



Town of Warner

Planning Board

DRAFT – Meeting Minutes

May 3, 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; Don Hall (Vice Chair), 3 others in residence; Andy Bodnarik, 2 others in residence; Clyde Carson (Board of Selectmen representative), 1 other in residence; Romeo Dubreuil, 1 in residence; Ben Inman, alone, James Gaffney, alone.

Also present: Janice Loz,(Land Use Secretary). Diana Corriveau (arrived at 7:15 PM)

2. Review of Minutes of April 5, 2021

Andy said on page 2, the word “Board” should be capitalized (above where the motion was made and seconded).

Andy said on page 3, the word “Board” should be capitalized (“...there were no further comments from the Board.”)

Andy said on page 3, “Special Exceptions” need to be capitalized.

James said on page 4, his statement should include the link he had added into the chat during the meeting. It covers non-binding criteria to use as a checklist as the process the Board should use with regards to designating a project as subject to regional impact. Chairman Frost said the

link is on page five and it could be footnoted after the word “recommendations.” James said he felt the minutes were incomplete in this area and he would go back and re-write that section.

Chairman Frost said he would suspend the review of the minutes until the next meeting and will include the rest of the edits.

New Business

1. Site Plan Review – Warner Stone LLC, Chris Collins. Warner Road. District C-1. Storage of materials and operations.

Chris was present at the meeting. He said he purchased Lots 39-1 and 39-2 in the Fall. One of the lots they would like to use to operate their business. Lot 39-2 is where they would like to set up a 100' x 150' gravel yard to utilize for their trucks, materials and staging for their projects. They'd like to build a shop in the future but will like to begin working just on the property at this time.

Chris showed a 50' x 100' building they hoped to build in the future. The gravel yard would then move to the back of the lot and they'd move their equipment and loose materials there. In the next year or so, they'd like to use Lot 39-1 as a retail material yard, specializing in natural material stones.

Chris said they would like to have their business operating from Lot 39-2 (shop and operational equipment), and the Lot 39-1 lot would be where the retail shop would be located. There would be no connection between the two lots for vehicular movement; the lots would be kept separate.

Clyde asked Chris to provide an overview of the details of their work. Chris said they specialize in the hardscape elements (stonewalls, steps, patios, walkways) and are now working towards doing more with drainage, utilities, and septic. They use New England field stone, granite (old and new) among other materials.

Romeo said there are refuse containers listed on the plan. He asked for an explanation. Chris said they are dumpsters and they are used for harvesting stone. They use these containers so they can lower the container to the ground and they are useful to bring materials to worksites. The plan shows where the empty containers would be stored. Romeo said that their ordinance (Town of Warner Zoning Ordinance, Article III, Definitions) says that these types of containers are not permitted to be stored on properties. Chris said that the container in the ordinance doesn't seem to be the same as he uses. Romeo read the definition and thought it would be the Planning Board's purview to figure out if this is allowed or not. Ben Inman didn't think that what Mr. Collins is using as containers were the same as what were in the ordinance and didn't think it was a problem. To him, “refuse container” is a roll-off dumpster.

Andy said that he was more concerned with the storage of the equipment trailers. He wondered what kind of equipment is being stored and how long would it be there. Ben said that he felt the equipment would be moved frequently as they use it for their projects.

Romeo said the definition of “storage container” in the ordinance fit with what Mr. Collins is using. It may not be allowed. Andy said he sees some trailers are called “job trailers” and some as “equipment trailers.” This made him think that the ones labeled “job” would be going in and out regularly, but the ones labeled “equipment” may be sitting there for long periods of time. Ben Inman said to look at some of the other construction companies in the area. They would be hard-pressed to say that the use being proposed was different than what was already occurring.

Chairman Frost read from the Zoning Ordinance to explain the storage container allowances.

James said the reference to “permanent” in the language didn’t seem to match what the applicant is proposing. He didn’t believe that the applicant was intending for the containers to be permanently stored; the containers will be in active use. Andy said they could make a conditional approval for this, that they are not to be left permanently on site. Chairman Frost thought this made sense.

Andy said he was looking at the drainage swale. The elevation appears to be almost flat and he wasn’t sure how the water would be removed from the site.

