

UNAPPROVED MINUTES



TOWN OF WARNER

P.O. Box 265, 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, December 5, 2022 7:00 PM

I. OPEN MEETING at 7:00 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: Holly Riley (White Clover, LLC), Alice Chamberlin (Groundwater Committee), Mike Tardiff (CNHRPC), Matt Monahan (Warner Circuit Rider and CHNRPC), Ed Mical

I. APPROVAL OF MINUTES: October 27, 2022 and November 7, 2022.

October 27, 2022 - The website that was referenced on page 3 was removed.

It was moved by Andy Bodnarik and seconded by Don Hall to approve the minutes of October 27, 2022 as amended. Vote Tally: 6 – 0. The minutes of October 27 were approved as amended.

November 7, 2022: Karen noted that page five should say community power, not community college. The last two sentences should be deleted and it should say there was also a question as to whether some of the funds could be used for some of the fire department equipment. It has to be for unanticipated expenses. Andy asked if there was a spreadsheet for the Harper funds. Lois suggested Andy speaking to Christine Frost about this.

UNAPPROVED MINUTES

Don Hall made a motion to approve the minutes as amended. Andy Bodnarik seconded the motion. Vote Tally: 6 – 0. The minutes of November 7, 2022 were approved as amended.

II. NEW BUSINESS

A. Conceptual Consultation Application – White Clover, LLC. - and an application for a Determination of a Site Plan Review

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: Convert office use to Commercial use.

Holly was asked to explain her application. Holly's husband, Don, was also present. She wished to talk about the Determination of a site plan first. There would be no customers coming into the building. The Chair asked if this was a double-wide structure. Holly confirmed that it was manufactured house. There was a map of the site that Holly sent around to be reviewed. Andy said that it was obvious that she was talking about a flower shop. Would it include delivery? Holly said it would. They would do the arranging on-site but no sales on-site. She said she didn't think the current structure would be fixable and she may be back to talk about replacing it. She wasn't sure and wanted to first see what she could do on the property. Andy said there was a site plan approved on the site in 2003. He thought that a new site plan would be needed because it looked like a change of use from the previous site plan. Depending on the usage, it will affect the use table; it seems like a retail service. Janice said she would find the original site plan, which was for office space. Andy said that originally the building was a non-conforming use and a special exception was attained for its use. He wondered what the plan for parking and driveways was. He also thought she should keep in mind that she would perhaps need a building permit depending on the extent of the repairs needed.

The Chair said this is being considered retail, but customers won't be coming to the site. Janice said that she and Holly have talked and she did submit a site plan application. They went through it together and she had wanted to use the plan from the previous owner and do a modification to it. Janice told Holly that a site plan would need to be done as well as a plot plan due to the parking and different vehicles coming and going. In the end, Holly thought it would be a good first step to get the feeling of the board.

Holly said she had the site plan from 2003. She is trying to rebuild something nice there instead of it being a double-wide. She doesn't have the funds to do something really upscale and has done some research on her own to see what was feasible. Holly showed the site plan to the board. The foundation from a previous garage is still present. She also had pictures of the building she was thinking of putting together. She wondered if she was allowed to rebuild the garage. The Chair said he wasn't sure as he hasn't seen the previous plan.

UNAPPROVED MINUTES

Holly said if it is too much work to replace the building, she would try and repair the current structure. The Chair said it was hard for them to feel one way or the other if the applicant didn't know what they wanted to do. Janice said she hasn't been able to locate the signed approval from 2003. Don said he remembers the original occupants as being Richard Sandy, which is the name they should be looking for. Janice said the trailer has been on the property since 1965. The property, since then, had been annexed.

The Chair said the plan shows a 955 square foot structure; does this include the garage? Holly said it is almost 900' without the garage, including the sunroom and a back porch. The Chair said they need to find the plan that has the Planning Board's signature. Janice wondered if a modification can be made to the plan if they can find it. The Chair wasn't sure. There was an approval by the Planning Board in 2003. Andy said the site plan verifies the boundary settings. Don said in the original site plan review was for the owners to put a home there, he believes that this property was part of the parcel that the Sandy's owned. The original plan from the 60's would show the layout and what parcel of the original piece had been given to the Sandy's for the residence.

