured Housing has to follow Federal guidelines. They offer a minimum standard of protection, energy use; it establishes a basis for what people consider to be acceptable, as opposed to an open road recreational trailer. That is a very significant point.

**OPEN PUBLIC HEARING:**

**4. VARIANCE APPLICATION –** Continued from March 14, 2018. CASE ZBA 2018-02

Continuance of Public Hearing from March ZBA meeting.

**APPLICANT:** Joseph Mendola

**Property Owner:** Alan C. Wagner, Jr.

**Property Location:** Schoodac Road

**Map #11, Lot 14-1.** R-3 District

**Description:** 13 unit Tiny house open space development under the Manufactured Housing Park Regulations.

Request for a Variance to the terms of Article XIII, section E of the Warner Zoning Ordinance, for the proposed used of 13 tiny house open space development, under the Manufactured Housing Park regulation.

Mr. Mendola is accompanied by Attorney, Jason Bielagus, and by Jennifer McCourt of McCourt Engineering Associates.

**Public Comments:**

**Chair resumed the public comments from March 14<sup>th</sup>.**

**Rebecca Courser:** I am trying to understand the letter from the planning board to the ZBA. Does that mean that you (the ZBA) need to come up with a definition for tiny houses? There is a process for that, that includes research, writing, and a vote at town meeting. This might be premature for the ZBA to struggle with the definition of tiny houses at this time.

**Janice Loz:** From what I understand Ben Frost, at that meeting, did state that the board felt that tiny houses did not fit the definition manufactured housing, that you would need relief from the definition of manufactured housing. Although, he did not think that was impossible, it negates the reason for having a definition. Just because the PB came to that conclusion doesn't necessarily mean that the ZBA will reach the same conclusion.

**Sam Bower:** I agree with Rebecca. Somewhere down the road, the town needs to come up with a definition for tiny house unit, as it seems to differ from manufactured housing. Many towns will be faced with this.

**Beverley Howe:** I believe there are no building code or standards for tiny houses.

**Joe Mendola:** We are getting confused with the term tiny house. We are here to work within the manufactured housing park definition, whether you call it a manufactured house, or a tiny house, with the regulation that the PB has stated, it needs to be built By HUD safety specification; it has to be either 8 x 40 ft, or 320 sf. And when you meet that criteria, call it manufactured house or call it a tiny house, or call it whatever you want. Because I know Article XIII, we are obligated to put the houses on there that meet the clear definitions of the zoning ordinance. If you think a tiny house does not meet the standards, then my tiny house will meet the standard because that is what the regulations say. If you get caught up in a manufactured house is this, and a tiny house is that, if that is confusing, we are here to get a variance within the manufactured housing park zone. Whatever goes there will be within the regulations of the manufactured housing park, no matter what we call it.

**Beverley Howe:** 8 x 40 is a trailer size. That is not a small house. So you plan to put three 8 x 40's together? That is three big trailers. 8 x 40 is 320 sf.

**Jennifer McCourt :** The plan I submitted showed 8 x 40 lots within the required separation.

**Maureen Hampton:** In the application under proposed use, it states 13 unit tiny house, under the manufactured house regulation. We are looking to put in a tiny home manufactured park. We still don't have the definition of tiny home. When you research tiny homes, they are smaller than 8 x 40.

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**Joe Mendola:** But the ones put in Warner will be according to our zoning ordinance, Article XIII of the zoning by-laws. I am building one on Poverty Plains Road, that is 650 sf. I am going to abide by the regulations, and if you want to make that a condition of the approval, I am happy to do that because I want to live within the letter of the law.

**Janice Loz:** So all these houses will be 8 x 40 or 320 sf.

**Joe Mendola:** Yes, 8 x 40 or 320 sf.

**Sam Bower:** Is that minimum?

**Joe:** Yes.

**Sam:** The max?

**Joe:** There is no max. That is the minimum size that our zoning ordinance requires to be built in the manufactured housing park.

**Sam:** In the application, the lots are done to the minimum. So if a unit came in at 640 sf? It would not fit, or you would have to put one in two spots.

**Joe:** It would not happen. We would build according to the zoning regulations. That is a significant size for a tiny home.

**Sam Bower:** Although 320 sf is the minimum, and you could go multiple stories there, you would not be allowing anything more than 8 x 40 because it would not fit. So your max is your minimum size, unless it is reached by the 320sf.

**Jennifer:** It might be 8.5 feet wide. 320 sf is the minimum.

**Beverley:** I believe that is the size of the regulation trailer. That is not a tiny house.

**Joe:** It is the size that is required by zoning ordinance. My tiny home will be 320 sf, built to HUD's regulations, because that is what the zoning requires.

