

**Town of Warner – Planning Board
Minutes of Public Hearing
Monday, December 15, 2008 7:00 PM
Warner Town Hall, Lower Level**

Members Present: Barbara Annis, Paul Violette, Richard Cook (Selectman alternate for Mr. Hartman), Ed Mical
Members Excused: Rick Davies, David Hartman, Dan Watts
Members Absent: Hank Duhamel
Members Late: None
Alternates Present: None
Alternates Excused: None
Alternates Absent: Harold French, Robert Ricard
Alternates Late: None
Presiding: Barbara Annis
Recording: Jean Lightfoot

Open Meeting at 7:00 PM

Roll Call

Ms. Annis opened the hearing at 7:05 p.m. The roll call was taken.

1. PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO FLOOD PLAIN DEVELOPMENT ORDINANCE, ZONING ORDINANCE AND BUILDING CODE ORDINANCE

Ms. Annis explained what the changes to the Flood Plain Development Ordinance are. She said that there were corrections made last year as requested by the State of NH Office of Energy and Planning. A few months ago, they contacted the Planning Office to ask that two further corrections be made which had not been in their original list. She said it is these two corrections which are included in this proposed change as follows. Mr. Violette said that the aim is to make the ordinance technically correct. Ms. Annis said that it was confusing to say inserting Zone A and removing Zone A together in the question. Therefore, it was changed to relate each phrase to the respective paragraph and section.

Amend Item VII, Flood Elevation Determination, Floodproofing Standards, paragraph 2. by inserting Zone A and paragraph 2.(a) by removing Zone A as follows:

2. The Code Enforcement Officer/Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in zones A and AE that:
 - (a.) All new construction or substantial improvement of residential structures ~~in Zone A~~ have the lowest floor (including basement) elevated to or above the 100 year flood elevation;

Ms. Annis also asked that the numbering of the different warrant articles be changed to begin with number 2, since the first article is always the election of officers.

Ms. Annis said that the attempt is to make things as short as possible so the voters don't have to read too much. Mr. Cook asked if the only part that is on the ballot is what is in bold print. Mr. Mical said that he believes that the whole thing will be included so it will be clear what is being changed.

Ms. Annis said the next item is changing the definition of a building. She asked if there were any questions. Mr. Cook said he remembers some of the concerns related to a tent set up for a wedding, for example, and the feeling that it should not require a building permit. Ms. Annis said with the new definition, that kind of tent might be considered a building. There was some discussion about this item. Mr. Violette asked whether a carport-like structure which comes with a tubular frame with a roof, but no sides or ends, and is movable would be a building. Mr. Cook suggested considering if the area is a little more populated and someone buys three of those and puts them right on the property line, then the issue would not be addressed unless a building permit is required. He said that the question is whether there is an interest in controlling those kinds

of structures, knowing that a lot of people have them. Mr. Mical asked what is considered temporary. Mr. Violette said another word that may be relevant is "portable," since he can move his sheds around with his tractor and he does. He said that his concern is if these kinds of things are defined as buildings, then they could suddenly become taxable. Mr. Mical said that one of the things to consider is the matter of safety of the people around. Mr. Cook agreed and said that is one of the reasons for building permits. Ms. Annis said that the matter of taxable vs. non-taxable was not a consideration. She said it was merely to come up with a definition so that when someone came in, the Board of Selectmen would be able to say whether or not it is a building. After some further discussion, the following wording was agreed to be added: "and is not temporary in nature."

Ms. Annis explained that the next article is to change some of the references to building to say "building or structure." She said that this is an attempt to apply the setback requirements not only to buildings but to other types of structures, as well.

Ms. Annis next addressed the corrections to the open space development acreages to reconcile the table to the wording in Article XIV. The proposal is to change 12 to 15 acres for the OC-1 zone in paragraph B.1.c. because of what goes on in the OC-1 Zone. The next article is to change paragraph B.1.d. from 15 to 20 acres for the OR-1 zone to reconcile with the table in Article XIV, paragraph C. Then the third article is to change the table to reconcile the OC-1 zone with the wording of 15 acres and not the 20 that is currently in the table.

Ms. Annis next addressed the changes to the Building Code, saying that the State and Town Building Codes did not agree, so the changes are necessary to reconcile with the State Building Code. She said that previously there was an article placed on the ballot to see if the Town of Warner would adopt the State Building Code and all of the other codes were listed out: the Plumbing Code, the International Building Code, etc. Mr. Mical said that the IBC codes had a specific year referenced and that has been amended three times since then. Ms. Annis said the changes include removing the list of revisions because they will be on the title page. In addition, she said that Chapter 155-A of the RSAs has been added, which is the State Building Code. She said that Article 2 had been deleted entirely and paragraph A has been added which refers to the State Building Code. Mr. Violette asked if the wording "may be amended in accordance with RSA 674:51" means that one could then use whatever the current codes are in effect, and would not have to change our Code every time those codes change. Ms. Annis said that allows us to amend our code. Mr. Mical said that 155-A lists the IBC changes, so we would not have to go back and amend ours all the time.

