

UNAPPROVED MINUTES OF MARCH 7, 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, March 7, 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	✓	

In Attendance: Janice Loz – Land Use Administration

- I. APPROVAL OF MINUTES:** February 21, 2022
James asked to make a clarification on the attendance.

It was moved by Don Hall and seconded by Andy Bodnarik to approve the minutes of February 21, 2022 as amended. Discussion: None. **Vote Tally:** 5 to 1. James Gaffney abstained. The motion was approved.

II. NEW BUSINESS

A. Rules of Procedure

Discussion of proposed amendments, including Appendix on Developments of Regional Impact.

Chair Frost said he was looking for consistency in these documents and thanked Andy Bodnarik for his work on this. James Gaffney said he proposed changes long ago that

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included a sample of guidelines that currently are used in the North Country Council DRI guidelines. Chair Frost said this is in the package, in the appendix.

James said he had suggested a method the Planning Board would go through before determining if something was a project of regional impact. Chair Frost said his recollection was that he had come up with a fairly simple process and then James referred to the North Country Council guidelines which were more complicated. James said that just because something is happening near a town border, doesn't mean it is a project of regional impact. RSA's do exist that outline the specifications. He feels the Town (Town of Warner) has imposed unnecessary burden on property owners who have come before the Board in the past, which is why the guidelines should be followed. They will help this body make a decision about what is a Development of Regional Impact using the RSA that is already written. James said he had emailed a link to the North Country Council guidelines. Chair Frost said that this information has been included in the package he has provided.

James said his intent is to make less work for the Board. Andy said that it mirrors the language that is in our site plan review but is missing #7. James said this has come up for over three years; since they went through the Dragonfly (shooting range).

Chair Frost suggested going through the Rules of Procedure section. He said that he deleted two of the revision dates (on the cover page). Leave the original adopted date and have this latest revision added. June 9, 1986 is the original date.

Page 3: Andy said he had a question with using "Board of Selectmen" or "Select Board". Clyde Carson (Chair of the Select Board) said that the (Select) Board prefers "Select Board." Andy said that they just need to make sure they comply with the statute by using the correct name.

Under "Members and Alternates" Chair Frost said he made a change to limit the number of Boards in the document.

Page 4: Chair Frost said "Chair" and "Vice-Chair" should be substituted for "Chairman" and "Vice-Chairman." He also changed "Chair in Absentia" was changed to "Temporary Chair."

Page 5. Chair Frost amended the language at the very bottom to say "Committees may consist of Planning Board members as well as members of the general public."

Andy said using the word "board" should be "Board." Chair Frost said he would do a global change of the word.

Under "Meetings, B" it says that meetings should last no longer than 10 pm. He has a hard time with this; if they have people there waiting for something they are supposed to be dealing with on the agenda, they should be dealing with it that night. He said he could change it to staying later than 10 pm if they had things that had legal implications. Don Hall said it would be up to the Chair to decide if they will go beyond 10 pm. After some discussion it was changed to make it subject to a vote by the Board whether or not they stay later than 10 pm.

James said it isn't entirely clear what they are abiding by as far as public notice. #13 and #14 had to move together. James said they should be moved up, following the section on

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meetings. Andy said the Table of Contents will need to be adjusted as well to reflect this change.

Clyde asked if they can allow for participants to join remotely and can they vote? Chair Frost said yes on both accounts, as long as there is a quorum of the body, physically present, this can happen. But every vote has to be done by roll call. The definition of "quorum" would be added after section "D."

Clyde said when participating remotely, that person has to note why they are absent in person. It has to be "reasonably necessary" such as family issues or medical reasons, for instance.

In Section VII. paragraph H.: this is proposed "however they shall not be allowed to make or second motions and not participate in discussion once motions that are made and seconded." This is in reference to alternates. Chair Frost said he has allowed alternates to participate in the discussion, but they are not permitted to vote.

