

Town of Warner
Zoning Board of Adjustment



Meeting Minutes

March 13, 2019

7:00 PM Warner Town Hall Lower Level

1. OPEN MEETING and ROLL CALL

Harry Seidel
Janice Loz (Chair)
Beverley Howe

Elizabeth Labbe
Howard Kirchner (Vice Chair)

Sam Bower
Barbara Marty

2. APPROVAL OF MINUTES of February 13, 2019

Motion to approve as amended by Sam Bower, Second by Beverley Howe.

Approved with amendments, 5-0

3. Janice Loz asked the board if they would like to finish the Special Exception or start with Variances. Board agreed to continue with Special Exception. Public hearing is already open from last meeting.

4. SPECIAL EXCEPTION APPLICATION – Case: ZBA 2019-02 (continued from February, 13, 2019)

PROPERTY OWNER: Peter and Denise Smith

MAP 9, LOT 11 ZONING DISTRICT: OC-1.

PROPERTY LOCATION: 89 Mink Hill Lane

DESCRIPTION: Request for Special Exception to the terms of: Warner Zoning Ordinance, Article VIII B, Table I USE REGULATIONS, Retail and Services #19.

Continue Public Hearing from February 13. Questions or comments for the board.

Peter Smith: This is Peter Sabien, he is my neighbor, the last meeting was about the outside. If I want to do something inside the barn, it is different. This is for a Special Exception to #19 – Outdoor.

Barbara Marty: I have questions for Mr. Smith. I know in a previous variance, you were permitted 26 auctions. What is the most you ever had?

Peter Smith: 3

Barbara: At night?

Peter Smith: No.

Janice: We scheduled a site walk visit but did not have a quorum. It was noticed, but there were no public in attendance. Only myself, Howard and Barbara attended. Do those who attended recall what questions were asked or do you have observations to share?

Howard Kirchner: I just asked about the fire pit.

Barbara: I have one observation, when we were talking in the parking lot, our voices were echoing. Does that make it like a natural amphitheatre? In the past, you had things during the day. I am concerned with outdoor DJs. The sound will bounce out to the downhill side.

Janice: Have you had events at night?

Peter Smith: We have had weddings. The DJ is inside the tent. They go into the evening.

Janice: Have you ever had neighbors complain?

Peter Smith: I have not had the police.

Greg Heath: I have noticed the noise. I want to be sure it does not go on late because we can hear it. One time I was sick and my wife wanted them to end early, but that was not going to happen. During the day is fine. The board is more than welcome to come to my house, the board is invited to come to my house to take a look around.

Beverley Howe: Is there a barrier of trees?

Peter Smith: Yes, there is a barrier of trees. On the opposite side of Greg's place and behind the barn are trees. The only thing on Greg's side is the fire pit, but I can move that.

Janice: I was reading previous Zoning Board minutes from 2011. One statement stuck out. You were going to have these year-round, but not necessarily outside. In the 2011 meeting minutes, Mr. Smith said that approximately 30 cars were parked on the road, due to snow. Is that something that happens when there is snow?

Peter Smith: If it is winter time, it is barn-only, only 50-60 people. The parking lot will have plenty of room. I can tell you what happened – one person parked on the side of the road, and then everyone followed. That was a mistake on our part. It was for an auction.

Janice: Is there an occupancy limit for the building?

Peter Smith: Just guessing it is around 60-80 people.

Barbara: There was a question in the minutes that the answer did not get put in. Janice asked the question, are you going to rent tents on the property?

Peter Smith: I am not going to get heavy into it. It may not happen at all.

Janice: One of the other applications is for the tent business.

Howard: That is for the Variance.

Beverley: Have we discussed this enough that we can vote on it?

Janice: Are there any further observations from the Board?

Howard: I did not see anything up there that would be a difficulty for the abutters. There is lots of room. I saw nothing that set up a flag in my eyes.

