

TOWN OF WARNER – PLANNING BOARD

Meeting Minutes

December 19, 2016 7:00 PM

Warner Town Hall, Lower Level

Members Present: Chairman Ben Frost, Vice Chair Barbara Annis, Selectman's Representative John Dabuliewicz, Ben Inman, Ken Milender, Don Hall, Peter Anderson

Alternate, James Gaffney Alternate

Land Use Secretary Lois Lord

Absent: Darryl Parker Alternate, Aedan Sherman

1. OPEN MEETING

Chairman Frost opened the meeting at 7:00 p.m.

2. ROLL CALL

Roll call was taken with eight members present and two absent. Chairman Frost asked James Gaffney to sit in for Aedan Sherman.

3. APPROVAL OF MEETING MINUTES

Chairman Frost brought forth the meeting minutes of 11/7/16 for the Planning Boards approval. Barbara Annis noted a few changes for correction. A **MOTION** to accept the minutes as written was made by Selectman Dabuliewicz, seconded by Ken Milender. A voice vote was taken with a unanimous yes. 7-0-0

4. PUBLIC HEARING ON PROPOSED WARRANT AMENDEMENTS

Chairman Frost stated the Planning Board is proposing three changes to the Zoning Ordinance and opened the Public Hearing at 7:07.

First Proposed Amendment: Ben explained that the first amendment being proposed deals with time limits for Zoning Board of Adjustment grants of variances and special exceptions. The wording is as follows:

Amend Article XVII Section F Time Limit, by changing the existing wording:

***F. Time Limit:** Approvals granted by the Board for Variance or Special Exception are valid for a two-year period unless vested.*

to the following wording:

F. Special Exception or Variance Time Limits:

***A.** A Special Exception or Variance approved by the Board will expire after two years from the date of the Board's decision if the use or construction authorized by the Special Exception or Variance has not commenced. This two-year limit may be extended by the Board for good cause. No Special Exception or Variance will expire until one year after the resolution of an application to the Planning Board filed in reliance on the Special Exception or Variance.*

***B.** If the use or construction authorized by a Special Exception or Variance is abandoned for at least two years, then the Special Exception or Variance cannot be reestablished without a new application and approval by the Board.*

Chairman Frost said they had discussed earlier in the year that the word vested has posed some problems and is what might be called a legal term of art which does not mean it is easily understood to most people. The change the Planning Board is proposing is consistent with a recent change to NH Statutes dealing with time limits on special exceptions and variances. He reviewed and explained the changes further.

Public Comment: Jim Zablocki – 430 Pumpkin Hill Road: Because of the fact that our record keeping in our community is questionable, many of the variances and special exceptions that may exist in many cases are long gone and aren't used anymore. This will put us with most of the communities within the state to have, as opposed to the word vested, wording that current use is fine but if it hasn't been used in 30-40 years with a property that no one is aware it has existed before, that's the reason and logic behind making this proposal.

Beverly Heaton – 53 Old Pumpkin Hill Road: When the subject came up this past year about it not having been formally a restaurant, when we bought our land I had no idea that had ever existed and that there might be a chance it could come back. You're kind of blindsided when you hear that and it almost seems like the realtors need to tell a potential buyer this could happen, assuming they know.

Second Proposed Amendment: Chairman Frost explained the second proposed amendment as worded below:
Amend **Table 1 Use Regulations under Retail and Services Numbers 19, 19-a and 20 Article XVII** by changing the existing wording:

| USES | R-1 | R-2 | R-3 | B-1 | C-1 | OC-1 | INT | OR |
|---|-----|-----|-----|-----|-----|------|-----|----|
| 19. Other amusement and recreation service, outdoor; including camping grounds. | | S | S | | | S | | S |
| 19-a. Other amusement and recreation service, outdoor; excluding camping groups (<i>Amended March 2015</i>) | | | | | S | | | |
| 20. Other amusement and recreation service, indoor | | | | S | S | | S | |

To the following wording:

| USES | R-1 | R-2 | R-3 | B-1 | C-1 | OC-1 | INT | OR |
|--|-----|-----|-----|-----|-----|------|-----|----|
| 19. Other amusement and recreation service, event venue and function services , outdoor; including camping grounds. | | S | S | | | S | | S |
| 19-a. Other amusement and recreation service, event venue and function services, outdoor; excluding camping groups (<i>Amended March 2015</i>) | | | | | S | | | |
| 20. Other amusement and recreation service, event venue and function services indoor | | | | S | S | | S | |

He noted there is no change to the district listing and are all by special exception in whatever district is listed there. He said this came up because of the same thing that came up on Pumpkin Hill Road but the board has also dealt with similar issues in the past in other parts of town so this will be a helpful change.

