

UNAPPROVED MINUTES OF JANUARY 24, 2022



TOWN OF WARNER

P.O. Box 59, 5 East Main Street
Warner, New Hampshire 03278-0059
Land Use Office: (603) 456-2298 ex. 7

Planning Board Meeting Town Hall- Lower Meeting Room Monday, January 24, 2022 7:00 PM

I. OPEN MEETING

ROLL CALL:

Board Member	Present	Absent
Ben Frost (Chairman)	✓	
Don Hall (Vice Chairman)	✓	
Andy Bodnarik	✓	
Clyde Carson (Selectmen)	✓	
Romeo Dubreuil	✓	
James Gaffney	✓	
Ben Inman		✓

Also Present: Barbara Marty, David Bates, Nancy Martin (Conservation Commission Chair), Jacki Trumaine, Alice Chamberlin, Mike Amaral and Land Use Administrator Janice Loz. Zoom: Emily Karmen, Nicholas Mitchell, Jim Zablocki, Paul Lakevicius, Stephen Trostorff, George Pellettieri and Recording Secretary Ray Carbone.

Chairman Frost called the meeting to order at 7:06 PM.

II. APPROVAL OF MINUTES:

After review and a brief discussion, **Andy Bodnarik** moved to accept the minutes of **December 14, 2021, as amended; Clyde Carson** seconded. In a voice vote, the motion passed unanimously.

III. NEW BUSINESS

A. Public Hearings: Zoning Amendment Proposals

Chairman Frost introduced the four amendments, noting that only the first was proposed by the Planning Board and can therefore be amended or eliminated at this meeting. The other three are presented by citizens' petitions and cannot be altered or eliminated, but

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the Board is required to either recommend or not recommend to Town Meeting citizens who will vote on the proposals at the polls in March.

Chairman Frost then asked Clyde C., Chairman of the Board of Selectmen, to make an announcement. Clyde stated there is a need for Affordable Housing in Warner. However, there are many questions that have been raised recently about how to best address the issue; therefore, it would be prudent to take the next year to study the issue. So, he plans to ask the Select Board to establish a committee that could study the situation.

The committee would be chartered to look at two specific ideas: first, to study whether there is an Affordable Housing problem in Town; and second, to propose possible changes to the Town's Zoning Ordinance that could resolve or mitigate the problem. The findings would be announced in time to be considered by the Planning Board before the annual Town Meeting in March 2023.

The committee would include members of the Select Board, Planning Board, Zoning Board of Adjustment (ZBA), and (probably) the Economic Development Advisory Committee (EDAC) as well as some at-large citizen representatives.

Clyde said he's sympathetic to the purposes behind the petitioned zoning amendments on tonight's agenda but he believes that taking a longer time to discuss and evaluate the relevant issues would be the best way for the Town to proceed.

Chairman Frost said he asked Clyde to make this announcement because he thought it would help to guide the discussion on tonight's agenda, e.g., citizens might make a comment and then indicate that a particular issue is one that the study committee should consider.

The following amendments will be considered for possible voter adoption at the Annual Town Meeting in March:

Chairman Frost then outlined the four proposed amendments:

Amendment A: Detached Accessory Dwellings: Amend Zoning Ordinance Article XIV-B(6) to eliminate the requirement that detached accessory dwelling units (ADUs) must be located within 75 feet of the primary dwelling. [Brought forward by the Planning Board.] Chairman Frost said there is currently a provision in the Town's Zoning Ordinance that a separate Accessory Dwelling Unit (ADU) must be located within 75 feet of the primary dwelling on the lot. This would eliminate the tethering requirement.

Amendment B: BY PETITION. Tiny Houses: In the Zoning Ordinance, eliminate the requirement that the size of accessory apartments must be at least 300 square feet (Zoning Ordinance Article XIV-B(3)); In the Building Code, eliminate the requirement that every single-family dwelling must have at least 500 square feet of living area on one floor (Building Code Article II(B)(4)). There are two aspects to this citizens' petition article, Chairman Frost explained. The first would eliminate a requirement in the Town Zoning Ordinance that an Accessory Apartment must be at least 300 square-feet; there is a requirement regarding square footage of an Accessory Apartment in the State's Building Code. The second would eliminate the requirement in the Town Building Code that a structure must have at least 500 square-feet on one floor.

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Chairman Frost noted that much of the public discussion at the Board's January 3 meeting raised concerns about multi-family Housing in Town. Neither Amendment A nor Amendment B is related to that issue.

Amendment C: BY PETITION. Workforce Housing: Amend Table 1 – Use Regulations to allow multi-family workforce housing as a permitted use in the R-2, C-1, and INT Districts, where such uses currently require a Special Exception.

Chairman Frost noted that the Board spent considerable time last year amending the Workforce Housing portion of the Zoning Ordinance, and those alterations were approved by voters in March 2021; the changes were meant to ensure that the Town's Zoning Ordinance complies with the state's mandatory Workforce Housing Statute.