Ms. Annis said that according to state law, the Certificate of Occupancy is issued by the Building Inspector. She said that he appears to have a little more authority by state law than we have allowed in the past, but she said that we still want the Selectmen to have some authority over him or her. Mr. Cook said that according to the way it is worded, it appears that he has the authority to issue the building permits without the signatures of the Selectmen, which is different from the way it works now. Mr. Mical said that was discussed and the consensus was that the Selectmen would continue to sign the building permits. Mr. Cook said he thought that was a good idea because it has other people looking at things that the Building Inspector may not be focused on. He said that sometimes the Building Inspector will focus on the structure and Mr. Cook will notice that the setbacks have not been noted and ask about them.

Ms. Annis said that in one of the codes she recalled that it did not specify how many exits there needed to be. Mr. Mical said it is in the Life Safety Code but not in all the other codes, so it was decided to leave it in ours because it was felt that requiring two exits was important. Mr. Cook added that there must be at least one window that qualifies as an exit in every bedroom and asked if this would affect that. Mr. Mical said no. Mr. Cook asked if apartments that enter onto a hallway that has two exits qualify under this proposal. There was some further discussion about what exits would qualify under this item and the intent of the article. It was agreed to change the sentence about rented apartments to read as follows:

". . . Any building to be erected or altered for use as rented apartments shall have a minimum of two (2) readily accessible ~~points of egress, remote from each other, exits, windows excluded,~~ from each apartment. ~~exits shall provide alternate means of escape."~~

Ms. Annis continued reviewing the other proposed changes. She mentioned specifically number 4, related to the required living area in a single family home. She said that the ground floor part of it was changed because there are homes where the living space is on the second floor. There was a discussion about the minimum required living area size of 500 square feet and the intent and history of the article. It was agreed that if there were two floors, only one of them must be 500 square feet, citing an A-frame as an example. The article was agreed to be re-worded as follows:

4. Every freestanding dwelling unit to be used by a single family shall have at least five hundred (500) square feet of living area on one floor. ~~a minimum ground floor living area of at least five hundred (500) square feet.~~

Mr. Violette said that the Foundations section should have all buildings or structures added. That was agreed to. Mr. Violette asked if pole barns would qualify. Mr. Cook said that they would be considered to have "other acceptable materials" as the foundation. Nancy Ladd asked who was going to decide if it was acceptable. Mr. Cook said it would be the Building Inspector. Ms. Ladd asked what constitutes a foundation and Mr. Cook said it was whatever is in contact with the ground. No further changes were made. Mr. Violette commented that "other acceptable materials" does leave a gray area. Mr. Mical said that is part of the point is to allow for some discretion on the part of the Building Inspector during the permit process.

Ms. Ladd said that she appreciated the way the changes are being presented so one can see the context of the changes. Mr. Mical said that was the point so people would know. Mr. Violette said it was done last year and the intent is to do it this year.

Mr. Mical said that in number 7 the word "sketch" has been deleted and plan or plans has been added, so there is something that is informative. Mr. Cook asked if a homeowner could still come in with a drawing. Mr. Mical said yes. He said that the hope is that this will result in more than a rough, pencil drawing of the plan or plans. He said that this comes from the new State Building Code where it talks about plans. Ms. Ladd asked a question that was unintelligible. Mr. Cook said this allows the Building Inspector to say that something that is too rough is not acceptable. Mr. Mical said that this will require that, for example, windows and exits be shown.

Mr. Cook asked about Article III. Ms. Ladd suggested adding "in consultation with the Board of Selectmen" after the word "authority." Mr. Cook said he thinks that it is important to keep requirement that the Board of Selectmen sign the building permits because they pay more attention to the zoning issues than the Building Inspector might. He agreed that the suggested change should be made and the Board agreed. There was some further discussion on this issue with no other changes agreed to. Mr. Mical referred to the State Building Code and said that it refers to the Local Enforcement Agency. Mr. Cook agreed that that means the Board of Selectmen. Ms. Ladd also suggested changing the words, "Building Inspector," since the intent is not to give the Building Inspector sole authority to make all decisions. Mr. Cook said that the law does not preclude the Board of Selectmen from establishing a policy that they will review the building permits. It was agreed to change Article II, Paragraph A to read "Local Enforcement Authority" rather than Building Inspector. [NOTE: Mr. Cook said that it should follow the wording of the law, and the change was later made by the secretary to correct the wording to Local Enforcement Agency, which appeared to be the intent of the Board.]

There was a discussion about new Article V, old Article III. Mr. Cook explained that when there have been disagreements about building permits with the Selectmen, it has gone to the Zoning Board, as a Board of Appeal. He asked if this sets up a different Board. Mr. Mical said no, it is the same Board. He explained that the State requires that something be put in the Building Code that addresses that and so this was added. He said the attempt was to match the wording with the Zoning Ordinance. Mr. Cook asked if the actual name is the Board of Adjustment or the Zoning Board of Adjustment. Mr. Mical said it is the Board of Adjustment. Mr. Cook asked if the phrase, "slight variance," limits the authority of the Zoning Board. It was explained that it is in the existing code and the definition of slight will be up to the Zoning Board and the courts, if necessary. There was some further discussion about clarifying that this is not a different Board from the Zoning Board of Adjustment. It was agreed to remove the first sentence since the appointment authority is under a different RSA. It was further agreed to add Zoning before Board of Adjustment since that is the name of the Board in the RSAs.

