



## TOWN OF WARNER

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# Zoning Board of Adjustment Minutes of June 14, 2023

### I. 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	✓	
Derek Narducci	✓	
Harry Seidel (Vice Chair)		✓

**Also present:** Janice Loz, Land Use Administrator

**Public Attendance:** Linda Dymment – via Zoom.

The Chair elevated Derek Narducci to a voting member, in Harry Seidel’s absence, to be vacated upon Harry’s return.

### II. NEW BUSINESS

#### A. Motion to set a rehearing date for McLennand Case: 2023-01

Equitable Waiver of Dimensional Requirements

**Case:** 2023-01

**Applicant:** James McLennand

**Agent:** Derek D. Lick, Attorney, Orr and Reno

**Address:** 225 Couchtown Road

**Map/Lot:** Map 15, Lot 053-3

**District:** R-3

The Chair stated the board would set a date for the rehearing of the McLennand Case. The Chair said some towns have the requirements for setting a date for a rehearing in their Rules of Procedure. The Board will discuss this later in the meeting.

The Chair offered the date of July 12, 2023 for the hearing date for the Case 2023-01.

**Beverley Howe made a motion to set the rehearing date for Case 2023-01. Jan Gugliotti seconded the motion. Discussion:** Janice, the Land Use Administrator suggested adding July 12 to the motion. **Voice Vote Tally:** 5 – 0. The motion passed to set a rehearing date of July 12 for Case 2023-01.

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### B. Board Discussion

Janice said that James McLennand came into the Town Hall, she asked him if he would be ready to present at the July 12 meeting, he said, yes. James said he was open to members of the board scheduling a site walk of his property.

The Chair asked members if they felt it was necessary to do a site visit. Derek said he would like to do a site visit. Beverley said she would only do a group site walk. Jan G. said she would go with a group, otherwise probably not. Lucinda agreed with Jan's statement. Derek said he would prefer an individual site walk, due to his busy schedule. The Chair said she thought Harry also wanted to do a site visit. The Chair said if three board members are on site, it is a quorum which means they would need to take minutes. Janice said she could give the Chair the tape recorder for a site walk. Beverley asked if the owner would be there to point out the property line. The Chair said when it is arranged, they will be sure an owner is available.

Janice asked if they would like to do this on a weekend? The Chair said the applicant has not been refiled yet. They do not have a new signed owner's authorization form. They should wait for that before scheduling a site walk. Janice said she would inform the owner the board cannot reschedule the site walk until he refiles the application. Then she will put together a few dates. Janice suggested that if Derek cannot make that date, then he can do an individual site visit.

The Chair wondered if the board wanted to speak to counsel before rehearing this case. The Chair asked Janice to ask the group about a meeting with counsel once they have the application for rehearing and potential site walk dates. The Chair said maybe a few questions could be emailed to the lawyer, if necessary.

### III. REVIEW OF MINUTES OF PREVIOUS MEETING: May 10, 2023

The Chair moved the review of the minutes to the next item on the board's agenda.

**Beverley Howe made a motion to approve the May 10, 2023 minutes as amended. Derek Narducci seconded the motion. Discussion: None. Voice Vote Tally: 5 – 0.** The minutes were approved as amended.

### IV. UNFINISHED BUSINESS

#### A. Rules of Procedure (ROP) to the Town Attorney for review

Janice handed out the Town's Attorney's comments on the board Rules of Procedure (ROP). Janice said the attorney said the ROP was good and he suggested items the board may want to include to the rules. She read the suggestions, an addition to Section 2 referencing limitation on members being on multiple boards. The Chair said the RSA he references is very specific. Janice continued reading the attorney's email referencing adding information on a motion to reconsider, a section on a quorum, and a suggestion to define the term "applicant." Then a reference to an RSA which requires a public hearing within 45 days upon receipt of an appeal. Then a reference to "Findings of Facts" to be included in the ROP document. Finally, there was a reference to the 91:A compliance, noting members can share draft documents in an email.

The Chair would like to see a reference to the timeline of a rehearing included in the ROP.

Janice read from the application instructions which referenced an appeal for a rehearing. It states that a case will be reheard not on the same set of facts, only new information.