**Janice:** Will these houses (8 x 40) be constructed to comply with the town of Warner building codes? How could they be if they are built out of state?

**Joe:** I believe that the HUD standards supersede the town.

**Janice:** Tiny houses will be built to HUD standards?

**Joe:** Call it what you like.

**Janice:** It is important to get this right. I would like to see somewhere that says Tiny Houses need to be built to the standard of HUD. I could not find anything like that.

**Jason:** Many of the questions can be addressed in the application. The proposed use is 13 unit tiny house open space development under the Manufactured housing park regulations. If you go to the first page, "Proposed use is 13 unit tiny house open space development under the manufactured housing park regulations."

The application is seeking to do something within the manufactured housing regulations. The second sentence says, "A "tiny house" is as the Warner Zoning Ordinance defines a "manufactured house." This application is saying that we are going to do this in accordance with ARTICLE XIII, and within the town's requirements for manufactured housing. We were listening to the concerns last time, I want to address many of the concerns. I think we are on the same page more than what appears at first. As you know, as a board, you can deny or grant an application, or you can grant an application with conditions. I think one way to look at this is to grant with conditions.

Here are some conditions that I think everyone would agree to:

All units have to be at least 320 sf

Every unit to comply with applicable HUD, state, and federal and town standards for manufactured housing units.

All units to be permanent residences if rented for at least 6 months.

The park to be governed by regulations in accordance with RSA 206-A.

That is something I think we can all agree to.

**JD Colcord:** I've never seen a manufactured house come into this town where they left the wheels on. It is my understanding that with tiny houses you leave the wheels on you can move it in the middle of the night and be down the highway. Manufactured houses usually come in two pieces, and come off a crane, and set on a foundation. I would be opposed to anything being called manufactured house that is on wheels. If you want that, it is either a camping trailer or a mobile home.

**Andy Bodnarik:** I recommend that you do a site visit. It is very difficult to tell 5% grade from 7% grade to 12 percent grade. The application refers to multiple places where there are wetlands, Go and see where they are and what mitigations will be done.

If you have not had a joint hearing with the planning board. Do so. Letters can be great, but sitting in a room with PB, you'll hear one another's concerns.

If you have not consulted with legal counsel yet, please do so.

I started looking at some of the issues:

Pages out of the Dec BOA of NH for local officials. In 2005, Harrington vs town of Warner, it gets into all kinds of issues dealt with manufactured housing parks. Read it. It is important. It is online, and I will give you my copy so you don't have to buy your own.

There is a discussion of maybe we should do something with tiny houses. Relative to Tiny Houses, Andover put it on their ballot to define Tiny House. Minimum ground floor area of <480 square feet. They amended their ordinance for certain zones in the town. They did amend their ordinance, and tiny houses are allowed in their town. They would require a special exception.

I cannot tell what is being talked about. Is the variance for 15000 sf. The minutes talk about no defined sites. The applicant said he could develop 13 units, also said they fall under Article XIII. Does he also need a variance from XIII. F, subdivision.

Minutes page 10, the applicant wants to use open space (reference ZBA minutes). That is in article fourteen. That is for subdivisions.

Cluster development is referred to in Article \_\_ section F. It is a clustered development that applies.

In general, we need to clearly know what parts of the ordinance the variance applies to, section by section, paragraph by paragraph, so you understand. The question of the definition being discussed, I leave that up to you and the planning board. There are many things in the handbook that I gave you to be aware that changes are coming again.

Every year the PB needs to deal with changes to the law. There are at least 4 bills out there right now. Have somebody take a look, not just at the RSA we are facing now. Recognize that you may be facing proceedings in this matter that may or may not have an impacted by the current legislative session.

**Janice Loz:** In reference to a couple of things that Andy mentioned. I did notice in the minutes conversations going back and forth between open space development, and manufactured subdivision. It would be good if you could clarify if you are doing a manufactured housing park or a manufactured housing subdivision, or open space development

**Joe:** We have no interest in Article fourteen which is a subdivision. It is article 13 – a manufactured housing park.

**Janice Loz:** 13 tiny house open space development. Why use that term?

**Jennifer McCourt. :** It is because of the way we laid out the development. We are asking for a variance from lot size, site size , section E. I think it would be better to call it clustered instead of open space. Instead of having it in a grid that the manufactured housing requires, we are looking more to cluster the units because of the restrictions of the land.