Amendment D: BY PETITION. Multi-family Permitted Use R-3 / OC-1: Amend Table 1: Use Regulations to allow construction of multi-family dwellings of 2-4 units and conversion of single family dwellings to multi-family dwellings of 2-4 units in the R-3 and OC-1 Districts; and amend the preamble to Article VII Low Density Residential District R-3 to replace “the individual family’s” with “residential”. Chairman Frost said this petition article has to do with allowing multi-family housing in the R-3 and OC-1 Districts. The proposed change in language is probably a grammatical one, he said.

Chairman Frost opened the Public Hearing.

David Bates said he is the citizen who spearheaded the three citizens' petitions on tonight's agenda. He said he's gratified that other residents have expressed interest about the lack of Affordable Housing in Warner, but he noted that some people have expressed serious reservations about Amendment D. In an effort to keep local tensions low, Bates is recommending to the supporters of Amendment D to not vote for it; he's also asked the Planning Board to not recommend it to Town Meeting voters. Bates said he hoped the new Select Board housing committee would look into the issues related to the proposal.

David asked the Board to support Amendment B, which is related to Tiny Houses; it would permit smaller single-family houses and resolve the incongruity between the Town's Zoning Ordinance and the State's Building Code, he said. He also asked support for Amendment C.

Conservation Committee Chairman Nancy Martin said that members of her committee have concerns about the amendments. Regarding Amendment A, the group is concerned about fragmenting backlands that would “break up existing wildlife corridors, making it difficult for animals to move from place-to-place within their habitats,” she said. Regarding Amendments C and D, Nancy said her committee is concerned about the removal of the ZBA's oversight, and the potential impacts of an increase in multi-family dwellings in Town. In particular, while there are limits on the number of family dwellings (2-4 units), there is no limit on the size of each unit. As a result, the committee has concerns about an increase in impenetrable surfaces, the scale of the utilities, and the number of driveways. “We're very concerned out the elimination for special exceptions required to make changes in the R-3 and OC-1 zones,” she said.

Finally, Nancy said that these amendments are inconsistent with the housing goals that are outlined in the Town's Master Plan, especially “the focus on encouraging residential development near existing villages where services already exist.” The Plan also seeks to preserve Warner's rural character by minimizing development in outlying area, such as

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unfragmented conservation lands. “The Master Plan encourages reasonable and realistic opportunities for the development of Senior Housing and Workforce Housing, particularly near existing services, roads and amenities,” she concluded.

Barb Marty spoke to Amendment B, the petition article that would lower the square footage space of Tiny Houses and single-family dwellings. Barb said that the average space of a Tiny House in America is 325 square feet; the Town currently requires a minimum of only 300 square feet. “Three-hundred feet is a fairly small area,” she said. In addition, the Town requires a minimum of only 500 square feet on a single floor for a single-family dwelling. “I think our minimums are already fairly small,” Barb said. “I would ask the (Board) to not change those minimum square footages, to wait and see how the (Select Board’s housing) committee comes up with.”

Jackie Trumaine express concerns about Amendments C and D. She said she moved to Warner from a similar small town in Connecticut (historic, by a river). She talked about “what happened when multi-family houses were built... Lots of vegetation was cut down, trees were cut down, and there was more flooding along the river as a result of that.” The community had to join a municipal water facility, which created new cost; water and sewer bills went up four-times themselves within two years. “The wildlife corridors, because of the fragmentation, were really disrupted... Taxes went up because of infrastructure costs for roads and fixing things... And it ended up that the workforce couldn’t really afford to live there at that point. “I don’t want that to happen in Warner,” she said. Jackie also said she was not in favor of eliminating the oversight of the ZBA.

Alice Chamberlain said she wanted to speak to Amendment A. She noted that she had previously submitted testimony about cutting the 75-foot limits that tether ADUs to a primary dwelling. She believes such a change would create some unintended consequences, including fragmentation of backlands, lack of oversight by ZBA, and a long-term impact on density. But she also noted some research that she and Barb had done recently on detached ADUs in the New Hampshire. She said that there are a wide variety of approaches that are used by the 200 communities allowing these structures. “Most towns aren’t just cutting the tether,” she said, and she encouraged the community to look into other options, including allowing detached ADUs under special exceptions, requiring permits, and restricting them onto lots of a certain size.

Michael Amaral said he’s been in Town since 1989 and also had concerns about Amendment A. He called it a “shocking and dramatic change in our zoning laws.” In addition, construction costs of multi-family housing would be significant, basically restricting rental units from being considered Affordable Housing.

Board member James Gaffney, speaking as a private citizen, said that the “elephant in the room” regarding the Affordable Housing issues, is that the Town owns a large number of properties that it has “been reluctant to put them back on the tax rolls.” He urged citizens to urge the Board of Selectmen to get those lots back on the real estate market to increase the potential availability of housing options.

Chairman Frost closed the public hearing and invited the Board to begin its discussions.

Romeo Dubreuil said that the Board needs to keep remember that the backlands of lots are under the legal dominion of property owners. In addition, the 75-foot minimum tether between an ADU and a primary dwelling “doesn’t make sense logistically.”

