



TOWN OF WARNER

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Zoning Board of Adjustment

Minutes of January 11, 2022

Town Hall in the Lower Meeting Room

1. The Chair opened the ZBA meeting on at 7:00 PM.

A. ROLL CALL

Board Member	Present	Absent
Jan Gugliotti	✓	
Beverley Howe	✓	
Barbara Marty (Chair)	✓	
Lucinda McQueen	✓	
Harry Seidel (Vice Chair)	✓	

Also present: Janice Loz, Land Use Administrator

2. REVIEW OF MINUTES OF PREVIOUS MEETING: December 14, 2022

The Board reviewed and made edits to the minutes of December 14, 2022

Harry Seidel made a motion to accept the minutes as amended. Seconded by Lucinda McQueen. Discussion: None. Hand Vote Tally: 5 – 0. The minutes of December 14, 2022 were approved.

3. UNFINISHED BUSINESS

A. Rules of Procedure Document

The board continued their review of the ROP starting with section XVI., Site Visits. For clarity the Chair read the reworded section, "Board members should familiarize themselves with a property and the basic characteristics of the area. If needed a quorum of the board may vote to schedule an onsite visit. Visits attended by a quorum of the board must be noticed and conducted as public meetings and the public has the right to attend. Individual site visits are the responsibility of the individual board members to schedule with the applicant. Both individual and public site visits are for observation of the property only, no evidence shall be taken, no discussion of the evidence or deliberation at a site visit."

Beverley asked if that is what they have always done? The Chair affirmed.

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38 Janice said in the past the board didn't allow individual site visits unless they were
39 scheduled in a hearing, with consent of the applicant. The Chair read the previous text on
40 individual site visits. The text's meaning is the same. Janice agreed. The Chair said if they
41 feel a group site visit is important, they will schedule it.

42 Harry explained that when somebody comes to the ZBA and asks for relief they are coming
43 for something that is only allowed by permission of a special exception or a variance. It
44 has always bothered him that members must schedule a visit with the applicant. Harry
45 introduced text he found in the Sutton's zoning. Harry read the statement: "By signing the
46 application for ZBA review the applicant gives site visit permission for members of the ZBA
47 to visit the property to review the proposed use or the building site. Board members should
48 familiarize themselves with the property under discussion and the basic characteristics of
49 the area prior to the scheduled hearing. Individual site visits are preferred, but two
50 members may visit jointly understanding that site visits are for observation only and no
51 discussion of the evidence or deliberation may occur." He does want to mention there
52 could be a possibility of a group visit although Harry believes they should be rare because
53 they are cumbersome. He continued to read, "In the rare instance that the ZBA attends a
54 group site visit it must be scheduled with the owner and conducted as a public meeting."

55 Jan G. said overall she agrees with Harry, but not the tone and the message it sends. She
56 read, "by signing the application the applicant gives permission for the board to visit the
57 property." There is no indication that a visit has to be scheduled, it doesn't say the owner
58 has the right to be there or has the right to constrain the visit to the time that he is there.
59 Whether it is one or two people or the whole board she thinks they should have the right
60 to agree to a schedule of that meeting, whether it is a group or an individual site visit.

61 Jan G. gave as an example that she has two large dogs and if she didn't know someone
62 was coming, she could be liable for any potential damages. She said an agency shouldn't
63 be able to come onto someone's property without notice.

64 Harry said if someone applies to the ZBA they must expect someone is coming on their
65 property. Janice reminded the board an applicant can deny a site visit. Jan G. said all she
66 is asking is that the board allow an applicant some flexibility when members come for a
67 site visit.

68 The Chair said when the board reviews the application, they will work on statements
69 addressing site visits and contact information being available to the board.

70 Harry suggested the Chair call the applicant and schedule site visits for all the board
71 members prior to a public hearing. The Chair said the packets with the application are
72 received a week prior to the hearing making it difficult to schedule visits within that
73 timeframe.

74 The Chair said the board may not know if they need a site visit until they have a hearing.
75 At that point a quorum of the board would decide whether they need a site visit to make
76 an informed decision about a property. Harry said driving by the property can certainly be
77 done. The Chair said most of the observation doesn't involve a site visit and stepping on
78 the property. The Chair said driving by a property, stopping and viewing it from the road
79 she does not consider a site visit. Harry said he considers that a site visit. The board
80 understood in that moment they each had a different interpretation of what a site visit was.