**Janice Loz:** It is more of a design term?

**Jennifer McCourt:** yes.

**Janice:** What specifically are you looking for a variance to the terms of? The 15,000 sf, the 150 feet of frontage, and 100 feet of public or private street. What specifically are you looking for? It was only on one of the plans, correct?

**Sam:** When we were going over the application, originally the application said they were applying for a variance to section E. II and III but then looking at it again, it was for the entirety of Article 13, section E. That includes the site size. Specifically, they were asking for site size and setbacks.

**Jennifer:** It is really E.3 that we are asking for a variance from. The rest of it we are meeting. I showed you the yield plan, you'd be going through steep slopes and wetlands. Because of the narrowness of the lot, the steepness, the easement and the wetlands, we felt that if we clustered these units together, there would be less impact, shared wells, shared septic's. If you look at the setbacks. With the yield plan, we could meet that, but we want to disregard all of that. We did meet the 25 feet setbacks. There are 30 feet between each unit. Each unit will conform to the front yard setback of at least 25 feet, the rear yard setbacks of at least 20 feet, and side yard setbacks of at least 15 meaning and intending that there would be 30 feet between each unit.

**Elizabeth:** You are 150 feet away from existing neighbors. Right?

**Joe:** Yes.

**Janice:** So each individual house site has how many square footage?

**Jennifer:** There are not individual sites because they are put together.

**Janice:** You have to have individual house sites.

**Jennifer:** There will not be defined yard area for each unit.

**Harry Seidel:** I am so confused by this application. The application mentioned tiny houses eight times, and only once mentioned manufactured houses. We are asking for a variance from Article E.3, but article E has a whole number of different sections to it. We are talking about clusters, and a different plan that is not clustered. Having a hard time evaluating what is presented is compliant. Trying to listen, but I am very confused. We need a definition of what they are asking for.

**Jason:** If you look at this plan. No variance is needed for this plan; the zoning ordinance allows this plan with units spread out.

**Harry Seidel:** I'm still not convinced that this plan (spread out) would not require a variance because we have not talked about it in detail.

**Howard:** We are only talking about the clusters. The other plan is not even in our scope. The only question is for the variance and the smaller lot size.

**Harry Seidel:** So this one (spread out) has nothing to do with what we are talking about. We are talking about clusters.

**Jennifer:** the reason we put in the one with the yield plan was to show that we could do the manufactured housing without the variance, but because of the requirements of the lot, easements, wetlands, we were trying to minimize the impact to the environment for the spirit of the ordinance, to

combine septic's and wells, and to minimize the disturbance. That was why we submitted the plan so that you could see that we were not trying to put the units in a way that would disturb the land.

**Joe:** That is critically important. If we did 13 units, we do not need to be here for that. By doing the cluster, we are trying to be better users of the environment and the land.

**Harry Seidel:** I am not going to concern myself with this other plan tonight. The drawing of the spread out lots is not something that we will look at. We just need to look at the clusters.

Somebody would come and buy one of these areas. What do they get?

**Joe:** They buy a manufactured house that conforms to your zoning, and they rent a site off of my land.

**Harry Seidel:** And they are depending on a septic and a well working. They are very small. They are of modest means. It would be my luck that my neighbor would throw grease down the trap and the septic system would fail. I would think I don't own my septic system and I'm living in a really nice town, and now my septic has failed.

**Beverley:** You would have wheels and you could leave.

**Jason:** The way a manufactured house works is that you own the unit, and rent the space at the park. At the state, there is a NH Department of Environment Services sub-surface department, and they approve septic systems. The septic is being handled by another gov't body. The question here is can we vary Section XIII E.3 as to site size, and site frontage so as to get a different arrangement of the units for less impact to the environment and better buffer for surrounding properties.

**Harry:** When you do a cluster like this, you are pushing the limits of privacy, density, and intimacy. How would I feel if my neighbor were only 30 feet away? It seems like a challenge. I am thinking about peace and tranquility of my own little neighborhood.

**Jason:** This is no more dense than what is allowed. The zoning ordinance allows 30 feet apart.

**Jennifer:** The zoning ordinance states that you must have 15 feet setback from the neighbor. Some people could put their houses 30 feet apart. Not everyone wants to live that close to their neighbor, but other people love living that way. You can go to some places where people are right on top of one another. And they like it that way, and they also like living in a rural community. We all want something different, and this is just providing it for that age group.

**Beverley:** What you are proposing is a regular trailer park, except that they are all jumbled together, even closer.

**Jennifer:** It is a manufactured housing park that is allowed in that zone.

**Harry:** I would not feel comfortable if your house was 30 feet from mine, and yours was on fire.

**Janice:** You said that each house does not have 15,000 square feet. How many sf does each house have? Because if you need a variance from that, we need to know.