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Administrative Assistant Janice Loz noted that resident Emily Karmen had posted on Zoom that she is in favor of the proposed Select Board housing committee, noting that the Town has a housing crisis.

Chairman Frost noted that the Board has received several letters from residents regarding the amendments. Natalie Wells wrote that she is opposed to all four amendments, as did **True Kelly and Stephen Newman(??)**. Barbara and Paul Iverson wrote that they were opposed to three of the petitioned amendments; Chairman Frost assumed that she was referring to the petition articles. Jan Shafer wrote to the Board asking for more discussion about the amendments and about Tiny Houses in Town. Don Quirk submitted a researched letter expressing concerns about all four proposed amendments. Finally, Trish and Nicholas Mitchell suggested that the Board oppose all four amendments.

Chairman Frost directed the Board's attention back to Amendment A for further discussion.

Andy said that he's against removing all tethering limits from the Zoning Ordinance at this time, especially since the new housing committee will be looking into the issue. James pointed out that if a property owner wants to build an ADU on a portion of a lot, that area would necessarily be removed from the state's Current Use tax protections and the income would go to the Conservation Committee. "It's actually an asset to conservation," he said. "This is a great idea." Andy also said that the Town's current Ordinance allows a property owner to have an ADU beyond the 75-foot tether by means of a Special Exception from the ZBA. "Let's leave things the way they are," he said.

Clyde noted that the tethering provision was only added to the Zoning Ordinance last year. Chairman Frost said that, previous to that petition article being approved by voters at last year's annual Town Meeting, ADUs were required to have some use associated with the primary dwelling. Andy said the Board is faced with "trying to fix a language problem with a distance (tethering) problem." Chairman Frost he would like to see something come out of the proposed housing committee that deals with the tethering issues.

Andy Bodnarik made a motion that the Board withdraws Amendment A for consideration at the annual Town Meeting; James Gaffney seconded. In a voice vote, the motion passed unanimously (6 to 0).

Chairman Frost then proposed that Board move onto the three petitioned proposed amendments. He asked the Board for opinions about Amendment B.

Andy said that he's spent some time studying Appendix Q, which was adopted into the State's Building Code last year. He noted that provisions of that Appendix (which is related to Tiny Houses) includes requirements beyond those related to square footage, including the size of stairs, head room in a loft area, etc. He suggested that the Board take more time to study that information before moving forward with other actions, as requested in Amendment B. Andy admitted that leaving things as they are maintains some inconsistencies in the Zoning Ordinance, but suggested that taking out certain requirements without taking an overall view could create more significant legal problems for the Town.

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Chairman Frost explained that Appendix Q is meant to ensure that smaller dwelling units (400 square feet or less) are safe, as it relaxes certain requirements in the Building Code, as James mentioned. After a brief discussion about how the State's Building Code is augmented by the Town's Building Code, Gaffney suggested that Amendment B does not actually appear to address the issue of Affordable Housing. Chairman Frost said it proposed Amendment has more to do with individual choice of housing, rather than Affordable Housing.

James Gaffney made a motion that the Board not recommend Amendment B to Town Meeting voters; Andy Bodnarik seconded. In a voice vote, the motion passed, 5 - 1. (Ben Frost opposed)

Chairman Frost directed the Board's attention to Amendment C, which would allow Workforce Housing in certain zones without the current requirement of a Special Exception from the ZBA.

James said that there are descriptions of the three zones in the Town's Zoning Ordinance and this amendment would result in a pretty significant change.

Andy said he's not heard of any application for a Special Exception in these zones that wasn't given; he said the current process is working well.

Chairman Frost said that when the Board completed its comprehensive update of the Workforce Housing section of the Town's Zoning Ordinance last year, the group was deliberate about retaining the Special Exception provision. "I will stand by that," he said.

Andy Bodnarik made a motion that the Board not recommends Amendment C to the Town Meeting voters; James Gaffney seconded. In a voice vote, the motion passed unanimously (6 - 0).

Referring to Amendment D, Chairman Frost said he appreciated the comments that David Bates' had made at the beginning of the meeting withdrawing his support for this citizens' petition amendment. Andy volunteered to help clarify some of the language in the Zoning Ordinance that this proposal focused on.

Don Hall made a motion that the Board not recommends Amendment D to the Town Meeting voters; Andy Bodnarik seconded. On a voice vote, the motion passed unanimously (6 - 0).

James said that the Board might want draft a list of issue or concerns that the new housing committee should (or shouldn't) consider. Chairman Frost agreed, and said the Board could work on that at coming meetings.

IV. PUBLIC COMMENT

Janice said that Paul Lakevicius had submitted a Zoom question asking about joining the new housing committee. Chairman Frost said the Board of Selectmen would likely make some kind of public announcement about the group soon. Clyde said the news would likely come either at the annual Town Meeting or shortly afterwards.

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V. PUBLIC COMMENT

No other comments were offered.

VI. ADJOURN

Without objection, Chairman Ben Frost adjourned the meeting at approximately 10 p.m.

Submitted by: Ray Carbone