

To: Warner Planning Board
From: David Bates, 32 West Main St., Warner NH
Re: Three Proposed Zoning Changes

October 4, 2020

Outlined below are three proposed zoning changes intended to open a path for more housing options in our town without materially changing the footprint of development or character of the town.

- Allow residential 2-4 family uses as a permitted use in the R-3 and OC-1 zones.
- Amend Warner's Building Code and the Accessory Apartment section of the Zoning Ordinance to remove the minimum square footage requirement.
- Allow multi-family workforce housing as a permitted use rather than a special exception in the R-2, C-1 and Intervale Overlay zones.

For reference, [see zoning map here](#).

Housing Needs

The aim of the proposals is to address the need for more “missing middle”¹ housing options in our town. I've had a number of conversations in town with people in the last four years where the lack of affordable housing has come up; chatting with other parents in the children's room at the library, friends going through divorce, business owners looking for a place to house a worker, other parents at Simonds looking to get a foothold in ownership, acquaintances whose parents are getting older and infirm, frantic people posting on the town Facebook group, slipping toward homelessness as their rental agreements expire.

These anecdotal conversations track with collected data. The vacancy rate for all rental units in Warner has been below 5% in five of the last seven years, with the most common vacancy rate for two bedroom units being 0%.² Median rent has climbed from \$586 in 2002 (\$848.18 inflation adjusted to present values) to \$1162 in 2020.³ Going back to the 2011 master plan survey, “two-thirds (66%) of respondents felt that there was a need for affordable housing in Warner, for seniors and/or low- to moderate-income residents. Over half of respondents (55%) would encourage residential development in and around the village where public water and sewer utilities are available”.⁴

¹ AARP: Missing Middle Housing: <https://www.aarp.org/livable-communities/housing/info-2020/missing-middle-housing.html>

² NH Housing Rental Cost Data: <http://nhhousingdata.nhhfa.org/diveport#page=a0039>

³ NH Housing Rental Cost Data: <http://nhhousingdata.nhhfa.org/diveport#page=a0010>

⁴ Town of Warner Master Plan: https://warner.nh.us/tow/downloads/masterplan_2011/MasterPlan.pdf

Warner is experiencing a broader trend. Median rents in Merrimack County have increased 20% in the last five years, while the vacancy rate has fallen to 0.4%⁵ and affordable housing has become a topic of debate for state leaders concerned with the social and economic implications of becoming the second oldest state in the nation (NH's median age is 43, Warner's is 45).⁶⁷ As recently outlined in a report by the Federal Reserve Bank of Boston, "The loss of working-age residents (aged 18 to 64), in particular, has both direct and indirect consequences for a community's workforce and tax base . . . A shrinking supply of working-age residents can prompt employers to look elsewhere to expand their business, which makes it more difficult for local governments to collect enough tax revenue to pay for infrastructure and education. An inferior infrastructure and school system, in turn, can encourage the younger people who had remained in the region to head elsewhere for more opportunity. This can cascade into further problems by making the region a less attractive destination for migration."⁸

A common objection to affordable housing construction is that the property tax value of the structures is not adequate to offset the education expenses of the children who dwell in them. This critique is inaccurate, as it doesn't take into account the changes in household composition that have occurred in the previous generation. Occupants of affordable housing are simply far less likely to have children living with them than occupants of a single family home. In a recent study UNH economics professor Richard England examined whether constructing new housing inevitably raises the local tax rates. His conclusion was "definitely not."⁹

Proposal One:

Allow residential 2-4 family uses as a permitted use in the R-3 and OC-1 zones.

As currently written article VII of the [zoning ordinance](#) describes the R-3 district as a low density district "for residential and agricultural uses on land remote from municipal water and sewer services and which because of its character requires large minimum lot sizes to handle the individual family's water and sewer disposal needs."

