



TOWN OF WARNER

P.O. Box 59, 5 East Main Street
Warner, New Hampshire 03278-0059
Land Use Office: (603) 456-2298 ex. 7
Email: landuse@warnernh.gov

**Planning Board Meeting
Town Hall- Lower Meeting Room
Monday, August 1, 2022
7:00 PM**

I. OPEN MEETING at 7:05 pm.

ROLL CALL:

Board Member	Present	Absent
Ben Frost (Chair)	✓	
Don Hall (Vice Chair)	✓	
Andy Bodnarik	✓	
Karen Coyne	✓	
James Gaffney	✓ (arrived 7:20 PM)	
Ben Inman		✓
Lois Shea (Select Board)	✓	

In Attendance: Janice Loz – Land Use Administration

Also present: Ben Osgood – Ranger Engineering, Mike Quinn and Adam Quinn, Comet, LLC.

I. APPROVAL OF MINUTES: July 11, 2022

Edits were made to the text of the minutes, Andy handed Janice a marked up copy of edits.

Don Hall approved the minutes of July 11, 2022. Seconded by Andy Bodnarik.

Discussion: None. **Voice Vote Tally:** 6 to 0. The minutes were approved as amended.

II. NEW BUSINESS

A. Voluntary Merger for Danielle Zeyher and Matthew Zeyher

Applicant: Danielle T. Zeyher and C. Matthew Zeyher

Owners: Danielle T. Zeyher and C. Matthew Zeyher

Address: Off Brown Road

Map/Lot: Map 11, Lot 28 – off Brown Road, Map 11, Lot 15

District: R-3

Description: Merge two lots off Brown Road

UNAPPROVED MINUTES OF 8/1/2022

The Chair introduced the application for a voluntary merger for Danielle and Matthew Zeyher. He noted the location of the lots to be off Brown Road, off Schoodac Road, off Burnt Hill Road. One lots accessed from Brown Road. The Chair said under state law the Planning Board's (Board or PB) role is they must approve it unless it is a violation. A voluntary merger is a discretionary act on the part of the property owners, they are not required to attend the meeting. The Chair asked if they were present and Janice said they were not. The Chair noted the updated registered deeds for the two parcels were attached to the application. The Chair said he believed Lot 15 was obtained from the Town of Warner at auction. The Chair confirmed the two deeds were under identical ownership, making them eligible for merger. He could not see a zoning violation that would be created by this merger.

Andy asked about the two different Right-of-Ways (ROW) on a deed, specific to Brown Road. The Chair said the connection to Brown Road is not a ROW. Andy referenced a Warranty Deed and two ROW's, he asked if this was the access to the property. The Chair asked if it effects the merger. Andy didn't think so, but, wondered about the dead-end on Brown Road. The Chair said that looks to be well past the access to Lot 28. Andy said it appeared as if Lot 28 is land locked, but if there is a ROW it is not. The Chair said even if it were land locked it doesn't mean they cannot merge the parcels. Andy said he didn't think it effects the merger, it effects the use of the property.

Lois confirmed this is one of the properties which was purchased from the Town at auction.

The Chair asked the Board if there were any questions. No comments were made by Board.

Don Hall made a motion to approve the voluntary merger of the two lots Map 11, Lots 15 and 28. Andy Bodnarik seconded the motion. Discussion: Lois asked if abutter's have to be notified. The Chair said not on a voluntary merger. The Chair noted for the record this action is part of a form signed by the applicants that states if at any future time they or any future owners of the property wish to unmerge or subdivide the property they must come back to the Planning Board. The Chair said what the Board is doing now is largely an administerial act where the reverse act is not administerial. He noted they signed the form showing they understood that stipulation. **Voice Vote Tally:** 6 – 0. The voluntary merger of Map 11 Lots 15 and 28 was approved.

B. Conceptual Consultation – Comet, LLC.

Applicant: Comet, LLC. – Adam Quinn

Owners: Comet, LLC., Mike Quinn, Manager

Agent: Ranger Engineering Group, Inc., Benjamin Osgood, Jr., PE

Address: Route 103

Map/Lot: Map 35, Lot 4-3 – frontage on Route 103

District: C1

Description: 24-unit apartment building

The Chair introduced the Conceptual Consultation for Comet, LLC., located immediately east of Dunkin' Donuts. The Chair confirmed that Ben Osgood was in attendance to represent Comet, LLC. Ben Osgood attended via Zoom. The Chair addressed comments he made on Facebook's "Let's Talk About Warner" group. The Chair commented there was a robust and substantive

UNAPPROVED MINUTES OF 8/1/2022

conversation on the group chat on this project. The Chair explained that tonight's meeting is a conceptual consultation, it is not a formal application to the Planning Board, they will not be taking action tonight, there will be no public hearing. This is an opportunity for the property owner to appear before the Board, and to solicit feedback. This feedback is non-binding. This meeting is not open to public discussion. If the Board gets a formal application and it is accepted as complete by the Planning Board, then they will hold a public hearing and will receive as much testimony as possible on Zoom and in-person at the Town Hall. The Chair asked for questions/understanding from the public regarding these statements. No comments were made by the public.