Public Comment: Carol Zablocki – 430 Pumpkin Hill Road: Asked for clarification of what a blank means in the use table which was explained to mean it's not allowed in that district. What is the difference between 19 and 19-a, one includes camping grounds and one doesn't. It's almost like one is just for camping grounds and one is note.

Chairman Frost said that is exactly right. James Gaffney said he is assuming those are commercial and not private.

Third Proposed Amendment: Chairman Frost explained this is done to reflect a recent change to NH Statues dealing with Accessory Dwelling units and is a law passed by legislature earlier this year, signed into law by the Governor and goes into effect on June 1, 2017. The wording is as follows:

Amend **Article III Definitions**, by changing the definition as currently worded:

“Accessory Apartment” means a separate complete housekeeping unit that is contained within, attached to a single family dwelling, or within an accessory building, in which the title is inseparable from the primary dwelling.

to the following wording per RSA 674:71:

“Accessory Apartment” means a residential living unit that is appurtenant to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating,

cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. An accessory dwelling unit may be within or attached to the principal dwelling unit.

and, amend **Article XIV-B Accessory Apartment item 1**, by changing the existing wording:

1. The accessory apartment shall be clearly incidental to the primary use of the property. The apartment shall be a completely separate housekeeping unit that can be isolated from the primary dwelling unit.

to the following wording:

1. The accessory apartment shall be clearly incidental to the primary use of the property. The apartment shall be a completely separate housekeeping unit that can be isolated from the primary dwelling unit **but shall have an interior door connecting it to the primary dwelling unit.**

Ben explained the Planning Board went through the existing Zoning Ordinance. The law requires municipalities to allow accessory dwelling in any zone in which single family uses are a permitted use which is most of the town. For the most part, our Zoning Ordinance already complies with the statute. Chairman Frost reviewed the two changes, one being the definition of accessory apartment and the other the addition of some wording.

Public Comment: There was none.

Selectman Dabuliewicz asked if we could conclude that the last sentence in the new definition tells you what an appurtenance means. Chairman Frost answered that the word appurtenant came from an earlier version of the bill, not the final language of it and it's not a word for word reflection of the statute. The statute does not include that final sentence.

Hearing no comment Ben closed the Public Hearing at 7:19. (Note: the board later decided to deem the public hearing open until 7:30 as another public comment was heard.)

Planning Boards discussion of First Amendment – Barbara noted that on Item F. there were capital letters A. and B. and in order to be consistent with the current ordinance those should be lower case. The board was in agreement. Selectman Dabuliewicz asked when would the resolution of an application happen if someone submitted one, started the process, but didn't follow up on changes requested by the board. Chairman Frost said it would be resolved when the board made a decision on the application. The board continued discussion that an abandoned request could happen. Chairman Frost referenced RSA 674:33 I-a which reads as follows: "*variances authorized under paragraph I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.*" Ben noted this also applies to special exceptions.

Selectman Dabuliewicz asked why the Planning Board is changing it to a year when the RSA states 6 months and Ben replied that when we were crafting this language we chose to make it a longer period of time.

Planning Boards discussion of Second Amendment - Selectman Dabuliewicz asked for clarification if this change means "*event venue*" and "*event function services*". This was discussed, what are function services, whether it refers for example to catering/portable facilities for an event, and that it is something involving people other than employees of an organization. Chairman Frost asked Selectman Dabuliewicz if he would suggest any changes and he had none. Barbara said she believes that language was suggested to us, that the person who suggested it was in the audience and would they care to clarify it. Ben said we are outside of the public hearing but we can do that.

Carol Zablocki who had submitted this suggested change said the discussion was that function services would go for event services and would be catering, bands, porta potties, parking attendants and whatever ancillary services would go along with holding a business meeting, baby shower or wedding or whatever the function would be.

Selectman Dabuliewicz suggested adding the word “*related*” to tie it to the venue more clearly. It was discussed that another public hearing would not have to be held as this would not be a change of a substantial nature. The board was in agreement with this change.

James Gaffney asked a question regarding the public comment that was made when the public hearing had already been closed. Chairman Frost replied that for the purposes of maintaining absolute legal order could we assume the public hearing is still open without objection? There was no objection.

Planning Boards discussion of Third Amendment – Chairman Frost noted the correct statutory reference is 674:71 and asked if there were any thoughts on the changes. There were none.

Public Hearing closed at 7:30.

Chairman Frost brought forth a MOTION to propose Amendment #1 with changes at town meeting in March of 2017. Motion was moved by Ken Millender, seconded by Barbara Annis. A voice vote was taken with all in favor 7-0-0.