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81 The Chair clarified that a site visit is where someone physically steps on the property.
82 Beverley said a site visit should be the whole board. The Chair said everyone should drive
83 by a property. Harry said he thought that was a site visit. Jan G. said they should define a
84 site visit, so it is understood. Janice suggested that it used to be called a site walk maybe
85 that is more descriptive. Jan G. said when the board walks on a property an owner property
86 rights should be considered. The Chair said maybe it should say on site visit.

87 Harry said he still likes what he wrote. After some discussion the Chair suggested using
88 the wording purposed for this section. Lucinda thought it may be a good idea to have the
89 term "on site visits." The Chair asked if adding the term "on site" visits to the originally
90 purposed wording would cover everything? Harry disagreed because it says on site visit,
91 currently. The Chair clarified the heading would change. Harry said all board members
92 should do a drive by which he believes is a site visit. He believes there should be two
93 sections, on site visits and drive by site visits. He would be happy if they said that individual
94 site visits are preferred and the responsibility of the individual board members. The Chair
95 said she doesn't like suggesting that one or the other should be rare or preferred. She
96 believes the first sentence where it says board members should familiarize themselves
97 with the property and the basic characteristics of the area is sufficient. Janice suggested
98 the term familiarize encompasses what Harry is looking for, it means something different
99 to every member and that is fine. Janice apologized she wished she understood previously
100 what Harry meant by site visit.

101 The Chair went on to note minor changes to the sections on absentia, the section on the
102 terms of adjournment, the section on debate changing to that of a majority, a minor change
103 to default procedures, a minor change to the electronic device section, extension of time
104 change, subcommittee section removed, voting, change to the majority of members
105 necessary for a decision. Board members had no issue with the proposed changes to
106 these sections.

107 The Chair said she and Janice will put together a finished copy then the board can review
108 and make a motion.

109 The Chair circled back to the Staff section on Page 4. The Chair proposed the same
110 definition of the Land Use Secretary that is used by the Planning Board. It reads; "The
111 Land Use Secretary shall be hired by the town to serve the needs of the Planning Board
112 and the Zoning Board of Adjustment." Harry said the Planning Board wording should be
113 removed. The Chair concurred.

114 The Chair brought up the issue about conservation easements and notifications. She
115 spoke with our Circuit Rider, Matt and he said that only applies to applicants. Janice asked
116 if it is a difficult thing for the applicants to find. The Chair said if there is an easement it will
117 be on the deed. This conversation was relative to public notification to abutters and holders
118 of easements referenced in RSA 676:7. Janice asked if this needs to go on the application.
119 The Chair concurred.

120 The Chair discussed the timeline for an application, Section XII, changing the terms to 90
121 days. The language will be in line with RSA 674:33.

122 Janice asked about the Records section on Page 4, "audio recordings are to be deleted
123 upon approval of the minutes." She asked if the board wanted to change that. The Chair

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124 suggested using the wording audio recordings “can” instead of “shall” be deleted. Janice
125 inquired about was the minutes of meetings which states “it shall include names of board
126 members, persons appearing before the board a brief description of the subject matter
127 discussed, and all votes taken.” She thinks a brief description of all matters discussed is
128 a little too restrictive. Jan G. suggested taking out the word “brief.” Janice continued to
129 Page 6 under the public notice section noting three locations, “the Warner Town Hall,
130 Warner Post Office, Warner Library and the Town Web site,” which is actually four
131 locations. She said they do not post at the Library. The Chair suggested removing “Library”
132 from the list.

133 4. COMMUNICATIONS AND MISCELLANEOUS

134 The Chair made members aware of the amendment being discussed by the Planning Board
135 and encouraged them as citizens to contribute to the process.

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137 5. ADJOURNMENT (Motion, Second, Vote)

138 **Jan Gugliotti moved to adjourn the meeting. Harry Seidel seconded the motion. Hand**
139 **Vote Tally: 5 – 0.** The meeting was adjourned at 8:08 PM.

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141 /jll