It is entirely appropriate to designate lot sizes based on the carrying capacity of the lot for water and septic systems. However, the R-2 zone is also on land "remote from municipal water and sewer services" leaving the reason for differences in permitted uses between the zones

⁵ NH Housing: 2021 New Hampshire Residential Rental Cost Survey Report. <https://www.nhhfa.org/wp-content/uploads/2021/07/NH-Housing-Rental-Survey-Report-2021.pdf>

⁶ Josh Wood, New Hampshire facing demographic crunch as population changes, *The Guardian*, Nov. 19, 2018. <https://www.theguardian.com/us-news/2018/nov/19/new-hampshire-facing-demographic-crunch-as-population-ages>

⁷ Michael Kitch, Taking on NH's housing 'crisis', *NH Business Review*, Nov. 22, 2019. <https://www.nhbr.com/taking-on-nhs-housing-crisis/>

⁸ Riley Sullivan, Aging and Declining Populations in Northern New England. Federal Reserve Bank of Boston, July 17, 2019. <https://www.bostonfed.org/publications/new-england-public-policy-center-regional-briefs/2019/aging-and-declining-populations-in-northern-new-england.aspx>

⁹ Richard England. Will More Kids in Town Raise the Local Tax Rate? August 15, 2019. [https://www.nhar.org/assets/pdf/England_student_enrollment_Final_Report_to_NHAR\(2\).pdf](https://www.nhar.org/assets/pdf/England_student_enrollment_Final_Report_to_NHAR(2).pdf)

undefined. In practice, it's my sense that preserving open space is an important value for our community, and I share that goal, whether it is clearly defined by the ordinance or not.

As a thought experiment, consider a 2500 square foot single family home with an in-law apartment occupied in total by six people, and conversely a duplex of two units of 1200 and 800 square foot units respectively, occupied by a family of four and an elderly couple

Missing from the ordinance is an explanation for why the single-family home is a permitted use, while the duplex requires a special exception from the Zoning Board of Adjustments (ZBA).

In past meetings, the ZBA has sometimes been referred to as though it is a kind of decision-making comfort blanket; there to provide a second set of eyes "just in case." In reality, it is a bureaucratic process that's somewhat burdensome but provides a useful way of making judgments about rare and unorthodox situations that might not be anticipated. The text of RSA 674:33(2) lays out the test which the ZBA must apply to those unanticipated situations.

2) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

(A) The variance will not be contrary to the public interest;

(B) The spirit of the ordinance is observed;

(C) Substantial justice is done;

(D) The values of surrounding properties are not diminished; and

(E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

It's difficult to see how tests A-E would apply to the example given of a duplex in the R-3 district. The public interest and spirit of the ordinance explicitly described by the zoning ordinance for the R-3 district has to do with water and sewer adequacy - yet as pointed out R-3 is identical to R-2 in regard to its relationship distant from the town water district. If the public interest is in open space, which I believe to have been the intent behind R-3, it again has nothing to do with whether a structure erected is used to accommodate one or two families. It's also difficult to see how the "substantial justice being done" or "unnecessary hardship" tests would apply to the example. Finally, we have the experience of decades of home sales in the R-1 and R-2 districts that the presence - often in much closer proximity than would be allowed in the R-3 district - of a multifamily home has no impact on the value of a single-family house or vice versa.

The reason the actual tests seem nonsensical when applied to the example given is that the situation under consideration is not a rare, unorthodox, or unanticipated situation. It is simply residential landowners using their property for residential purposes, which homeowners less than a mile away in the R-1 and R-2 districts have done without controversy or remark for longer than anyone reading this has been alive.

Given the pressing housing crisis in which we find ourselves, I ask the board to consider

removing this unnecessary impediment to residential landowners for both the R-3 district and, for identical reasons, the OC-1 district.

Proposal Two:

Amend Warner's Building Code and the Accessory Apartment section of the Zoning Ordinance to remove the minimum square footage requirement.

Warner's building code, Article II B-4 currently reads "Every freestanding dwelling unit to be used by a single-family shall have at least five hundred (500) square feet of living area on one floor."

In 2020 NH adopted [Appendix Q](#) to its building code, incorporating necessary safety aspects of the construction of "tiny houses." As seen by the example of local towns like Wilmot, the removal of a minimum square footage requirement has caused no problems for either the public or private owners.

Removing Warner's minimum square footage requirement as suggested would allow dwellings smaller than 500 square feet as permitted single-family or accessory apartment dwellings while retaining the same requirements that apply generally to all existing residential structures in the town in terms of lot size requirements, foundations, and water/sewer. After speaking with Tom Baye the town building inspector, it did not appear to me that this change presented any problems for the public.

Given the pressing housing crisis, I ask the board to consider this unnecessary impediment to residential landowners' use of their property.

Proposal Three:

Allow multi-family workforce housing as a permitted use rather than a special exception in the R-2, C-1 and Intervale Overlay zones.