**Jennifer:** Basically doing away with site requirement. So they would not have a designated area, except where the manufactured house goes, and their parking area.

**Janice:** Manufactured Housing, by law, can be taxed. They tax the owner of the manufactured house. How are you going to tax the owner of a tiny house who is transient?

**Joe Mendola:** The department of revenue passed a law about 20 years ago; it is a house on wheels which is allowed in a manufactured housing park. In Warner, a house on wheels is not allowed in an individual lot, it would have to be in a park, the department of revenue taxes the owner of that house as if it was a house. They tax me, as the owner of the land for the improvements to the land. Right now, the town of Warner is getting \$27 per year, and 15 acres in current use and we are going to add a substantial amount of tax dollars to the town.

**Janice:** I would like to see where it says you can tax a tiny house.

**Joe Mendola:** Just check with the Dept. of Revenue – it has been around for about 20 years.

**Janice:** The burden of proof is not on me; it is on you.

**Jason:** With a manufactured housing park - the landowner pays real estate taxes based on the value of the land. Each unit is considered a piece of real property and is taxed accordingly. What would the value be to sell a manufactured housing unit? That is the appraised value, and it is taxed like any other real estate.

**Beverley:** These people may have children, and their kids would go to our schools. Correct?

**Jason:** We are here for a variance which does not consider families. And you cannot discriminate against families. There is a fair housing act – a federal law. Discriminating against families is the same as discriminating against race or religion. Not only is it not one of the five factors for a variance, it is illegal under federal law to make a decision based on family status.

**Martha Mical:** If these, tiny homes or manufactured houses, have a license plate on them, they will not get taxed. They are registered vehicles for the road. Joe said they would be taxed as a home. They will not be taxed because they are registered vehicles. If they are on wheels and able to leave at any time, they are not taxed. They will have a license plate. So we would get the taxes for the property, but would not get taxes for structure.

**Sam:** Would you be building these units?

**Joe:** Yes.

**Sam:** Would they all be built on wheels?

**Joe:** The town of Warner prohibits houses on wheels on individual lots. They require them to be in a manufactured housing park. A lot of towns reversed but that is how Warner's zoning works. If you want to have it on wheels, then it must be in a park.

**Sam:** Is there any interest on your end in working with the town to write a tiny house ordinance for the town?

**Joe:** Yes, and we could be a template for the state.

**Jason:** This application is not about motor vehicles. This is about manufactured houses in a park, which under the state is real estate.

**Pam Trostorff:** Is there any number of people who can live in a tiny house, or the ages?

**Andy:** There was a statement made before about the state's responsibilities, and whether or not the ZB has a say. In the zoning ordinance, In Article XIII, E.1, it says that "...Housing sites shall not include wetlands, water bodies, roads, severe slopes or open space on individual sites." You might be asking for a variance on that, but that does not mean that the state is the only one that rules on that issue. There is a zoning issue here. Not just a water well issue, or not just a septic issue. I'd like to ask the question, "under the plan that they are asking for the variance, how much-disturbed earth is there? And whether or not there is a permit required by the state. They are coming to you for a variance and claiming that they are going to disturb less earth. Do they have to have a permit no matter how much they disturb, instead of the smaller plan than the one they are asking the variance for? Do they have the necessary permits from the state for disturbing the earth? That is why I asked for a site visit.

**Gerry Marsh:** When you talk about heating these homes. Will you use propane gas?

**Laurie (could not hear the last name):** I am a little ashamed of our town right now. I feel the tiny house movement is very forward thinking, environmentally responsible, and not people living in poverty and want to be gypsies and people who want to leave in the middle of the night. That is not what it is made of. It is made up of mostly young people who want to live minimally, not affect the earth as much, use less electricity, not affect the septic as much. I am ashamed of what I hear in this room. I hear mocking and scorning and it is very disappointing.

**Michael Amaral:** On behalf of the conservation commission, we would have concerns about the impact to the wetlands, and Barkley Brook, the Schoodac brook, wild trout and rare turtles. Sometimes turtles will follow water courses that could be on the property. I think the conservation commission would like to do a site walk on the property. It would be timely to do that with the snow melted. As a private individual, I think that clustered development is a legitimate way to develop large parcels of land that avoid the checkerboard style that eliminates all of the habitat. It frequently provides for the same density on half the acreage. Relative to open space, it is either protected permanently by homeowner's association or conservation easement, or some form of permanent protection. As some of you, I looked online to look at clustered buildings elsewhere, a number of communities have denied them. One basis for denial is that the development did not meet the town's clustered development standards; this made me wonder if we have clustered development standards. And if we don't, and if we are going to approve our first one, don't we want to get started on the right foot by developing standards.

