



Town of Warner

Planning Board

DRAFT – Meeting Minutes

February 1, 2021, 7:00 PM

No physical location for this meeting; it was conducted via Zoom.

1. OPEN MEETING and ROLL CALL

At 7:00 p.m., Chairman Ben Frost called the meeting to order and made this statement: “As Chair of the Planning Board, I am recognizing that an emergency exists and I’m invoking the provisions of RSA 91-A: 2,III (b). Federal, State and local officials have determined that large gatherings people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is essential to the continued operation of the Town of Warner government and services which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location. At this time, I also welcome members of the public accessing this meeting remotely Even though this meeting is being conducted in an unusual manner and under unusual circumstances, the usual rules of conduct and decorum will apply. Please note that all votes taken during this meeting will be by roll call vote.”

ROLL CALL: Ben Frost (Chairman), 1 other in residence; Clyde Carson (Board of Selectmen representative), 1 other in residence; Romeo Dubreuil, 1 in residence; Andy Bodnarik, 2 others in residence; Ben Inman, 1 other in residence; James Gaffney, alone; Diana Corriveau (alternate), 1 other in residence

Also present: Janice Loz,(Land Use Secretary)

Absent: Don Hall (Vice-Chair)

Chair Frost asked Diana Corriveau to sit in for Don Hall, who was absent.

2. Review of Minutes of January 20, 2020

It was moved by Andy Bodnarik and seconded by Ben Inman to approve the minutes of January 20, 2020, as circulated.

Roll call vote:

Corriveau: Yes; Dubreuil: Yes, Inman: Yes, Gaffney: Yes, Bodnarik: Yes, Carson: Yes, Frost: Yes

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The motion passed.

3. Voluntary Merger – Lorraine Tierney, 54 Flanders Road

Map/Lot #s: 10/010-1, 10/021, 10/010-2, all in the R2 Zone

Chairman Frost said that a statutory requirement is that any properties involved in the merger either have to not have a mortgage on them or the mortgagee must sign off that they consent to the merger. The old form was online and so this was not completed. He did not feel that this merger would cause any zoning violations.

Chairman Frost showed a map of the lots on the screen. He suggested they could approve the merger with the condition that the new form be returned to the Town with written consent from any mortgagees, or they could put this merger off until the next meeting when the paperwork has been provided. The applicant was not present at the meeting.

It was moved by Ben Inman and seconded by Clyde Carson to approve the merger for Lorraine Tierney of 54 Flanders Road with the condition that the applicant file a new form and supply the deeds and that if there are mortgages on any of the parcels, that written consent of the merger is provided by the mortgagee(s).

Corriveau: Yes, Inman: Yes, Dubreuil : Yes; Gaffney: Yes, Bodnarik: Yes, Carson: Yes, Frost: Yes

The motion passed.

4. Preliminary Consultation – Warner Stone

Chris Collins, 470 Newmarket Road, Warner, NH 03278 (Mailing Address)

Location of Property: Warner Road - Map 3, Lots 39-1 and 39-2, C-1 District

Chris was present at the meeting. He said the properties are actually on Warner Road, not Newmarket Road. He had put the wrong address in on the application in error.

Chairman Frost showed a map of the properties on a map. Chris said they are a landscape construction company and hope to put a shop on Lot 39-2 closer to the road, and on Lot 39-1 they would like to use the back of the lot for storage for their trailers, trucks and materials. They are hoping to set up more of a retail yard that they could sell materials from.

Ben Inman assumed that this may have some regional impact. Chairman Frost explained to Chris that as part of their application that suggests regional impact, the RPC and the Town of Hopkinton are informed of the plan, as if they are abutters.

James Gaffney said based on what is being proposed, he didn't think this would have any regional impact. There were additional comments about the previously mentioned guidelines that were proposed for the Board to adopt regarding regional impact. Chairman Frost agreed and said that the proximity to the municipal town line is what triggers this as being of regional impact. It wasn't thought by him that the proximity warranted this designation.