Janice: There is plenty of room for parking. The building is very country looking, and lends itself to the business model. The building was not as large as I thought it would be. I was concerned with the number of people you can accommodate. It seemed that the fire pit was close to the barn, but we don't deal with that, you'll have to work with the fire Chief. Is there a sprinkler system in the barn?

Peter Smith: I don't know why but if it is something that I need to do, I will do it. The only thing I would need to do is the doors need to open out. I will put two doors that open out, at the porch.

Janice: That is something for the fire chief, egress, sprinklers, and Handicap access. You are taking a family room and making it into a commercial space. There may be things that have to be done to retrofit it. It may be a problem if you put the tent against the only exit.

Beverley: It is not the only exit. There is another entrance.

Sam Bower: Since we are specifically on the Special Exception, how many outdoor events?

Peter Smith: 14

Sam: And 12 for the indoor.

Barbara: If there is going to be camping, then there are considerations in our ordinances. There are things that need to be supplied to campers, and camping vehicles. If that is going to be part of the Special Exception, then it needs to be included.

Sam: I did wonder, because it does say camping, I personally having been to weddings and pitched a tent, I think it something I would like to do. I don't think he is asking for RVs, I am just wondering about tent camping only specifically.

Peter: I don't need to do it.

Sam: Doesn't 19A of the Use Table, exclude camp grounds.

Janice: If you exclude them, you need a variance. If you include them, then you apply for a special exception.

Harry: Does anyone find it curious that 19 includes camping groups, but 19a excludes camping groups, requiring a variance.

Beverley: I guess Andy missed that one.

Sam: I think we need to go as it is written. It does seem a little backwards.

Janice: If you wanted to say he can include camping groups although only tent structures, if needed; it could be a condition.

Elizabeth Labbe: Is there a way to say if people are staying for an event, then they can stay in tents?

Barbara: There are guidelines. If you are going to have campers, then you have to provide water, you have to provide showers. If it is a paid camping facility.

Janice: Where is the camping section of the ordinances?

Barbara: It is on the website, a special section for camping.

Sam: I think you could be right. That is specific for a camp ground where you pay for camp grounds. I don't think there is anything about pitching a tent in your back yard. We could exclude the camp part, but people could still camp after a wedding.

Beverley: Sure they would, it is private.

Barbara: I think the reason I am nitpicking this is because I think we will have other people come before us. There are about 30-40 other properties in town that could do this. If we are requiring to meet the application to the T, then everyone has to do it. If we mush things around for an application, then the next application will expect the same consideration.

Janice: We are supposed to take each case on its own merits. I think it would be helpful during the next planning board session to write something that helps us define what the ordinance for event venues needs to be. I don't think it is an unreasonable business model for the town.

Barbara: The last time we brought this type of application... (sentence not completed.)

Janice: Did you write those Use Table definitions. Why did you put in camping?

Barbara: That was already there.

Barbara: It was for people who moved to a R2 and R3 district, because they want to live in a quiet place.

Janice: The way those definitions read the only place to have a wedding in a barn in Warner is at exit 9.

Barbara: There are 19 weekends in the summer, and that would be almost every weekend, and would change the character of the neighborhood.

Sam: There is no rule against going as late as you want.

Beverley: It is in town, not on top of the hills.

Peter Smith: You can cut the events in half, I don't care. The number of people could be 50 or 100. Rachel Martin had 170. For indoor it is 60.

Sam: We came up with something last week.

Harry: With the auctions, it was in excess of 200 people.

Janice: How many people can you get in the tent?

Peter: Depends on the size of the tent. A five foot round table takes up 10 sf.

Janice: What would be your maximum?

Peter: 200 people, but probably not that many. We had a 40 x 100 tent but they used only 40 x 80 and they had 170 people.

Howard: You are going to rent this out and will have the ability to set the number of people.

Greg Heath: I just want to be sure there is a time limit and no parking on the road.

Janice: We will close the public comments and open deliberations, but we sometimes reserve the right to ask the applicant questions.

Elizabeth: The only thing that really sticks out is the barrier between this property and the neighbor. I was not at the site walk.

