



**TOWN OF WARNER**

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***Planning Board Minutes***

Monday – June 19, 2023

Lower Town Meeting Room

**I. OPEN MEETING at 7:00 PM.**

**ROLL CALL:**

<b>Board Member</b>	<b>Present</b>	<b>Absent</b>
David Bates	✓	
Andy Bodnarik (Vice Chair)	✓	
Karen Coyne	✓	
Dan Emanuele - Alternate		✓
Ben Frost (Chair)	✓	
James Gaffney	✓ (arrived 7:10)	
Pat Goneau	✓	
Neil Nevins – Alternate	✓ (arrived 7:15)	
George Pellettieri - Alternate		✓

**In Attendance:** Janice Loz – Land Use Administration,

**Also present:** Nancy Ladd, Bob Holmes, Ian Rogers

**II. PUBLIC COMMENT**

Ian Rogers, asked when the Housing Charter discussion portion of the agenda commences can public members contribute comment during that discussion? The Chair said there will be open discussion during that time, until the board deliberates, or motions are made.

**III. NEW BUSINESS**

**A. PUBLIC HEARING: Subdivision Application – Major Subdivision (4+ Lots)**

**Applicant:** Peacock Hill, LLC.  
**Owners:** Joseph Anthony  
**Agent:** Anthony Costello (A.C. Engineering & Consulting)  
**Address:** Vacant Lot on NH Route 103 across from Annis Loop  
**Map/Lot:** Map 7, Lot 39  
**District:** R-2 & R-3  
**Description:** Residential - Multi-family

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The Chair discussed the process of determining whether the application for a subdivision was sufficiently complete for the Board to accept jurisdiction, only after that process would they review the application.

David Bates recused himself from the application and the Board table, as his in-laws are abutters to the property. Once one of the alternates arrives, the Chair will elevate them to voting status to fill David's position on the Board.

The Chair said they will receive information from the applicants and determine whether the application is complete to accept jurisdiction.

Jacques Belanger reviewed a paper plan on the easel in the room, which was reflected on the video screen. The driveway will have to be state NHDOT approved. He noted the property has steep slopes.

The Chair asked if they wanted to address the grading plan. Anthony Costello said the road was designed to meet NHDOT regulations. The maximum slope for a town road is 10%. They have two areas in the Right-of-way (ROW) that are at 12%. It is more of a common driveway than a town road. The units will be sprinkled for fire protection. There will be another road perpendicular to that road, to access the back of the building units. There will be pervious payment on the entire project to infiltrate as much water as possible. There will be treated water filtering into a reservoir which will travel back up to the surface and considered clean water. Anthony said during the conceptual it was stated there would be a quadro-plex on each lot.

Andy said his concern is with the drainage and the slope as it approaches the highway. He inquired relative to the well radius' shown on the drawings where are the septic(s). Anthony said they haven't shown that at this stage of the process, although, they will during the Site Plan review and that each site will have its own septic system.

The Chair said he was unsettled that the Board is not being presented with a Site Plan, as well. Anthony said that wasn't the intent they have been pushing to get something in front of the Board. The Chair said the difficulty is the Site Plan does have implications for the subdivision. Anthony agreed. The Chair said for example the intended use is for quadro-plexes on each of the four lots. He does not think the 4K box is adequate for NHDES regulations. There should be adequacy for an effluent disposal system. NHDES regulation calls for a 4K box for a single-family use, but we know this isn't single family. Having the Subdivision and the Site Plan before us at the same time would have been helpful. The Chair said it puts the Board in a difficult position and it is confusing to the public because all they can talk about tonight is the Subdivision.

Andy noted the locus map is wrong, it shows the town of Bradford.

James Gaffney and Neil Nevins arrived. The Chair asked Neil to vote in place of David, who has recused himself.

The Chair thanked Jacques and Anthony for their comments and opened deliberations between Board members.

