

UNAPPROVED MINUTES OF FEBRUARY 21, 2022



TOWN OF WARNER

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**Planning Board Meeting
Town Hall- Lower Meeting Room
Monday, February 21, 2022
7:00 PM**

I. OPEN MEETING and ROLL CALL

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

In Attendance: Bob Shoemaker, Jacques Belanger, Land Use Administration Janice Loz; and Recording Secretary Ray Carbone.

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

II. OLD BUSINESS

• **Minor Subdivision Application** – continuation from 1/3/2022

Applicant: Robert C. Shoemaker, III Living Trust

Agent: J.E. Belanger Land Surveying, PLLC

Address: 15 Morse Lane, Warner, NH 03278

Map/Lot: Map 17, Lot 13

District: R-2

Description: Applicant is proposing to subdivide Map 17, Lot 13 into 2 residential house lots. These proposed lots will have access from Morse Lane only. This Subdivision involves land in Warner only and not land located in the Town of Sutton.

Jacques Belanger spoke on behalf of Bob Shoemaker’s application for a Subdivision. At the January 3, 2022 Planning Board meeting the Warner River Local Advisory Committee (WRLAC) was asked to comment on this application and its potential impact on the river. Jacques reviewed their comments and felt they were not difficult to address. The WRLAC committee believed much of the property could be within 250-feet of the river which only effects Lot 13 - 1. They wanted to confirm the applicant realizes the property is within the

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designated Warner River corridor. The WRLAC wants locations of the septic system and house delineated. Jacques said the State and Town will get a copy of that plan. It will not require involvement of the Town, it will be handled at the State level. The WRLAC committee outlined four points and Jacques said they were pretty minor. The WRLAC committee would like sediment controls in place during construction. There are no changes to the plan, other than a granite boundary to be set and change the typical ledge into a clear square box on the plan. Jacques said when we change the Bounds, we will change it back to solids and put the date on it.

Jacques continued to say, they have their State Subdivision approval and he asked if the Land Use office had a copy of it. Janice said she had not received it. Chairman Frost confirmed on the plans they were discussing Note number 8. Jacques said the approval was required for any lot under five acres. Chairman Frost confirmed the meaning of the notation. Jacques said it was for the shoreland setback. The Chairman said he was discussing the Designated River zone which is different than the Shoreland Protection. Jacques said he would add a note as to the Designated River Corridor on the plan.

The Chairman asked the Board if they had questions. Don Hall wanted to know what the Board determined were the follow-up items on this application. Don said one was the distance from the Warner River, which had been noted. The Chairman said they were looking for State Subdivision approval, which they have received. Notice to the WRLAC, that has been done and recommendations received. Corrections to granite Bounds to be set, which has been done. Something in writing from Tim Allen, Warner DPW, for driveway locations, which has been done. Chairman Frost said the items the Board were looking for have been done. Andy Bodnarik noted the driveways are indicated on the plan.

Romeo Dubreuil had a question about Lot 13-1, located below and to the west of the driveway if what was shown on the plans was a culvert pipe. Jacques said it is a corrugated metal pipe to the proposed 4K area. He said typically for the State applications you have to show a 4,000 square-foot susceptible area for a septic system. The applicant has not applied for approval of this lot (13-1) because it is not subdivided yet. Romeo said you can do this, even though it is still within the 250-foot shoreland area of the river. Jacques said you can still do things within that area. Romeo asked if a perk test was done. Jacques confirmed they had done a test pit. Also, there is a step-down in elevation in that area, a relatively fine channel between the two roads.

Romeo asked if there were proposed house locations relative to the septic locations. Jacques said there is going to be one house on lot 13-1, because Bob Shoemaker's son is going to be developing that lot. There is nothing planned for the other area at this time.