In 2020 the planning board adopted a proposed amendment that re-wrote its workforce housing section. As explained [in the minutes of the public hearing](#) on January 4th, the amendment was needed because without the amendment "some parts don't make sense, some don't match the State statutes, and . . . the current provisions do not fully meet the Town's legal requirements."

While there was no debate over whether the proposed amendment clarified the workforce housing section and brought it into compliance with state law, a view was expressed in debate that the "problems associated with the coronavirus pandemic have made substantive deliberations especially difficult in the last year" and that it would be better to "bring a more modest proposal to voters at the Annual Town Meeting in March" while allowing for more public review and due diligence work over the course of the coming year.

At a second [public hearing on January 16th](#) the Planning Board voted to change the proposed amendment to make multi-family workforce housing allowable only by a special exception in the R-2, C-1 and Intervale Overlay zones.

No doubt the Planning Board members who felt the new workforce housing section required more time for consideration and due diligence have applied themselves to that task in the subsequent 9 months. Additionally, the emergency orders of the early pandemic have now expired and in-person public meetings have resumed, allowing for a traditional process of public review and debate.

I would like to therefore reopen the topic of the workforce housing section and ask the Board to amend it, allowing multi-family workforce housing as a permitted use in R-2, C-1 and the Intervale Overlay, just as it currently is in the nearby R-1 and B-1 zones.

Text of Amendments

1. Are you in favor of the adoption of the following amendment to the text of Article VII of the Warner Zoning ordinance:

replace “the individual family's” with “residential”

and;

to the amendment of Table 1: Use Regulations, to reflect multi-family dwellings, and the conversion of existing structures into multi-family dwellings, as permitted uses in R-3 and OC-1.

2. Are you in favor of the adoption of the following amendment to the text of Article II B-4 of the Warner Building Code:

remove section four, regarding minimum square footage, and appropriately renumber the following sections

and;

amend Article XIV-B(3) of the Warner Zoning Ordinance to remove the phrase “an area of no less than 300 square feet,”

3. Are you in favor of the adoption of the following amendment to Table 1: Use Regulations of the Zoning Ordinance to reflect multi-family workforce housing as a permitted use in R-2, C-1 and INT.

Good afternoon Planning Board,

I'd like to register my support for the zoning recommendations as proposed by David Bates and that I agree with the terms of the proposal he has put forth.

Thank you.

Darryl

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Darryl Parker

1 East Main St

Warner, NH 03278

To: The Warner Planning Board

From: Dawn Quirk, 676 Pumpkin Hill Road, Warner NH

Re: Opposing all of David Bates proposed zoning amendments

November 14, 2021

I am respectfully writing to oppose all proposed zoning changes.

The upzoning proposals have been put forth with a promise of providing affordable housing and, as a solution to the worker shortage. The latter promise is easy to debunk. Upzoning Warner will not change the worker shortage, which exists due to worker discontent with low wages, the pandemic, and lack of childcare.

Affordable housing: there is simply no link between building more units and solving the affordable housing crisis. Instead, building more housing causes gentrification, which pushes out local businesses and existing residents. In 2021, supply and demand economics do not apply to profit-driven housing. Although the proponents of these changes argue that building more housing will house more people who need affordable housing, there is no evidence supporting this false. According to a Northeastern University article titled, "Why Gentrification Happens, "shifting public policy towards speculator-friendly market-oriented development" the "...disingenuous process" is a result of "the cooperation of policymakers with capital owners, allowing higher income people, but especially financial speculators, to reap substantial profits in

detriment of the poor, thus further accelerating capital concentration and inequality." (Vazquez Brust)

In addition to the displacement of existing residents, another negative effect of upzoning is traffic congestion and the destruction of green space. Warner has some of the highest-rated unspoiled natural habitats and green spaces in the state (New Hampshire Fish and Game).

Also, housing advocates worldwide are fighting every day for transit-oriented development (TOD), which aims to reduce private cars and promote sustainable growth. Expanding housing in 100% car-dependent Warner will cause sprawl, is unsustainable, and is bad public policy. The world is in the midst of a climate change catastrophe and a man-made mass extinction event. As a result, municipalities all over the world are working to reduce driving. As the Sierra Club states, "Sprawl is irresponsible, often poorly-planned development that destroys green space, increases traffic and air pollution, crowds schools, and drives up taxes." (Lehigh University)

Warner will unleash the horrors of gentrification if it opens its land to more private developers. Building a blend of government-owned below-market-rate and low-income-only housing while increasing wages are the solutions to housing people.

