

UNAPPROVED MINUTES



TOWN OF WARNER

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Planning Board Minutes

Monday, November 6, 2023

I. OPEN MEETING at 7:04 PM.

ROLL CALL:

Board Member	Present	Absent
David Bates		✓
Andy Bodnarik (Vice Chair)	✓	
Karen Coyne (Chair)	✓	
Dustin Chamberlain	✓	
James Gaffney	✓	
Ian Rogers		✓
Harry Seidel – Select Board	✓	
Michael Smith - Alternate	✓	

In Attendance: Janice Loz – Land Use Administration,

1 **II. APPROVAL OF MINUTES: None**

2 **III. PUBLIC COMMENT - None**

3 **IV. NEW BUSINESS**

4 A. **Planning Board membership:** New members Dustin Chamberlin and Michael Smith.

5 B. **Conceptual Consultation Application**

6 **Applicant:** Peter and Denise Smith

7 **Owners:** Peter and Denise Smith

8 **Agent:** Jon C. Buschbaum, Envirespect Land Services, LLC.

9 **Address:** Mink Hill Road, Warner, NH 03278

10 **Map/Lot:** Map 9, Lot 11

11 **District:** OC-1

12 **Description:** Subdivide an approximate 6.0 +/- acre out of Tax Map 9, Lot 11, for a residential building
13 lot.

14 Jon Buschbaum provided a background on the project for a minor subdivision. Peter and Denis Smith
15 are looking to cut off a section of their lot and hopefully put that parcel up for sale. Six-acre property
16 with 311-feet of frontage on Mink Hill Road. Jon also informed the Board that soil tests were done on
17 the property and came back favorable for a sewage installation. Lastly Jon wanted to request for a
18 waiver to not survey the entire land to save on expenses.

19 Andy asked for clarification about the drill hole notations on the map. James recommended to the
20 applicant that in order to ensure drill holes (pin markers) they need to reach out to Tim and clarify

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21 the road is a town road. Janice asked the applicant about the exact road frontage, the applicant said
22 the road frontage was 273 feet on one property and the new property would be 311 feet. Janice
23 mentioned that one of the lots does not have enough road frontage.

24 Jon said he wants to reach out to the surveyor and DPW to find out the status of the road and dig
25 deeper into the road frontage problem. Andy says that the lot lines on the maps provided are
26 confusing. Andy asked questions about the current list of abutters. Jon said that this is just a
27 conceptual consultation application, and they will get the list of abutters once the official application is
28 submitted.

29 Andy mentioned streams on the map, and wonders about the buildable area within the map. Jon
30 mentions that these are not classified as wetlands and both sides of the stream is buildable land. Andy
31 said the subdivision checklist needs to be filled out prior to the official application.

32 Jon asked about a request to just survey they new property. James said as long as the markers are
33 clearly identified this exception might be acceptable. Just survey the area that is being divided. Harry
34 agreed with James' decision on finding out if the road is a town road or not, otherwise, a variance is
35 required. Janice said more background has to be conducted on the access of the road and road
36 frontage requirements. Andy said that if the road frontage requirements are not acceptable that would
37 mean this lot would be non-conforming and therefore would need a variance. Karen circled back to
38 the surveying question and thought it should be okay with just surveying the new lot. Jon agreed to
39 look on the road classification within conversation on the road agent.

40 C. Discuss 2024 Zoning Amendment Calendar (November 2023 – 2024 March Town Meeting).

41 The Board has until November 13, 2023 propose amendments to the Zoning Ordinance.

42 D. **Review Article XV. A & B. Non-Conforming Use.** Expanding definition to possibly include:

- 43 1. Distinction between a non-conforming use, a non-conforming structure, and a non-
44 conforming lot.
- 45 2. Possible limitation on expanding an existing structure.
- 46 3. Determining lot setbacks on a non-conforming lot.

47 Janice mentioned it would be useful to add clarity to the 'Non-Conforming use' article. Andy and James
48 discussed the barriers of changing non-conforming use article. Janice said the current definition is a
49 problem for the public to understand. Janice said a non-conforming lot has to have 50 feet of frontage,
50 have a state approved septic system and that is all that is required. James said not really, they have to
51 abide by the setbacks. Janice said she has researched this subject thoroughly in order to help the public
52 better understand it and a non-conforming lot does not have to abide by setbacks. James he does not
53 believed that is true at all. He wanted Janice to do a presentation on this, saying we have all read this
54 (ordinance) for a fact. He wanted her to put everything she believed in writing and submit it to the Board.

55 Janice said this is the problem for the public, everyone interprets it differently, there are gaps in the
56 definition. James said then she needs to put something together in writing. Andy said it is the language
57 that is a problem with the definition of 'nonconforming use'. Janice read the article and said it does not
58 outline any setbacks and she believes that is a problem. Janice said there is a way to make the non-
59 conforming articles beefier and provide an avenue for property owners to go to the ZBA for potential
60 relief. Andy said so what you are saying there setbacks are not addressed so there needs to be
61 additional language that needs to be drafted.

62 James says there are things that do not need to be addressed. In regard to other districts, if residential
63 use is not a permitted use then they are done. Karen agreed. James said he would agree that, that
64 could benefit from additional language that includes setbacks and a minimum buildable area.

65 Harry sees the advantage of Zoning Board coming to the Planning Board and make recommendations
66 on gaps in the Ordinances. Harry said Janice has picked up on one, a non-conforming lot is under non-
67 conforming use in our Ordinances. Harry said we can make it better it is the Planning Board's job.

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68 Janice asked someone to help her write up a change to the non-conforming article.