The Chair said they had to review the application for completeness. The Chair discussed the review from Matt Monahan from Central Regional NH Planning Commission (CRNHPC). He said that Matt noted there were checklist items missing.

James asked if the Board took up the Subdivision only would the applicant still have to come back for a Site Plan review for the lots. The Chair said for the buildings, yes. James

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said the ordinances apply to Subdivisions that are commercial but, not residential. The Chair said if they want anything other than single-family use they would have to come before the Board for a Site Plan review.

The Chair said since the facts and details of the Subdivision are affected by the possible use for multifamily, such as location of the buildings, impact on grading and accuracy of a 4K box, is a 75-foot well radius sufficient. The Chair said he thought it would be inappropriate for the Board, even if they accept the application tonight, to approve it. If they approve it as complete, they should conduct the public hearing and receive limited input on the Subdivision and then continue the public hearing until when they receive the Site Plan.

Andy and the Chair discussed the lack of map and lot numbers for the new lots. Andy said there should be some easements noted. Andy questioned whether they needed a special exception which was not indicated. The Chair said the Use Table moves into the realm of a Site Plan review.

Andy said Page 11 of the Checklist is blank. He questioned the distance from the highway to the buffer that is required under zoning for open space development. Is there enough of a buffer from the existing highway or enough frontage on the right-of-way.

The Chair said the 4K box is the 4,000 square foot box that is required to be shown on any lot where a residence will be put in a Subdivision, by state law. This is to demonstrate accuracy of the property to hold a septic system. There has to be 20,000 square feet total area that could support a septic system, but 4,000 of that has to be contiguous.

Andy had a concern with natural heritage and environmental concerns as far as endangered species. The Chair said there is a letter that was received today regarding the natural heritage inventory. The Chair said essentially it is a negative result meaning there are no threatened or endangered species affected by this property. The letter is from the Department of Natural and Cultural Resources.

Karen asked about Page 9 and a reference for numbering which is to be approved before plans are brought before the Board. The Chair said that is for numbering of the lots, each new lot will have their own unique map and lot number. Karen asked if that needs to be done first, as indicated. The Chair said, yes, unless the Board chooses to say they do not need it at this time. The Chair said they have the ability to waive whatever the Board wishes.

The Chair said Matt felt the application was sufficiently complete to accept jurisdiction, there are some deficiencies that can be dealt with as they proceed with the application. The Chair said once the application is accepted the 65-day clocks starts. The Chair asked Anthony and Jacques what was the timing in terms of the Site Plan application? Anthony said soon. The Board noted the next meeting is July 10<sup>th</sup>, and noted they would not make that deadline.

James said due to the site's proximity the Warner River Local Advisory Committee (WRLAC) needs to be notified.

The board considered whether the Subdivision application was sufficiently complete to begin the review of the project.

Andy noted the following items missing from the subdivision on the checklist:

- Outstanding numbering of the subdivision lots
- Pending the need for a variance or special exception.
- There are some wells indicated, but, no septic systems.

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- Correct the locus map, to the Town of Warner.
- Monuments question during site plan review.
- Clearly delineated setbacks on the drawings.
- Need an erosion plan with the Site Plan.
- AoT and the drainage plan is needed from the Department of Transportation.
- Description of easements. Cross easement among the four lots.
- Condominium documentation to include Homeowners Association to be reviewed by legal counsel.
- Snow storage and removal plan and how that ties into an easement on the Site Plan.

**Andy Board moved the question, does the board find the subdivision application to be sufficiently complete to begin to accept the application and begin review. Ben Frost seconded the motion. Discussion:** Andy said they have identified some critical issues which he doesn't think means the application hasn't provided sufficient information to deal with those issues. Andy said it is a very complicated issue especially in terms of zoning. James said the clock starts ticking on an application that is missing a lot of items. Andy said we can stop the clock on the application. The Chair indicated that denying the application would stop the clock. The Chair said if they get the application for the Site Plan for the August meeting, then they could review the two applications simultaneously. They would run out of time on the Subdivision application which would require an extension from the applicant in order to continue a simultaneous review. Overall, the Chair was not worried about the timing. Pat said it is up to the applicant to provide these in a timely manner, so he is going to determine the clock. **Voice Vote Tally: 2 to 5** – The board did not accept the application, determining it to be complete.