Chair Frost said "the meeting" is when the Board is together. They may conduct a "hearing" when the "meeting" is going on. The hearing is a subset of the meeting. So he has removed the reference to "the meeting." It doesn't make sense as the meeting is happening the entire period of time.

Electronic and hard copy: Andy asked if they will ask for both electronic and hard copies of plans. James said it would be great if they could download the plans from the Town's website. Andy said it has to be posted 21 days prior. Janice said all the applications are on the website under the case files, which includes everything they have received in electronic form. Andy thought this was a question for their application for Site Plan review, not really for the Rules and Procedure. Don said that this procedure has been very muddled in the past. He feels it has been ironed out at some point.

The Notice of Public Hearing section was changed as they no longer post in the (Concord) Monitor. They don't post at the (Pillsbury Free) Library or the Town Office. Janice said they post at the Town Hall and the (Town) website. She wants to avoid running around the town. She's fine putting it on the Library's Google calendar as well. James said there has to be a historical documentation that this was posted. Don Hall said that the Messenger and the Intertown Record both have a place for postings. James thought the Concord Monitor would be a good place to post. Janice said it would be a couple hundred dollars per notice. Chair Frost said that they had decided not to publish in the Concord Monitor and doesn't feel that a legal battle has ever ensued due to a posting.

Clyde Carson thought it would be simple enough to keep a copy of the notice in the file. Janice said that she does this. James suggested this be added to the text. "A dated copy of the posting and case file shall be kept in the case file."

James said that they are obliged by law to properly notice all of their meetings. Chair Frost said that somewhere it should say that the Board shall retain a record of all public notices. James agreed.

Andy said when a meeting is adjourned, it has to be posted in three places and the Town's website. He suggested adding where those places are. James said that if they could include this where they put the other information about notices and decisions. It could be

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the same policy. Chair Frost said they could likely fashion something that covers these bases. Janice said there are two physical locations and once on the Website. Not three physical locations. Chair Frost asked what the current practice was. Janice said that the front and back doors of the Town Office and the Website. Andy said that this isn't enough; if people don't come to the Town Office, they won't know about the meeting. Chair Frost said it technically meets the meaning of the law, but not the spirit of the law. He thought they should find another physical location for these notices.

Don Hall asked where the most popular place was to go and see something posted. Many said the Transfer Station. Andy suggested walking across the street to the Library would be easier than creating a space for the posting to be located at the Transfer Station. Janice suggested saying the second location could be listed as "other" and they could determine the location later. Chair Frost said he could leave this decision up to the Selectmen. Janice said she would talk with Diane about determining a second spot.

In current Section XIII. paragraph C.: (pertaining to) Developments of Regional Impact. They need to notify the affected municipality and the Regional Planning Commission. They refer to the appendix in this section. The statute allows only the Planning Board to determine if something is a Development of Regional Impact.

In current Section XIII. paragraph D.: (pertaining to) Notification to the Warner River Local Advisory Committee. Chair Frost thought a map showing the boundaries should be drawn and they would need to determine if they were within 1,320' of the Warner River. Andy said that this is being expressed as a physical distance, making some of it unreadable (on the current floodplain maps). He said the final maps are still not out for the floodplain so it will be difficult to make decisions until the (new) maps are finished.

Ben Inman said it should be easy to plot using the top of the bank. Andy said in his experience, this isn't always easy. Don Hall said this has held people up from doing things they want to do within a certain amount of time. Chair Frost said they should come up with a process that eliminates this problem. It was noted that Ken (Millender) is working with Central NH RPC to come up with a map that will be useful in showing the floodplain. Chair Frost said the bounds of the river are present on the zoning map and for these purposes, they could assume that the top of the bank that is plotted there can be used.

Chair Frost said this last area to discuss is of the least legal consequence: NH RSA 676:4 I. (d)(2) requires the Town to notify DES when an application is within 500' from the top of the bank from any lake, pond, river or stream. He said that wetlands are not included in this statute. James Gaffney said that if this is the language in the RSA, they don't need to change it. It can stay as-is.

