

UNAPPROVED MINUTES



TOWN OF WARNER

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Planning Board Minutes

Monday, December 4, 2023

I. OPEN MEETING at 7:00 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	✓	

7 II. In Attendance: Janice Loz – Land Use Administration,

8 III. APPROVAL OF MINUTES – September 11, 2023 and Excavation Site Walk September 30, 2023.

9 Andy Bodnarik made a motion to approve the September 11, 2023 minutes as amended. Ian
10 Rogers seconded the motion. Discussion: None. Voice Vote Tally: 5 to 0. The minutes were
11 approved as amended.

12 Harry Seidel made a motion to approve the Excavation Site Walk minutes of Saturday,
13 September 30, 2023 as amended. Andy Bodnarik seconded the motion. Discussion: None. Voice
14 Vote Tally: 5 to 0. The minutes were approved as amended.

15 IV. PUBLIC COMMENT – None.

16 V. NEW BUSINESS

17 A. Conceptual Consultation Application

18 Applicant: Paul Fasoli
19 Owners: Paul Fasoli
20 Agent: Paul Fasoli
21 Address: 130 Couch Rd. Warner, NH 03278
22 Map/Lot: Map 11, Lot 40
23 District: R3
24 Description: Build steel building to up-fit tow trucks for dealerships.

25 Paul introduced himself and his project. He plans to tear down the existing structure and put up a
26 steel building. Karen confirms there is no foot traffic that comes in and out of the property, the
27 applicant agreed. Harry said this might be classified as a home occupation ordinance. Andy said

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28 that home occupations might impact the size of the residence, and the percentage it takes up of the
29 total property. James and Andy worried about classifying of the property with ordinances within R3
30 district. Andy was unsure where it would fit within the use table. The Board continued to discuss
31 where this property falls into the use table. David summarized the conversation for the applicant
32 saying that there is no public use of the property but it does overlap with business, so therefore the
33 biggest question for this application is where does it fall under the use table and the right way to
34 classify it.

35 James asked about the noise expectations and logistics of the property. The applicant said the work
36 of up-fitting tow trucks is done within the inside of the building and is unsure about how many
37 decibels the sound will omit. David mentioned that home occupations are suppose to be 25% of the
38 total residence, whether inside of the building or an out building. Janice asked board why it is not
39 an automotive use. James answered saying that automotive usually has a retail aspect to it. James
40 believed this use is more constructive use rather than repair use of vehicles. The Chair said because
41 there is no public or customers, which makes it not a garage. Harry agrees with the conversation
42 saying it is hard to determine how this business fits into the use table, however Harry believes this
43 might be a Special Exception to get a better sense of how the community is affected.

44 Janice asked what the solution for this property was. Andy said that the Planning Board could offer
45 options to the Zoning Board.

46 **David Bates made a motion to refer the 130 Couchtown Road to the Zoning Board of**
47 **Adjustment as use 15. Miscellaneous business repair services in an R3 district is allowed**
48 **by Special Exception. Andy Bodnarik seconded the motion.** Discussion: David says he
49 understands James' point of it being potentially a light industrial use, but David believes that it falls
50 under miscellaneous business repair service instead. Ian said that because this case is in a grey
51 area, we have leeway to determine which category it will fall into. The Board agrees that there is no
52 neighborhood disturbance, however advises the applicant to draw up pictures of what the land will
53 look like, as well as photos of the building. Voice Vote Tally: 7 to 0. The motion passed.

54 VI. UNFINISHED BUSINESS

55 A. Discuss Zoning Ordinance Potential Modifications

- 56 1. Review Article XV. A & B. Non-conforming Use. Expanding definition to possibly include:
- 57 a. Generic definition of what is, "non-conforming."
58 b. Define regulation for non-conforming use
59 c. Define regulation for non-conforming structure
60 d. Define regulation for non-conforming lot.
- 61 2. Review language in Articles VI, VII, VIII, IX, C. Frontage, lot and yard requirements: 1. "Lots
62 created by Minor Subdivision". The town lawyer asked why only lots created by minor
63 subdivisions are subject to setback requirements for those districts.