Chairman Frost brought forth a MOTION to propose Amendment #2 of the Use Table with the added language of “*related*” to numbers 19, 19-a and 20 to town meeting 2017. Motion was moved by Selectman Dabuliewicz, seconded by James Gaffney. A voice vote was taken with all in favor 7-0-0.

Chairman Frost noted the third amendment is Accessory Apartment without change. A MOTION was made by Barbara Annis, seconded by Ben Inman. A voice vote was taken with all in favor 7-0-0.

Chairman Frost explained the process, that we would submit these to the Town Clerk, they will be included in the warrant and are voted on the ballot. There is no further public input other than that vote.

5. NEW BUSINESS

HB1202 – Chairman Frost reviewed that the Planning Board had discussed this previously but he didn’t remember where it was left. Lois Lord said she believes it was mentioned that it had passed and it would affect the submittal. She stated they would need to change the Site Plan Regulations, Subdivision Regulations and Rules of Procedure. Chairman Frost asked about the application and Lois said she would double check but didn’t think it mentioned the submittal time.

Chairman Frost said we could do those together and would need to do a public hearing on the two regulation documents He stated what this new law does is changes the application deadline and extends it six days. The purpose is to give the Planning Board more review time prior to public notice being made. If there is a glaring deficiency the applicant would be notified and could decide to proceed or not. Ben said we will plan on doing the public hearings in January.

Gravel Permit Renewals – Chairman Frost noted there are three letters to go out for Courser, Hill and Warner Aggregates. The board discussed the location of the Hill gravel pit. Ben said we will send out letters asking for information back mid-January. Selectman Dabuliewicz noted a correction to wording which Lois said she would correct, get Bens signatures and then send them out.

6. OLD BUSINESS There was none.

7. SUBCOMMITTEE REPORTS

Master Plan Subcommittee – Chairman Frost noted the subcommittee has not been as active as he had hoped. Tonight’s meeting being our normal work session they would have probably met tonight. He would like to schedule the next meeting, probably sometime in January which they will discuss after the Chairman’s Report. The board discussed the new transportation chapter and that material is being gathered.

8. COMMUNICATIONS AND MISCELLANEOUS

Chairman's Report - Chairman Frost asked the board to take a look at the calendar for the 2017 Planning Board meetings which all board members had a copy of. He noted that he has a couple of conflicts the most important being January 9th as he would be out of town then. Ben said Lois has informed him that they do have a Subdivision Application that would be heard at that meeting, a two lot subdivision on Couchtown Road. Chairman Frost said they could go forward with the January 9th date and Barbara would have to Chair the meeting or they could look for a different January date. The next Monday the 16th is a holiday so the board will not be meeting then. Discussion ensued on meeting schedules. Barbara said she was wondering if the Applicant is looking at January 9th, is this pending a sale of one of the lots? Lois said she didn't know and gave some details of the application. Barbara said she would chair the meeting so to keep on schedule. It was also decided that the Master Plan Subcommittee would meet on January 23, 2017 at 7:30. Ben asked Lois to notice the meeting. Chairman Frost said his next conflict is March 6th which they can deal with at another meeting.

The next item was the town newsletter and Chairman Frost was surprised he didn't get a request for Planning Board input for it. Selectman Dabuliewicz asked if that normally happened. Ben replied that this is the first one that has come out since he has been Chairman and he would have put something in about the Zoning Changes if he had known. He said he would communicate with Jim about it. Lois was asked if they normally communicate with her about it and she said if her recollection is correct, in the past when Rick was the Chair he was aware of the newsletter and would submit something. It was decided that Lois would ask Mary Whalen, Selectmen's secretary to let her know when submissions are due. Barbara noted the Town Report was coming up which would need a submission from the Planning Board.

Compliance Officer Inspection Reports – There were none.

Determination of Site Plan Review Applications – Lois reported the only application is the subdivision already discussed.

Selectmen's Report – Bound Tree ATV Club Request. Selectman Dabuliewicz said they had received a request from the Bound Tree ATV club to extend their three year approval for existing trails which go through the Minks and to the town road. There is a request to add three miles that partially includes traveling on a Class V seasonal road, I believe its Hoyt Road. That's on the agenda for tomorrow night's Selectmen's meeting. The board discussed Hoyt Road which goes by the Hoyt Schoolhouse marker. Chairman Frost asked if the plan is to grant this request. Selectman Dabuliewicz said they haven't deliberated on it yet. James Gaffney asked if there was any reason they wouldn't grant it and have there been any complaints. Selectman Dabuliewicz said he wasn't aware of any but plans to ask that at the meeting. There have been complaints about them in general, the noise and in mud season the erosion on the trails makes it difficult to navigate for people not on ATVs.