Janice: I understand the concerns raised by Barbara, and the sounds. I think there are things to follow up on, to be sure the building is safe. It is a Special Exception. I don't see anything that jumps out.

Sam: I think Barbara made a good point of changing the character of the district. And if he had 14 solid weeks it could change the character. I think the applicant has been forthcoming and it does not seem he wants to do that. I think it would be reasonable to cut it down to 10 outdoor events per year. He would be having more events, but the outdoor events would be possibly, if they were all packed in, it would be ten weeks in a row right there. I personally think that 10 outdoor events is reasonable.

Barbara: I think that one a month is reasonable.

Beverley: But you don't do outdoor events in the winter.

Barbara: That spreads them out so that the neighbors have three quiet weekends between outdoor events.

Sam: To some degree, there is a wedding season. My cousins got married in January and that was fun. I would think that having a little bit of restricting to one per month, I think it is hard to organize a business around that.

Barbara: But the zoning ordinance is here to protect everyone. Our concern is not the financial welfare of the applicant.

Janice: It is his right to generate an income on his property, and to use his property to generate income. I think he has a right to do that. I don't think we should regulate how many events he can have. I do see the benefit of not having one a day, every day all summer. I think there is a compromise to be made between all or nothing.

Howard: I am comfortable with 10 max outdoor per year, without any specific timeframe in the year.

Sam: That does not restrict him for cold months.

Janice: He can have between May and October to 10 events, what is the point of that? A lot will be indoor/outdoor just in the month of June.

Howard: You would like more?

Janice: Yes.

Sam: I think between May and October, he asked for 14 events.

Janice: If that is what the applicant had set as a maximum, then I can agree to that.

Barbara: I think it is outrageous.

Beverley: It is not.

Barbara: It will be almost every weekend.

Beverley: There are 25 weekends between May and October. I think we are restricting business and people's private lives.

Sam: It is an OC-1 district and I agree with both of you. The applicant was very willing to address Barb's concerns and lower the number of events. I also think that Howard and I were speaking of was getting rid of the specific months. If it says 10-14 outdoor events, then it feels like you want to squeeze them in. But if it is 14 per year, then I would think that is acceptable.

Howard: As far as residential – this is a very unique location. This is very different than the situation on Pumpkin Hill. This is very isolated.

Janice: This does not change the look of the property. It is not visually impactful to any neighbor. It is allowed by special exception. It is not that we are going against the specific intent of an ordinance.

Barbara: The only reason he is going for the Special Exception is that it is easier to get; it has all the earmarks of a Variance.

Janice: We accepted the application.

Barbara: And we should not have.

Harry: I think one of the concerns I have heard is the sound, that possibly the sound would be an issue. The neighbor has mentioned a sound issue. Sound can be controlled. This is a reasonable applicant. If a tent is wide open and the speakers are pointed out, but the tent can have side flaps. A lot of sound can be controlled within the tent. We have an applicant that is protective of his neighbors. There are things that can be done on the site. Even a landscape buffer of pines can be built in one section. These are things that can be done. My point is that sound is something that can be mitigated.

Sam: I totally agree, and it does seem that the way the building is oriented, and the way the tent is oriented, the only piece of this event space that is on the neighbors side of the house is the fire pit. The way the building is oriented will protect against some of the noise. I did not see what type of tree buffer was there.

Janice: It is very dense.

Sam: In terms of neighborly conduct, they seem to be able to work things out. All events are going to create some noise. As far as the orientation and where the ceremonies will be held, I don't think there is much else you can do.

Harry: You can do a fair amount with the side of the tent.

Janice: I would like to go through the conditions specific to a Special Exception.

Sam: No more than 10 outdoor events per year. No parking on town roads.

Janice: I am good with 14 because that is what the applicant stated in his testimony. We don't have to put a limitation per year, but, he has already provided a limitation.

Sam: If I make a motion, I will go to 10. If I were to do it, I would put a condition of no more than 10 outdoor events. Another condition would be the town noise ordinance must be obeyed. And that camping applies to tent camping only. With no more than 230 people to an outdoor event.