64 The board reviewed the Zoning Ordinance potential modifications draft. James started the
65 conversation by asking why it is 100 feet for the required frontage instead of a formula based
66 on the current requirements for that district. Harry said his thought process was thinking about
67 the smallest lot frontage, which is 100 feet, which is why he put the minimum of 100 feet. James
68 said that is a sudden change because he believes there is more conformity with what already
69 exist, which is the 50 feet. James' idea is coming up with a formula that can be used base on
70 districts, such as 80% of a requirement in a district. Andy added that maybe the frontage should
71 be based on the district, saying a 100-foot frontage for the village district is a lot. Harry worried
72 about making it 80% or a formula will make it unworkable land, and believes a minimum would

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73 be more suitable. The Chair believed we need to determine what direction the board wants to
74 work towards, either the percentage for a frontage or a set minimum regardless of land size.
75 Andy stated that he agrees with James that the frontage should vary with the district.

76 **James Gaffney made a motion to change the 100-foot requirement to a formula based on**
77 **80% of the required frontage of that district. Andy Bodnarik seconded the motion.**
78 Discussion: None. **Roll Call Vote:** Harry Seidel – No. Ian Rogers – Abstained. David Bates –
79 Yes. Dustin Chamberlain – Yes. Andy Bodnarik – Yes. James Gaffney – Yes. Karen Coyne –
80 Yes. **Vote Tally:** 5 – 1 – 1. The motion passed.

81 James suggested looking at other setback requirements and to better define non-buildable. The
82 Chair agreed that with any lot with less than average frontage required does not meet minimum
83 setbacks requirements, and incorporates this into the language. Janice cautioned the Board to
84 keep in mind that you might get to a point where you are creating a situation where people can't
85 build on their property. The Chair summarized that point 1 (above) is simply describing what
86 non-conforming is. Then point 2 (above) is saying even if you have something non-conforming
87 here is how you can build on it. The Chair continued saying that no matter the circumstances
88 you have to meet these setbacks, if you don't have the frontage you can build on 80% of that
89 frontage. Harry says the point of the rewrite was to try to achieve a simplicity to the ordinances.
90 He then discussed how he came up with this draft of non-conforming uses.

91 **James Gaffney made a motion to add the language read "Any lot with less buildable area**
92 **or frontages then required, which is lawfully established and recorded in tax as a lot of**
93 **record before the enactment or amendment of this ordinance shall be deemed as non-**
94 **conforming lot." David seconded the motion.** Discussion: None. **Voice Vote Tally:** 7 – 0.
95 The motion to add the proposed language passed.

96 The Board discussed zones and frontage adjustments. James proposes a statement that says,
97 if either of the frontages associated with the property resides in more than one zone, then the
98 more stringent zone prevails. James proposed a statement that said, if either of the frontages
99 associated with the property resides in more than one zone, then the more stringent zone
100 prevails. Andy said that you have to classify which zone the building will be built in.

101 David said do we really need them to show us where their building is, if we can simplify by
102 saying the frontage straddles these zones, then we will use the less restrictive one. James
103 mentions maybe going with the majority, whatever one the property resides in most. David said
104 that might be a problem since he remembers Andy mentioning how some maps do not show
105 clear lines of the districts. Ian said a majority, greater than 50% would be the preferred language.

106 Janice said that the language of "straddling two districts" is not consistent with any other
107 ordinance in any of the districts. Stating this language is not just unique to a non-conforming lot
108 and could apply to any lot. James said this language is only going to be used when a lot has to
109 be returned to a useable state, and James believed this case is unique and there is no overlap.
110 Janice clarified by saying that non-conforming lots usually do not straddle two districts. James
111 said this language should be added to the ordinances to avoid any confusion for property
112 owners. Janice said she understood this but worries that the language is not cohesive with the
113 rest of the ordinances in each district.

114 Harry asked if we should look into the perspective of non-conforming laws buildable or do we
115 think non-conforming lots should not be build upon. James said that we are looking for the
116 minority of the cases where this language might not pertain.