Peter Blakeman, engineer for the project, said that there seemed to be an error in direction. He said it needs to be revised to make it go in another direction. The swale is about 200’ and they would need a 2’ drop over the length of it. The slower the water moves the better. The intent was to take any runoff off of the gravel yard and divert it around the wetland.

Andy said that the use of wood chips instead of a silt fence was suggested. Peter said he felt comfortable putting that in the plan because the swale would block the water from going into the wetlands. The woodchip berm is an accepted practice for erosion and sediment control instead of a silt fence.

Chairman Frost asked if there were any further questions from the Board for the applicant. He believes the application to be sufficiently complete to vote on it.

Don Hall said in the past with an applicant that had a similar business, there were issues. They had complaints about the view from the road. He wondered if this applicant would be required to do anything to mask the view of their business from the road, as the previous applicant had to do, after the fact. Chairman Frost said that he recalls this applicant and drives by the location of the business regularly. They have put plantings at their place of business which are growing nicely. He said that this new plan says that they would like a waiver for a landscaping plan for this approval, but when they come back to request approval for the building they plan to build, they would include the landscape plan at that time.

Chris Collins said that they, being a landscaping company, have every intention to put something aesthetically pleasing on the property to make the entrance look nice. Don was satisfied by this solution.

It was moved by Andy Bodnarik and seconded by Don Hall to consider the application for approval.

A roll call vote was made:

Don Hall: Yes; Ben Inman: Yes; Andy Bodnarik: Yes; Romeo Dubreuil: Yes; Clyde Carson: Yes; James Gaffney: Yes; Ben Frost: Yes.

The motion was approved.

Chairman Frost asked if there were any questions from the Board before opening the meeting to the public for comment.

Andy referred to the abutter’s list. The last page had two things added by the Planning Board Secretary. One was the Town of Hopkinton and another one was Brian Pariseau. Janice said that the Town of Hopkinton was noticed because of possible regional impact. Brian was the only person on the road who was not noticed and she didn’t feel it was fair, so she sent him a notice.

James thought they should revisit the list of abutters as they pertain to regional impact. Chairman Frost agreed and said the Board would discuss whether or not they felt the project would fall under the criteria for regional impact. He noted the link (<https://www.nh.gov/osi/resource-library/planning/documents/dri-guidance-ncc.pdf>) that shows the criteria to consider.

Chairman Frost asked James if he felt one way or another about regional impact in this case. James said there are questions that could be asked about noise, dust, and traffic that would determine if it was regional impact. Don asked if the owner would be selling materials and dealing with the public. Chairman Frost said that was part of the future plan for the business on an abutting lot, but that wasn't being discussed for the application in front of them. Don felt this was important to consider because it makes a difference if people will be going in and out of the area. Chairman Frost said that Chris owns two lots; before the Board that evening is a request for Lot 39-2, which will not include any retail business.

Andy said the plan they are looking at may not be for Lot 39-1 but the inset talks about a future plan and development. The inset is helpful but does cause a problem. Chris said the inset doesn't show any use on Lot 39-1 but that when the building is built, they will move everything to the back of the lot. Chairman Frost said that the Town of Warner has to notify the Town of Hopkinton and the RPC (Regional Planning Commission) and they are to be considered abutters and will be allowed to comment.

Andy said this is a staged development and he doesn't want it to set a precedent. James said they need to consider what is before them and any future development cannot be considered. Andy agreed with James and said they should put something in the approval about not making a decision about future development. James said they don't have a future development plan; they only have an inkling of what the future will hold for Lot 39-1. There is no request being made in that regard at this time.

It was moved by James Gaffney that this project does not impose regional impact.

There was no second to the motion. The motion failed.

Chairman Frost asked if there was an alternative motion.

James said if they are going to have so much discussion about someone being forthright about their long-term plans, they are telling everyone in the future to not give the Board any more information that is required by law. They are punishing people for being open and transparent; he thinks it is wrong. Romeo didn't think the Board was punishing anyone. Andy said they want to make it clear that there may be certain things required in the future if development progresses.

It was moved by James Gaffney and seconded by Ben Frost that this application does not have the potential for regional impact.