Ben Osgood shared his plans for the consultation on-screen for Zoom and in-person participants to view. Ben Osgood is from Ranger Engineering Group and his clients are Mike Quinn and Adam Quinn. They recently appeared before the public and the Board for permitting of a retail building and the Dunkin' Donuts which are adjacent to this site. An overview of the plan was shown on the screen. The retail building has been prepped but, no construction of the building has commenced. They are talking about Lot 3 which is east of the existing Dunkin' building. One of the uses allowed on the property by Special Exception is for Workforce Housing. They have developed a preliminary plan for a 24-unit apartment building for workforce housing. This project was precipitated by the fact the state has made available funds to subsidize developers, building owners and to subsidized and affordable for workforce housing. It is very difficult to build in today's climate with rising building prices. This offers rent at a reasonable or affordable amount to people that make the median income or less for the area. They are proposing 24-units in a 3-story building, it would be accessible through the existing driveway at the Dunkin' building, the two lots would be connected. As a result of the previous process with NHDOT and the Town it was determined to limit the number of driveways on Route 103. We have done this by having a shared connection with Dunkin's. Some of the parking will have to be reworked around Dunkin' but they will have plenty of parking. A roadway will be looped around the building, there will be parking spaces at a rate of two per unit. He noted there are wetlands to the side and around the back of the property that will not be disturbed. A retaining wall is shown on the plan between the parking lot and Route 103 to hold the slope. Water and sewer utilities were installed and stubbed on the Dunkin' property that would be extended over to this site. There will be a minor amount of wetland filling to get into the property, most likely less than 1,000 square feet.

He continued to say it is a decent site which can accommodate the building. They have to deal with is storm water. He pointed to the area to the east of the building for storm water, where they had done a test pit. In the back of the building, they have an area where the power lines which is really not usable for development. They would have to go to the NHDOT for the increased use in the driveway and they need to go to AOT to revise their AOT permit.

Ben Osgood changed the slide to a three-dimensional schematic of the outside of the proposed building. It is a large-scale building which they are trying to blend into the area to look more colonial to fit the area, not too modern looking, in-line with something you may find in New England. He then brought up a floor plan, which is eight units on a floor, in pods of four. Each floor is the same, Unit D is a one-bedroom unit the rest are two-bedroom units. There is an elevator to access the three floors.

Ben Osgood continued to say what precipitated the conversation was that the State made funds available. The difficult issue with this State program is that approval by the town by has to happen by September 2, 2022. They have been playing around with this idea even before they built the Dunkin' Donut, we wanted to see what would work there. When they first came to town, the need

UNAPPROVED MINUTES OF 8/1/2022

for work force housing was discussed. It has been in the back of their mind to either have work force housing, or office space, or a hotel. With the availability of the funds this would be a good location for some work force housing. The location is reasonably close to the village and in the Intervale with access to shopping and highway access. This could be a transition between the retail commercial uses and the single-family residents to the east, up the street.

The owner Adam introduced himself and his father, Mike. Adam was raised in and lives in New Hampshire. When they had the grand opening of Dunkin's, Governor Sununu attended and asked what they were interested in doing with the undeveloped property. We were interested in putting in workforce housing, to address the housing situation in the state of NH. The Governor suggested they wait a few more months the state would be using stimulus money towards incentivizing people that might not normally build housing to do with this program. Adam said it is an excellent use of the space and there needs to be more affordable housing in the area.

James asked what the maximum height of the building was, the maximum height allowable in the ordinance is 45-feet. Ben Osgood brought up a slide which showed it to be 44-feet tall. James said his first visceral reaction was, it is a big building. Also, he wondered how they would deconflict another 50 cars going in and out of Dunkin' parking lot at key times of the day. In the mornings when a lot of people would be exiting the housing at the same time. Ben Osgood had spoke with the traffic engineer who worked on the Dunkin' project, he said a single-family residence may do 10-to-12 trips per day, an apartment building is 6-to-7 trips per day. The percentage that would leave in the peak hour is a good percentage of the trips but not huge. He had said 24-units would not even trigger an extra trip per minute, more like every couple of minutes. His initial opinion was this really wouldn't have any impact. Ben Osgood said it was a preliminary meeting, the engineer would have to do actual calculations. He initially thought it would be within the variable for Dunkin' Donuts, with no peak impacts to the traffic.

James said the devil is in the details, and he would be curious to see that report. There is a propensity for making a left hand turn to go to the interstate or making a right hand turn to go into town. James would be interested in seeing what this pool of renters would be more inclined to do, left vs. right. He would like to see the study at the appropriate time. Ben Osgood said the traffic engineer would do the study and the NHDOT would coordinate the permitting and the traffic report. He agreed the left-hand turn could commonly be a more difficult turn. He said the Dunkin' study said it was not an unreasonable variable, Ken Hassavarian (sp?) the traffic engineer said it would be the same result with this building. They are aware they have to supply that information and discuss it.

James asked if 48 spaces is going to be enough for a 24-unit apartment building, what about parking for guests. Ben Osgood said they can add a little bit more parking. The Chair said parking is also addressed in a Site Plan review. In the Site Plan Regulations, it is section 19.B.

Andy advised they be aware of Fire Department and access of trucks around edges and corners of the building. Andy is glad Ben Osgood mentioned the alteration of terrain permit, because it should be considered. Also, another driveway may be easier instead of shared access through Dunkin'. Especially when you are considering emergency vehicles access to that building. Also, workforce housing would need a Special Exception. Market rate housing would need a Variance. Andy said that Ben Frost, Chair, will be doing a presentation on housing later in the meeting. Andy had some questions about how the units are defined in a workforce housing application and whether they are limited to one- or two-bedroom units. The AMI table discusses 3, 4 and 5-

UNAPPROVED MINUTES OF 8/1/2022

bedroom units. He looked at the presentation the Chair will be making and there are a lot of requirements in the application process. He said Comet, LLC., and Ben Osgood should be aware of those requirements. Andy said he had a problem figuring out what the rent limit would be for rent and utilities, using the AMI table for Merrimack County. Andy advised they stay for Ben Frost's presentation.