The Board expects to receive a Site Plan application to include details about the buildings. They need to have the Subdivision and Site plan application, two separate legal processes that really need to be done together, at the same time.

### I. UNFINISHED BUSINESS / WORKSHOP

#### A. Housing Committee Charter - Review

James suggested they should state what the Master Plan is in order for the public to better understand the purpose of the committee. Andy asked if there was a slide on what a Master Plan is. The Chair said there should be a one-page explanation on the purpose.

Karen said she received additional corrections from Andy on the document.

David said he could not come to the last meeting and asked for an update on what were the issues discussed.

The Chair said the updated Charter document reflects changes that were made on June 5. He said the committee is an extension of the Planning Board. Andy said all the members will automatically be members of the advisory committee. The Chair said the committee is not dealing with zoning regulation changes but, with information for the Master Plan. The position of Chair was changed to co-facilitators. The Chair said the facilitators should be appointed by the Board.

David asked what the rationale was for having every member of the Board be a member of the committee, and then appointing facilitators. The Chair said it is a subcommittee of the Board that consists of all the members of the Board, plus others who want to take part. The way it was imagined was as open membership, anyone who shows up is a member. David asked if every time the committee meets they will have to sit through the other Board

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business first. The Chair said, no. The co-facilitators will preside and convene. The co-facilitators may not be members of the Planning Board.

Janice said there is no mechanism for an extension of the Planning Board. If you have a quorum of the Planning Board then the Rules of Procedure apply. So why do you need a Charter. A quorum of the Planning Board constitutes a meeting. The Chair disagrees because they are designing it to be something other than the Planning Board.

Pat said the Advisory Committee do not having voting rights which is not spelled out in the Charter.

Janice said the charter seems to imply that the Planning Board advises the Planning Board, unless it is defined as a Housing Subcommittee.

Andy said the Housing Committee will make recommendations to the Board.

James said the Planning Board will direct the housing committee to pursue specific items.

Pat said it is up to the Planning Board to accept or not accept the recommendations.

Janice thought the Board wanted this to be a community engagement tool, to interview and engage stakeholders and residents and to encourage all members of the community to have a voice and then collect all that information and make sense of it and present it to the Planning Board to potentially include in the Master Plan. She was concerned the Board may appear off-putting to public input. Volunteers were solicited, the Select Board gave the Board the charge to put at least three volunteers on the committee. She worries that having a quorum of the Planning Board is too restrictive. The Board already has two meetings a month, and potentially this could represent a third or fourth meeting in a month.

The Chair said this is a concern that he has, although who the facilitators are could alleviate some of this concern. His hope is that Board members won't dominate this committee. The Chair asked how many people have volunteered so far. Janice said, ten. The Chair said it will be up to the co-facilitators to organize the timing of the meetings. He said under the Right-to-Know law they have to establish what the quorum is. The quorum is currently a quorum of the Planning Board. The Chair asked the Board if four members is too much, can they guarantee that four members of the Board show up at each committee meeting.

James said originally the Board's second meeting of the month was to address the Housing Chapter rewrite of the Master Plan. This room is reserved already for that date.

The Chair said by establishing the Housing Committee they are taking it a step away from the Planning Board. He thinks it is erroneous to think that it is going to meet on the second meeting of the month.

The Chair said he is concerned about the quorum on the Charter being defined as needing four members of the Planning Board. If they say four then members have to pledge to show up, because this committee can't meet without us.