Don Hall: Yes; Ben Inman: Yes; Andy Bodnarik: Yes; Romeo Dubreuil: Yes; Clyde Carson: Yes; James Gaffney: Yes; Ben Frost: Yes

The motion passed.

Romeo said he is still confused by the mention of "refuse containers" on the plan. The definition in the zoning ordinance says that these containers are not allowed. Chairman Frost said the applicant said they were being used to transport material; they are not being used for refuse.

Romeo said that “containers” on the plan is confusing. He wasn’t sure how they were supposed to ignore this. Chairman Frost said that the zoning language refers to the containers being permanent, which these are not. They will be used continually to bring materials to and from work sites. They are not going to be used for permanent storage.

Peter Blakeman said that he and Chris went back and forth about the wording on the containers. He said they are open to using different terminology.

Chairman Frost opened the public hearing. He welcomed comments from abutters.

Mark Nicholson with Nicom, is an abutter. He said his business came back before the Board and agreed to plant trees and move some things to improve their “unsightly-ness.” He has no problems or concerns with his new neighbor and wishes him luck.

There were no further comments from the public.

Chairman Frost closed the public hearing.

Andy asked if there would be any fencing for security to keep their material and equipment safe. He also asked about lighting and signage.

Chairman Frost said there is a sign mentioned on the plan showing the approximate location. There is no detail on the sign, however. Chairman Frost said the application also notes that a lighting plan will be included when they submit the site plan for the building in the future. There is no electricity being brought to the property at this time. Chris said that they aren’t really worried about theft of their equipment because everything they will have there is very heavy and wouldn’t be easy to steal. He has considered blocking off the access to the driveway, but they don’t plan on a fence. In the future they will likely do a horticultural screen and not a fence.

Romeo went back to the definition in the ordinance about containers on site. He felt that the terminology was so broad, it made it difficult for small businesses to happen. He isn’t sure of the work-around for it.

James asked Chris to give some details about the usage of these containers, which may help Romeo with this issue. Chris said they are dumpster containers and they utilize their truck like a dump truck and they use the containers weekly. Romeo said that this helps, but he is just working with the language in the zoning ordinance. Chairman Frost agreed that this was a difficult section to understand. The word “mobile” in the definition doesn’t mean that it “does” move, but that it is “capable” of moving. The question is whether or not they are permanent; they are not. Andy said they could make a conditional approval based on the requirement that there is no permanent storage allowed on the site.

Chairman Frost said that a possible condition could be that equipment on the plan is not to be used for permanent storage on site.

Chairman Frost would like note #4 to show the recorded plan number. Also, there should be some clarity on the plan as to which alternative will be used (silt fence or woodchip berm). Peter Blakeman said that was an easy fix.

James asked about how often the cutting of stone would be done. Chris said they do a lot of stone cutting but 95% of it is done at the job site.

Chairman Frost said the grass swale running North to South extends onto the adjoining property, which Mr. Collins also owns. He should show a drainage easement on Lot 39-1. Mr.

Blakeman said he thinks the swale is going to switch direction so they won't have a need to go onto the adjacent property.

Chairman Frost had a list of conditions, which, after listed, were proposed as a motion.

It was moved by Ben Inman and seconded by Don Hall to approve the plan for Chris Collins with the noted conditions and would require returning to the Planning Board once conditions are met to obtain signatures from the Board:

- 1. Equipment shown on the plan is not to be used for permanent storage on the site;**
- 2. Show a proposed security gate to be installed at the owner's discretion;**
- 3. Sign detail be submitted to the Planning Board;**
- 4. Change level spreader flow direction and installation portion on Lot 93-1;**
- 5. Show the recorded plan number;**
- 6. Show the plan to Tim Allen, Public Works for confirmation of proposed driveway**
- 7. Reconcile notes on the plan to coincide with notes 6 and 7.**

A roll call vote was made:

Don Hall: Yes, Ben Inman: Yes; Andy Bodnarik: Yes; Romeo Dubreuil: Yes; Clyde Carson: Yes; James Gaffney: Yes; Ben Frost: Yes.

The motion passed.