Romeo asked if there was a wetland delineation on the plan. Jacques indicated that will be on the other plan, that would be added to the one before the Board. Jacques said there were wetlands by the culvert and another on lot 13-1. Romeo said he would like to see the elevation detail. Jacques distributed another paper plan to the Board members. He pointed out the swale to the members of the Board. Jacques said this plan does not have the wetlands on it. They were added after this plan was generated but, they are in the area he pointed out in the swale. Romeo asked about the distance from the septic system to the wetlands. Jacques said he didn't know if Warner had setback requirements, but the State's requirement would be 50-feet to a poorly drained wetland and 75-feet to a very poorly drained wetland. He indicated on the plan 50-feet and 75-feet, respectively. He said that is the 4K area and not the actual septic system. Romeo thanked Jacques for his input.

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Chairman Frost said what the Board has asked for has been done. In addition, they have the recommendations of the WRLAC and two of them can be done as conditions. One condition being an erosion and sedimentary control plan submitted at the time of the Building Permit application. Another condition being adding a note to the plan acknowledging this is within the Designated Warner River corridor. The WRLAC also asks that when the building locations are determined that the Subdivision plans be revised. The Chairman did not think that was necessary because any future owner can revise building locations by adding new buildings and outbuildings. He said he understood what the WRLAC was asking for but, doesn't think they will get enough out of that to justify the requirement. Also, the Warner River Protection Zone is on the plan.

Andy asked when we would get a copy of the State approval. The Chairman said it should have been provided. Jacques said it was emailed to the Selectman's office or the Land Use office. Janice Loz, Land Use Office, said she will follow-up as to if it went to the Selectmen's office. Andy asked that it be filed with the plan and electronic copies sent to the Board. Janice concurred.

There were no further questions.

Andy Bodnarik made a motion to approve the subdivision with the two conditions. Romeo Dubreuil seconded the motion. Discussion: None. **Voice Vote Tally:** 4 – 0. The motion was approved. Although, not stated in the motion the two conditions were: 1. Erosion and sedimentary control plan submitted at the time of the Building Permit application. 2. Adding a note to the plan acknowledging this property is within the designated Warner River corridor.

III. APPROVAL OF MINUTES OF JANUARY 24, 2022

After a brief review, **Andy Bodnarik moved to accept the minutes of January 24, 2022, as amended; Romeo Dubreuil seconded. Voice Vote Tally:** 4 – 0. The minutes were approved as amended.

IV. RULES OF PROCEDURE

Chairman Frost noted that, while the Board has discussed these proposed changes to its Rules of Procedure for some time, he did not favor moving forward with the process tonight. He said he knows that Board member James Gaffney would likely have some thoughts about the proposals, and he would prefer to consider the changes when Gaffney was present. "If we were to act (on the proposed changes), the next step would be to post it for a reading on two successive meetings," Chairman Frost explained; following that, the Board could vote to approve the changes. But working on the plan without Gaffney present "would be premature," he said.

Andy outlined some questions and concerns he had about the proposed changes to the Board's rules of operation; he requested that copies of his thoughts (written markups of both documents) be made available to the other Board members. One question was about the NH RSAs, and how terminology is used in the proposed new rules. Terminology was also an issue regarding the use of "Board of Selectmen" vs. "Select Board," and "Zoning Board of Adjustment" vs. simply "Board of Adjustment." A similar problem appeared to be the use of the term "Chair" (vs. "Chairman").

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Andy also questioned why the new voting rules would require that some Board members would have their votes recorded (if they voted “no”), but not if they voted “yes” to a proposal. “It doesn’t make sense,” he said.

Andy said he also had concerns about the criteria that suggested in the “Developments” section, particularly “Item 7.” “I don’t see why we don’t mirror what is in the Site Plan Review Regulations,” he said.

“I have a lot of questions about criteria,” he added, e.g., the numbers used for distances and sizes. “Where did these numbers come from? I’m assuming that they came from the other Town (referred to in a previous draft) but I don’t see why we don’t have a disclaimer in front of it, saying what this draft is based on.”