Andy asked for confirmation as to the proposed location of the retaining wall. Ben Osgood flipped to that part of the presentation and pointed out the front curved edge of the parking lot facing Route 103. Andy said with that steep slope and drainage the design will have to compensate for that. Andy said he would like input from the Fire Chief at some point in the process, especially to address turning radius' of the bottom corner and the top corner of the lot for the fire trucks. Andy asked about changes to the Dunkin' parking. Ben Osgood said they would have to change the parking and remove a couple of spaces. He agreed it may require a minor modification to that site plan. Andy said the other issue is lighting and whether they install additional lighting in the parking lot, and access for fire trucks around the poles. Ben Osgood thought it was a good point with the fire truck turning radius, and he had been thinking about it. They may have to enlarge those radius' for the fire trucks. They may consider making the back of the building one way, and widening that area by the dumpsters, or a larger turning radius at the access road. They will do a fire truck plan and make sure they have room for the light poles. There may be a few in the front, most will be down-cast lighting mounted on the side of the building.

Andy said they probably have to talk to the precinct about the water and sewer access. Ben Osgood said the Water Precinct have indicated they have plenty of capacity for water and sewer. He said they are always happy to add another revenue generator to help pay for the utilities. Andy said he recommends they really look at the Invest NH process and increase in electricity rates. Ben Osgood said the point is well taken.

Lois Shea asked what percentage of the units would be dedicated to workforce housing. What is the difference between workforce housing and affordable housing, is the definition of those two things the same. Ben Osgood said he believes it is the same. Workforce housing or affordable housing has to meet a certain rate. The rent has to be affordable by someone who makes a certain amount of money, based on a percentage of the median income in the county. It has to be the rent, the taxes, the electricity and whether or not they own it or rent it. He believes this building would be entirely workforce housing because that is what is allowed by the Special Exception. If it was market rate housing you would need a variance from the Zoning Board. Ben Osgood said so the workforce housing would be all the units.

Adam Quinn said the portion of the units from a state perspective is 60%, he and his Dad, Mike, are committed to the minimum number needed. He and Ben Osgood hadn't talked about that, but, he believed Adam had more up to date information. Andy said the tables say 50% and 80%, so that will need to be clarified.

Andy asked if they are going before the Zoning Board. Janice clarified they have a Special Exception before the Zoning Board next Wednesday, August 10. Karen said in the application it says it requires a variance, when she heard Ben speaking he said workforce housing needs a special exception. She asked if it's the percentage that differentiates whether it's a residential unit vs. workforce housing. Andy said its workforce housing vs. market rate housing. Market rate housing requires a variance, but, if you look at our recently amended (2021) TABLE 1 Use Regulation in the back of the Zoning Ordinance document it refers to Multi-family Workforce

UNAPPROVED MINUTES OF 8/1/2022

Housing. It was amended by a public vote in 2021, in the Intervale it is allowed with a Special Exception. The Chair said the workforce housing section was adopted in 2010 and it was substantially amended in 2021.

The Chair addressed Ben Osgood and Adam Quinn. The state's funding program Invest NH has an affordability at a maximum at 80% per median income and a minimum at 50% per median income. The Town of Warner's Zoning Ordinance has workforce housing and affordability with reference to the State's workforce housing statute, not referencing the Invest NH program. There are very specific definitions in the town's ordinances. Workforce housing when talking about rental properties must be affordable at a 60% per median income for a family of three. Affordability is defined as a household paying no more than 30% of their income toward housing costs. In terms of a rent, that would be calculated at gross rent, which is rent plus utilities. The Chair said relative to the utilities cost increasing, that will come into play next Spring when a survey is done by NH Housing of utility allowances for federally subsidized housing. That survey is the basis for calculating what the rental costs will be.

The Chair told Ben Osgood and Adam that when they calculate their proforma they need to target 60% AMI, that is what the town will require, that is the State law, not what the funding source defines (Invest NH). The Chair clarified that he is talking about income levels of the occupants, not the amount of dedicated workforce units. He said they would base their rent on what is affordable for a family of three making up to 60% of the area median income for Merrimack county. Mike Quinn asked what percentage of units have to be workforce housing units. The Chair said he believes the zoning states 100%, but, they would have to reference our ordinances to figure it out. Andy believes the town's workforce housing regulations are more stringent than the Invest NH program. Mike said he believes the Invest NH stipulated it will be 15 units that are workforce housing out of 24. The Chair said the Town's ordinances have to be followed.

Don expressed concern that if the town allows this, in this or any commercial district, how will this effect future situations. Does this set a precedence or does it create a problem for commercial districts. The Chair said if you reference the Zoning Ordinance Use Table it states that multi-family workforce housing is allowed by Special Exception in the Intervale and in Commercial districts. Whether the use is allowed is a question for the ZBA. If the ZBA says yes, it is an allowed use then the Planning Board would continue with the Site Plan process. If the ZBA says no, then they don't come back to the Planning Board. Don said we have worked ourselves into some awful bad corners in the past, is it a robbing-Peter-to-pay-Paul situation or how does this work out. Is it preventing something else good from happening or how do the Town's people look at this. Do they want to give up commercial districts to put in this type of building.

The Chair said he didn't know the answer to that question. Although, the Town has voted on and passed this change to the Use Table. The town voted to amend the zoning ordinance to allow this by Special Exception. Don said if the ZBA doesn't approve the Special Exception then the Planning Board won't be continuing on with the project. The Chair concurred. Andy said there are special requirements for a Special Exception to be granted. Andy said they look at the Use Table to see if it is allowed, then they look at the criteria such as is it essential or desirable, the integrity of the district, there is a lot to consider and conditions can be attached.