Barbara: Would you be comfortable putting in camping cannot be 48 hrs on either side of an event?

Sam: Yes.

Howard: What about a noise time limit? It was mentioned, but I don't know if it is within our scope.

Sam: I was going to go with the town ordinance. I think it is 10 or 11 o'clock.

Janice: That sound reasonable.

Harry: I would like to suggest that the fire chief redo the firepit.

Harry: Do we have to be that specific?

Janice: No. We do not usually do fire pits. That may be beyond our reach. We need to as a board go through the five conditions needed to qualify for a Special Exception.

Five Conditions of a Special Exception

1. The use requested is identified in the Zoning Ordinance as one which may be approved by the Zoning Board in the district for which the application is made:

Yes. The board found this to be a reasonable use.

2. The requested use is essential or desirable to the public convenience or welfare.

Yes. The board agreed with the applicant's description of this use and its desirability to the public convenience.

3. The requested use will not impair the integrity or character of the district or adjoining district, nor be detrimental to the health, morals, or welfare.

Yes. The board found the use not to impair the integrity of the district, as outlined in the application.

4. OC-1 and OR-1 districts only: Use of structure must conform to road access and availability of all services to that parcel at the time the Special Exception is requested:

Yes. The board emphasized the importance of no off-road parking at any event in order to ensure access and availability of services to the parcel of land. The use of an outdoor tent conforms to access and availability of services as outlined.

Janice: We did have some concerns about the noise, and the frequency of events. We will be able to address that in a well crafted motion that Sam will write for us. The noise ordinance will take care of the rest assuming it will cover that district.

Sam made a motion: ***To accept the special exception ZBA 2019-02, under retail and services #19, with the conditions of no more than 10 events per year outdoor. Applicant must provide ample parking, no parking on town roads. The Town noise ordinance should be observed. Camping for tents only for no more than 48 hours prior to or after an event.***

Howard: Second the motion.

Voting Zoning Board members discussion.

Barbara: You have heard my issues.

Beverley and Janice disagree with the number 10 per year.

Barbara: I think 10 is too many per year. I wanted 1 per month.

Sam: I would tend to agree. For the wedding season, then that would only be 3 or 4.

Sam: ***Amend motion: Outdoor events will have no more than 230 people per event, including band and catering staff.***

Vote: Sam - Yes.
Beverley - No.
Barbara - No.
Howard - Yes.
Janice - Yes.

The motion passed 3 to 2. *The motion was to accept the special exception ZBA 2019-02, under retail and services #19, with the conditions of no more than 10 events per year outdoor. Applicant must provide ample parking, no parking on town roads. The Town noise ordinance should be observed. Camping for tents only for no more than 48 hours prior to or after an event. Outdoor events will have no more than 230 people per event, including band and catering staff.*

Janice: I would like to make a ***motion to amend the amount of outdoor events in a year to 14 for 89 Mink Hill Lane, Warner, NH.***

Beverly Seconded the motion.

Vote: Beverly - Yes.
Barbara - No.
Howard - Yes.
Janice - Yes.
Sam - No.

The motion passed 3 to 2. *The motion was to amend the amount of outdoor events to no more than 14 in a year to be held at 89 Mink Hill Lane, Warner, NH.*

Janice stated that, *any aggrieved party has the right to appeal a decision made by the Zoning Board of Adjustment. The appeal must be made within 30 days of the decision. The appeal will be granted if you can show that the decision was indeed made in error.*

5. VARIANCE APPLICATION – Case: ZBA 2019-03

APPLICANT: Peter E. Smith

PROPERTY OWNER: Peter and Denise Smith

MAP 9, LOT 11 ZONING DISTRICT: OC-1.

PROPERTY LOCATION: 89 Mink Hill Lane

DESCRIPTION: Request for Variance to the terms of: Warner Zoning Ordinance, Table I USE REGULATIONS, Retail and Services #2 for a tent rental business.

Janice: Asked if the land use secretary if all fees have been collected, meeting noticed to the public, have the abutters been noticed.

