



TOWN OF WARNER

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**Planning Board Meeting
Town Hall- Lower Meeting Room
Monday, September 12, 2022
7:00 PM**

I. OPEN MEETING at 7:05 pm.

ROLL CALL:

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

In Attendance: Janice Loz – Land Use Administration

Also present: Mike Quinn and Adam Quinn, Comet, LLC., Jamie Hage, Attorney – Rath, Young, Pignatelli.

I. OPEN MEETING and ROLL CALL

II. APPROVAL OF MINUTES: August 1 and August 29, 2022

Pages 2, 3, 4, 6, 7, 11, 14 had some clarifications in the text and additions to define tenses and make some grammatical amendments.

Motion to approve the minutes of August 1, 2022 as amended made by Andy Bodnarik. Don Hall seconded the motion. Voice Vote Tally: 4 - 0. The minutes of August 1, 2022 were approved as amended.

The minutes of August 29, 2022 would be reviewed at the next meeting of the Planning Board.

III. NEW BUSINESS

A. Conceptual Consultation – White Clover, LLC.

Applicant: White Clover, LLC.
Owners: White Clover, LLC.
Agent: Holly Riley
Address: 183 West Main Street
Map/Lot: Map 35, Lot 003
District: C-1
Description: Inn / Store with 10 seat café.

Holly said she doesn't have professional drawings yet. She refers to this plan as an inn, café and shop. They would like to have antiques, pastries, and coffee. There would be probably 10 seats in the café, that is how much the septic plan would allow. Chair Frost said the parcel of land and the access to it is interesting. There is an easement to get to the building site. It runs across the parcel that is being proposed for the Workforce Housing, opposite the police station.

Chair Frost asked Holly to talk about the inn proposal. Holly said it is four units. There may be a common food prep area, (not a full kitchen), and a bathroom. Guests would most likely need to eat out or eat at the café. She confirmed that this is meant for nightly guests and not long-term stays.

Chair Frost with four independent rooms, what kind of licensing is required from the State? Holly said she hasn't looked into that yet. Chair Frost asked if this was the Intervale District. Holly said it was. Chair Frost said that the hotel/motel concept is allowed in the district. An Inn is allowed in the C-1 district but not the Intervale. Holly said they could use the term "hotel"; she picked the word "inn" as it was a more quaint name. Chair Frost said most people have a common perception of what a bed and breakfast is. Holly said that usually at a bed and breakfast, someone lives there or stays there with the guests as well. The term "lodging house" was mentioned but wasn't something Chair Frost was familiar with, and they didn't have a definition for that although it seemed similar to short-term housing.

Chair Frost said he didn't know if there was a way for the State to differentiate between these different uses. He wasn't sure what the differences were between a hotel/motel/lodging house. Chair Frost suggested that Holly check with the State; Department of Health and Human Services; Public Health Division, and the Department of Revenue Administration, which collects the taxes. He said he was at a loss on how to "pigeon-hole" this idea.

Holly thought it might be defined as a Short-Term Rental. Andy said hotels and motels usually have a restaurant and belong to a chain.

Chair Frost asked Holly what her timeline was. Holly said they'd like to get the current building there demolished before winter. She confirmed that she owns the property. Chair Frost said the Board has to figure out the difference between the different uses that this business could fall under; they have no definitions in their regulations. The Select Board will also need to decide whether what is proposed meets the (Town of Warner) Zoning Ordinance. This fits into the Short-Term Rental discussion, as well. Holly asked if that type of housing was allowed in that district. Chair Frost said the Ordinance doesn't define what a Short-Term Rental is, and that is a discussion they are currently having. He confirmed that there are Short-Term Rentals currently in the town. Chair Frost asked for suggestions from the Board.

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Andy said that one of the things Holly should look at is the checklist for a Site Plan Review. The elevations on the plan are something she should look at; how much earth would be moved to create the right building site. This would require a permit by the State. He also pointed out the driveway; would they use the existing driveway? Holly said they would. Andy said they'd need to do something in the area where the proposed business would be and look at parking which would be part of the site plan. Andy asked what type of septic would be planned. Holly said she hasn't checked yet and they'd need to check with the State. There is a dug well. Andy said when replacing the well there has to be a certain distance from the septic. Holly said the elevations work OK for what she is proposing.