The Chair addressed Ben Osgood and said there has been a lot of conversation about income targeting and distribution of workforce housing units within the building. He said they will have to work with the precinct and the fire department. Ben Osgood concurred. The Chair said he

UNAPPROVED MINUTES OF 8/1/2022

understood the timeline was being driven by the Invest NH program. The Chair honestly felt it was a challenge to the town because they are seeking complete town approval including a building permit by September 2. That is a month and a day away and this is not a simple application. The Chair said they will rely on the NHDOT and the NHDES to do their jobs, those state permits would have to be a condition of approval. A significant concern about the timeline based on State law the applicant has to get an application to the Board 21-days prior to the hearing. If hypothetically, the Planning Board held a meeting on August 29th an application would have to be received on August 8th. The Chair asked Ben Osgood and his client to assess whether that was possible. Adam Quinn said Invest NH is the driving factor and they also reviewed the Town's Master Plan and see that two-thirds of Warner residents (.....inaudible). The Chair said he was concerned the applicants can't get the Planning Board an application by August 8th.

The Chair asked the Board if they receive an application by August 8, would they be willing to meet on August 29 to consider the application. Don said he thought the process was too fast. The Chair said in recognition of comments made by members of the Board in the past, Warner as a town has a reputation for not being business friendly. The Chair said in his view this is what it takes to be business friendly. It does not mean saying yes, but providing the opportunity to be heard. James said generally they have a work session plan on the town calendar two weeks after their scheduled meeting. He doesn't see it as a big deal for the Board to meet a second time in the month to accommodate a potential application. He said they are not going outside of what would be normal or customary for the Board. James agreed this is a complicated application. He said in reading the Work Force Housing section of the ordinances and information dealing with an application, grantors and up to 10% of the units, a Select Board piece about review and approval of applicants, there are a lot of moving pieces that goes beyond the normal review of any application. He believes the Board should do its job to help an applicant within the statute. This is not Dunkin' Donuts, this is much more complicated, and that application process went on, too long.

Andy's concern was they can't do anything until the Special Exception is considered by the ZBA. That is one of the most significant things to be considered in the timeline. Andy said Work Force Housing is on page 27 of our Zoning Ordinances, it states the rent needs to be affordable for a 3-person household with an income of no more than 60% of the median income for the county. The Chair said if Ben Osgood and the Quinn's go to the NH Housing web site you will find recommended rents which incorporate this definition. Andy said they need to remember the alteration of terrain permit. Andy felt it is the Board's responsibility to hold another meeting.

Don said he doesn't like to be forced to a tight timeline, he wants to get this right. The Chair said they are talking about holding an additional meeting, with no additional pressure to approve it on that timeline if members are not ready. Don settled on a qualified yes, to an additional meeting.

Karen asked if the Zoning Special Exception needs to be approved before the applicant comes back to the Planning Board. The Chair said there are two ways to approach this, one you have to get approval from the ZBA before the Planning Board considers action. The second approach is, the Planning Board can approve an application, subject to approval from the ZBA. If it is denied, then there is no more action by the Planning Board.

The Chair asked Ben Osgood about the one-bedroom and two-bedroom mix of units. There must be a majority of two-bedroom units in the building under State law for this to be called workforce housing. Ben Osgood said it is 75% two-bedroom units.

The Chair thanked Mike and Adam Quinn and Ben Osgood for their time.

C. Ben Frost – Housing Discussion / Presentation

(Note: attach the Chair's handout)

The Chair said when the Board met in June there was discussion about the possible formation of a housing committee. Back in January the Board was reviewing the three citizen's petitions on zoning amendments on housing. Clyde Carson was at the time the Select Board representative to the Planning Board. There was discussion on forming a housing committee, because of this effort, the citizen who championed the citizen petitions decided to withdraw his support for at least one of the petitions. The Select Board was going to form a housing committee. Partly because of the withdrawal of support and some opposition the citizen amendments were voted down.

Clyde, Barb Marty (Chair of the ZBA) and the Board Chair met to discuss who would be appropriate to belong on the housing committee. When Clyde resigned as Select Board member and took the Finance position for the town, the progress on that committee stopped. The Chair said as he understood that the most recent discussion of the Select Board was this discussion on housing should continue. Clyde, as a private citizen, had urged the Select Board to continue work on this issue. The Chair thought at this point this issue really is a Planning Board issue. A housing committee's efforts will impact the Master Plan, the Zoning Ordinances, Sub-Division Regulations and Site Plan Regulations. The Board is responsible for adopting those documents and making recommendations on Zoning Ordinances that go to the public for voting. The Master Plan is a Planning Board document. The Chair believes it is fully within the Planning Board's charge to talk about these issues and potentially to create a committee to assist us.

James asked why they would need a committee to have this discussion. He felt the town has a problem getting people to volunteer. He believed the town needs to make a priority of what is the role of government. What are the priorities and responsibilities and then execute them. Nice to have's should not be placed before the must have's. The core entities of the town are sanitation, roads, records, fire, police those priorities must happen in the town. He believes there are too many instances in the past 10-plus years where those have been utterly ignored and we have suffered because of it. The Chair asked what this has to do with the discussion on forming a committee. James said because it is about priorities and his concern the town doesn't have a firm grip on its priorities. Those priorities need to be published and everyone who pays taxes can see the stated priorities in the town. He said this issue potentially isn't one of those priorities and we struggle to get people to remain involved.

The Chair said the Planning Board other than the Capital Improvements Program, doesn't deal with policing issues, or sanitation. This Board does deal with housing issues, it is a full chapter in the Master Plan. James said there are legitimate discussions that can be had, the question is do we need another committee to do that. The Chair said the two questions are, do we need to have a committee, if we want a committee could we have one, recognizing the need for volunteers. The Chair said in terms of housing, there would be people interested in serving on a housing committee especially if it were of limited duration. A short period of time with identified objectives.