Diane: Confirmed all.

Janice: The board will review the application for completeness and accept or reject the application as submitted. We are not deliberating specific portions of the case, we are determining the completeness of the application.

Barbara: On both of these, it asks if a site plan will be required by the planning board. It was not answered on either application.

Janice: Did the planning board say they needed to see you again?

Peter Smith: No. Their suggestion was #19.

Howard: You may see the planning board again.

Peter Smith: When I applied for the auction part, I did not have a site plan review.

Barbara: I wonder if these things will be in the evening if they want to look at things like lighting and emergency vehicle access. We are not talking about those things. I would be more comfortable if the planning board would look at it.

Janice: I will make a point of raising that to the Planning Board. He has already been to the planning board and they sent him to us. After a conceptual consult, he did not need a Site Plan Review. The only thing that was not parsed out very well. The retail tent part was hard to get a grasp the particulars of the business.

Harry: In the description provided? In the narrative?

Janice: In the answers to the five conditions of the Variance application.

Barbara: I agree. That is also why I asked if there is really going to be a business, or if it is just for tents used on the property. Tents for graduations and tents for other properties, as the business was before.

Howard: He has it in the last paragraph. I feel it is complete.

Barbara: Are these additional retail items only being sold at the events?

Janice: We can ask those questions of the applicant, if the application has been accepted.

Howard made a motion to accept the application 2019-03 for a variance for #2 of the Use Table.

Sam: Second

Motion Passed 4 to 1 (Barbara dissenting)

Janice closed the Board meeting and opened the public hearing. One applicant and no abutters were present.

Sam: Could I speak to Barb and ask what she would like clarified?

Barbara: The entire retail business part. I don't think it is very clear.

Sam: I am going to try. #2 in the Use Table. OC-1. He needs a variance for selling or renting (from the use table). Are you planning to open a store?

Peter Smith: No. #2 says rental or sales. If I have a wedding, the people will rent the tent from me.

Harry: You did not include it because you want to rent other things.

Peter Smith: I was thinking champagne cups. People had nice champagne glasses with an etched barn on the side.

Janice: You used to have a tent renting company. Are you going to bring it back to that level?

Peter Smith: Absolutely not. My biggest tent was 100 x 160. Dinner service for 2000 at Colby Sawyer. Back then, we were busy with a crew of five guys. We had trailers that you could turn around and back into the barn. I am not going to be doing that. My intention is a 40-60 tent, if there are 100 people it is 40 x 40, or you add a section. If a person wants to rent it, they can rent it. Rather than let the tent sit in the barn, other people can rent it, so it does not sit there and rot.

Janice: To what level would you bring the business back?

Peter Smith: If they are doing something at the property, they would rent. Or it may never go out the door. I figure I may as well ask. You know what happens is that people will ask if I will rent the tent. A tent 100 x 160 is 100k.

Janice: You are going for the same variance you got before, and the business model is much different. We have to get a good handle on the business, and how far you are willing to cap it. It is very different.

Peter Smith: I don't know the answer to that.

Sam: The main concern is that there are a lot of things in the description, general merchandise, it seems like his model, it does say retail establishment and that would be like a store front. I would think that it is smart for the applicant to do this because it makes sense to rent out your tent instead of letting it sit in the barn. If this were to be accepted and passed, could you say Retail and Services, #2, restricted to event merchandise, or function utilities, or something like that, so that we know it is not going to be a big business.

Barbara: That limits a future buyer because otherwise it is wide open.

Janice: You had the tent business and the auction business. You did not have trouble with people coming and going during an auction while running the tent rental business?

Peter Smith: I did most of the auctions off-site at someone else's property. We were granted in the past, in 2011. You can word it any way you want.

Beverley: Event accessories and furnishings. So it could be chairs, tables, glassware.

Peter Smith: It could be someone doing a birthday party. I could have glasses made up for that event.

Barbara: It could be another Mesa.

Beverley: Who would go? It is in the middle of the woods.