117 A conversation ensued between members were there was a lot of interrupting and crosstalk.
118 David said it was important when making decisions on this board we should respect and listen
119 to everyone. He continued to say that everyone here has a different speaking style, some more
120 assertive than others. However, this shouldn't diminish people that volunteer on this board

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121 whom do not have an assertive speaking style. So, we all be reminded that everyone has a
122 voice and we need to let people finish their train of thoughts and be patient when someone else
123 is talking.

124 Circling back to the conversation, Ian agreed that Harry has a very good point, should we make
125 these lots easier to build on or should be sway more toward the historic approach of it being
126 more difficult to build on. The Chair suggested that we really look at if a lot should be built or not
127 build, regardless of the ordinances. David chimed in by saying that we should go toward the
128 less stringent way of thinking about this, since we do not know exactly where zones end. Andy
129 said that if there is any question to a lot and its boundaries that a surveyor should be hired to
130 form a more concrete idea on where these zones exist within a lot of land.

131 The Chair proposed it should be 80% of the requirement where the majority of the district is
132 located. David asked Janice's opinion on this change, since she is involved the most with the
133 public. Janice expressed concern with the public's interpretation, stating how people will not
134 understand this requirement at all. They will get confused with the fact that they might or might
135 not be in two districts. Janice stated that with no background knowledge of land use, the public
136 will not be able to comprehend this language. James said it is the public's obligation to
137 understand where they live and reside. Janice said she understood the board logic in this
138 decision, however, most people understand which district they reside. Although, the additional
139 language of two districts might confuse people.

140 David asked Janice her opinion on how best to not confuse the public, and Janice suggested
141 saying the frontage of at least 80% for the district. If a lot ends up being in two districts then we
142 will have that discussion with the applicant at that time. James and said that was confusing.
143 Janice said the Board is preparing to add language for a situation that is very rare and might in
144 the end confuse the public more.

145 Harry suggested requiring construction be able to meet all the ordinances setback
146 requirements. Harry said as long as we say that they need to meet all setbacks of the property,
147 we are getting to the right language without overcomplicating it. James said we have
148 descriptions of the uses, and if we say R3 has to have 100 feet of frontage well that contradicts
149 the other descriptions of the uses and provides protection for the districts. David said he believes
150 if there are two districts within a lot of land that they should go with the least restricted
151 classifications. Andy had concerns about previous RSA's and state requirements and if this
152 contradicts any district.

153 **James Gaffney made a motion to amend the previous motion saying "shall be 80% of the**
154 **district the frontage." Harry Seidel seconded it.** Discussion: David said it is really important
155 to be guided by Janice's input about how it might be confusing for the public to understand.
156 Harry suggested any proposed districts current setbacks. Voice Vote Tally 7 – 0. The motion
157 passed.

158 The board continued to review language and condense verbiage of the ordinances.

159 **The Chair read the amended version of the non-conforming article. The Chair made a**
160 **motion to adopt the amended language. Harry Seidel seconded the motion.** Discussion:
161 None. **Voice Vote Tally:** 6 – 0 – 1. Andy Bodnarik abstained. The motion passed.

162 **B. Revisions to Development Applications and Regulations – Site Plan Application and**
163 **Regulations (Third reading).**

164 **Andy Bodnarik made a motion to approve the Site Plan regulations on December 4, 2024 as**
165 **amended. James Gaffney seconded the motion.** Discussion: None. **Voice Vote Tally:** 7 – 0.
166 The Site Plan Application and Regulations were adopted as amended.

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167 **C. Start review of Subdivision application and Checklist**

168 [Subdivision](#), [Site Plan Regulations](#), [Site Plan Review](#), [Voluntary Merger](#), [Driveway](#), [Home](#)
169 [Occupation](#), [Lot Line Adjustment](#)

170 **VII. COMMUNICATIONS** – None.

171 **VIII. PUBLIC COMMENT** – None.

172 **IX. ADJOURN**

173 The meeting was adjourned at 9:36 PM.

/mbl