James said his concern is various entities pushing to violate the private property rights of individuals in this town. There have been various entities that have tried to use different mechanisms to achieve that goal. The Chair said the purpose of a housing committee is not to

UNAPPROVED MINUTES OF 8/1/2022

pursue a preordained conclusion, but to study the issue and come to a conclusion with recommendations. James said to talk about the issue is legitimate as long as it is within clearly stated guardrails. The Chair said if this is a committee formed by the Board, then they establish the guardrails. If the Select Board decides to take on this issue, then the Planning Board has no authority to take up the issue.

Don said in the past this town has been inundated with committees and eventually they wane and in the long run nothing gets done. This approach may have worked 50-years ago, but, today it doesn't. The word volunteer, there is no such thing anymore. The end result is who has the final say over it. The Chair said if the Select Board were to take this up, what would they do. Select Board can't amend the Master Plan, only the Planning Board can do that. The Select Board cannot amend Site Plan and Subdivision regulations, which are the driving force on how a development get done, only the Planning Board can do that. The Select Board can propose amendments to the Zoning Ordinance, as can this Board. James interjected that a citizen's petition can propose amendments. The Select Board's ability is limited to opposing a Zoning amendment, they can make recommendations. The Planning Board has the statutory power to make those changes.

Andy was concerned if a committee is established then a member of this Board would have to serve, and it is tough getting volunteers. He was also concerned about the Master Plan and the ROP document getting amended. Andy suggested using the second meeting of the month for the Master Plan and housing issues. The Board has experience with proposed amendments that effects housing.

Lois said there is a group of citizens saying they want to form a committee and we have a Board Chair who is willing to serve on the committee. She would rather have those folks do the fact finding and come back to this Board with recommendations. Rather than adding a second Planning Board meeting every month.

Karen said she can clearly see both sides of the coin. She clearly understands they are over-taxed, and committees are short on volunteers. It probably will be very difficult to staff out another committee. Although, there is a lot of chatter in town and a lot of people seem very impassioned by the housing issue. It may not be hard to put together a housing committee, it just might staff itself.

Janice said the town has solicited volunteers on the web site and social media. We have had success in getting members for this Board and the ZBA. The town is better at advertising that they need more people.

James spoke about the Highway Committee, saying it went on for 4 years to 8 years. Committees get created and then they fall off. He believes they have a proliferation of committees. There are people who want to be on a committee and a portion of the population that wants to be left alone. He believes that is something that should be considered. James said he doesn't have a working relationship with government. He commented that the Chair has a working relationship with government which is complementary to this Board. James said being on the outside of government looking in is a very different perspective. Too many committees in his opinion are not a productive thing.

Karen said would this committee have the ability to modify Site Plan regulations. The Chair indicated just the Board can modify the Site Plan regulations. Karen wondered what would be the

UNAPPROVED MINUTES OF 8/1/2022

point of the committee if they cannot effect change. The Chair said any committee would make recommendations to the Planning Board.

The Chair said Andy's suggestion of the scheduling a second meeting of the month to work on housing, is a good one.

Andy said the Chair had talked about grant funding. If the committee is the Planning Board, it would establish a deadline if they were to get grant funding by September 30th of 2024 for three limited items discussed in the handout. It would take a year to do the pick-and-shovel work but, they would have the expertise of the people who do the regulatory audits. This commitment would mean they would have to report back to whoever gives us the grant such as Invest NH.

The Chair asked the Board to table the conversation on the committee to discuss the grant funding. Money will be available starting Friday. This is part of the Invest NH program not part of the previous discussion with the Quinn consultation. There is 40-million dollars that goes to municipalities in three different programs. One is a per unit production grant. Municipalities that grant building permits for new housing developments are eligible to apply for a grant to do with what they wish. The second program is a municipal demolition program, for municipalities who are working with developers to demolish derelict buildings. The last program is a 5-million dollar municipal planning and zoning program. That is the program he detailed in this proposal to the Board which becomes available starting on Friday. The Chair said his employer, NH Housing is under contract with the state to administer this program. His staff is designing this program right now. In regards to any application the town makes for this grant he would have to recuse himself.

Although, he has knowledge of what is available and this is a once in a generation resource for municipalities to hire qualified professionals to work with us on housing. If the town starts funding from this, we could choose one of the three phases. Needs Analysis and Planning would involve the housing element of the Master Plan. The money doesn't come to the town, it goes to the consultant. This will help collect data that is needed that isn't supplied by the Regional Planning Commission.

James asked if they were to hire a consultant would the selection and decision be made by the Planning Board. The Chair said that would be discussion between the Planning Board and Select Board. He said this has to be a competitive process with some exceptions. The Chair said, legally, the program administrator will provide a list of prequalified consultants from which the municipality can choose, this is without using the competitive process and would include the Regional Planning Commission (CNHRPC). The town could hire the CNHRPC without engaging in a competitive process. There will also be a list of private consultants. All this information will be published in the latter part of August. James said he couldn't imagine why the town wouldn't put it out to bid.

The Chair urged expediency because of the limited time. It is a matter of who is qualified to do the work given a defined sum of money, not necessarily looking for a low bid. James said there is a balance between the scope of the work, who is qualified to do the work and who is the most cost effective. James said he is a believes in being responsible with tax dollars.