Chris said he had provided a detailed letter to the Board to explain further details. He would like to be able to use the back part of Lot 39-1 for storage; would that require a separate site plan review? Chairman Frost said yes if they are using it for a commercial use. They will need to do

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some grading and put in a driveway. These are all things that are part of a site plan. He suggested working with an engineer. Chris said he is currently working with an engineer. He is trying to prevent an AoT permit being necessary.

Chairman Frost noted for the meeting attendees that AoT was for Alteration of Terrain and a permit is needed for a land disturbance of 1,000 square feet or more. Andy Bodnarik suggested talking to the people from NH DES with regard to the wetlands on the property. They might require some kind of a buffer between the two areas of disturbance.

Chris said they are hoping to split their building into five bays. They wondered if they would need to have some kind of approval to rent out some of the bays. Chairman Frost said the Planning Board reviews what is submitted to it. If there is something they present to them as part of their site plan application and one of the applicants is dramatically different than what they had initially presented to them, they may have to come back to the Planning Board. It depends on what they represent to the Planning Board but it could likely be approved at once in one meeting.

5. Public Hearing – Proposed Zoning Amendments

Chairman Frost said the chat should not be used to applaud, cheer on or criticize; it is to provide information and links that will be helpful to the discussion. This would be the last opportunity for the public to respond to these proposed amendments in this type of forum. Petitions put forth by citizens cannot be changed, however they need to be recommended or not recommended by the Planning Board. Alternately, the one proposed amendment put forth by the Planning Board (A) can be submitted as-is, changed, or withdrawn.

Andy Bodnarik said the version on the website of Amendment A is correct; the version in the handout was not.

David Bates reminded those in attendance that when they say that the amendments will be seen at Town Meeting, that actually means on the ballot the day prior to the Town Meeting where everyone gets together. There is no actual discussion of these proposed zoning amendments at the actual Town Meeting.

Chairman Frost opened the public hearing on the petition article “E.”

E. Allow Multi-Family Housing in the Commercial and Intervale Locations

David Bates said this would allow for multi-family residential uses in the C-1 District, which is the area around Warner Power in the Village and around Exit 7, and Exit 9. This would allow for Workforce Housing construction in these areas. The intention is to create mixed use business and residential locations or residential uses that are further back from the commercial space at Exit 9. Developers won't pitch these ideas if they know they have to go for a Special Exception. David thought this would give some flexibility in Town for potential development and may provide for housing opportunities to those in need.

David read a compelling email from a friend in town who is struggling with housing and the threat of being kicked out with no place to go due to high rent prices in the area. He noted that most of those making the zoning changes are generally not faced with these issues personally, but he felt that those facing hardship need to be heard.

James Gaffney wasn't sure how this amendment would help with the housing problem; Warner already allows for apartments in Accessory Buildings. He knows of people who are jumping at

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the chance to put apartments in their own Accessory Dwellings, so it is happening. He isn't sure if this change will create a lot of new opportunity. David said he is focusing on the C-1 District. Chairman Frost said it will not solve the State's housing crisis, but it is a small step in the right direction.

Nathan Kendrick offered support to David's proposed amendment. The trend is towards mixed use buildings and they do have a little of that downtown, but looking at the Warner Power building, it would be a great place for apartments. This is putting the density in the downtown. A developer will be attracted to diversified income with the rental and retail combination.

Ed Mical said they are tight on Commercial Zoning now and is this going to restrict it further? He sees a positive of the amendment but doesn't know about offering this option at Exits 7 and 9.

Alice Chamberlain said she was in favor of all three amendments at the last meeting, but now she opposes all three. She appreciates the effort and interest being focused on affordable housing. She has lived in Warner for 45+/- years and has seen most changes for the good, using community involvement. She fears that these three amendments could change the Town a lot and feels they are rushed and lacking information.

With regards to Amendment E, she feels there is a lack of data and understanding of the impact of what it would be. She thinks it could be wrapped into a more robust public discussion over the next year which would yield a better outcome for the Town. Of the three amendments, this is the most positive if it were to be contained to the Village district. Chair Frost said that use is already allowed in the Village district.

