

Town of Warner  
Planning Board



Meeting Minutes  
July 1, 2019

7:00 PM Warner Town Hall Lower Level

**1. OPEN MEETING and ROLL CALL**

Romeo Dubreuil (Alternate)      Andy Bodnarik  
Ben Frost (Chair)                Don Hall (Vice Chair)  
Ben Inman                            James Gaffney

Absent: Clyde Carson, Board of Selectmen Representative

Peter Anderson has resigned from the Board. Ben Frost asked Romeo Dubreuil to vote in that position.

**2. APPROVAL OF MINUTES:**

June 3, 2019

Motion to approve minutes, as amended, by Andy Bodnarik. Second by Don Hall.

Approved 6-0

**3. NEW BUSINESS:**

**I. PUBLIC HEARING**

**APPLICATION for SITE PLAN REVIEW:**

**Applicant:** Trunnels, LLC.  
**Applicant Address:** 22 Danny Boy Lane, Warner, NH 03278  
**Property Owner:** Warner Properties, LLC  
**Owner Address:** 1500 Marion Ave, Grand Haven, MI 49417-0799  
**Property Address:** **40 Depot Street**  
**Agent Name:** Vince Collins  
**Map 32 Lot 002-01** **Zoning District C-1**  
**Proposed Use:** Beverage Manufacturer of craft beer and non-alcoholic beverages, and tasting room; 7 barrel system (1 barrel = 30 gallons) under a beverage manufacturer license from the State of New Hampshire.

Vince Collins explained that they were conditionally approved, but when they went back to look at the cost, they decided to look at other options. They found a building in the same area, a bit smaller, on one level, that has the fire code up to date, and is ADA compliant. Other than that, the plans are the same.

The building is located at the top of the parking lot, facing Mill Street. It is a warehouse style building with high ceilings and looks like a non-descript residential building. There will be a cooler in the middle and feed the taps off of that. There will be a small tap room with to go cans. The North side will be where the

brewery is located. There are no other exterior alterations except for the logo which may require that the light be moved. The ADA compliant bathroom will be on the East side. There are no plans to make structural changes. The hours of operation will be the same as previously stated, no later than 10pm. If the Fire Department requires a fire suppression system, that will be done. There will be 12 spaces, plus an ADA space. Access for delivery will be on Mill Street; current employees are using the stairs where handrails are located, but that will be cordoned off. It was not intended to be a driveway. The light will stay the same, and one sign will stay the same. I will submit the chemicals that will be used and the locations.

Ben Frost: Given that this is a built site, I believe it is complete to accept for jurisdiction.

James: Motion to accept the application for review.  
Second by Ben Inman.

**Application accepted, 6-0.**

#### OPEN PUBLIC HEARING

Chairman Ben Frost invited to speak any abutters, interested parties, and anyone generally interested.

Nancy Martin asked if they would be selling beer and if it will be a retail operation.

Vince responded that they will have growlers and cans to go.

Nancy Martin asked if 12 parking spaces is sufficient.

Darryl Parker responded that it is up to retail code, and that there are additional 6 parking spaces. There is also street parking.

Nancy Martin asked if the municipal lot is at the bottom of the hill.

Vince responded, "Yes."

Ben Frost asked for a description of the retail based on licensing.

Vince: We are limited to four (4) ounce sample, one four (4) ounce sample per label, per person, per day. We are anticipating 12 labels. What they buy, they cannot consume on the property. Or one sixteen (16) ounce pour; you cannot get both.

Darryl: We are a manufacturer, not a bar.

Ken Cogswell: What is the name?

Vince: Trunnels is an old-world name. It is the name for an old wood dowel, you would see them on covered bridges. They are strong supports and they keep things together, and our business is about bringing people together. They were called tree nails.

Martha Mical: Since the location changed, did all the abutters get notified for the new location?

Vince: Yes, there were a significantly larger number of abutters for this location.

Ben Frost: Recess the public hearing and bring it back to the board. One thought I have that does not rise to a concern is the sign, given that this is a more complex property, and has other signage on the property,

we would need to look at aggregate assessment, and you would need to address that when you apply for your building sign with the Board of Selectmen to be sure it is within the code requirements. I don't think there is a problem, and Warner Power has not been overwhelming.