69 Andy and James proposed a list of concerns with our ordinances that can be brought to the Zoning
70 Board to refine definitions. Harry said the Board can take charge of the zoning ordinances. Andy
71 believes that this problem should be discussed further at future meetings and come up with an action
72 item list. Janice suggested after Town Meeting in April might be a good idea.

- 73 E. Review language in Articles VI, VII, VIII, IX, C. Frontage, lot and yard requirements: 1. "Lots
74 created by Minor Subdivision". The town lawyer asked why only lots created by minor subdivision
75 are subject to setback requirements for those districts.

76 Andy elaborated on how the language of a minor subdivision is confusing. Janice suggested
77 removing 'minor subdivision' and add a 'see definition for minor/major subdivision' section. Harry
78 proposed working with Janice on the nonconforming definition, and working alongside Andy with
79 the minor subdivision language.

- 80 F. North Road is zoned C-1 requiring a Special Exception to build a house.

81 Janice said North Road is zoned commercial from the bottom of North Road to past the Marsh's
82 property. Which means that you have to get a Special Exception just to build a house there. James
83 wonders if we are discussing North Road would it be useful to discuss the Interval, and Exit 8 and Exit
84 9 districts. Janice said she is proposing permitting residences in the commercial zones to clear up this
85 area by the Intervale. Andy said he was worried about changing the zone from commercial to
86 residential, because we do not have a lot commercial land. Harry suggested adding language that
87 says commercial land can be used for residential and vice versa. Andy was skeptical about changing
88 this zone, and Harry suggested looking at what other towns are doing. Andy said there needs to be a
89 public hearing on this adjustment as well. Janice says she brought this up for the Planning Board to
90 consider. Andy said they should look at this issue after the housing committee finds out what the
91 public wants for housing. Janice asked Andy if he was okay with this being the Special Exception for
92 a single-family dwelling, Andy said yes, he thinks so.

93 The Chair suggested to the board that a piece of paper be developed to summarize these changes
94 and explain why these problems should be discussed. The Chair believed there has to be a system
95 in place to track progress on these events and changes. Janice said the reason she brought up these
96 reviews of definitions is because this is the feedback she is getting from the public. Andy explained
97 his hesitancy on changing these ordinances as it might create a domino effect and bring to light even
98 more problems. Janice re-emphasized that the reason she brought these changes to the Board is
99 because she is being the voice of the public. The Chair sees Janice's point, and it might be good to
100 add better verbiage and definitions to the public.

V. UNFINISHED BUSINESS

A. Capital Improvement Program – Process Updates

- 104 1. Review DPW and Transfer Station CIP's.
105 2. Preparation for CIP presentation to Budget Committee on November 16.

106 The Chair said Tim will have his CIP by the next business day, and have received a sheet from
107 Varrick.

108 In regards to Varrick spreadsheet, Andy says the spreadsheet shows no numbers, but in the
109 description it shows an action item going to town meetings. However, Janice said that revisions will
110 not be completed in time. James said to just pass the information on to the Budget Committee. Harry
111 goes into detail that it is important to get community support before going through the grant approval
112 process. James said that sometimes the town in the past has not got public support. Andy asked
113 about the logistics of a warrant article. Janice said that she has been asking about the CIP
114 documents from everybody since August. Harry said that it is hard to make a decision on the CIP

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with no representative from Varrick tonight. The Board continued to review and interpret Varricks sheet. Harry said there are too many questions with Varrick's sheet and was hesitant to submit this to the Budget Committee as the CIP is right now. Andy said that due to the lack of prompt submission of the CIP, we should not add another meeting to get more clarification, and just send this to the Budget Committee as is. The Chair suggested not endorse this particular CIP and passing it along to the Budget Committee, this is agreed upon by the Board. The Planning Board overall agreed that next year when the prompt deadline is not meant then the Department Directors have to deal with the Budget Committee.

VI. REPORTS

A. Chair's Report – Chair, Karen Coyne

CIP is all set and other than that there is nothing else to report.

B. Select Board – Harry Seidel

The Warner Community Center is having issues with fire codes. There has been a lot of effort made with the Fire Marshals to comply. However, we will not be able to comply within 45 days. Harry updated the Board on budget matters stating that currently the tax rate and school rate are increasing. The Select Board is hoping to even out the tax rates and not go up as high. Harry went into the history of the Warner Community Center and EDAC community communications. He continued with the ADA requirements and Fire Codes that make the building compliant. The Select Board is going to continue to look into what to do with the Warner Community Center and see if it permits a warrant article or is within a CIP, and public hearings will commence in order to get the public input.

C. Regional Planning Commission – NONE. Derek Narducci, Ben Frost

D. Economic Development Advisory Committee – NONE.

E. Agricultural Commission – Nothing to report James Gaffney

F. Groundwater Protection Committee – Andy Bodnarik

Janice asked Andy about the Conditional use permit form that pertains to applicants that are within the Groundwater Protection area. Andy discussed the checklist and language changes to the form.

G. Housing Advisory Committee – Nothing to report. Ian Rogers

H. Regional Transportation Advisory Committee -

VII. COMMUNICATIONS

Janice said she will reach out to Derek and Ben about an update with the Regional Planning Commission. Janice's asked Dustin if he would like to volunteer for EDAC, and he responds that he has to think about it. Andy asked if there was a representative for the Regional Transportation Advisory Committee, which seems to be another committee in which a volunteer is needed.

VIII. PUBLIC COMMENT

IX. ADJOURN

The meeting adjourned at 9:09 PM.

/mbl