Holly said the property has been surveyed a number of times. Andy said the plan he is looking at shows an attached garage and parking spaces. He wondered if it had ever actually been built. It was confirmed that it was and the parking area is currently gravel. Andy said there is a subdivision plan referred on the site plan from 2000, and another in 1985. A minor subdivision was done in 1984. A highway plan is referred to on the plan from 1965 and 1966.

The Chair said as long as there is no customer presence on site, he didn't see a significant issue. Andy said if there isn't clarity because they can't find the site plan on the property bounds, that is a problem. He was concerned with the owner's safety in moving forward without these things. Holly said her surveyor is confident that the bounds on the property are correct. Don recalled that the Jolly Farmer was also set up in that location at one time, in the 1980's. They would have had to applied for a permit for a business and they were using the space for about three years.

Don said that the State may make the owners abandon the driveway because of where it is located. Holly said she talked to someone at DOT who said it would be fine where it is. They understood the location she was describing. Don suggested getting these kinds of comments in writing as it is likely she would talk to a different person each time she calls DOT. The Chair shared the name of the individual who would issue a driveway permit from DOT and said she should speak with him directly.

Don felt the Town needed to do some more research on this plot to determine if there was a subdivision and what procedures were followed. The Chair said they need to determine if what she is proposing is consistent with the site plan approval from 2003; they need the signed plan. They do have a copy of the approval however the details in it are vague.

Karen didn't think that an office space approval would differ from the requested office space and floral arranging space if no customers would be coming to the location. Holly

UNAPPROVED MINUTES

confirmed that the amount of deliveries she would receive at the site wouldn't be any more than a normal household. Andy said that if there is a change of use, the site plan regulations require another site plan. A copy of the original site plan would help them determine how they should proceed. Are they keeping the same level of activity? This is something they need to think about.

Lois asked if a printed copy of the photo Holly has on her phone of the approval could be attached to her application; would that be enough? Janice said that the photo is not very good and doesn't show the detail. Karen said that the signature in the photo should suffice. Janice suggested that a better photo would work. The Chair asked Holly to get a better photo and print it out. As long as she is doing things consistent with the existing approval, she wouldn't need further approval from the board. If she was to start receiving customers on site or changing the building itself, she would need to come back. Don said he thought perhaps the septic system would need to be replaced if they changed the building; it is very old.

Andy Bodnarik made a motion that the Planning Board finds the proposal for a floral arranging facility does not require a modification of the 2003 site plan approval provided that a copy of the plan and a copy of the photograph showing the signature block from 2003 be included in the file, and the owner receive no customers on site and that any modification to the footprint of the existing building or demolition and replacement of the building would require a modification of the site plan and a return visit to the Planning Board. Karen Coyne seconded the motion. Vote Tally: 6 – 0.

Holly said if they came back with regards to a modification, what would the change in the square footage be allowed if they wanted to replace or expand the building. The Chair said he thought she should actually measure the space she has now. If she decides to propose an expansion of more than 200 sq' for the building or the parking area, it would require a return to the Planning Board for a modification of the site plan.

Andy asked if the garage foundation on the plan is included in the square footage. Holly said the square footage was confusing and conflicting in the plan. The Chair said she has an approval for the garage footprint but she would need to get a building permit to rebuild it. This rebuild would not require a modification to the site plan as she has an approval for it already.

Don thought this felt "sticky" and thought they should stop for a minute. He understands there are a lot of "what if's" and he thinks they need to include these "what if's" so Holly knows what she can do once she leaves. He was uncomfortable with this, the owner isn't quite sure of what is going to take place. She should do some more homework. The Chair said this is a conceptual review. Don said he understood. Holly said she just wants to find out what she is able to do before she makes any real plans for the property. The Chair said this is an opportunity to give some direction on what the owner can do on the property without coming back to the Planning Board.