CONDITION: Applicant confirm that proposed signage in combination with existing signage on the property meets code.

Andy: Snow removal?

Vince: It will be behind the building.

Ben Frost: Easements of record one is Concord Railway – do you know the location?

Darryl: That one is on Rollins, and comes through the depot station. I think that is the easement of record.

Ben Frost: I thought that was all abandoned.

Darryl: It is an old plan. We modified a plan from 1996.

Ben Frost: It was abandoned before that.

Darryl: It took a while to get the easements to be turned over from the original.

Ben Frost listed the conditions of approval:

1. Applicant confirm that proposed signage in combination with existing signage meets code.
2. Hours of operation – no later than 10pm.
3. We need something from the property owners. Copy of the lease, including reference to 12 parking spaces, including one handicapped accessible.
4. MSDS Sheet for the Fire Department.

Andy: Is there an issue with the embankment? I think it is granite?

Darryl: It is Earth. I think there is a fuel tank on that side too.

Andy: Behind the building, in the picture, I see a retaining wall.

Ben Frost reopened the hearing for final thoughts. Hearing none, he then closed the public hearing.

**Motion** made by James Gaffney to conditionally approve the application with the four conditions. Second by Andy Bodnarik. **Approved 6-0**

## II. CONCEPTUAL CONSULTATION

**Applicant:** Cathie Creed  
**Applicant Address:** 576 Kearsarge Mountain Road  
**Property Owner:** Fred & Catherine Creed Irrevocable Trust  
**Map 18 Lot 41-1** Zoning District OC-1  
**Details of Request:** Owner would like to subdivide with property both in Warner, and Salisbury. Road frontage is on Kearsarge mountain Road, the majority of land is in Warner.

Cathie Creed: There are 12 acres in Warner and 8 acres in Salisbury. There are two lots. The one in Salisbury has no frontage. I get a special tax bill for the .6 acres in Warner, Lot 41-1. Is that a problem? Salisbury requires 200-foot frontage which the lot has, it is just in Salisbury. The maps are not to scale, so they look weird. One house is in Salisbury, one house is in Warner.

James Gaffney: What is the distance between the house and the property line?

Cathie: The town line? There are two lots. I know I need to have it surveyed to know which lot is where. Is this automatically a subdivision?

Ben Frost: You need to refer to RSA 674:53 which allows you some flexibility. You can treat the municipal boundary as a property boundary, or you can choose to disregard it. If it is one lot in the deed, you have a choice of which way to go with it.

Cathie Creed: There are two lots in the deed and they are written back when you did things by an old tree. One has a boundary of an old tree, and the tree is gone. I tried to figure it out by footage and my numbers did not come up to this because I do not do this. What is the process if I wish to subdivide these two lots into two pieces?

Ben Frost; My understanding of that law (RSA 674:53) is that you may treat the municipal boundary between Warner and Salisbury as a property line, and you would not need to subdivide it.

Cathie: If I conveyed it as one.

Ben Frost: Or separately. I don't think the frontage is an issue because you can use the 41-1 lot's frontage to meet Salisbury lot requirement. That is what that law says.

Cathie: But if I wanted to sell the properties separately, then I would have to subdivide?

Ben Frost: I don't think so.

James: The only thing I would be concerned about is where that property line goes because it is a municipal line. You want to be sure it does not go through the house. The house looks like it is right on the line.

Cathie: It is.

Resident (unidentified): Can she do a lot line adjustment?

Ben Frost: No, because you cannot change a municipal boundary.

Resident (unidentified): But she can give part of the Salisbury land to Warner, so she would get two bills?

Ben Frost: Yes. That is possible. The RSA states:

**674:53 Land Affected by Municipal Boundaries. –**

I. An owner of contiguous land which is located in more than one municipality may treat a municipal boundary line as an existing boundary between lots, tracts, sites or other divisions of land for purposes of this title unless the existing or proposed use of land or arrangement of structures in one of the municipalities requires and is dependent upon land or improvements located in the other municipality or municipalities in order to fulfill the land use ordinances or regulations of the first municipality with respect to such matters as lot

size, density, frontage, uses or accessory uses, set-backs or access, or in order to comply with applicable state or federal regulations.