Karen Coyne said she is not originally from Warner. She agrees with Alice about possibly creating a committee to discuss these issues. She thinks the problem should really be studied holistically. In southern California, where she is from, affordable housing is forced and it causes a lot of changes in the area, not all for the good. She is hesitant to move forward with changes without doing enough research. She is looking for a happy medium.

Emily Kermen wondered what kind of negative consequences the Board foresaw if they rushed into this without forming a commission with regards to middle-income housing. Chairman Frost said he works for the NH Housing Commission and so he couldn't answer for the Board, however he sees no downside for this kind of housing. Mr. Bodnarik said there is a report showing building permits and multi-family available housing in the state, including in Warner.

Rebecca Courser feels that a committee should be set up to study how to increase the number of apartments available in Warner. They are an aging state and they need to keep as many young people around as possible.

Clyde Carson didn't see the downside to having places to live for people who want to work in Town. He has heard of people who got jobs in Town and couldn't find a place to live. They could have all the apartments in the world, but the vacancy rate is what they need to look at. He thinks it is down around 1% in Warner and the "healthy" target number is 5%. If they want businesses to come to Town, they need a place for the workers to live.

Mike Franklin said he is in support of the amendment. Some had mentioned that they are an aging state. His grown sons who have left the area have done so due to lack of housing options in the area. There is much to be studied, but small steps in the right direction would be helpful.

Karen Coyne said they've talked about the businesses in Town and employees not able to find

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affordable housing. She is curious that if they become the first town in their area that provides affordable housing, what makes them think the people will actually be working in Warner? Chairman Frost said that Warner is a more commercial hub than the surrounding towns. People come to Warner as there is more industry here but people do travel for jobs.

Alice Chamberlain said the amendment doesn't address affordability, but rather multi-family housing. Chairman Frost said that increasing the supply helps with the affordability.

David Bates said the underlying set of assumptions is that Warner would be making some sacrifice and not getting the benefit of the workers staying in Town. He doesn't think that this is how their local economy works. The wealth of the community is its people.

Sarah Hansen said a lot of her friends and peers are looking for their first homes. They are looking to move to Warner or stay here after moving out of their parents' homes. They would like to be able to find something that fits within their income. In her experience there isn't anything available and anything that becomes available is snatched up quickly. Inflated housing prices are also an obstacle. When they can provide stable housing to people, the people will flourish. If we let the responsibility fall to other towns, they aren't doing their job as a town.

Nathan Kendrick said this should be seen as an opportunity. Bringing people and businesses into downtown is going to bring tax income to the Town. They should see this as a way to grow smartly and bring people in. There is always a risk, but they can't know everything. They can only make the best possible decision they can and if they keep pushing this down the road, the opportunity can be lost.

James Gaffney said multi-family housing is permitted by Special Exception in the C-1 District. The underlying reason why there isn't a lot of housing in Warner is due to taxes and the cost of property and development. If it was economical for developers to come in and develop, they would. Changing this statute isn't going to change any of the underlying reasons why the housing isn't there.

Emily Kerman said she teaches ESL in Concord and some of her students have worked at Warner Power. Many of them wanted to live in Warner but there was nowhere for them to go. She thought that these people would have added a positive influence in the community.

D. Detached Accessory Apartments

David Bates said currently, in-law apartments are permitted with a series of conditions. His amendment allows people to build a detached Accessory Dwelling Unit (ADU) as long it is within 75' of the primary dwelling and meets the conditions that are in place for in-law apartments. It is essentially the ability to build a guest cottage. The intent was that these dwellings would be added on to the current water and septic systems. This may not be possible in every situation. David thinks this is a modest change that may make a few people's lives easier; it isn't intended to make huge revolutionary changes in the housing in the Town.

Romeo Dubreuil asked about the original ADU law language. He wondered if adding the 75' requirement would be illegal and goes against the Statute because it is adding a size limitation to the lot. David said he thought the ADU law only made it legal for attached ADUs. Romeo said he is in agreement with the amendment, but feels the specifics need to be addressed. Chairman Frost said the intention of the Statute is met even with a proximity requirement.