The Chair said the three phases, needs analysis and planning involves the Master Plan and data gathering analysis. If there are gaps in what Regional Planning is currently doing, then that would be an eligible element that we would need help with. The second phase is the regulatory audit and determining where our problems are. Looking where there are conflicts, such as, are the subdivision regulations consistent with the Master Plan. Then the last phase is drafting Zoning

UNAPPROVED MINUTES OF 8/1/2022

Ordinances. The grants are funded up to the specified amounts for each of the phases, which doesn't mean it will cost that much to do it. The Chair said bigger communities with more complex regulations would need more money. Concord just finished a four-year project on the zoning ordinances, and it cost well over one-hundred-thousand dollars. James said there are many concerned citizens that have told him they don't want to be Concord. The Chair clarified that was not his point.

The Chair said each phase has a deadline. Phase 1 has a deadline of January 27, 2023. Phase 2 has a deadline of June 30, 2023. Phase 3 has a deadline of November 15, 2023. The money has to be under contract by December 31, 2023, and fully extended by September 30, 2024. It is a lot of work in a relatively short period of time. James said the devil is in the details because there may be all sorts of conditions.

The Chair asked the Board where they want to go with this issue. He reiterated Andy's suggestion to use the workshop as the date for the second meeting of the month. Janice interjected that individuals on Zoom were asking when they can comment on this subject. The Chair said during the public comment section at the end of the meeting. Janice said when the Board meets twice a month, please keep in mind they have two meetings this month already booked, they have a couple of CIP meetings in September, then two meetings a month November through March for warrant article hearings.

Karen said she wasn't necessarily saying build the committee, she was saying this is something she has heard a lot of people are passionate about. Therefore, it may be easier to build a committee because so many individuals are passionate about this topic.

Lois has a concern that if this committee doesn't get formed then we are not following through on something that was represented to citizens that we were going to do. That feeds mistrust and she is concerned by that.

The Chair asked the Board for a straw poll. The poll question was should the Planning Board form a housing committee. James stated the question should mention forming a committee or address housing in their second meeting of the month. The Chair said the presumption is that if members say "no" to forming a housing committee, then we will move to the second question. James said as long as that is clear and documented in the record.

The Chair asked members to raise their hands if they felt the Board should form a housing committee, as outlined here and subject to a formal charter being developed at the next meeting. The second question will be, should the Board take this on itself as discussed in the second meeting of the month on a "as they are able to" considering that Fall is their busiest season.

Two members, the Chair Ben Frost and Lois Shea, Select Board member, voted to form a housing committee. Four members, Karen Coyne, Don Hall, Andy Bodnarik, James Gaffney voted that the Board will address the housing issue.

Andy commented that he didn't think they should use the second meeting of the month entirely to deal with one issue. He suggested a time limit could be set to schedule multiple items in the second meeting. Karen agreed with Lois there was an overall sentiment that we were going to do something. So it should be clear to the town that this is being done and time will be devoted to it. James proposed that it be clearly stated in the meeting agenda and posted. The meeting happens in public and there will be a public comment section. The Chair said we need to create an inviting

UNAPPROVED MINUTES OF 8/1/2022

environment stating the Board is seeking their participation in the meeting. James said he wants to ensure open and transparent government, that should be the approach to everything that we do. He does not believe the town has done this in the past. Although, the Chair and James said they feel this Board does a good job. James said this process needs to be public and clearly enumerated in the way the minutes are done and the public announcements on the agenda. Andy suggested public comment could be labeled with subject matters on the agenda.

The Chair said if the town were granted the Invest NH program, an essential component of any of the phases is community engagement. Not to be confused with outreach, which tends to be one-way communication. The UNH Cooperative extension has expertise in community engagement. The Chair asked the Board if they would be interested in the town pursuing some of these grant funds. Andy said he thought the Board needed the help, and it was beneficial the town didn't have to raise money to match funds.

The Chair said the Master Plan review discussion would coincide with the housing conversations, which also involves the population and demographics section. There will be new census data that would aid that conversation. James said the first step is to prioritize, if we are going to update the Master Plan and which sections will need to be updated. James said, as an example, the town shouldn't be selecting a technology, but encourage the availability of different services, like wireless connectivity. Not choose how it gets implemented. Let the provider choose the most cost effective and desirable to consumers solution. The Chair agreed subject to regulation and oversight. James said we may not need to talk to an outside consultant on the Master Plan. The Chair said bear in mind this grant opportunity is just related to housing. James said the Master Plan may be something we want to do, instead of farming out to another entity.

The Chair said they could use Matt Monahan, our Circuit Rider. Janice said the town has a contracted with him, and haven't paid him much out of that fund. The Chair said he is very talented down to earth sort of guy.

James asked if they could select what would be there first step to be put on an agenda. Andy said he has requested a hard copy of the Master Plan. Janice said she will find a digital copy of the plan, that can be marked up in an application.

III. UNFINISHED BUSINESS

A. Rules of Procedure

Andy said they went over the draft, they will need clean copies of the draft. The Chair said changes noted in HB1661 which has been adopted and signed by the Governor. The ROP document will have to reflect some of those changes. Specifically, finding of fact would have to be documented for any development application we make a decision on, approval or denial. Starting August 23rd they will have to make written findings of fact to substantiate our decision. The Chair said they will continue this discussion next month. It will be December or January before they adopt the new Rules of Procedure.

Janice will get the marked-up copy for circulation to all members.

James asked if they wanted to commemorate what is going to be on the agenda for our next workshop meeting. He suggested that they at least make a list of what is within scope and then priorities on the Master Plan project.