Ben Frost: That does get into the placement of the building on the Warner lot.

James: Check the well and the septic system locations.

Cathie: There is one well for two houses.

Ben Frost: You could do an easement for the well. First step is to hire a surveyor who will know the law and be able to advise. You might have to come back here for a Lot Line Adjustment if the building is too close or is on the municipal boundary.

Cathie: I have always thought it was.

Ben Frost: It might be.

James: Is there a requirement to be in compliance if it is not on the line, in terms of the setback? Is it 25 feet? There is a setback requirement. Would she have to comply in this case?

(NOTE: Abutter setback for OC-1 is 50 feet.)

Ben Frost: There is a setback requirement.

Cathie: I have to do it in both towns, because it does effect Salisbury.

Ben Frost; If you did a Lot Line Adjustment that took a portion of the Salisbury property and if you took a piece of Salisbury. But it is an existing building. How long has it been there?

Cathie: 1840 on one and 1933 on another.

Ben Frost; There is nothing for the Town to enforce because it is way before zoning, and it is a legally existing non-conforming lot. The buildings can stay where they are. The only way this will come up is if you wanted to separately convey the lots then it might require some legal work with the Town's Planning Board. I would start with your surveyor.

#### 4. OLD BUSINESS

##### **PUBLIC HEARING on the definition of ABUTTER:** (continued from June 3, 2019)

There are two different definitions of abutter 1) on the ZBA applications and 2) on the Planning Board applications of Subdivision and Site Plan review. The definition on the ZBA application is consistent with the state statute for zoning. Anyone who is seen before the Zoning Board or the Planning Board will have a different set of abutters. Should the Planning Board adopt the abutter definition that the Zoning Board adopted following town meeting in March where the residents voted to change the definition of abutter for Zoning Board documents?

**Chairman Frost explained** that we have the option of keeping the existing definition of abutter which is not consistent with statute on zoning. This meant that anyone seen before the Zoning Board or the Planning Board will have a different set of abutters.

**James Gaffney** is on the fence and could go either way, but is concerned that with the RSA (the Zoning Board's definition of abutter) fewer people are notified. It has a more profound effect on properties that are located in more dense areas. **Don Hall's** opinion is that the current Planning Board abutter definition has been working for all these years and it does not need to be changed. **Ben Inman** would like to see consistency across board and for the Planning Board to adopt the Zoning Board's definition. This would be a bigger problem if someone goes before the Zoning Board, and then comes before the Planning Board; it can be very confusing. **Ben Frost** thinks making them the same clarifies to make it consistent with state law.

**Andy Bodnarik** likes that the Planning Board definition includes more abutters because it is anyone within 200 feet and asked if we could add the 200 feet requirement to the Zoning Board definition for people who are before the Planning Board. The 200 feet that you have under the current definition, when you get into the village, the list of abutters explodes. It is hard to figure out which lot is where. The 200 feet means something, and the possibility that some would be affected, especially if we get into cluster housing if there are several buildings on a relatively small slot.

Ben Frost: Entertain a motion, option 1 is to adopt the motion as proposed for site plan and subdivision regulations, 2 is to maintain the existing definition, or 3 is that the Planning Board, as part of its review of potential zoning amendments this Fall, consider proposing the Zoning Board definition of abutter to be consistent with subdivision and site plan regulation, so that we get consistency and greater notice. You will base it on the tax maps, probably. It is up to the applicant to do that check and make sure the abutter's list is correct within 5 days of filing the application; that is what the law says. If someone does not properly read the list, and gives us the wrong list of abutters, they then have to wait another month. An asterisk can be put on the application to note the additional abutters for Site Plan Review and Subdivisions; the application are also due for a re-write.

Ben Inman: If that was the case, then the ZBA should have more an issue because as people travel from one to the other, the where is covered by more people than the how.

Ben Frost: What we would probably want to do is continue to use RSA 672:3, and then "abutter also includes any property owner within 200 feet." Don gets to keep his definition, Andy gets the greater number of notifications, and Ben Inman gets consistency.