2. Conceptual Consultation with Mark and Susan Xenakis – 93 Diamond Lane, subdivision of 2 acres from their lot.

Mark said there shouldn't be any issues with his request except the only frontage he has is the end of Diamond Lane which is probably 39' wide. The purpose for this other house is for he and his wife to retire to a new house and his children will get the current house. They've had this land in their family for 40 years. Chairman Frost said that frontage is definitely a problem and he may need to go to the Zoning Board of Adjustment to do this. Given how they are proposing the subdivision, he isn't sure how the Zoning Board would look at it. Before having it surveyed, he should find out if he could get a Variance from the Zoning Board.

Mr. Xenakis said the dotted line is his existing driveway. There would be a split at the end of Diamond Lane and the new driveway would split and be part of the 2-acre parcel. James suggested moving the new lot closer to the lot line which would help with the frontage issue.

Chair Frost shared the map of the property.

Romeo asked if the applicant was familiar with the Accessory Dwelling Unit law (Town of Warner Zoning Ordinance). He was not. Chairman Frost said that ADUs (Accessory Dwelling Units) are required by state law to be allowed by towns. They are attached traditionally, but towns can also allow for detached ADU's. Until Town Meeting voted on this in March, detached ADU's had to be in a building that was associated with the primary dwelling unit. Now they do not have to have an association but have to be within 75' of it. This can be done with a building permit. Romeo said that this application would give Mr. Xenakis what he is looking for (two separate dwellings) but would not allow for a subdivision. Chairman Frost said that he would

only have to go to the ZBA if he wanted to put the house more than 75' from the primary dwelling. Tom's Pond, abutting Mr. Xenakis' property, does require a 250' buffer so this may come in handy when requesting an ADU further than 75' from the primary dwelling. Chairman Frost said they needed to look into who should be notified as an abutter across the water.

Janice said she would send the ADU language to the Board and to Mr. Xenakis.

3. Sign Request – TLC Photography; Tarah Caron - 25 E. Main Street Map 30, Lot 001. Size of proposed sign is 6' x 18"

Tarah said she just moved in on May 1st and sent a photo of the sign design. She used the existing hanging mechanism on the building from the previous renter, and the sign is the same size as the one that was there previously. Her sign is also the same size as the Country Cobwebs sign. Chairman Frost said that permits are required for new signs to be approved by the Planning Board.

Janice said she did some research from the previous renters and no others had obtained a sign permit.

Chairman Frost said that 46 square feet of signage is allowed in existing signed locations. She is asking for 9 square feet. He said the Board needs to decide if the sign meets the site plan review regulations, not the zoning ordinance. This was the first time someone has come before them with this request.

James said he struggles with the ordinance and allowed combination sizes of attached or secondary signs. Chairman Frost looked at the regulation in the ordinance.

Mr. Hall asked what the big deal was if two or more signs of this size have already been allowed. Chairman Frost said that is a good point.

Andy said he found that the sign regulations in the site plan review regulations suggest that signs abide by the rules included in the Warner Zoning Ordinance.

It was moved by James Gaffney and seconded by Romeo Dubreuil that this is a refresh of an existing sign and should be grandfathered in and that a site plan review is not necessary.

A roll call vote was made:

Don Hall: Yes, Ben Inman: Yes; Andy Bodnarik: Yes; Romeo Dubreuil: Yes; Clyde Carson: Yes; James Gaffney: Yes; Ben Frost: Yes.

The motion passed.

4. Election of Officers

Don Hall said he no longer wishes to be Vice-Chair of the Warner Planning Board. Chairman Frost said he would be fine to continue as Chair, but would be happy if someone else wished to take over. He asked if anyone was interested in serving as Vice-Chair. There were no others interested. Don said he would continue.

James Gaffney nominated Don Hall as Vice-chair and Ben Frost as Chair of the Warner Planning Board.

A roll call vote was made:

Don Hall: No, Ben Inman: Yes; Andy Bodnarik: Yes; Romeo Dubreuil: Yes; Clyde Carson: Yes; James Gaffney: Yes; Ben Frost: Yes.