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Derek said the previous case wanted to offer additional facts. Janice wondered if those statements should be in the ROP. The Chair said they could consider it.

The Chair said other towns have requirements for rehearing an appeal. The Town of Merrimack said, "if the board grants a rehearing a rehearing shall be held at the next regular public hearing of the board or act as a special hearing." The Town of Rye said there is no timeframe for an applicant to come back before the board but when they do it is considered a new application and all applicable fees and notifications are in effect. The Town of Dover said "if the board grants a motion for rehearing a new public hearing shall be held within 30 days of the decision to grant the rehearing provided all notices and fees are paid and an updated abutter's list is submitted by the party requesting the rehearing." She suggested they add something saying the rehearing will be held at the next regularly scheduled meeting.

The Chair couldn't find an RSA referencing a timeline for a rehearing once a motion to grant the rehearing has been approved. She said it could go under the additional Rules of Procedure. The Chair would work on the wording. Janice suggested adding the "only new information" section into that statement. It is noted in all the applications, it should be consistent in the ROP document. The Chair said there is wording in the RSA about not rehearing on the same set of facts, so they could reference that language.

Derek said if someone has something before the board and someone passes away or they lose a job or they sell property for whatever reason they could potentially need a rehearing. The Chair said someone could come before the board for a use that is potentially denied and then five years later a new owner might come and ask for the same thing. She said the board can deny a hearing because nothing has changed on the application. The Chair said they cannot continually come and ask for the same thing.

### **B. Review of ZBA applications and propose updates.**

The Chair had Jan G. proofread the applications. Jan G. said the look and feel of the applications need to be consistent. The Chair said they should have the town seal at the top and look professional and have nice clean copies.

The Chair asked Janice, when people get the list of abutters do they have to talk to the Assessor? Janice said not everyone goes to the Assessor. Sometimes they get lists and submit them to Assessing to be checked.

The Chair said when Derek mentioned making the application more user friendly the general instructions section is a good place to do that.

Beverley questioned the need to redo the applications. Janice said it has been done at length in the past.

The Chair said Harry is redoing the Building Permit application and working on a sample plot plan.

The Chair discussed whether an applicant would need a professional surveyor. She said most plot plans are not required to be professionally sealed and stamped if the owner knows where their property line is. If the owner doesn't know where the property line is they may have to hire a surveyor. The Chair read through the benefits of having a plot plan noted in another town's application.

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Beverley was concerned that people are going to struggle with developing a plot plan without a professional. The Chair thought some people have the skill to do it noting that the online tax maps have the borders of properties.

Janice suggested requiring a copy of the tax card and the tax map for a given property.

Jan G. said drawings should be to-scale. Janice said the current checklist indicates drawings be to-scale.

Jan G. said the web site should have a plain language introduction to the different applications. The Chair said the language could be lifted from the application instructions and a link to the specific application. Janice said you have to be careful stating what each application is for and potentially misleading an applicant. Janice said the public contact the Land Use office to find out what they need.

Janice said there are items in the checklist that can be reordered and combined to be more efficient. Jan G. suggested possibly a category for signature items. The Chair said everything about the plans should be at the bottom of the page.

The Chair will put together what was discussed on the applications and what was suggested as far as the Rules of Procedure document and get that wording to everybody. Janice suggested the Chair give her a copy of everything so she can look it over as a back-up to the Chair. The Chair agreed.

### **C. Status of plans for the Steve Shumsky property (case 2022-06)**

The Chair asked Janice if the revised Shumsky plans had been delivered to the Land Use office. Janice affirmed.

## **V. COMMUNICATIONS AND MISCELLANEOUS**

Janice said there are training sessions on Thursday's this month for the Housing Toolbox.

The Chair said the Office of Planning and Development site has lots of different training videos.

Public member, Sam Carr, said he was at the meeting because he was considering getting involved in the town. The Chair said excellent and hopes he does get involved. The board members said they are always looking for alternates for the ZBA. The Chair said it is a good way to learn.

## **VI. ADJOURNMENT**

**Beverley made a motion to adjourn the meeting. Derek seconded the motion.** The meeting was adjourned at 7:46 PM.

/jll