In the absence of non-profit-driven affordable housing, the state of New Hampshire is a YIMBY (yes, in my backyard) state due to its regulation allowing each homeowner to build accessory development units (ADUs). Reaching the housing potential of ADUs would double living spaces. ADUs are an incredible tool for expanding housing, and it already exists. My

recommendation for housing expansion is for housing advocates to propose incentives to increase ADUs. Tax breaks, speedy permitting, and 0% interest loans are a few ideas.

This letter is purposely brief for easier reading, but this topic deserves an extreme amount of scrutiny, debate, and analysis.

Thank you for reading my opposition letter.

Respectfully,

Dawn Quirk

676 Pumpkin Hill Road

CC: The Board of Selectmen, selectboard@warner.nh.us

Warner Zoning Board, landuse@warner.nh.us

References

Lehigh University. "Sprawl: What Is Sprawl?" *Https://Ei.Lehigh.Edu*, ei.lehigh.edu/envirosci/enviroissue/sprawl/whatissprawl.html. Accessed 12 Nov. 2021.

NH Fish and Game Department. "WAP Town Maps | Wildlife | New Hampshire Fish and Game Department." *Https://Www.Wildlife.State.Nh.Us*, State of New Hampshire, www.wildlife.state.nh.us/maps/wap.html. Accessed 14 Nov. 2021.

Vazquez Brust, Antonio. "Why Gentrification Happens." *School of Public Policy and Urban Affairs*, 9 Nov. 2021, cssh.northeastern.edu/policyschool/why-gentrification-happens.

To: The Warner Planning Board

From: Christian Buerkle, 676 Pumpkin Hill Road, Warner NH

Re: Opposing all of David Bates proposed zoning amendments

November 14, 2021

I am respectfully writing to oppose all proposed zoning changes. Warner is an amazing amazing place **because** of the existing zoning.

Simply put, increasing housing has a domino effect of increasing the need for housing, which means there will never be enough. For example, bringing in more housing will result in more school children and more teachers needed to teach them. It will result in the need for more police and fire. These new teachers, police, and fire would need housing. And it will continue and continue until Warner is a sprawling traffic-congested overpopulated Town and unrecognizable.

Instead, I propose developers build more housing in existing cities like Concord or Franklin.

Thank you for reading my letter.

Respectfully,

Christian Buerkle

676 Pumpkin Hill Road

CC: The Board of Selectmen, selectboard@warner.nh.us

Warner Zoning Board, landuse@warner.nh.us

Planning Board
Town of Warner NH

From: Mary. Mead
461 Pumpkin Hill Road
Warner. NH
603 748 0992

To the Planning Board:

I would like to register my opposition to the zoning changes proposed by David Bates, which he proposes would increase housing options for mid income earners. I believe it would do the opposite in that it might well expose Warner to housing developments and duplexes in open space – open, uncluttered and undeveloped space is what defines this town and is due in large part because of the generosity of landowners who, along with residents, have determined that preserving large tracks of land is essential to preserving Warner’s unique character. While these tracks would not be threatened by these proposals, single housing requiring 3 acres of land in R3 districts is an equal part of the character of the town. This is too important to hastily dispense with because of current, challenging housing conditions.

While I fully understand and agonize with those who have not been able to secure housing, including my own younger son and his fiancé despite doing all the right things – working hard and saving money in anticipation of the right opportunity – opening up R3 districts to multiple housing units borders on insanity absent price and income controls that are currently not lawful, nor do I believe they should be. There would be nothing in place to prevent multiple million dollar units from popping up.

I am not averse to low income housing however a determination of the need unique to Warner must first be understood based on real numbers, not anecdote and would emerge from vigorous study. Any public/private investor project would require that in advance. I do not think the zoning board should be removed from the equation.

With regard to lowering the minimum housing square footage for auxiliary housing - in my estimation this is not a long term solution because “tiny houses” tend to be transitional housing or unique vacation rental opportunities. In our climate they are simply too small to be considered part of a robust solution to help the housing needs of mid-level income households, but this is based on my own anecdote of having spent time in a 400 square foot house. It may well be a solution for a single income, youthful individual with living parents who have not dispersed their possessions yet.

Respectfully submitted

Mary Mead