Like some of you, I went online and found that a number of communities have denied them. One reason was that it did not meet the town's clustered development standards. Do we have one? If not, then do we want to develop one?

**George Pellettieri:** I missed the last meeting, but was at the PB meeting, and was pleased to hear that Mr. Mendola is interested in providing tiny houses for a population that is excluded in much of NH, millennials. I have a business and we employ a large number of millennials. The point was made at that meeting that millennials, for better or worse, their commitments are a shorter time frame. Mr. Mendola mentioned that with tiny houses, millennials can decide to leave for Colorado, for the next gig as they call them. That is great and I applaud that. Along with many other regulations that we have, I have served on the government commission for shorelines, mostly people abused their privileges by pushing out toward the shoreline and making their own yard. I am all for tiny houses, but we need to define them, understand how they would fit into our community. Millennials also have an interesting requirement, they want to be able to walk to many facilities. This does not quite fit that bill. The last thing I question is, I have referred many variance requests before the board, because of the requirement that you identify a problem with the land that is requiring the variance, a very simple reply – what happens if you build a smaller house? Would you still need the variance? My answer is "no". In this particular case, they are offering a plan as it would be acceptable to the manufactured housing park portion of our regulations, but there is no assurance that it would meet the requirement of the PB. When disturbing more than 100,000 sf, so an application would have to be made to the state, and are reviewed by DES for an understanding and approval and well/septic considerations. With the wetlands/steep slope, nearby waterways, I have concerns as a landscape architect. I was chair of the planning board in the mid-80s, and it has not changed since then. People come here for their rural character, and not disturbing the significant attributes and resource that we have. Unclear to me how the variance request applies in this particular situation. They could develop the front portion of this without crossing the wetlands.

**Mr. Mendola:** Great questions. In terms of the heating plan, our thinking is to do a Mitsubishi electrical unit that deals with heat and ac. If someone preferred propane, they could do that. They could have AC. In terms of age/children. I am living with these people, and they are terrific. The average age of a millennials is 32. I am on the Economic Development committee and Alice Chamberlain asked us to see Steve Dupuis, and the topic was how do you develop a town? If a town does not provide for young people, they will soon find that their property goes down, the young people will tend to stay where they are raised. I will take Mr. Dupuis at his word. The age group 22-31, children is not an issue. I have talked to a few folks in town who are interested in looking at tiny houses to scale down, so no age discrimination. We are interested because the young people are interested in minimizing the environment impact. I want to see the environmental impacted as little as possible. I did call our banker, Jeff Shlesinger, who has been appraising properties for 30 years, and has never seen appraised values go down when next to a manufactured housing park.

These units have their own heating and cooling. I have talked to people in town who are my age and are interested in tiny houses.

**Jennifer:** Terrain, wells, septic, those are planning board issues. Each of the areas (we did test pits) we tested, we found that the wells can take it. Also, there are wetlands out front, and in the uplands. West of the power lines was used as a gravel pit, so all of that area has been disturbed. The majority of the area where we propose to put the units has already been disturbed. Would still need an AOT permit. The advantage of the AOT permit is that the treatments systems would be attributed to a single land owner.

**Sam:** Have you brought in any environmental counsel at all? What is the best option? Mike brought up a great point earlier when we spread these out sometimes you impact more of the environment. Is there a significant impact on the two plans relative to the environment. In both designs, you need to adhere to not building on the wetlands. How great is the environmental impact from one plan to another?

**Jennifer:** Sometimes if people have their site, nobody is looking, and people have more space, and they do more disturbance on their own, even though they are not supposed to. It just happens. If you talk to DES, they will tell you that the biggest offenders are the residential homes because there is no true way to take care of that. Grass clippings go into the wetlands. Some communities put up signs 50 feet from the wetlands, but who is policing that? It is difficult. When you put 3 or 4 together, they tend to enforce themselves.

**Sam:** On the units you build yourself, will there be a license plate? Will there be an inspection?

**Joe Mendola:** The only plate on there will be the one that is granted by the department of HUD saying that the building is built to standards.

**Janice:** Don't they have to have a license plate?

**Joe Mendola:** These people will change their jobs 10-15 times. If they get another job, they can take their home and go. They don't do that but they can do that.

**Sam:** You'd like to work with the town to establish a tiny house ordinance. It seems that with the minimum square footage, every unit will be 8 x 40, because there is a maximum and a minimum size for clustered design. It seems to me, coming to the town of Warner, it would be great to not have the 8 x 40 manufactured housing unit.