Alice Chamberlain said this is one of three amendments that together, are significant. They don't

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have any information that she has seen on how many properties in Town could add an attached accessory building, so it is hard to determine the possible impact. They haven't had any examples of other towns that have used this. The zoning change adds potential density increases in rural areas which goes against the Master Plan. It is something that could be considered but they haven't had enough information on the impacts and/or benefits. She would urge the Planning Board not to endorse this amendment on the warrant.

Barbara Marty said this amendment allows a second building on a lot. Currently, there is not a requirement for someone building an ADU to come before the Board for a Site Plan Review. If this amendment passes, the second building could be built without review and adversely affect a neighboring property. She wasn't sure it was OK to call this kind of structure an ADU when it is really just a second dwelling on a property. Barbara said she thought this should have more consideration over time and not be pushed through. Chairman Frost said that at some point down the road, this kind of dwelling could be allowed by Special Exception so there would be some review.

Alice Chamberlain said her point is how would they react if the Town allowed further Subdivision in all Zones? That is what kind of impact this amendment is suggesting. It provides for further density in all Zones without review. Chairman Frost said this doesn't change the allowable density because people can already build an attached ADU.

Clyde Carson said he doesn't see a difference in an ADU being attached or detached. ADUs can happen in all the Districts already.

Janice Loz said in 2012 she was on the Zoning Board and they went to the Planning Board to discuss the ADU language, specifically for in-law apartments. It was a need in the community and the neighbors didn't seem to have a problem with it if it was going into an existing structure. The Planning Board then wrote an Accessory Apartment and an Accessory Unit ordinance. She isn't sure why they scrapped the ADU ordinance although it was contentious. Janice said she feels this is confusing to people because the terms "apartment" and "ADU" aren't interchangeable. She thought maybe it would be advisable to do this over time with more input, and include the tiny homes into it, it would work out for the best.

Melissa Biagiotti thinks David has come up with some really good opening ideas. She doesn't know if this will work for many, but there are some people for who it would work. She has parents in her 80's and when looking at their options, this works for them. Anything they can do to support people and give them options to stay in Town is appreciated.

Chairman Frost closed the public hearing on Amendment D.

A. Workforce Housing Proposal

Chairman Frost said this was put forward at James Gaffney's suggestion months ago. Chairman Frost then drafted the proposal with the idea in mind that they would want to immunize the Town against the losing end of a lawsuit from a developer who wants to build Workforce Housing. There is nothing that guarantees winning or losing a lawsuit, of course, but this proposal would help. Chairman Frost said that he would be willing to withdraw this amendment and work over the year to come up with an amendment that more people could get on board with.

James Gaffney said he would like to see the Town address the issue and be as compliant as possible with the RSA but he agrees that they should put it off and spend the next year to come up with something that everybody likes.

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Andy Bodnarik said that Chairman Frost put a lot of effort into the amendment so it was understandable. The Use Table is an issue that keeps coming up. There is a disconnect between the Use Table and the terminology used in the Ordinance. He wanted people to be aware that if they do nothing, the multi-family workforce housing will be permitted in R-2, C-1 and the Intervale, without review. Putting this off means they are delaying for another year, a tough decision. He doesn't think a delay will help the Town.

Chairman Frost opened the public hearing for Amendment A.

Chairman Frost said the definition of "affordable" in the current Ordinance is not consistent with statutory language, which is a problem. There were other issues with wording and dense language that is hard to discern. He identified current language that could land the Town in a lawsuit, which he did update to meet statutory requirements. Changes to the Use Table were also proposed.

Alice Chamberlain said she thought Warner was poised to provide affordable housing for the capital region due to its location along I-89. Combined with the amendments put forward by petition, this represents significant rezoning by the Town. She feels there is a tight timetable. Some things need to be studied further, and she didn't think that the public was aware of their housing needs and workforce "fair share" requirements. She thinks that there is a much broader discussion that would benefit all. She didn't think it was detrimental to put this off for one year. Other information she would like to have:

- Impact of decreasing their commercial development potential at Exits 7 and 9.
- Estimate of potential number of units that could be developed
- What is the optimal number of units for the Town
- Estimate of multi-family dwellings amendment is passed, how will that impact the Workforce Housing issue?