Don Hall said he thought that Contoocook authorized them to go on their roads so wouldn't it be a black eye on Warner if they didn't allow it. Selectman Dabuliewicz said Hopkinton just turned down the Bound Tree Clubs request to extend, it was in the paper just recently because the neighbors on the Class V road weren't happy. James said there's also a question of the larger population versus a group that seems to be functioning as an advocacy group maybe trying to make an effort to mitigate some of the issues that others raise.

Planning Board CIP request - Selectman Dabuliewicz reported the Board of Selectmen had decided not to approve the \$15,000 request to digitize the tax maps. There was a concern that there wasn't anything to show how much use it would get. One of the things that occurred to him is that he knows Darryl mentioned several towns around us already do this and he was wondering if we could find out how much use those get. Also, there is always a lot of pressure to keep the budget down and not add to it so that was something that wasn't needed. You can see the tax maps on the town website although some of them are so faint you can barely make them out and it isn't user friendly. Chairman Frost said we will take that feedback and come back with a more fully defined proposal next year.

Peter Anderson – GIS data and Exit 9 Development. Peter said there were three things he would like to bring before the board at this time. He noted he has the old GIS data on town maps from 2010 that supposedly had been thrown away. However, he was not able to access it. Chairman Frost offered to take the discs and see what he could find on them.

The second thing is that as part of the Economic Development Committee, he has been tasked with business development. He has been concentrating on Exit 9 and one of the things he did was to go back and speak with applicants who came before the Planning Board for development there in the past. All three of the principals he contacted told him that at the time they were trying to develop, the town wasn't interesting in any development and all had hard feelings towards the Planning Board. He doesn't know if they were based on a real view because there are laws and regulations the Planning Board must follow. Part of our mission to be a friendly board is to be up front and let people know what they are going to have to abide by.

Peter said he is not judging the Planning Board but simply saying they all walked away with a bad feeling. The period that he has been on the board, he feels we work very hard to convey the opposite feeling. He continued to discuss the various projects and that the one next to the Shell Station has 11 acres RAW gave to the Towns Conservation Commission. He suggested the Planning Board at some time discuss these properties and what the board would ask a potential developer to do. He believes it will be very difficult for anyone to develop these lots.

The board continued to discuss the details of past development projects and what was regulated by the town and by the state. James Gaffney suggested putting together some type of primer for potential businesses and what it would require to development there. Chairman Frost noted the best way to develop those properties, at least those going up the hill, would be to merge them or for the property owners to work together to do one driveway cut onto Route 103. Barbara mentioned the third lot which is up on the top of the hill to be very careful of that. Having had a conversation with somebody that was in conservation in Washington, DC, the retaining wall that was going to be on that lot is needed and is something the town would have to do a lifetime guarantee on. Chairman Frost thanked Peter for researching all of this and said it's very useful information.

James Gaffney said it would be curious to know how much support there would be from the Selectmen in taking steps to publicly mitigate or make some statement as to what it would take to develop some of those properties. If the Selectmen do support the effort, there is a question as to whether or not the town could invite the appropriate state people to come and explain what could and could not be done in terms of driveways. Chairman Frost said that was a really interesting idea and could the Planning Board get someone like Rich Radlaski to come and talk to the Planning Board, Economic Development Committee and Board of Selectmen. Barbara said she thought that could be done. The board discussed a Memorandum of Understanding which some towns (Seabrook being one) have with the DOT. Chairman Frost said we don't have that level of development here but there is the potential for some substantial change. Barbara said she would be seeing Michael Tardiff from Central New Hampshire Regional Planning Commission and would ask him about continuing with the corridor study that has been going on for twelve years. Chairman Frost noted there is also the idea of extending the existing corridor study to include other properties. We've already executed the substantial part of that study with construction of the roundabout.

Barbara Annis Funding Requests – Barbara noted Ken, Jonathan Lord and she received an email from Dean Williams which was a copy of a letter that was sent to the Board of Selectmen. It says if you want any funding from the 10 years plan, of which the roundabout is part of, they are starting to take applications. The only thing she could think of is the sidewalk from the middle of town to Exit 9. That has been a priority for a number of people. Selectman Dabuliewicz said the Chairman of the Selectboard wanted them to put in a letter on having sidewalks installed but he doesn't know if it was in response to what Barbara just mentioned.

James Gaffney asked if the funding it just to build or build and maintain. He made the point that a lot of these things can just become more things for the tax payers to support.

9. PUBLIC COMMENT - None

10. ADJOURN

Chairman Frost declared the meeting adjourned at 8:18 p.m.