Ben Frost: The board takes no action on this, and waits until the Fall to continue the discussion, and in the meantime we notify different groups of abutters.

**ACTION: No action taken.**

## 5. COMMUNICATIONS

### I. CIP Discussion – Chairman, Ben Frost

Does the Planning Board want to consider any proposals for the CIP? One is an establishment of a GIS system in town, as has proposed by the EDAC (Economic Development Advisory Commission). The EDAC's vision is limited to what its concerns are, however having public access to information about properties in town, could be useful. Most of the towns around have it, and it is very useful to identifying properties, land use, their size, satellite photography, all in one place.

James Gaffney feels that this is an issue for the Board of Selectmen and is concerned with the protection of private information.

Ben Frost: Given the nature of the work I do, I am very sensitive to the protection of personal information. I expect that the EDAC will have another presentation, and I think it will be helpful if the Planning Board could be there for the CAI presentation.

Martha Mical: At Town meeting several years ago, because assessing was thinking about going with GIS, the voters said “no”. I would urge you to take it back to the voters first.

Ben Frost: It would be a separate warrant article, and the voters may change their minds.

Ben Frost: The other is the Master Plan. It is coming up on ten years. It was adopted in 2011. It is a multi-year project. I think it probably would be helpful to look at what it would take for the Planning Board to redo the master plan within the next couple of years. It depends on the changes in town.

James Gaffney and Ben Frost have discussed working on this and Ben will send his notes to James.

Andy suggested that we also look at the emergency management part of the Master Plan.

Ben Frost: There is specific guidance from the office of strategic initiatives including working with the department of safety.

#### **Olde Windows Restorers:**

Romeo Dubreuil noticed the Olde Windows Restorers’ staff was working with the bay doors open, wearing masks, and also carrying strips and hanging them outside to dry. The understanding of the Planning Board at the time of approving the Site Plan Review was that they would work with the doors closed. Romeo emailed his concerns to the Land Use Office and Clyde Carson was notified. Clyde contacted the owner. The Planning Board has more questions and would like to invite Mr. Bowers to the August 5 Planning Board meeting. Sara Johnson from NH Department of Environmental Services (DES), who deals with small business permitting, and spoke in support of the business in town at the May 6, 2019 will also be invited to the Planning Board meeting.

Andy raised the issues of sawdust, and everyone is concerned with lead. For children under age 6, lead is hazardous and can cause neurological damage, and worth the Planning Board looking into.

Diane will contact Mr. Bowers to invite him to the meeting. Don Hall expressed that the plan was pushed through. Planning Board members are asked to submit their questions to the land use office by July 15 to be incorporated into a letter to Mr. Bowers in advance of the August 5 meeting.

## **6. REPORTS**

- I. Chair’s Report – Ben Frost
- II. Board of Selectmen – Clyde Carson
- III. Regional Planning Commission – Ben Inman

Attended a meeting. Chris Kane from Kane Conservation was the guest speaker with a discussion about conservation easement and what he does to monitor them. He talked about notifying abutters about conservation

easements. The business meeting portion the discussion was about regional impact, and Warner was used as an example several times, in a good way.

IV. Economic Development Advisory Commission – James Gaffney. Did not attend.

Ben Frost: Letter from DOT. We have already had an opportunity to comment on this on Route I-89. It is between Exits 8 and 9. Ben Inman will be working on the project. From the letter: “As a proactive measure, the Department would like to request a list of the Town’s preferred/priority mitigation efforts that the Department may evaluate and consider undertaking if it is determined that the project does, in fact, require mitigation. Please let us know if your Town has identified such priorities.”

Andy has a question about radiation in the granite.

Ben Inman responded that this happened further up in Grantham, where they had an issue and had to contain. The project starts after Labor Day, and they will not touch the rock until next summer.

Ben Frost: There is not a deadline for this. It also went to a list of people in Warner. I would suggest that Diane please find out from Melilotus Dube, environment manager, to find out if there is a deadline for notifying our priorities. My understanding is that there has already been a lot of mitigation in this regarding impact on the environment, but there may be other things for the Town to pursue.

Ben Frost: From HHS there is a PFAS update which will be scanned and posted at town hall.

**ADJOURN 8:27pm.**