Ms. Ladd asked how the new Article V is different from the new Article VI (old Article VII). Mr. Cook said that Article V refers specifically to this ordinance and Article VI does not refer specifically to the building ordinance. He said that he does not know if there is an opportunity for a grievance from the Board of Selectmen and the Building Inspector that does not relate to this building ordinance that could happen during the construction of a building, but he thinks that this would cover it.

There was a discussion about combining new Article VI with Article V and the decision was made to not combine them.

Ms. Ladd asked some questions about some of the earlier discussion that she had missed. In particular, she asked about Article II, Paragraph A, Section 4.a. and how a building more than 36 square feet could be exempt from requiring a permit. Mr. Mical explained that the IBC has a limit of 120 square feet (allowing anything under that to not require a permit). He said that this will reduce that number for Warner to 36 square feet, requiring any building over 36 square feet to get a permit – the wording means that any building over 36 square feet is not exempt from requiring a building permit. The Board members reviewed other changes that had been made for Ms. Ladd.

There was no further discussion. Ms. Annis asked if there have been enough changes so that another Public Hearing should be held. Mr. Cook said he thought another Public Hearing should be held. He said there are a lot of them and together they are not insignificant. Ms. Annis agreed. Mr. Mical said that with the ice storm over the weekend and so many people with no power, many people may not have been able to get to the meeting tonight or realized that it was still going on. Ms. Annis said for the January 5 meeting, there are two applications for adding to two telecommunications towers and one conceptual consultation scheduled, and asked if the Board thought it would be appropriate to combine the next Public Hearing with the January 5th meeting. The Board agreed. There was a short discussion about simply continuing this Public Hearing, but it was decided to adjourn this hearing and hold another one because of the significant changes. Ms. Annis said the Public Hearing will be #3 on the agenda after the two applications and the conceptual consultation, assuming no other applications come in before noon on Wednesday, December 17. Mr. Mical added that it will be better because the majority of the Board should be at that meeting, rather than just the 4 who are at this meeting.

2. REPORTS FROM SUBCOMMITTEES

Ms. Annis asked if there were any reports from the subcommittees. There were none. She said she thought there was a good turnout for the Visioning Session. There was a short discussion about how the discussion went. Mr. Cook asked if there will be another session. Mr. Violette said yes. He said it will probably be later in January or February. Mr. Cook suggested that there be a little more structure like presenting specific questions and attempt to keep people on topic. Ms. Annis said that Sharon Wason had put in writing the comments from the meeting and from the 3x5 cards. She asked Ms. Lightfoot to be sure the Selectmen get a copy of that.

3. COMMUNICATIONS AND MISCELLANEOUS

Ms. Annis said that she also had thought of discussing with the Board placing a warrant article to try to get funds for seed money for the Exit 9 project. However, she said, she thought it should wait until more of the Board is here next month. There was a short discussion of the need for beginning to set up some seed money in order to qualify for grants from other places. Ms. Annis explained that even if the project is to be bonded, that bonding will not qualify as the seed money for a grant or grants. She said that if the other developments in the area happen, then they will be paying exaction fees which will help to pay off the bond. She said, however, that the current businesses in the area do not have to contribute to any improvements and most likely will not because their customers will come to them anyway. Mr. Cook said that he had voted against it because he thought if more than \$300-400,000 was to be spent, we would still bond our portion of it and therefore in these times in our effort to keep the budget to an absolute minimum, he chose not to put it in. He said that if we find out that if we have \$100,000 set aside then we'll get \$500,000, then we screwed up. But, he said that we don't know that we're going to get any money from anybody and cuts had to take place and that was one of the places they chose to cut. He added that by putting it on, it says that the

Selectmen recommend it, and they chose not to. Mr. Violette said he doesn't consider the estimates to be carved in stone. However, he said, that no matter what the Town may want, it must be accepted by the State. He said that we cannot dicker down to \$500,000 because the State probably won't accept it. He said that he doesn't see any sense in doing something that is not going to last a long time. Mr. Mical said he thought there are other alternatives that could reduce the proposed cost, like re-lining and not putting in the medians.

Mr. Mical asked if we'd heard anything from the State. Ms. Annis said that the grant writer called and he explained in detail what he thought and had found out. Ms. Lightfoot said he was asked to put it in writing to give to the Planning Board. She added that we had heard from Hoyle and Tanner that we should hear back from the State after the holidays.

There was no further business.

Mr. Mical MOVED to adjourn. Mr. Violette seconded. The motion was PASSED unanimously. The meeting was adjourned at 9:15 p.m.