Harry: I think the way the ordinance is written, it is cumbersome because when they make a long list, they put the zoning board in a position of someone wanting to do 3 or 4 items on the list, and now we are faced with whether or not, if we grant this, which goes with the property forever, then all these other things go with the property because they are written right here. Just because there is a list it does not mean that someone will do all those uses. I think for us getting into this exercise, and if we restrict the list to just a few items, it seems cumbersome to me. Is it a hardship or not for this location, is what we should look at. Getting into the small items, I don't think it matters.

Barbara: I see it as just the opposite. If the next owner has no restriction, then they have no restrictions.

Harry: But what is happening is miles from anything. It is not a place that people can find easily. Maybe while they are there, they will find glasses for that occasion. Restricting him is a moot point.

Janice: Since it is a variance, it should be restricted. This is a variance so it goes against what the people have said they would like to have in that district. I think it is right to narrow down the scope.

Howard: I think it would be good to narrow them down.

Sam: I think it would be simple, #2 but restricted to event furnishings and accessories for rent.

Janice: Do you want to say a limit of rental or tents?

Peter Smith: Tent, table, chairs, dance floor, and accessories that go with an event, glassware.

Howard: It does carry over to a secondary owner.

Janice closed the public hearing at 8:28pm. Opened the Board meeting.

Janice: Do we need to say no store front?

Barbara: No. It is accessory to the primary use of the property, which is residential.

Sam: ***Relative to Case 2019-03 variance application under Table 1 Use Regulations Retail and Services #2. A Motion to approve the variance application but restricted to only event accessories and furnishings, for sale or rent only.***

Beverly: Seconded.

The motion passed 5 to 0. The motion was to approve the variance application but restricted to only event accessories and furnishings, for sale or rent only.

Janice stated that, *any aggrieved party has the right to appeal a decision made by the Zoning Board of Adjustment. The appeal must be made within 30 days of the decision. The appeal will be granted if you can show that the decision was indeed made in error.*

6. VARIANCE APPLICATION – Case: ZBA 2019-04

APPLICANT: Peter E. Smith

PROPERTY OWNER: Peter and Denise Smith

MAP 9, LOT 11 ZONING DISTRICT: OC-1.

PROPERTY LOCATION: 89 Mink Hill Lane

DESCRIPTION: Request for Variance to the terms of: Warner Zoning Ordinance, Table I USE REGULATIONS, Retail and Services #20 event and function venue indoors

Janice: Asked if the land use secretary if all fees have been collected, meeting noticed to the public, have the abutters been noticed.

Diane: Confirmed all.

Janice: The board will review the application for completeness and accept or reject the application as submitted. We are not deliberating specific portions of the case, we are determining the completeness of the application.

Howard: How is this different from what we just looked at?

Peter Smith: It is indoor events. The last one was outdoors.

Elizabeth: How many indoor events?

Sam: He asked for 12, for a total of 26 per year.

Elizabeth: Would this be combined?

Peter Smith: The noise shouldn't be an issue then because it is inside. I picked that number. I figured 14 because wedding season is May through October. I figured 2 per month. I picked 12 because the board had granted 26 auctions, so I thought I would go with that.

Application accepted as submitted: 5 to 0

Janice: We are not going to have the applicant go through all the conditions because we already gone through it. Is there anything you want to tell us about the indoor events that is different?

Peter Smith: Smaller. That is basically it. Whatever if the fire department needs to come up and say that we can have only a certain number of people in the barn, so be it.

Barbara: Are you planning to do food preparation?

Peter Smith: The caterers will handle that. There is an access road, and the caterers park back there and come through the back door.

Sam: Is there insurance that goes along with this?

Peter Smith: If you were to do insurance, and you don't know what it is. There is a company that is for weddings or events, people need to get that policy. It is in their name. It is on a rental basis. I have seen people get too much insurance and then they cannot pay their insurance bill. I will bump up my insurance but the event insurance covers my property.

Sam: I have two concerns: 1. The fire codes have been updated and that is a slight concern. 2. An occupancy limit. How many people can you have in there, safely.

Elizabeth: Who does that?