Chair Frost said he believes they would need to have someone on premises at all times. Holly wasn't sure that was the plan in her mind. She said she would be running the store and the café. Andy said this may be how the State regulates hotels and motels; there may need to be someone on premises there at all times for guest emergencies, etc. If that isn't the case, then what they are looking at is more like a lodging house or a bed and breakfast. But it doesn't really fit into that mold either. Holly said larger hotels have people present all the time but she wasn't sure about smaller ones. Chair Frost encouraged Holly to check this out to see what the laws are, licensing requirements, and the rules on how these kinds of places can operate. He would welcome her to come back when she gets some more information on her end so what she is proposing is consistent with the Zoning Ordinance. She may need a Variance and a Special Exception from the Zoning Board depending on what she finds out.

Holly said she would be willing to come back again in the future to talk about what she finds out. Chair Frost said retail establishments are permitted in both districts. Eating and drinking places are also permitted in both districts. That doesn't seem to be a big issue; it is the lodging piece that is the unknown.

Don said at some point they should make contact with the Warner Village Water District because they have distances on hookups so she could fall within the distance to being hooked up to the water and sewer. Holly said that she has talked to the district. It is difficult; they'd need to get an easement from a neighbor on one side either going up and down the road. This is why she is proposing a septic system and well. Chair Frost said given she is proposing an eating establishment, there are State standards on water quality; she would need to talk to the Department of Health about this detail. He wasn't sure what the licensing was that was needed for this.

Chair Frost said Holly was welcome to come back to the Board with an application once she can better define what would work with the Ordinance and the State. Holly said that the demo permit has already been obtained. She thanked the Board for their time.

IV. UNFINISHED BUSINESS

A. Site Plan Comet, LLC. (Review of Documents)

Applicant: Comet, LLC. – Adam Quinn
Owners: Comet, LLC., Mike Quinn, Manager
Agent: Jamie Hage, Rath, Young and Pignatelli
Address: Route 103
Map/Lot: Map 35, Lot 4-3 – frontage on Route 103
District: INT & C1
Description: 24-unit apartment building

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Adam and Mike Quinn and Jamie Hage and Cassie Moran were present online. Chair Frost noted a letter that came in from Cassie Moran regarding the composition of units proposed in the development and whether it is required to be all Workforce Housing or whether some portion of it can be Market Rate Housing. He has the letter with exhibits and an affidavit from Mike Quinn. The Board needs to decide that night whether it will maintain the position that it had previously adopted that the Zoning Ordinance requires all the units to be Workforce Housing, 100%. He acknowledged the letter and information so the applicant can go forward knowing what the Board's position is.

Chair Frost asked those on the Board if they were willing to reconsider the decision that had been made previously. No comments were made. Chair Frost asked if anyone wanted to maintain the Board's decision. The Board members voiced that they would. Andy said that the Town hadn't heard back from the Town Counsel yet on this topic.

Attorney Hage said the decision that the Board made August 31st was a final decision based on its interpretation of the Warner Zoning Ordinance, correct? Chair Frost answered in the affirmative. Attorney Hage said the Town now has the benefit of the letter from him to Town Counsel including attachments that indicate that to require all housing units to be Workforce Housing in perpetuity is unviable. His request of the Board is that they reconsider their decision that night in view of their submission of information. Chair Frost said the Board has chosen not to reconsider their decision.

Attorney Hage said under the Town's Zoning Ordinance, Workforce Housing is defined. They are requiring 100% to be affordable by a family of three with a median income of no more than 60% in the Merrimack County area. Chair Frost agreed and said that "affordable" is a 30% housing cost. For rental it is gross rent, which means rent plus utilities. This is lifted from the Workforce Housing statute.

Attorney Hage said they are in a position where they want to appeal that decision. They'd like to continue with the application. Chair Frost said that was fine. Attorney Hage said they would take the decision on an interim basis but would like to continue the application. Chair Frost said that was fine and they could proceed. He added that the next thing he wanted to take up was the August 10th letter to the Warner Zoning Board of Adjustment from Attorney Hage which did not wind up in the hands of the Planning Board until the 31st of August as it was not addressed to the Planning Board. The Statement of Intent was modified from what originally appears in their site plan application. The reason this is put in writing is because a written Statement of Intent is required under the Workforce Housing Law. This was originally stated on the 8th of August and explained in more detail on August 10th. The Planning Board did not get the revised Statement of Intent. It would have been a point of discussion if they had known that. Chair Frost said he would enter into the record the statement that had been received late.

Attorney Hage said he wanted to ask if the Board had a copy of the letter submitted to Chair Frost on August 26th about the proportions of Workforce Housing and eligibility and deed restriction. Chair Frost said he thought he had the letter and asked Janice if she could locate it any quicker than he could. It was clarified that it was a letter on letterhead and not an email. Attorney Hage said the Town's website has an incorrect email address on it. He thought that the letter was discussed at the August 29th meeting. Chair Frost agreed and said he remembered seeing it and read through it. He just didn't have it at his fingertips. Attorney Hage said he felt that the details in the letter had been addressed in the last meeting.