UNAPPROVED MINUTES

Holly said it seems the square footage would be about the same if re-orientating the building and adding a second floor. The upstairs would be office space and the downstairs would be for flower arranging. At some point, perhaps she would want customers to come to the site to purchase flowers. She wanted to know the thoughts of the Planning Board would be on this.

The Chair said if she is changing the footprint of the building, especially moving to a two-story structure, because the physical appearance is part of the approval, she would need to come back to the Planning Board. Andy said they would need to make sure they met the building height. The Chair said that if she proposes having customers go to the site, that is a drastic change in the approval. They have to consider customer/pedestrian safety in the parking area, groundwater runoff, impact on the adjacent wetlands, etc. Holly asked if she could get a special exception. The Chair said that it would be up to the Planning Board if she could go to the Zoning Board for that, and said there could be a waiver. Andy said that Holly should go through the application checklist and decide what she wants to do. Janice said that she and Holly have done this. Andy said that Holly needs to make up her mind of what exactly she wants to do and the checklist will help her figure out what she can do and what she has to do to get approvals. Andy said that new construction or expansion of use requires a site plan review. They don't know yet if her changes will be substantial enough. The Chair said the owner can always ask for a waiver and they will determine whether it is appropriate or not. The Board needs more information before the application can progress.

III. UNFINISHED BUSINESS

A. *Site Plan Comet, LLC. – Continuation of Public Hearing

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

***NOTE: This has been withdrawn by the applicant.**

Andy wanted to make sure the appeal and the withdrawal documentation was included in the record. The Chair said he was sure this has been done.

Don wondered if there was anything that the Town needed to read just to handle this kind of scenario in the future. The Chair said that they have decided not to do any other housing-related changes to the Zoning Ordinance this year. This calls for a revisit to some portions of the Master Plan. A grant application may be submitted with regards to housing changes in the ordinance. This would be discussed more on the 19th. There was discussion on the classifications and definitions used in the ordinance for things such as manufactured housing and workforce housing. Down the road, scenarios will come up again that have to do with these things and better definitions and classifications will help the Board make their decisions. The Chair opined that these are issues with the Master

UNAPPROVED MINUTES

Plan. This would be discussed further with Mike Tardiff of the Central Regional New Hampshire Planning Commission (CRNHPC) at the next meeting.

B. Groudwater Protection Update - Alice Chamberlin

Mike Tardiff was introduced to the Board by Andy, as he was prepared to create draft language to propose changes to the ordinance. There is grant money available to help towns pay for this. A postcard has gone out to the townspeople to alert them to the fact that there would be a groundwater discussion and invite them to participate.

Alice thanked Andy for helping to get a draft ordinance ready and get the thoughts of the Planning Board before the December 19th meeting where they will discuss the issue further. She thought it would be interesting to see how many people attend the next meeting through the invitation/information in the postcard. She thanked the Chair for the interest and support of the Planning Board on this issue. Alice didn't believe this ordinance change can go through as a citizen committee; it has to be part of the Planning Board.

Matt Monahan, from the CRNHPC, was present via Zoom. Alice said so far they are leaning towards focusing on the area over the aquifer, not proposing a town-wide proposal. It is a modest proposal and doesn't revoke any existing uses. It doesn't regulate private well owners and focuses on prohibiting a few uses that have potentially dire consequences for groundwater. They have tried to make sure the proposed changes fit within the structure of the current ordinance.

Mike said they sent out 450 postcards and covered the area outside the precinct but also the core area over the aquifer. They have also had some conversations about how maps can be misplaced over the years. A recommendation that they should have some language in the ordinance that gives a good description to the area as it relates to the maps. He said Matt would explain the recommended structure of the ordinance and how it may just drop into the existing ordinance. They want to emphasize that the State recognizes they can't be everywhere and this is a way the Town can help protect the things that are important to them. Andy passed around a copy of the inset map that shows the locations of the aquifers. Mike passed around a map of the overlay they are suggesting.