David Bates wondered what the price tag for the technical assistance necessary for the updated Master Plan would cost to the taxpayer. Chairman Frost said it hadn't been done in over a decade. In the past the Town has used the Central New Hampshire Regional Planning Commission and there is a cost associated with it. It depends on who they hire. It could range from \$15,000 to \$50,000.

Chairman Frost closed the public hearing for Amendment A. He asked for the thoughts from the Board.

Andy Bodnarik said he fears delaying Amendment A. The biggest problem with all the amendments is a lack of data. The Town needs to gather more data so that they have some real information to consider. He suggests moving ahead with Amendment A.

Romeo Dubreuil said Amendment A seems to clarify and clean up a lot of language that, if they don't change, they could be stuck with. They are fixing something that is broken, so if it needs tweaking down the road, they can do so. He agrees with Mr. Bodnarik.

James Gaffney said if they are going to adopt this, it should be considered a first bite of the apple and the Board needs to commit to spending more time on the issue.

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Clyde Carson said he believes the odds of passing a "housing champion" legislation are really good this year. If they went forward with Amendment A they could look at the legislation and down the road, merge them together and become a "housing champion" community. Chairman Frost agreed. He thinks making these changes would be a significant step in the right direction for that purpose.

There were no further comments from the Board.

It was moved by Andy Bodnarik and seconded by Romeo Dubreuil to forward Amendment A to Town Meeting for adoption with the Planning Board's recommendation.

A roll call vote was made:

Inman: Yes, Dubreuil: Yes, Gaffney: Yes, Bodnarik: Yes, Carson: Yes, Corriveau: Yes, Frost: Yes

The motion passed.

Chairman Frost asked for the Board's thoughts on Amendment D, for detached ADUs.

It was moved by Clyde Carson and seconded by Ben Frost to recommend Amendment D.

Clyde Carson said that the units are permitted now in all Districts provided there is some sort of accessory purpose, such as a garage. He didn't see a major difference in that and what is being proposed. He sees this as a minor but good change.

Romeo Dubreuil said they already have something in place that is working. It is accommodating everything that they need other than having a shop/garage underneath the ADU. He was not inclined to recommend this amendment.

James Gaffney said he wasn't in favor of recommending the amendment either.

Chairman Frost said he was strongly in favor of the amendment. Although it isn't perfect, it is better than what they currently have. It won't work for everyone due to the 75' requirement, but it may work for some. When asked about tiny houses, Chair Frost said that they do not meet the building code and so do not fit in the regulations.

A roll call vote was made:

Inman: Yes, Dubreuil: No, Gaffney: No, Bodnarik: No, Carson: Yes, Corriveau: Yes, Frost: Yes

The motion passed 4:3

Chairman Frost asked for the Board's thoughts on Amendment E, for multi-family housing in the Commercial and Intervale Districts.

It was moved by Clyde Carson and seconded by Ben Frost to recommend Amendment E.

Andy Bodnarik said there is a lack of data and doesn't believe this should be recommended by the Planning Board.

Clyde Carson said it would be desirable to convert the Warner Power building into family dwellings. It is good to offer housing in this area so people can live where they work. He supports the amendment. Chair Frost said he is in favor of the amendment and noted that it is a minor change and doesn't foresee a major impact.

After some discussion about the Warner Power building and the thoughts of converting it to

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family housing, although a Variance could possibly be attained from the Zoning Board, getting a Variance is never promised and is, by design, difficult to obtain. This could deter developers from being interested in that location.

Andy Bodnarik listed locations where apartments are already present in Warner. There are over 200 units he is aware of but there are more. He understands that they are full and people who aren't moving, but they do exist. He feels they are rushing to judgement on something without having the data.