Barbara: I am surprised that this does not have to go back for a site plan review.

Janice: My concerns are fire code, egress, someone ought to pay attention to that. If we say it is alright, who monitors that?

Peter Smith: It was granted when I did the auctions. They did not ask for a Site Plan Review when I had the last variance.

Janice: Different boards handle things differently.

Beverley: Can we refer back to the planning board?

Peter Smith: Can you put it in? Have it part of the approval.

Janice: I don't know why we would have the Fire department go there.

Peter Smith: The fire department did have a barbecue up there a few years ago.

Janice: I don't know if it is required.

Beverley: That is up to Mr. Smith, not us.

Janice: We have instances in the past, we have had commercial entities want to come to town, and we have had the Fire Chief come in and answer questions before the board.

Elizabeth: We can have them in here, but we cannot expect them to go there.

Howard: We can accept it on the terms that we feel he needs to go the Planning Board (PB) for a Site Plan Review (SPR). We can refer him back to the PB, after we approve the variance.

Barbara: If I recall, the PB went into much more in depth with the Pumpkin Hill property.

Beverley: It was a high profile case and the neighbors were involved.

Harry: I don't think we went through the five variance conditions? I found this to be different than other variances. This is a variance for a use in a certain district. We should be focused on the criteria. We are talking about an activity inside a barn. It may not seem obvious.

Harry: Granting the variance will not be ...

Janice: We should go through the conditions come up with our own responses to this.

Five Conditions for a Variance

1. Granting the variance will not be contrary to the public interest because:

Sam: I thought that the first one, his response was sound. Sam reads from Peter's application. I mostly agree with that.

Harry: I think anyone who grew up in Warner will appreciate a nice place to have a wedding in their home town.

Barbara: The only thing is that I don't think that having had auctions is not proof, and that is a strong word there.

Sam: There have been sizeable events there before. And there were indoor events there too. These will be a little more contained.

Beverley: People at an auction are very different than a wedding. They are all strangers.

Peter Smith: There are no friends at an auction.

Barbara: These weddings could be strangers too, to the town.

Beverley: Are you saying that anyone in Warner is not OK? Most people don't invite people they don't want or care to a wedding.

2. By granting the variance, the spirit of the ordinance is observed because:

Sam: I agree because these are indoor events. Ample parking. Not visible from the street. Screen from abutters.

Janice: Why would it say you are not permitted to do this in this district? What was the ordinance set up to prevent. That is when I think it gets into the spirit of the ordinance.

Harry: The spirit of the ordinance in Warner would allow you to do something as long as it will not restrict someone else. We allow people to do things as long as they do not disturb the peace. I don't think this particular use will be obnoxious. This is inside, so the spirit of the ordinance is observed.

Janice: We still need to look at parking.

Sam: Also, more winter months which will shrink the size of the parking.

Janice: We need to keep parking in mind.

Howard: The parking will not be on the road. It will be on his property.

3. By granting the variance substantial justice is done because:

Harry: #3. By granting the variance, justice is done because. I think, to me I am satisfied by that. Here is a property owner who has a wonderful piece of property, in a remote location, and he is very thoughtful about how he goes about it. I think he has been very thoughtful about how he approaches the subject. He agrees and sees the need for insurance.

4. Granting the variance will not diminish the values of surrounding properties because:

Sam: #4 Granting the variance will not diminish the value of surrounding properties. He read from Peter's application.

Howard: I think property values is a moot point. I cannot see how this would have any effect at all.

Janice: I think you get back into the property, the noise level, and this is an indoor event. Even though it is indoors, it could generate some noise. But it certainly is not as much problem as an outdoor event.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

Sam: I think the applicant's explanation is sound. He should be allowed to run a business on his property, and without the variance, he would not be able to. And with the past variance being accepted.

Barbara: The horse is already out of the barn.

Sam: I think we should take the same precautions, no parking on the town road, no more than 12 indoor events per year. If it is a small indoor wedding, it can spill out. I thought of putting in that the town ordinance should be observed. I thought of putting in the fire codes.