Neil said it always troubled him that whoever shows up is a member of the advisory committee. He thinks it contributes to making it difficult for the advisory committee to function in an advisory capacity to the Planning Board. Having designated members of the Advisory Committee chosen from the public doesn't undermine being open to the public. Advisory Committee meetings are open to the public and anyone can attend. On the Economic Advisory Committee, the meetings are public and noticed and a quorum is based on the members present most of the time. Having a designated Advisory Committee with specific members allows that committee to function openly and transparently while

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being accountable to the Planning Board. Not having the Planning Board dominate and control the agenda of the committee and to trust the members and volunteer while still providing direction.

Karen said when this process started, we heard from the public they wanted to be involved but they could not commit to four times a month. So how do we maintain being inclusive, but not impact people who really wants to be a part of it given their schedules. The Planning Board originally voted not to have a Housing Committee, then agreed if it was done was a subset of the Board.

James said the point is to provide more resources and assistance where the Board needs it to rewrite a specific chapter of the Master Plan.

Andy asked if it had to be a specific number or could it be a simple majority of those attending a meeting.

David said this is an open discussion and asked if the members present who volunteered for the committee could come to the table and join the conversation. The Chair thanked David for his comment and invited the two members who were in attendance to come to the table.

David said we committed to an open membership in the committee what if the Board starts with the minimum number of say one Planning Board member and work our way up to what would be acceptable. He asked if alternates count in the equation.

Janice said three Board members seems more reasonable, it is not a quorum of the Board. She said that her job is to support the Planning Board, if there is a quorum necessary then it is her job to be there. The Charter mentions co-facilitators. She offered that if there are 3 members of the Planning Board and one of the co-facilitators that could potentially be the quorum of the committee.

James read the statute that said alternates can be counted to form a quorum when there isn't a quorum of voting members.

The Chair said there was a suggestion of three Planning Board members and one of the co-facilitators to create a quorum.

Karen asked what would be the new wording for the quorum requirement in the Charter. The Chair offered "A quorum shall three members of the Planning Board and one of the two co-facilitators."

Ian Rogers said could one of the Board members be a co-facilitator as well? Karen said the co-facilitators would be appointed by the Board. The Chair said that Ian's comment could be a reasonable interpretation of the requirement.

**David Bates made a motion to amend 5.b.2 to read "a quorum of the Advisory Committee to include 3 members of the Planning Board and one of the two co-facilitators." Andy Bodnarik seconded the motion. Discussion: None. Voice Vote Tally: 7 – 0.** The Charter quorum statement amendment was approved.

Nancy Ladd asked if the advisory committee is going to be gathering information or producing a product. She was concerned a meeting could be stacked with opinions one way or another depending who was at a particular meeting. The Chair said it will be up to the facilitators to bring people together and to come to consensus.

Bob Holmes said at the end of the day it's the Board that is going to make the decision on the Master Plan.

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The Chair said they will be gathering information and producing a product.

Jody agreed that the co-facilitators would help in keeping things on the right track. She said inclusivity is important and the public should be heard.

The Board made suggestions and collaboratively fine-tuned the Housing Advisory Charter document.

**Andy Bodnarik made a motion to approve the Housing Advisory Committee Charter as amended. David Bates seconded the motion. Discussion: None. Voice Vote Tally: 7 – 0.** The Charter was approved as amended.

James made a suggestion to solicitate volunteers for the co-facilitators. The Chair said to send the request to the people who have already volunteered and post on the website notices page.

### **II. COMMUNICATIONS**

Janice mentioned that the Land Use office has received an invoice from CRNHPC for work done so far.

James said CRNHPC were going to come and update the Planning Board on work already complete. The Chair said CRNHPC should be working with the Housing Advisory committee.

Andy mentioned training on the Housing Toolbox, including upcoming training on form based codes.

### **III. ADJOURN**

The meeting was adjourned 9:38 PM

Respectfully submitted by:

Molly B. Loz