UNAPPROVED MINUTES OF 8/1/2022

The Chair said there is the Master Plan discussion, finishing the ROP, these would be on the regular meeting and continued at the workshop meeting. Discussion of the priorities on the Master Plan for the regular meeting. The Chair said he would hold the discussion on housing for specifically the workshop meeting (second meeting of the month). He will work this out with Janice. James reminded the Board that there should be a public comment section should be relevant to what has been discussed in the meeting. The Chair said that is appropriate for the workshop meeting where there will be specific topics.

IV. COMMUNICATIONS

A. Short Term Rental (STR)

The Chair said the Select Board requested the Planning Board take up this topic. The Select Board has received communications from Warner residents about the use of some properties as Short Term Rentals. The Chair said Air-BnB is specifically a company, not to be confused with STR's. This is a question of use and how does it fit into the zoning ordinances. James said they had a conversation about this which was focused on tiny homes. The Chair clarified that Short Term Rentals encompasses tiny homes and up-to large residential homes.

Lois said the Select Board requested clarification on the definition of STR's and if it needed to be amended in the zoning ordinances and the USE Table. She said if the Board thinks it is appropriate the Select Board would host a joint meeting and public hearing to discuss this issue. The Chair said that is a splendid idea and would like to have a joint meeting with the Select Board and the ZBA on this issue. Joint meetings have been helpful in the past to help guide this Board in making proposed changes to the ordinances. The Chair continued to say this is important because it is current and there is pending litigation on STR's. There has already been a case decided by the city of Portsmouth. It was decided with the caveat that it was narrowly based on interpretation of Portsmouth's zoning ordinance. The court decided against the property owner's use of their property as a STR.

James asked if it is permitted in Warner. Janice said Warner regulates, Hotels and Motels, Bed-and-Breakfast's and Lodgings in the USE Table. The Chair looked at the Planners dictionary, which defines terms based on how they are used across the country. The Chair said a Lodging house is pretty close to the term Short Term Rental, but not exact. James said we don't have anything that speaks to rentals, whether it is 12 months or 1 month. The Chair said we have terms in the ordinances that do not have definitions. Don asked if Building Codes have something to do with that also. The Chair said he didn't think so. Don said you can have a residential structure and put 25 people in it. The Chair said you may be right, but, it isn't consistent. James said then no one can use their property unless there is an explicitly stated use, because that would be absurd. The Chair said that is the structure of the zoning ordinances. Warner has a permissive zoning ordinance meaning for a use to be permitted it must be named in the ordinances. If it is not named then it is not permitted. In our ordinances in the USE Table on page 40, 8. reads Lodging house or bed and breakfast Inn allowed in most districts by special exception. The Chair said a lodging house is kind of like a STR, and if we find that it fits that definition then you can only do it by Special Exception, but it needs to be clarified. Andy said if you do that you need to define not only STR's but, Lodging House as well. James said they need to deal with the whole USE Table. The Chair said we need to focus on STR's at the moment. Andy said they need to read the court decisions and if there is a town that has already developed an ordinance, then we need to look at

UNAPPROVED MINUTES OF 8/1/2022

that. Janice said Barb has given her a document with that information and she will forward it to the Board. STR's usually are described as being used for less than 30-days. The Chair said there is a presentation done by Attorney Cordell Johnson which is very good. Janice will forward that as well.

The Chair said STR conversation is good because it may affect ordinances for 2023. The Chair asked Barb, who was in attendance to identify a time for a joint meeting with the ZBA. The Chair asked her when the ZBA may be able to talk about this and develop topics, she said they will bring it up at their meeting on August 10.

James said as the Board takes on more tasks, they need to be precise about the time allocated at meetings for each topic. The Chair agreed.

V. REPORTS

Select Board - Lois said she already spoke about STR's.

Agriculture Commission - James said the last PB meeting was the same night as the Agriculture Meeting, he was attempting to join this Board meeting and the call-in number wasn't working. He would like a hyper-link to the Board meeting to be published as a live-link on the agenda.

Ground Water Protection Committee - Andy the first meeting is August 3, from 5:00 to 6:30, in the Lower Meeting Room in the Town Hall. There will be introductions and they will go over the timing for the grants, the ground water sources that are known, public education and outreach, public comment section in the meeting. It is an in-person meeting only.

FYI, from Andy, August 8th on Monday from 10 – 12 is a virtual mapping training webinar. August 10th is a HB 1661 webinar 10 – 12. The Chair interjected there is another house bill which deals with religious uses of land which is important for Board members to look at. He said this is a substantial change in NH law that exempts religious uses of land from oversight with narrow exceptions. A lot of zoning and site plan regulations will not apply to religious uses of land. The question that is developing is what is religious use of land.

VI. PUBLIC COMMENT

Christine Frost addressed James' comment on town priorities. She agrees in many ways that priorities need to be set, which is why the Select Board gave the Board the housing issue. She would urge the Planning Board to not have a lot of other things on the agenda as the same time as housing. Also, they should allow for participation in the conversation, not leaving a section for public comment which is off-putting. They should engage people in the conversation. Perhaps when they are having the conversations about housing, they come up with a hybrid model where the community can be at the table with the Board. Also, there was a conversation about hiring people for the grant work, that would obviously have to be approved by the Select Board. Three quotes are required per the purchase policy of the Town. Finally, the Town of Hanover has a good model to address STR's.

Alice Chamberlin said she is pleased the Board is going to lead the initiative on housing. She does think it could be a breach of expectation if you don't include, those who have been most involved in this issue on the committee. I don't see anything in your conversation tonight that would preclude you from involving some permanent new members on the housing committee.

UNAPPROVED MINUTES OF 8/1/2022

She agrees with the previous comments about public engagement made by Christine Frost, Select Board member. Engaging people throughout the meeting instead of during public comment at the end.