A roll call vote was made:

Inman: No, Dubreuil: No, Gaffney: No, Bodnarik: No, Carson: Yes, Corriveau: Yes, Frost: Yes

The motion failed 3:4

It was moved by Andy Bodnarik and seconded by Romeo Dubriell not to recommend Amendment E.

Inman: Yes; Dubreuil: Yes; Gaffney: Yes, Bodnarik: Yes, Carson: No, Corriveau: No, Frost: No

The motion passed 4:3

David Bates thanked everyone for their time on this matter.

6. Continued Public Hearing

Site Plan Review for Comet LLC - Ben Osgood, Route 103 West (Map 35/Lot 4-2, & Map 35/Lot 4-1)

7,000 square foot retail building and separate building with a drive-through donut shop

Ben Osgood said he also had Adam and Mike Quinn with them at the meeting. He said they submitted some information about Dunkin' Donuts and how it functions with two lanes at the drive-through. He had also submitted some videos of two-lane Dunkin' Donuts during peak time. He offered that the video could be shared with those at the meeting.

Ben Osgood said that the initial approval for this property limited one driveway across the street from the Park and Ride. He wishes to request amending this approval to allow for two driveways. A letter was sent to the Planning Board that evening with the request for an amendment to the initial approval. The plans have been revised with the AoT and Ben will be submitting responses to NH DOT comments the following day. It seems to be taking 20-30 days for responses from the NH DOT.

Ben Osgood noted that the design they are showing is functional. They use this design all over the country and is a standard two-lane design. One lane is for orders and one is for pick-up of online orders. He has witnessed this system and it works well and traffic keeps moving. He has spoken to the manager at the Hillsboro, NH location, where this is implemented, who said they have had no problems with the drive-through lane.

Ben Osgood added that he had submitted that evening the Site Plan showing the striping plan for the driveway/parking lot. He said he had submitted a request to modify the driveway, in

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writing, which coincides with the Planning Board's previous approval for a driveway on the property. Chairman Frost acknowledged that this way of requesting the modification of the approval for subdivision, but they will have to have a hearing to make this change. Ben Osgood asked what application was necessary to move this to the next level. Chairman Frost said he could fill out a Minor Subdivision application with an attached note asking for relief of item #7, and he should include photos/drawings.

Andy Bodnarik said the Notice of Decision was October of 2000.

Chairman Frost showed the Site Plan and Ben Osgood explained each area and how the traffic would be routed around and through the drive-through.

Ben Inman said he supports the traffic pattern for the Dunkin' Donuts with the two lanes. He has done some research and has found there to be no problems and with more people using the app to order ahead, this method of pick-up is only going to grow.

Chairman Frost said he could offer feedback of the architectural design for the other building proposed (not the Dunkin' Donuts). A rendering of the building and three views of it were shared. The building is intended for retail but the specifics aren't known yet. It is the hope that the Dunkin' Donuts will be a driver to attract people to this location. This is a spec-type building and there are no current tenants.

Alice Chamberlain asked if this building compliments the Dunkin' Donuts building. Ben Osgood said that is more of a New England colonial-type style with gabled roofs. He thinks it does compliment the Dunkin' building. A drive-through to this building could be added with an amendment from the Planning Board.

Ben Osgood said he has been in touch with the neighboring Evans business. They haven't had a chance to really look into the plans but the owner was concerned that he would be losing three parking spaces due to the connection of the two lots.

Chairman Frost suggested that the Planning Board and Ben Osgood come up with conditions to work through at the next meeting.

Chairman Frost asked if there were any comments from the public. Alice Chamberlain asked if all the spaces in the large building could be combined by one business. They would need to make sure the Use was permitted and parking was sufficient for it.

The public hearing was closed.

The next meeting is scheduled for March 1, 2021 at 7:00pm.

Clyde Carson noted that as a result of the previous Planning Board meeting, the Selectmen would be adding the creation of an Agricultural Commission on the warrant.

The meeting was adjourned by Chairman Frost at 9:06pm.

Respectfully submitted,

Kristy Heath, Recording Secretary

Town of Warner