



TOWN OF WARNER

P.O. Box 59, 5 East Main Street
Warner, New Hampshire 03278-0059
Land Use Office: (603)456-2298 ex. 7
Fax: (603) 456-2297

**Zoning Board of Adjustment
Minutes of April 13, 2022
Town Hall in the Lower Meeting Room**

1. The Chair opened the ZBA meeting on at 7:03 PM.

A. ROLL CALL

Board Member	Present	Absent
Barbara Marty (Chair)	✓	
Howard Kirchner (Vice Chair)	✓	
Sam Bower		✓
Beverley Howe	✓	
Harry Seidel	✓	
Elizabeth Labbe	✓	
Lucinda McQueen (Alternate)	✓	

Also: Janice Loz, Land Use Administrator

B. Elizabeth Labbe has been elevated to voting member status by the Selectboard.

2. APPROVAL OF THE MINUTES OF MARCH 16, 2022

Page 1: Harry referenced the first paragraph, “The Chair noted that one of the ZBA members had an interaction with one of the abutters of the property and she wanted to voice the concern and share that there was nothing inappropriate.” He asked if the “she” in that case is referring to the Chair? The Board concurred. His concern was the “she” could infer that the Board member was a woman. Also, Harry believes there should be a period after the word “property.” Then start the next sentence with, “The Chair wanted to voice her concern and share . . .” Beverley commented that the Board member was never identified, she asked if that was important. The Chair said, no. Her statement served as a reminder to members not to discuss issues with the public.

Harry also noted instances where Chair Marty was used and other where it simply said, the Chair. Janice said she will do a search and replace on the document to ensure consistency.

Page 2: Harry said in the first paragraph there is another instance of “she said,” which should read, “the Chair said.”

UNAPPROVED MINUTES OF APRIL 13, 2022

The Chair noted under heading number 1, in the second paragraph, fourth line down, it reads “the Chair agreed and said the taxes would change for this property.” She said the meaning should reflect that the taxes would change for this property, “if subdivided”.

Page 3: Harry noted on the third line from the top, “Harry said that the property was to be changed and further ordinances need to be complied.” The word “with” should be inserted at the end of the sentence. He also noted that on the second paragraph from the bottom where Elizabeth is speaking, “she said do they address this or is this just the Planning Board’s purview.” Harry said he feels she meant to say “do we address this . . . “

Page 4: Harry said on the fourth line down from the top, “she wondered if the hardship of not getting a normal mortgage was on the ZBA.” He inquired as to who was speaking in this instance. The Chair said the change should be “not getting a normal mortgage should be considered a hardship.”

The Chair noted on page 4, the third paragraph from the bottom in the middle, the “Chair was told this wasn’t allowed.” It should read, “this condition wasn’t allowed.”

Page 6: The Chair said the third line from the top reads “Lucinda agreed with the Chair that the hardship wasn’t proven and that there aren’t other options.” It should read, “there are other options.” Beverley noted that notation changes the whole sentence and asked if it was meant to be changed. The Chair deferred to Lucinda for clarification. Lucinda said the change made sense to her.

Harry noted in the fourth paragraph, “after the motion failed” text, the last sentence seems to be a non-sequitur. He said there should be a paragraph inserted at that point.

Page 7: Harry noted under the “New Business” heading “they should determine who should be elevated to the Selectboard.” It should read “by the Selectboard” who will be elevated to full membership.

Harry Seidel made a motion to approve the minutes as amended. Beverley Howe seconded the motion. Discussion: None. **Voice Vote Tally:** 5 – 0. The minutes were approved as amended.

The Board discussed the issue of draft minutes becoming the official record of a meeting, when publicly posted. When draft minutes are accessed by applicants and the public it is difficult to replace those with approved minutes. It is acceptable to not publicly post draft minutes and to only post approved minutes.

Janice said when draft minutes are posted they can be replaced as the official record if the edits to the draft are documented in the next month’s minutes. Although, the draft minutes have already been posted, downloaded and referenced by the public. The Chair noted minutes need to be open for public inspection after six days. Janice suggested putting a notice on the Land Use page saying minutes are available per request and posted after final approval. Beverley said the minutes are out in the public in their original form, that is something we don’t want. Harry said there needs to be a notice that minutes are available in the Land Use office and the Board corrects them a month later.

Harry Seidel made a motion that all unapproved minutes will be available in the Land Use office only. Once they are approved, they will be available on the town’s website. Elizabeth Labbe seconded the motion. Discussion: None. **Voice Vote Tally:** 5 – 0.