The vote passed 6:1

5. Old Business – Comet, LLC

Chairman Frost said some preliminary site work has been done. The Town has received an explanation of why they are doing work on the property. NH Fish & Game is requiring them to create a barrier to protect wood turtles. They are waiting for their NH DOT permit currently. Their Alteration of Terrain permit is on file. The Town will eventually need to record the mylars and the relief of condition of the subdivision from 2000.

The Board said they would like to see the final plans when they come in in lieu of having Chairman Frost sign off on them himself.

Romeo asked how much excavation can be done in that location before getting an approval? Chairman Frost said that was a good question and he wasn't sure. Romeo said he believed they could do quite a bit so long as they aren't destroying anything and are staying within the confines of what the Planning Board approved as far as the plan. Chairman Frost said they are mostly bringing in fill. Romeo thought the Planning Board should make a decision on how much work can be done before the final approval is given.

Ben Inman said he wasn't sure; he knew the top soil would be stripped off before they do anything. They'll need to work quickly once this is done to control the erosion. He wasn't sure and understood that nothing should be done until approval was given. Romeo thought the third party inspection was responsible for monitoring the stormwater runoff/drainage of the site. Ben Inman said he wasn't sure there has been that much done except for the turtle fence. Romeo suggested a cease and desist to prevent them from doing too much work.

James wondered what the problem was; he felt the Town was setting them up to fail. Chairman Frost said all he has heard was that they had installed a silt fence backward. James understood it to be a turtle exclusion fence. Chairman Frost said the plan says it is a silt fence, not a turtle barrier.

Andy said the email referring to this fence on April 28th notes that NH Fish & Game required that the fencing be erected for erosion control and to protect the wood turtles. The fence was to be put up prior to May 15th. Chairman Frost asked Janice to confirm the reason for the fencing, and to let the applicant know that if it was put up for erosion control, it was installed backwards. Don suggested that something from Fish & Game should be acquired to make sure there are actually turtles in that area. Chairman Frost confirmed that the Natural Resources Inventory identifies wood turtles in that area.

6. Developments of Regional Impact

This will be covered at the next meeting.

7. Communications

8. Reports

Contoocook Watershed Subcommittee

Chairman Frost said that the Planning Board has created a subcommittee to look at the Contoocook watershed study, which consists of himself, Andy, Clyde, Ed Mical and Ken Melender. They met once, virtually, and reviewed the materials as best they could, considering the poor quality resolution of the maps. Their recommendation (which was sent in by Chairman Frost by the public comment date) was that if they are looking for feedback from the public, they should provide higher quality maps so people can see what is going on from the ground.

Auction of Town-Owned Properties

Clyde said the Selectmen have been looking at a roster of town-owned properties that have been either deeded to the Town through tax forfeiture or some other reason. Some properties the Town should sell and get back on the tax rolls. The Selectmen have debated seeking the advice with the Planning Board and Conservation Commission. They decided that this is a good idea and have created a policy that they will consult with both Boards before selling a property. Three properties were in the first round and their hope is to auction the three pieces later this summer. He appreciated the Planning Board's thoughts on the properties.

Clyde said this could be dealt with in June.

James asked if this has already gone to the Conservation Commission. Clyde said that the list was sent to the Conservation Commission and Planning Board at the same time. Andy suggested inviting the Conservation Commission to their next meeting to get their opinions. Chairman Frost said he would be attending the Conservation Commission meeting and will make that request at that time.

Agricultural Commission

Clyde said the Town approved an Agricultural Commission at Town Meeting. At least one member of the Commission should be a Planning Board member. They will discuss this appointment at the June meeting.

Regional Planning Commission

Ben Inman had nothing to share that evening.

Economic Advisory Committee

Chairman Frost had nothing to report.

9. Public Comment

Andy said he heard there was going to be some work on the bridge coming up on Route 127. He wondered if there was any further information. Clyde said the NH DOT has indicated they are ready to brief the Town. They want to have a separate meeting sometime in the next month to explain where they are in the process. Judy said she recalled the meeting was going to be held on May 18 but she would confirm with everyone.

There was no further public comment.

The meeting was adjourned by Chairman Frost at 9:14pm.

Respectfully submitted,

Kristy Heath, Recording Secretary

Town of Warner