V. COMMUNICATIONS

Janice reported that her office has been working with Matt Monahan, the Town’s “Circuit Rider” Planner, investigating the issue of short-term rentals, i.e., Air BnB’s. The issue is currently being debated in several municipalities throughout the State and it’s become quite contentious. She said the Town’s Use Table outlines in Retail and Services, Motels and Hotels as well as, Lodgings and Bed and Breakfast’s are allowed with a Special Exception. She is putting together a response for a resident in Town in regard to an Air BnB.

Chairman Frost noted that Board member Romeo has previously mentioned that there is some legislation being discussed at the State House that would prohibit municipalities from prohibiting short-term rentals; it has been passed in the NH Senate and will now be considered by the NH House of Representatives. Board member’s felt the NH House would likely amend the bill.

Janice wanted to know is a Special Exception viewed as being prohibitive. Chairman Frost said it was a good question and suggested that the community may have to wait to see what the pending legislation defines when, and if, it passes. “We won’t know until May or June,” he said.

A discussion ensued about Board membership and lack of alternates. Janice said there is a member of the Zoning Board of Adjustment (ZBA) may be interested in also serving on the Planning Board.

“I know it’s not illegal,” Chairman Frost said. “One guy I admire a lot in Wilton,” he said, serves on both Boards in his town. There isn’t a problem as long as the person understands that they would have to recuse themselves from the Planning Board’s deliberations in certain cases, Chairman Frost said.

Janice said if there is a Planning Board applicant is referred to the ZBA for a Variance. A member serving on both Board’s may have to be careful about making comments on the application. Their comments potentially could be translated as somehow prejudging a case prior to appearing before the ZBA.

The Board of Selectmen is the body that appoints members to both Land Use Boards the Chairman said. He added that it would be advantageous to have some alternates who could serve on the Board when regular members are not in attendance.

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Vice-Chairman Hall said that involving the Select Board could “have ramifications,” noting that public input at some meetings can be contentious. “I think that it can create a lot of animosity, hate and discontent,” he said. “If it ain’t broke, leave it alone.”

VI. AFFORDABLE HOUSING REPORT – Andy Bodnarik

Chairman Frost said Andy’s report is related to the definition of “Housing Units” in Warner, Sutton, Bradford and Concord. Andy said that he attended a webinar that reported on the Housing Supply in the State, especially comparing the years 2019 and 2020. However, the definition of Multi-Family Housing was altered from one year to the next, i.e., it’s divided into two, three/four, and five-or-more Housing Units in the 2020 report; that was not done with the 2019 figures. He added that Warner currently appears to have a good division among the three categories: Single Family, Multi Family and Manufactured Housing.

Andy also said he tried to use the figures supplied in the report to discern trends and how that data might apply to Warner, but “the figures didn’t add up,” he said.

The information that Andy received also included information about how the City of Dover is approaching the Affordable Housing issue. He said it presented some interesting ideas.

VII. REPORTS

A. Chair’s Report – Ben Frost

Chairman Frost said he had no report and that he was unable to report on the Economic Development Advisory Committee (EDAC) because he missed the last meeting.

In addition, there was no report from the Board of Selectmen because Clyde Carson was absent, and no report from the Central New Hampshire Regional Planning Commission because Ben Inman was absent.

Andy pointed out that there appears to be new traffic problems in the area of Rte. 103 adjacent to Interstate 89’s exit 9 since the opening of the new Dunkin Donuts store, despite the signage the Town required that is meant to direct drivers on the correct ways to enter and exit the parking lot.

Both Chairman Frost and Vice-Chairman Hall said that it probably wouldn’t make much sense to add more signs now. “There are so many signs now,” Frost said. “It’s every man for himself,” Hall joked.

VIII. PUBLIC COMMENT

None.

IX. ADJOURN

Chairman Frost said that without any business to come before the Board, he would declare the meeting adjourned at 7:56 p.m.