**Janice:** There is not a standard size for tiny house.

**Joe Mendola:** There is in Warner because they have to conform to the manufactured housing standards.

**Sam:** It would be good to work with the town to establish standards for tiny houses. A lot of what is being asked for in the variance can be taken care of by starting from the beginning, working with the town, as the variance stands for the manufactured housing park, and I thought Mike made a decent comment about walking the site, and see what are the concerns with regards to environmental impacts.

**Joe Mendola:** In order to have a park, you have to have a minimum of 10 acres. You'll find 2 other properties that are worse than this. We want to get the zoning so we can get going and welcome people

here. If there were no wetlands and slopes, we would not be here, we would be at the PB. We can and should develop regulations for a tiny house.

**David Hartman:** I've been waiting to hear that we may have a site visit. I encourage the ZBA to do that, where the public can go along. I don't want to trespass, it would be nice to get a view of the site and satisfy my curiosity.

**Maureen Hampton:** (abutter) I think we are getting side-tracked about why we are here today. It is in regards to the application. I have heard some variations of the theme of what we are trying to do tonight. Last meeting we spoke about tiny homes, that they are mobile for young professionals, or anyone. They are on wheels. There is a tax impact to the town that we need to be aware of. When you talk about a manufactured housing park, under Manufactured Housing Article XIII, C.1, it is built on a permanent chassis, it is not on wheels, something to take into consideration. We were talking about this not being a sub-division, it is a manufactured park. But when we talk about clustered development Article XIII, when we talk about clusters, F.4, it is talking about a manufactured housing subdivision. There is some wording that needs to be understood.

**Janice:** That is why I asked is this a park or a subdivision. Joe stated it is a park.

**Maureen Hampton:** I do believe there is a tax impact to the town. We cannot limit if people have children or not, that is a concern as it is a tax base to the town. I still believe that the number of people that would look at my house when I sell, it would sell for much less if we are on a R3 with a minimum of three acres. It does not appeal to me to live on top of one another. I would love to see it developed to R3 standards where there are three acres for an affordable house for the youth. Or something that we do in our zoning ordinance, that really speaks to doing a tiny home, and giving them a good lot of land to live on. When you talk about the effect of disturbance to the land, if you treat it as an R3, you really are not disturbing the land as much as with a cluster development.

That really is not part of the application. When they talk about the environmental impact. There are five questions that the applicant needs to prove – environment impact is not part of that. If you went back to my notes from the last meeting, I did ask for a site walk, and I am concerned that one of those properties might be 100 feet from my home. It looked very close to my property line. In closing, I think this should be denied.

**Charlie Goodwin:** A person spoke to the fact that there is something very positive about tiny houses. Others have discussed housing that is affordable to youth. I really like those ideas. I am concerned that what I see on these plans, they don't seem like tiny houses to me. They seem to be trailers or manufactured houses, and the fact that it sounds that they are affordable. Somebody could drive away with their house, and somebody could come by in the future, with a non-conforming property, possibly, after the oversight from the town has gone away. Is that a problem? Is there a remedy for that?

**Elizabeth Labbe:** I would like clarification on the roadways, the last time I brought up the roadways I was told that was a PB issue. It would need a variance – correct? Joe makes the road by town standards. You'll be responsible for trash, sanding, shoveling?

**Joe Mendola:** Yes, I am responsible for all of that.

**Howard:** I think it is obvious that we need a site visit. I had reservations last month, but now I think we need to do that.

**Sam:** I agree.

**Janice:** I don't think a site visit will help with this. I have a question about if a tiny house is a manufactured home. A site visit will not change my mind.

**Sam:** I would like to look at the land. I appreciated Mike's comment. I would like to see how drastically different it would be between the two designs. Trying to attract young people to our town – is everyone allowed to roam from your unit to your neighbor? If there are 30 feet, then that is 15 feet each. But the non-clustered would give me a little more space, personally.

**Beverley:** I feel the same way.

**Sam:** I would like to see the environmental impact between the two designs. I don't know how you will deal with the boundaries between the two? The non-clustered site may give a little more space to each house for outdoor activities.

**Janice:** How do you feel about manufactured home as a tiny house?

**Sam:** They are the same thing. It would be fantastic if Joe could get something going with ZBA and the PB. They are completely different. Manufactured house can be mass produced and shipped. A tiny house is something that he can build in his backyard. As they are defined right now, they are the same. But I would love for them to be different. If you built a unit, and someone wanted to leave in six months, then at that point they would have to get an inspection? I guess we could write an amendment in that these units were built and ready to go, and if that has already happened, the town on the lot still gets to tax it.