The Chair mentioned that change should probably be in the Rules of Procedure.

3. NEW BUSINESS

A. Annual Meeting voting of Officers.

Beverley Howe nominated Barbara Marty as Chair. Harry Seidel seconded the nomination.

Discussion: Barbara thanked the Board for the nomination. Members said that Barbara was doing a great job. **Voice Vote Tally:** 5 – 0. Barbara was nominated and elected as Chair.

Beverley Howe nominated Harry Seidel as Vice Chair. When asked Harry said he would accept the nomination. **Barbara Marty seconded the nomination. Discussion:** None. **Voice Vote Tally:** 5 – 0. Harry was nominated and elected as Vice Chair.

There was discussion as to the need for volunteers. Janice asked the Chair what she wanted to do to ensure the Board has 5 regular voting members. Sam is up for reappointment and the Board hasn't heard as to his intentions. Janice suggested the Selectboard be asked to elevate Lucinda from her role as an alternate to a regular voting member. She suggestion that Sam could serve as an alternate, on an as-needed basis.

The Chair discussed the benefit of attending the Office of Planning and Development (OPD) training on April 30th and May 7th via Zoom.

Harry said he could see the value in having Sam serve as an alternate on an as-needed basis because of his experience. Otherwise, alternates who are not experienced members should attend every meeting and continue to learn. Elizabeth said if it were a new person who doesn't have the experience that Sam has, we wouldn't offer that accommodation.

4. OLD BUSINESS

A. Rules of Procedure

The Chair and Harry had met a couple of times and worked on making changes to the Rules of Procedure document. They cleaned up the language and rearranged some items. The Chair wanted to go through and read the changes and get everyone's opinion.

The Chair said in the beginning section of the Rules of Procedure (ROP) was a section called purpose and intent. Which she and Harry have eliminated. She said this document is the ROP that is their purpose and intent. There is no reason to restate the purpose.

The Chair said under the heading of Authority, they did add "These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, Chapter 676:1, and as assigned by the Zoning Ordinances of the Town of Warner." Harry expressed concern it was going to take all night to go through the document. Janice asked what is actually being referenced in Zoning Ordinances in the new wording. The Chair said it was in the previous purpose and intent statement, duties and authorities as assigned by the ordinances by the Town of Warner. The Chair said somewhere in the ordinances duties and responsibilities are assigned, but, she does not know where specifically.

UNAPPROVED MINUTES OF APRIL 13, 2022

Beverley asked if they were going to read the whole thing tonight. The Chair said she was just going to read through the changes. Harry was concerned that would be a lengthy process. Janice asked if there is an easy way of highlighting for members what has changed from the previous version. The Chair said she can email the electronic copy with the changes and additions clearly noted. She said a section was moved from Quorum to the Member and Alternates section. She will annotate the document to highlight changes.

Janice expressed concern about the removal of site visit description and expectations section. The Chair said no other town has a section on site visits. Janice said the Board worked hard over the years to develop that section. She said it gave the Board guidance as to how to conduct a site visit. The Chair said no other town does that. Janice said it was what Warner decided they needed. The Chair said this Board will decide.

Elizabeth asked if the ROP addresses attendance. Beverley said it has been something that has been important to previous boards. Beverley said maybe it would be a wake up for people if we can't have a meeting or hear an application because we don't have enough members. Harry recounted an instance when he represented a client at a hearing in another town and they did not have enough members present to conduct a meeting. Harry said there isn't anything in the Zoning and Planning manual that refers to an attendance policy. Janice said it is referenced in the ROP. It states that not more than three unexcused absences are allowed in a twelve-month period. She said unexcused means the Board didn't receive prior notification. Janice continued to say members who miss a lot of meetings usually resign the Board, voluntarily. The Board has not had to ask anyone to leave. Janice said a Board can set rules that are different than the state requirements, they just can't be boarder.

5. COMMUNICATIONS

The Chair reiterated the importance of the OPD training.

Harry said he spent some time looking into the applications, his work is sort of unfinished. Although, he came across an instructional sheet for Variance criteria guidelines. The sheet gives guidance on explaining the Variance criteria. He made copies and handed them out to the Board. Janice said if members had something of interest they would like to share with other members, you can send it to the Land Use office and she can distribute it in an email.

6. ADJOURN

Harry Seidel made a motion to adjourn. Elizabeth Labbe seconded the motion. Voice Vote Tally: 5 – 0. The meeting was adjourned at 8:00 PM.

Respectfully submitted,

Janice Loz
Land Use Office