Matt said when they talk about the map, it is important to understand there is not "regulation" in that area, but what they are talking about in that area. That helps show what the proposal is looking to do in specific terms. He thought they could talk about the map at the end and it will make sense when they get there. The basic overview of the ordinance has 3 articles that would be impacted: Article 2: add the title of the district, which is the Groundwater Protection District as a new overlay. In 2C, they would add a new item describing the boundary of the district and if they are disputed, they are driven by science. Article 3, definitions, would have a defined term for aquifer, groundwater, outdoor storage, junk yard, and secondary containment. The real meat is Article 11, adding another overlay district for groundwater. This describes the authority and purpose. It gets into the existing nonconforming uses, saying that they may continue provided they are not expanding to another nonconforming use. Permitted uses will be listed. If the use is permitted in the underlying zones by right or special exception and is not prohibited use or conditional use in the overlay, it can continue. This covers only a handful of uses in that area. There is a section called "Exempt Uses" and includes fuel, storage of temporary construction used

UNAPPROVED MINUTES

on site, hazardous waste, underground storage tanks, etc. It provides additional clarity on things people may have questions about.

Matt said there are also prohibited uses, which are not permitted over the aquifer, including solid waste landfills, outdoor storage of road salt or other de-icing (the Department of Public Works handles this anyways with their best management practices), junkyards, operation of a snow dump (snow from another location that is deposited on the site for melting), processing of bio-solids, and operation of a petroleum bunk, plant, or terminal.

Conditional uses mean that if they have one of these instances, there are some standards. This includes the development or operation of a gas station, storage handling of regulated substances, exceeding 800 lbs. of dry weight at any one time, and any use listed as prohibited that they see as a variance.

This ordinance specifically says that the Planning Board can issue a conditional use permit for the conditional uses. It spells out basic requirements of the application for one of these permits. Fees, narrative and a plan, for example. If the Planning Board needs a study, this is included as well. They are also saying this can be done concurrently with site plan review. The standards are 1) the proposed use complies with the use and dimensional requirements in that zone or a conditional use provided in that area. 2) gas stations comply with minimum setbacks for wells and underground storage tanks, and effective practices that prohibit leaks (best management practices), 3) a spill control and counter measure plan as approved by the fire chief. The best management practices from the state must be used.

Matt opened the floor for questions. Alice said they kept in mind concern over over-regulation which they had heard expressed. She said that Andy has found numerous areas in the ordinance about protecting water, but there is nothing there with regards to groundwater. They need to include these regulations to protect this important resource. At the public meeting, they hope to get feedback about this. The Chair said that a public hearing would be held at the end of January regarding the addition to the ordinance. On the 19th of December they will identify the warrant articles and the language that makes the most sense to bring forward.

Mike said the reason there isn't a town-wide proposal is that there has been pushback in the past from 12-years ago. The aquifer has a boundary and is a good way to use scientific information to educate the public. Karen asked why they wouldn't prohibit a water bottling plant. Mike said this is a topic they have discussed. They don't want to include too many things in the prohibited uses at this time to try and ensure that the vote goes through at Town Meeting.

Alice wondered if the Board had any suggestions on how they can move this along. The Chair suggested clarifying how the district was identified would be helpful. Andy said there is a concern about bottling plants is mostly focused around exit 7. The other concern was the depth of the public water wells. They are at 48'. That's not deep. This is why there are concerns about oxygenates that are put into gasoline, as well as the gasoline itself. When the town wells are at 48' and they are close to an interstate highway, there is real concern that they will have to truck in water like they did a while ago.

Alice asked if there were recommendations for the public meeting on the 13th and how it should be conducted. Mike thought that the information on the aquifer should be shared

UNAPPROVED MINUTES

first. The goal is to get this proposal to town meeting and to educate as they go. They need to share what a spill would mean to the town. Alice said they have met with the Economic Development and Agriculture Committees. They are both in strong support of this ordinance. Matt said there are two things they are trying to do: keep the six specific uses out of the aquifer and away from the wells, and secondly, that gas stations and other areas that high number of regulated substances (and any variance uses from the prohibited uses) do a little more if they are over the aquifers and wells.