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Chair Frost said that they have a document dated the previous day from Board member, Andy Bodnarik, outlining a variety of different points, coming from several groups and individuals. This document will be forwarded to the applicant the following day (see attachment). There are significant issues that the Board feels must be addressed. Chair Frost said the Town would like to have their third party engineers reviewing the information and do not wish to allow New Hampshire Department of Environmental Services (NHDES) to do their work. His recommendation is that they get all the information for things such as the driveway permit. New Hampshire Department of Transportation (NHDOT) will not look at onsite circulation, but mostly just the access to Route 103. They had talked about getting some feedback from Comet's engineer, but he had been on vacation. This information had not yet been acquired.

Chair Frost said they will need a lighting plan which will show the ground illumination and the fixtures. They do have a brief letter from the Precinct in which the administrator says the (Warner Village Water) district has capacity to serve the 24 units at exit 9 in Warner with regards to water. With regards to sewer, they also have capacity to dispose of sewer from those units. They don't have anything yet from the Fire Department especially with the new configuration and the challenges the truck would have in maneuvering the site.

Chair Frost said there is a list of smaller concerns although he didn't have the benefit of the recommendations from Aries Engineering to consider. He wasn't sure if there would be a basement. The applicant confirmed the buildings would be on a slab. Chair Frost said that Aries Engineering suggests raising the building up to keep it from the flood level. It is an area that is potentially subject to inundation.

Andy said the building is also in Zones A, E, and X for flood zone insurance considerations. Andy asked if a copy of his notes could be emailed to the applicant rather than going through all of his concerns. Chair Frost said affirmed.

Chair Frost said that as the plan-set is developed, it should be sent to the Town's engineers for their review. Adam Quinn asked about the Regional Impact Study. Are there any updates on that? Chair Frost said they will be seeking the input from the Central New Hampshire Regional Planning Commission (CNHRPC) and the three municipalities. Under the statute, they have to be given notice and they should get back to the Town by the following meeting, next month.

Andy said that it was difficult to indicate the differences between the revision sheets and the original sheets as they have the same dates on them. Adam Quinn agreed and understood the confusion.

Chair Frost said there wasn't enough time to notice the CNHRPC and municipalities for that evening's meeting, which is why their responses are due for the following month's meeting.

Don Hall was concerned about the water situation. The Precinct administrator has said there is an adequate water supply but he would be interested to know if the building became a hazard (caught fire), how long it would take to drain the Warner's water system. He isn't sure if the Fire Chief would be able to find this out, but if not, he would. He didn't think that they had enough water to put the building out. Adam Quinn said that they planned to install a sprinkler system in the building. He would put an outside hookup on the building as well, if that would be required.

With regards to the landscaping plan, Lois asked if there was any green space included where kids and people could have a place to play. Are there any common areas? With picnic tables or anything? Adam said the first plan did not have any common space. They added this space

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behind the building after meeting with the Town the first time, and heard that this was something that should be added. On the plan, it is listed as a patio area. It is about 30' x 30' roughly. Lois asked if this would be grass? Chair Frost said it didn't look like the material was defined yet.

Adam said he understood the configuration of the sign and had changes that the Board wanted. Chair Frost said they would still need a Sign Permit from the Select Board.

Chair Frost said the architecture of the building meets the objective numerical standards of the Ordinance in terms of height. The Site Plan Regulations call for breaking up the vertical plane of a wall so they don't have one long continuous wall, which has been done. They have heard a lot of concern about the appearance of the building. The elevation of the site and the mature vegetation should help a bit. His recommendation was to see if there was anything more to reduce the visual impact, especially of the central roof line. The building is large but it is consistent with the objective standards. Adam said he asked that the color of the building be changed to browns and greens to fit in better. They are trying to balance the idea that it will be sitting below what they may think, with it being a 3-story building. It is hard to add character to something and make things taller. He doesn't think they are required to follow the 45' height regulation in that zone, but they were doing it out of respect for the Town. Therefore, they didn't want to add anything more to the height. The request didn't go unheard, but he did the best he could with the requests from the Board.

Chair Frost suggested providing some kind of visual example of what the building will look like from the driver's vantage point. Adam said he thought this was done earlier on. Andy identified the drawing. Chair Frost asked for a visual from the round-about, not just Route 103. Adam said he was happy to do so. He said the trees between Dunkin and the new building will remain; that is why they changed the entrance, so the trees could remain. Chair Frost said he appreciated this, and the trees would help mitigate some of the visual impact.