Ed Mical commended the Board for pursuing the grants it would be advantageous to the Town. As the Emergency Management department he has spoken to the people who have moved into the Rhymes building on Chemical Road. That facility was approved with conditions. He cannot find a copy of that, could the Board research that and provide him a copy of the decision. He will forward a copy to the Fire Department and to the new owner's of the facility.

Dawn Quirk said the dedication and hard work is crystal clear and they should all be thanked for volunteering your time and energy to the Warner Planning Board. She continued by saying she opposed the Board's decision to host the housing committee, it is not an impartial body. She believes Chair Frost has a conflict of interest with his day job and the underlining implication that zoning is the solution to housing challenges. There is not one case study that proves that zoning changes makes affordable housing. The American Society for Public Administration for code of ethics first convention is to advance the public interest, promote the interest of the public and put service of the public above service to oneself. In ethics concern of personal enrichment extends beyond financial gain. She would argue that professional gain are personal enrichment. The Board powers provides Chairman Frost the means to spearheading housing development in Warner while service as the Chair of the Board. She does not believe that under the Chair the Board can fairly represent the interests of the residents of Warner when it comes to changing the Master Plan for the purpose of expanding the housing stock. Which is why the Chair has stated his opinion that the Board is the best venue for this committee. Therefore, the outcomes will have the appearance of a conflict of interest, which is a conflict of interest. She does not feel the general public will support the outcome on housing by the Board. The Select Board is an elected body of the residents and is the right choice to spearhead the committee. She has expressed interested in serving on the housing committee, but, was never contacted.

Christine said is interested Dawn is welcome to serve on any committee in town. Please come into the Town Hall and get the Volunteer sign up form, which are also online and fill it out and submit to the Select Board's office. Dawn thanked Christine for the information.

The Chair said they have openings for three alternates on the Board. She said, okay and she may take them up on that offer.

Ed Mical said the Town's purchase policy, as far as the three quotes, he understood it that State bids do not require three quotes. Christine thought that was specific to the Highway Department. She would check on it.

The Chair said the structure of the grant process does not preclude a competitive process. It does allow for the municipality to choose from the list of prequalified vendors.

The Chair said he receives no remuneration for what the Town of Warner does. He understands the suggestion of an apparent conflict of interest. A conflict of interest could be found from the remotest of connections. If you have a Verizon cell phone and you are on a board to consider a Verizon cell tower where you could benefit from better cell service, that could be seen as a conflict of interest. The Chair stated that he gets satisfaction from serving his town and from serving on this Board, there is nothing else.

UNAPPROVED MINUTES OF 8/1/2022

James said the Chair has been clear as to when there is a conflict of interest, he will recuse. He said Board member's have had conflicts in the past and they have been clear about announcing it publicly for the record. He believes the Chair has been above board. Don said if someone thinks they can do it better than me, they can come here and take my seat.

Andy shared a conflict-of-interest situation. There was a committee that was involved in the construction of an incinerator in Concord. He served as an alternate to the Town of Warner and a solid waste committee member. At the time he was also responsible for the Engineering and Enforcement Bureau of the State of NH in the Air Resources Division. The boss came in the door and said you can't be on that committee anymore, because Andy would be the enforcer against the facility that he was representing as a member to, for the Town of Warner. That was a conflict of interest. He served for 40 years as an environmental engineer for the State of NH. He will raise air pollution control issues every time they come up before this Board. If you want to have expertise on these boards there is always going to be the potential for a conflict of interest. Every member of this Board knows when it is time to recuse themselves and have done so in the past.

The Chair said he could have a conflict of interest when this Board is considering a development application my agency may finance. He participates in those finance decisions. He would have the ability to say yes, or, no on the financing or development end of a project. He would view that as a conflict of interest and he would step down. He encouraged people to raise these concerns and they will talk about it.

Alice Chamberlin thanked Dawn for raising this issue, because it does come up in town and it is good to have clarification. She asked if the Board will add more members on to the housing committee. The Chair clarified the Board decided not to form a housing committee, but to take on the tasks of that work itself. They cannot add members to the Board, only the Select Board has the power to do that. Alice said she felt that was a breach of public expectation. She hopes they will find a way to include people who will permanently participate in this effort. They need to include the public and an invitation for the public to participate.

Christine asked if an ad hoc member could participate. The Chair said they decided not to do that. Karen said they have open Alternate seats. Andy encouraged the public to volunteer as an Alternate. Lois said there is no middle ground between having the Planning Board work on this and adding ad hoc members. The Chair said in an informal participation, yes, it is possible. Formally, no, they cannot add members, only the Select Board can do that. He said they can actively engage with people who attend and treat it as an open and inclusive process. The Planning Board is the entity that makes recommendations to change in the subdivision and site plan regulations. Even if there was a committee it would be advisory and ultimately make recommendations to the Board. Andy said when a member is absent an Alternate can be moved up and would vote. Otherwise, Alternates participate fully even when they cannot vote.

James asked the Select Board to ask themselves whether an individual Select Board member was empowered to commit the entire town to an issue. He hopes this comment guides them in future comments and commitments.

They may be meeting on August 29, if they receive an application from Comet. Does the Board want to meet on the 29th and work on some of these issues. James suggested working on the Master Plan and how housing falls into that plan. Janice will check on the availability of the conference room.

UNAPPROVED MINUTES OF 8/1/2022

VII. ADJOURN

The meeting was adjourned at 10:00 PM.

NEXT MEETING: Monday, August 29, 2022 at 7:00 PM in the Lower Meeting Room - Town Hall

Respectfully Submitted by,

Janice Loz

Note: This is a partial transcription of the Planning Board meeting. The final transcription will be submitted online by the end of the week 8/12/2021.