Janice: We will make a recommendation that this be referred to the PB again.

Sam: I think it could be right that we refer his application to the PB, pointing out that the SPR was not checked off. If Yes, then he can go before the PB. If they say, "NO", then he is all set.

Howard: 12 indoor events per year. Are you comfortable with that?

Peter Smith: Yes.

Janice closed the Public Hearing. Opened Board deliberations.

Harry: I have one comment about fire code changes. I know a little about this. There has been a move lately to be more requiring of sprinklers in buildings, primarily because buildings are built with composite materials. Firemen go in a building with composite materials, opposed to older buildings with big timbers that do not collapse. You don't need a sprinkler system. A barn vs, a lightly framed building, those other buildings burn quickly.

Sam: ***Motion to approve the application for a variance for case 2019-04 #20 under retail services, with the conditions that no attendees will be parking on town road, there will be no more than 12 events held indoor per year, the town noise ordinance will be observed.***

Peter Smith: I think it should be 26.

Sam: I think we are saying 26 events indoor events, because it is specifically for indoor, it would appear that there are 26 events allowed indoor.

Janice: We can say 12 exclusive indoor events, as well as 14 in combination with the outdoor events.

Sam: ***Amendment to the motion: No more than 12 exclusively indoor events per year, in addition to the 14 mixed used outdoor/indoor events.***

Janice: I can write the decision and Barb can help me with it.

Sam: As long as everything is in there. The notice of decision will actually list each one, 1 special exception, and 2 variances.

Janice: It is within the rights to have two people working on a decision.

Beverley: Second

The motion passed 5 to 0. The motion was to approve the variance for case 2019-04 #20 under retail services, with the conditions that no attendees will be parking on town road, there will be no more than 12 events held indoor per year, the town noise ordinance will be observed. No more than 12 exclusively indoor events per year, in addition to the 14 mixed use outdoor/indoor events.

Janice stated that, *any aggrieved party has the right to appeal a decision made by the Zoning Board of Adjustment. The appeal must be made within 30 days of the decision. The appeal will be granted if you can show that the decision was indeed made in error.*

7. COMMUNICATIONS:

Barbara: I have a question about the last meeting when the applicant did not show up to the meeting.

Diane: The applicant for the Braeside sign called the morning after the ZBA meeting and apologized for missing the meeting. They will resubmit the application for the May meeting.

Janice: Do you think it would be good to talk about the Use Table in preparation for the Planning Board.

Barbara: When the Planning Board gets to that point, I would be happy to attend their meeting and give them feedback from the Zoning Board.

Janice: We have had to deal with hours, parking, and placement of an event venue.

Barbara: even to get clarification on why one type is a Spec Exception and one type is a Variance. And why the word camping makes a difference.

Janice: Last year, we wrote a letter.

Barbara: As a group, we can come up with a list.

Janice: Next month is our annual meeting. Has Sam and Howard completed their appointments?

Howard: I spoke to Mary and she will take it to the board for the meeting in April.

Sam: I will do the same.

Howard: I would be willing to attend if the BOS wants me to attend as an applicant, which they probably will not do because they know us.

Janice: The only thing I have seen them ask is a member who is being re-appointed attending training. We are all volunteers, everyone is prepared, attendance has been great. It should not be a problem for anyone.

Beverley: When can Harry, or the next alternate, be moved up?

Janice: As soon as one of us leaves. We can only have 5 voting members. If one of us retires, then they can be moved up. Everyone participates. Do you feel that it is useful?

Harry: I don't know when I'm supposed to vote.

Janice: You do not vote as an alternate.

Howard: If we are discussing board policy, it is the chair's decision if they can vote on it. I once interrupted Janice when she was asking Elizabeth to discuss. Janice reminded me that alternates comment except when there is a motion on the floor.

Motion to adjourn, Seconded and Unanimous Vote – ADJOURNED at 9:15.

*ZBA meetings will end at 10:00 P.M. Items remaining on the agenda will be heard first at the next scheduled monthly meeting.