The Chair asked if there was a definition of what “in bulk” means in the proposed ordinance. Matt said there wasn’t with regards to bulk storage. There was for “outdoor storage.” He thought that any amount of salt could be stored as long as it is enclosed. The Chair said this may come up. He was thinking of the hardware store, which has outdoor storage of packages of salt for sale. Matt suggested that if they come in for something else, the hardware store could be asked to encapsulate these materials a little better.

The Chair thought the definition of “snow dump” would be helpful. It is not just the storage of snow. Matt said he would add “off-site” to it.

Matt wondered about the regulated substances. There was discussion about the various gasses/chemicals and what state they are in at regular atmospheric pressure. Matt suggested cutting the list and cut the paragraph at “addition.”

Andy said a lot of work was done with this proposed ordinance and filling the gaps. The Chair agreed and thanked Alice for leading the effort, Mike for the support, and Andy for his work as well.

The Chair wondered about the term “Effective Practices” which is not “Best Management Practices” that has actual DES regulations. Matt said that is language that Pierce recommended but he agrees with the provision of a little more clarity. Andy asked if there was a BMP which could be referenced. The Chair asked the Board if they would want a hyperlink included in the ordinance, as he wasn’t sure they would. There was a hyperlink included in the description on effective practices.

Alice asked the Board to send her any suggestions or ideas regarding the ordinance on groundwater via email.

C. CIP

The Chair said they will adopt the CIP at their next meeting on December 19th.

D. Rules of Procedure

This would not be covered that evening.

E. Zoning Ordinance Amendments / Definitions (Examples: Short Term Rentals, Lodging, Bed and Breakfast, Hotel, Motel)

There is an email from Barb Marty from the ZBA, pertaining to the zoning ordinance references to the edge of the right of way. Barb is advocating to add some clarity on this term as the board has had to deal with this in three of the last four ZBA variance applications. She would provide language to the Planning Board as a suggested change for the Zoning Ordinance.

UNAPPROVED MINUTES

Harry Seidel has provided some information regarding short term rentals. This will be covered at the meeting on the 19th as well.

IV. COMMUNICATIONS

Andy said there were a few online trainings coming up. The Planning Board schedule for 2023 was also distributed. There was discussion of best management practices for junkyards. They are talking about salvage yards (motor vehicle) programs. There is a foam take-back program (firefighting chemicals) coming up. The Chair asked if Warner has any of these foams at their fire department.

V. REPORTS

A. **Chair's Report** – Ben Frost

B. **Board of Selectmen** – Lois Shea

Lois said the first meeting of the Pathways Committee was held. Christine Frost is the Chair of this committee. They had a presentation from Nancy Martin of the Conservation Commission regarding a gift of land near the Chandler Reservation. They met with Tim Allen and Varick Proper regarding the transfer station study/proposal. They both felt that there were some concerns with what was proposed, and they would like to meet with the company again that did the proposal. Every seven years they must perambulate the town boundaries with the surrounding communities. They are working on this schedule currently with representatives from other towns.

C. **Regional Planning Commission** – Ben Inman

Ben was absent.

D. **Economic Development Advisory Committee** – Ben Frost

Ben was not present for the last meeting, but Alice came to discuss the committee's work.

E. **Agricultural Commission** – James Gaffney

James was absent.

F. **Groundwater Protection Committee** – Andy Bodnarik

This was covered at that evening's meeting.

The Chair said following the last meeting, he felt distressed and discouraged due to the tone of some of the discussion. There were things that were said about other town boards that were unnecessarily critical and inappropriate. They are all volunteers doing the best they can. To the extent that they as a group tear down another board, they don't build themselves up, but rather tear themselves down in the act. He encouraged the members of the Board to be thoughtful and respectful in their comments about other town's boards.

VI. PUBLIC COMMENT

Ed Mical said he was present as a Warner citizen. He said when a Planning Board approves a site plan application, is it transferred from owner to owner? The Chair said it was; it runs with the land.

UNAPPROVED MINUTES

VII. ADJOURN

The Chair adjourned the meeting at 9:42pm

Respectfully submitted by,

Kristy Heath
Recording Secretary
Town of Warner