Andy found the Article IV, General Provisions (of the Zoning Ordinance) on Page 6, paragraph I, Height Regulations, 45-feet is allowed in C-1 and B-1 unless otherwise approved by ZBA. The Board may authorize a Special Exception to the height regulations under certain circumstances. They could go more than 45' but they have to go back to the ZBA for a Special Exception. Attorney Hage said they looked under the definitions of the Zoning Article XIV-A under Workforce Housing, sub paragraph C, on Page 28 of the ordinance. It says that Workforce multi-family housing developments in zones C-1 and Interval should not be subject to Article IV, K and I. It is not subject to the height restriction that Andy just read. Chair Frost said that is a type-o. It should be 4, K and L. What was adopted by the voters was "4, K, and L" not "I." If they are at 45-feet they are OK.

Attorney Hage said they object to the decision of the Board and will continue with the application.

Chair Frost opened the public portion of the meeting for comment.

John McGilvary asked if there would be dumpsters. Chair Frost said there would be.

Derek of Parade Ground Cemetery Road asked about the snow removal. Once they plow the snow into piles, the sand and salt would be going right into the river. Chair Frost said that should be part of the plan. Snow storage is shown on the plan and this is a concern that was brought up already by the Warner River Local Advisory Committee (WRLAC). Andy said this was also something he had on his list to be considered and how the snow would be removed.

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Chair Frost recessed the public hearing to be opened at a later date. The next meeting would be Monday, October 3rd, 2022. The application would be continued in the Lower Meeting Room at 7:00 PM on that date.

B. Rules of Procedure

- Review draft by Andy Bodnarik – Continued to the October 3, 2022 meeting
- Review Appendix on Developments of Regional Impact. – Continued to the October 3, 2022 meeting.

V. COMMUNICATIONS

- A. Short Term Rental schedule joint ZBA meeting – Janice, Land Use and Judy, Select Board are to schedule a joint meeting between the Planning Board, Select Board and Zoning Board.

Andy thought it would be difficult finding a night everyone could meet. It would need to be noticed by all three Boards.

VI. REPORTS

A. Chair's Report – Ben Frost

There was also discussion of the CIP. Chair Frost was concerned about how all of this would be fit into their schedule. Another meeting may need to be scheduled.

A meeting would be added for Monday, September 26th to discuss housing and the CIP.

B. Board of Selectmen – Lois Shea

Lois thanked Sam for sitting in for her for the past few meetings. She had a family emergency she needed to tend to, but she is back.

Barb Marty asked what the deadline for citizen petitions for zoning amendments would be. Chair Frost said the (NH) municipal association publishes a calendar that is helpful for this. It appears the deadline is between 90-120 days prior to the annual Town Meeting. Janice thought the Town Clerk would know the exact date.

C. Regional Planning Commission – Ben Inman (Ben was absent, so no update given).

D. Economic Development Advisory Committee – Ben Frost

Chair Frost said they talked about the uses of the Old Graded School and a Boys and Girls Club moving in there. They also discussed the possibility of doing the sidewalk on West Main Street and the Town would reach out to residents there to get feedback. They also talked about Workforce Housing.

E. Agricultural Commission – James Gaffney (James was absent, so no update given).

F. Groundwater Protection Committee - Andy Bodnarik

Andy said they have meetings proposed for Wednesdays at 6:30 PM for Sept/Oct/January and/or Thursdays at 6:30 PM to discuss groundwater protection. The list of dates proposed were

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extensive and he still has to respond to Alice Chamberlin, who is heading up this committee. They sent out the draft minutes of August 4th but he has not yet been able to review them. He would get back to Alice soon with dates that work for him.

VII. PUBLIC COMMENT

Ed Mical said he was there from the Emergency Management Committee. Kearsarge Mountain Road was included in the CIP last year. Because of things going on, they haven't been able to do a feasibility study yet. He has met with the Select Board and the process is starting but it won't be until next year's Town Meeting that they will see any movement on the project. He would request that the project be left in the CIP as a tickler item. Chair Frost understood the request. He asked if there would be a request for an appropriation at Town Meeting? Ed said there would not. He would just like to present the engineering study next year. They can't do much more until the feasibility study is done. He predicts that 2024 would be the earliest that this could move forward.

There were no further comments from the public in person or via Zoom.

VIII. ADJOURN

Chair Frost adjourned the meeting at 9:04 PM.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of Warner