Chair Frost said they can choose to delete this because it is ambiguous and is an administrative burden. They have to know where every lake, pond, river or stream is. Andy said they have all the maps and all they have to do is send a notification. He didn't think it was that much of a burden.

Chair Frost said they could make it part of the application form and put the oneness on the applicant to look at the property and determine if it is 500' from a lake, river, pond or stream. Janice asked if the box is then checked on the application, she would include NH DES on the abutter's notice. Chair Frost agreed and said that the Town will send the notice by first class mail.

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James said there should be something in the rules that the Board can't add something to the agenda that may create discussion where the public should be notified. This Board should not add things last-minute. If something is going to be discussed at a meeting, it should be on the agenda.

Chair Frost said he understood and agreed with the sentiment. He wasn't sure how to word it. He said they want to invite people rather than saying "we're not going to include you." James said he would take a stab at coming up with the language.

In current Section XIV., paragraph I.: Andy thought the word "Town" should be capitalized.

On Page 12, in current Section XV., paragraph I. Voting. Chair Frost struck the portion about roll call votes. In practice they have not been doing roll call votes except where he knew there would be division of the Board. He added "the minutes shall note who voted against the motion." This is common and their name should be spelled out because they are voicing an opinion against the majority. Corporations always do this as it is protection of the minority interest.

Andy said if they are going to do roll call votes on some votes, they should do it for all votes of a substantive matter. Chair Frost said they could reinstate the "vote by roll call" portion and not change it. Don Hall said otherwise they could designate the decision for a roll call vote to the Chair. It was decided to leave it as is, without Chair Frost's changes. A note would be added that a voice vote would be mandatory unless a member was participating remotely.

James said he thought they should designate who was present in person and who was present remotely. Chair Frost agreed.

On Page 13, in current Section XV., paragraph Q.: Adjournment. Chair Frost said that a meeting can be adjourned by the Chair without a vote from the Board. This is Robert's Rules. If the Board wants to adjourn before the adjournment on the agenda, it can happen by a vote, but this isn't something that has happened.

On the last page, under "Records" James thought it would be good to have something that outlines their practice of posting records broadly on the Town website in a timely manner. "The Planning Board shall post electronic copies of records including but not limited to meeting minutes, decisions, notices, etc. that come before the Board." Andy said the RSA may cover this. Chair Frost said that minutes need to be publicly available within five business days. A written copy has to be available to the public. James said the point is to post as much as possible as timely as possible. Chair Frost said it looks like a section "D" should be added.

Chair Frost said in C: Audio recordings should be deleted once the minutes are approved. This should be updated to reflect the Zoom recordings, which stay forever. James wasn't aware of a policy surrounding the retention time dictating how long they can keep things recorded on Zoom. It was noted that it costs a lot to keep extensive recordings with Zoom and that they should be deleted. Clyde said the retention of Zoom meetings is a larger issue for the whole Town, not just the Planning Board.

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Given that they are not currently deleting the audio recordings, Chair Frost wasn't sure what to do with "C." The minutes are still the authoritative record. Should "C' be deleted? It was determined that yes, it should be deleted, and the Selectmen could determine a Town-wide policy that they could add.

III. OLD BUSINESS

Andy said there was a webinar coming up about DRI; he sent the email to Janice to send out. The NH Planning & Zoning Spring Conference is coming up and the email would be going out soon. This is free and is held on April 30 and May 7.

IV. COMMUNICATIONS

V. REPORTS

- A. Chair's Report – Ben Frost – Nothing to report
- B. Board of Selectmen – Clyde Carson – Posting for Class V and Class VI roads will be done the following day.
- C. Regional Planning Commission – Ben Inman – Topics were: Electric cars, road surface management system.
- D. Economic Development Advisory Committee – Ben Frost – Hopes to attend EDAC later in the month.

VI. PUBLIC COMMENT - None

VII. ADJOURN

The meeting was adjourned at 9:03pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of Warner