**Janice:** As he presented, he never said he would build the units. It is not implied and it does not mean he would build all 15 units.

**Janice:** What did you feel about the PB's interpretation of the ordinance they wrote. Did they say it was different? They felt it did not fit the definition. The planning board defined the ordinance, and they said that the ordinance does not allow a tiny house to be a manufactured home.

**Beverley:** The definition has changed. Originally it was a tiny house, and now, today, it has become manufactured housing.

**Joe:** One and the same.

**Sam:** I think it is the same. In the application, he used the word tiny house eight times, but in reality it is a manufactured housing park. And what he is asking for is a variance to the lot size requirement size and the spacing between those manufactured house units.

**Jason:** Sam accurately stated the application. It is page 1 but it is labeled page 4. Proposed use – “development under the manufactured housing park regulations.” And then in the details of request, “...is as the Warner Zoning Ordinance defines a “Manufactured Housing”. Nothing has changed from the beginning, we said we are doing a manufactured housing development, and what is going to be there is manufactured housing units.

**Janice:** Sam feels that we should do a site visit. Beverley?

Beverley: No.

**Harry:** I think we should do a site visit. I have other concerns. I did a site visit myself about a year ago. I am familiar with the land. But would be happy to go on another site visit. I have some questions. I think that this variance request has some issues that need to be defined.

I have questions about the clustered development option. I read over the ordinance several times. It says “However, in no case shall manufactured housing in a cluster development be attached to create more than one dwelling unit per lot.” When I look at the non-plan, that shows lots, and it shows one on each lot. But when I look at the cluster, there are groups of 4 or 3 or 2, and they are close. So that request for that particular type of a build-out development is not something that is defined by the ordinance as something we should measure whether or not it is allowable or desirable. I think it needs to be defined in that regard. It has been insinuated tonight, that it is almost against the law for us to consider if families may live here. We are looking at a variance request, that is not for millennials, it is for this land, and the variance will stay with the land forever. It is not tiny houses, even though tiny houses was mentioned eight times on the first sheet. These are manufactured housing units. They are small 8 x 40 units – they really cannot be any bigger than that, with 320 sf. That is what they will be. Wheels or not, most will never go anywhere. They will be manufactured housing. They will be brought in on wheels and will probably stay.

**Janice:** That is not what he is proposing. He is proposing something on wheels, tiny houses that are mobile and can leave whenever they want, with just an accompanying vehicle. A manufactured house will stay there for an indefinite amount of time, but that is not what he is talking about. He is talking about a tiny house that is meant to be mobile at any given moment, with just an accompanying vehicle.

**Harry:** I believe it is a request for manufactured housing. He has talked about a tiny house, but the ordinance only allows manufactured housing.

**Janice:** I don't have a problem with tiny houses, per say, although, it does not fit the definition of manufactured housing. If he were to re- submit it as manufactured housing park, then that would be fine, and remove the word tiny houses from the application. And when he first made his proposal, it was on the premise that it is a tiny house park.

**Harry:** It does not trouble me because it is a 8 x 40 manufactured housing unit.

**Janice:** Then someone needs to go up there all the time to be sure that there are nothing less than 8 x 40 structures on the property. Because there is nothing that says that a tiny home has to be 8 x 40. He says he will do 8 x 40 tiny home, and unless we specify in a motion that he has to have a minimum sized 8 x 40 unit.

**Joe:** Or 320 sf. We are willing to do that. Or 8 x 30 with a bedroom. We are willing to give you those conditions because that is the zoning condition.

**Sam:** Because they cannot go longer than 40 feet. That is the ordinance. Then you would state the condition to follow the ordinance.

**Harry:** It is a request for a specific use that will remain forever. A certain type of cluster/density that will remain forever. It comes with a certain cost to the city, and the people that live there. It is going to be difficult. If someone's dog is barking 30 feet away, it would be distributing. Peace and tranquility will be stressed by such density.

**Janice:** But that is a personal like or dislike. Some people do not find that to be a problem.

**Harry:** When you look at the criteria we are asked to measure, public interest, spirit of the ordinance, substantial justice, property values, these are things that do speak to the quality without a name, to the spirit in your town.

**Ed Mical:** Requested that the visit not take place during working hours, and not at 1:00 pm in the afternoon.

**Janice Loz: Motion to** do to a site visit at Schoodac Road, Map 11, Lot 14-1.

**Elizabeth** seconded the motion.

**Motion Passes,** 3 to 2, with Janice Loz and Beverley Howe dissenting.

**Site Visit scheduled for April 19<sup>th</sup>, 5:00 pm.** Janice will record the visit.

**Sam: Motion** to continue the public hearing until the next meeting for May 9, 7pm.

**Janice** Seconded the motion.

**Motion passed unanimously,** 5 to 0

**Janice:** Site walks have restrictions. Public cannot talk to anyone. Site walk regulations are on the board. Board members are not allowed to deliberate among themselves. Stick together as a group, walk together. There is no public input at the site walk to the board. Board members can ask direct questions that the public cannot. The public can share their comments at the May 9 ZBA meeting.



ZBA MEETING APPROVED April 11, 2018 v3.

**Scott Warren** – also a member of the conservation commission. Will the commission be involved in any way?

**Janice:** We could invite the conservation commission to join us.

**Janice: Motion** to invite the conservation commission, April 19 at 5:00 pm.

**Elizabeth seconded the motion.**

Motion passes unanimously. 5 to 0.

**Janice:** I implore everyone to read the PB letter, and the minutes prior to the next meeting. They can be included in the next packet.

#### **COMMUNICATION AND MISCELLANEOUS:**

**Janice:** This is our annual meeting. We have to have a vote for chair, and vice chair.

#### **VOTING FOR LEADERSHIP OF THE ZBA**

**Howard** nominates **Janice at Chair.**

**Beverley** seconded the motion. All in favor.

**Motion Passes** Unanimously. 5 – 0

**Janice** nominated Howard for vice chair. Howard shared that he feels he should stay on for a year but would like the option of leaving after a year. Howard felt that Barb would be a good choice for Vice Chair and if we wait, she will have a chance to consider for the next meeting.

**Janice: Motion** to postpone the **vice chair** until **Barbara** can be here at the May meeting.

**Sam Seconded.**

**Motion Passes** Unanimously. 5 – 0

**Janice:** Please read the PB meeting minutes of April 2 prior to our next meeting. The minutes are posted.

**Janice** wrote a letter to the PB about the instructions about the variance application for the neon sign for Irving. They have submitted a letter for a re-hearing , they met the deadline for the rehearing, but not the deadline to be included in tonight's agenda.

**Beverley:** I drove by and there are so many lights.

FROM THE LETTER that Janice wrote to the Planning Board.

1. The ZBA also recently had a question about the sign regulation ordinance. Specifically, Article XII.14.a. Prohibited Sign Types are signs which flash, have motion, are animated, create an illusion of movement, or are internally illuminated, except for a temporary sign with a permit from the Board of Selectmen.

Are LED lit numerals representing the value of fuel on a gas station sign defined in the above referenced ordinance?

The Planning Board's response at the meeting of April 2, 2018 – this is an excerpt from the meeting minutes.

**Ben Inman** noted that the sign is internally lit. The changing to LED numbers instead of internally lit numbers is still lit, but would it be changing the square area of the sign that is already internally lit?

It is a light inside a colored bulb. There is a plastic lens that transmits light, and that means it is internally lit outward. That is how I was seeing it. But I was also seeing that the sign is internally lit, totally. The lit area of the sign would not change, and therefore would be grandfathered in. And LED is a light, it is lit up.

Are the LED's internally lit, and thus prohibited? The answer is, **yes**.

**Janice:** We will not spend a lot of time on this, but it is the same conclusion we came to, but they went a bit further in detail.

Janice also wrote a letter to the PB in reference to the instructions on the variance application. The applicant needs to go to the PB for a referral for a variance. The planning board responded if that is what the document says, then we will start doing that. Janice further requested that the PB be more specific when consulting with an applicant, that the PB specifies the article and terms from which they seek relief.

**Sam:** that would get us started.

**Janice:** It would be beneficial if the two boards work together.

**Harry:** My experience is that either a code environment officer makes a decision of why a building permit was denied and that is what forms what the ZBA does. We are supposed to be a lazy board, and told what we are to judge. If we are trying to figure it out, it is a task we are not supposed to be doing; we are only supposed to be judging. Someone else tells us what we are supposed to judge.

**Janice:** The planning board asked if the ZBA would be interested in a joint board meeting in September. Everyone at the ZBA liked this idea.

**Andy Bodnarik** will be working with planning board on the ordinance document. Andy will be looking to see if there are any changes coming from the legislature.

ZBA MEETING APPROVED April 11, 2018 v3.

Andy said he will be working with Barb Marty on this and the chair requested to please keep the ZBA update as to all conversation, the conversations need not happen in a vacuum.

Meeting Adjourned. 9:25 pm.