

**Town of Warner – Planning Board
Meeting Minutes
Monday, August 3, 2009 7:00 PM
Warner Town Hall, Lower Level**

Members Present: Barbara Annis, Hank Duhamel, David Hartman, Rick Davies, Ed Mical, Dan Watts
Members Arriving Late: None
Members Excused: Paul Violette
Members Absent: None
Alternates Present: None
Alternates Excused: Peter Wyman
Alternates Absent: Harold French
Presiding: Barbara Annis
Recording: Jean Lightfoot

Open Meeting at 7:00 PM

Roll Call

Ms. Annis opened the meeting at 7:00 p.m. The roll call was taken.

1. MINOR SUBDIVISION

Property Owners: Wayne and Sharon Face

Applicants: Wayne and Sharon Face

Property Location: 45 West Main Street, Warner, NH
Map 32, Lot 29, R-1 Zoning

Description: Minor subdivision of one lot into two lots of 35,982 sq. ft. and 35,867 sq. ft., respectively, with new lot to have access off of Cemetery Lane

- a. Review Application – Accept/Reject/Continue
- b. Close Meeting and Open Public Hearing
- c. Close Public Hearing and Re-Open Meeting
- d. Action Taken – Approve/Disapprove

Ms. Annis recognized Wayne Face. Mr. Face said the agenda showed that it was 45 East Main and it should have been 45 West Main Street. He said that the survey maps had some errors: Under notes, item 2, it said with municipal water and sewer but the plan is to have a well. He said that the name of the road is Cemetery Lane, and not Cemetery Access Road as it's called on the plan. He also noted that under Cemetery Access Road on the plan, it says that the current status is believed to be a Class VI public highway. He said that is the surveyor's opinion, but it is not his opinion. He said that at the time the application was submitted, they were of the opinion that it was a Class V road. He added that the information that was sent to them indicates that it may not be a Class V road.

Ms. Annis asked if they will have a septic system and will not be connected to the municipal water system at all. Mr. Face replied that they do plan to attach to the town sewer. He said there is a connection on the corner of the cemetery where they can tie into and that has been cleared with the Water District people. He said that PSNH has indicated that they will add one telephone pole and cut across for the electric service. He said that everything is bounded and the surveyor found all the boundaries. He provided a letter from the Environmental Consultants who did the water survey. He also referred to a letter from Allan Brown about Cemetery Lane, saying that he thought it was a Class V road. He said that is what Mr. Brown had told him when the application was being prepared. He said that they could apply for a variance to have the frontage on West Main Street and that would be required because they do not have the full 200 feet on West Main Street that would be required for two lots. He said they prefer not to do that because everything is set up perfectly as it is shown on the plan and the other reason is that they want to get their son a tax rebate of

\$8,000 from the government for the new house, but it must be occupied by December 1. He said that they have very little time and would like to not have to request the variance.

Ms. Annis asked if the Board members had any questions. Mr. Hartman asked why the State was a problem in hooking onto the Town water. Mr. Face said it is because they would have to cross Route 103, which results in having to meet a number of State requirements and the cost could be high. There was some discussion about other ways to hook onto the Town water. Ms. Annis recognized Jim McLaughlin who is with the Water District. Mr. McLaughlin said that he believes that the water lines are on the side of the road, but the problem is that the line is over 100 years old and the Commissioners fear that if someone tries to tap into it, something may happen to it. Ms. Annis asked if the Commissioners, then, based on that think it is all right for the applicant not to tie in. Mr. McLaughlin said yes and he said that he is relaying what transpired at the last meeting, in response to a question from Mr. Mical if he is speaking for the Commissioners. Allan Brown said that the distance that would have to be traveled in order to have any water pressure would require a pretty large line. Ms. Annis said that normally when water is available, the Water District likes to have new buildings hook on because there would be less contamination, etc. There were no further questions.

Ms. Annis asked the Board members to review the checklist attached to the application. She asked them to report their results. Mr. Watts said that the lot number for the proposed new lot on the plan should be Tax Map 32, lot 29-1, not proposed lot 1. He said that there was no location noted on the plan for the new well, house location, and driveway. Mr. Davies said that the note on the plan says that an iron rod will be set at the front of the lot. He said that the regulations require that the monument on the frontage of the property must be granite, not an iron rod. He said that the NH Natural Heritage Inventory Identification is applicable per the regulations, even though it was checked as inapplicable, so that letter will be required. Ms. Annis said that for a minor subdivision, it must be filed with the final Mylar. Mr. Mical added that the name of the road must be corrected to Cemetery Lane on the plan.

Ms. Annis asked if there were any other questions. Mr. Mical commented that the road is an issue because there is a letter from the Public Works Director saying it is a Class V and we have information from a prior Town Meeting that says it's a Class VI and legal correspondence from counsel saying it's a Class VI. He said that he thinks that this needs to be clarified before things can proceed. Ms. Annis suggested that the application be accepted, the public hearing be held to hear the input of the various abutters who are present and other individuals who have an interest in this project, close the public hearing, but then, continue it until the next meeting. She said that would give Mr. Face time to go to the Board of Selectmen with a petition to reclassify the road. She said if it were a Class V road, the subdivision could be allowed. She said that there cannot be a subdivision with frontage on a Class VI road. She said that she would like to assist the family in their endeavors, but, on the other hand, she said she did not want to set a precedent, nor did she want there to be repercussions from going against the policy of the Town on Class VI roads. Mr. Watts added that it would give them time to get a new set of plans with the missing items and corrections added. Mr. Davies asked how wide the existing road is. Mr. Face said it is 12 feet of tar. Ms. Annis recognized Mr. McLaughlin for further information on this subject. Mr. McLaughlin said that the Water District has a sewer line that runs down the lot and there is an easement of 10 feet on either side of that line for maintenance. The members noted that it is on the plan. Mr. Hartman asked about the wetland area that has to be crossed and wondered if that will require a State permit. Mr. Face said that there is no crossing of a wetland area, so he did not think any permit would be required. Mr. Mical asked if the driveway is at the very back corner of the lot. Mr. Face said yes. Mr. Mical said that was not delineated on the plan. Mr. Davies asked where Cemetery Lane ends. Mr. Face said it goes to the marker on the lower left where it says "fieldstone bound found."

Mr. Davies summarized that he thought that the major things missing, other than the Class VI road issue, are: the driveway is not shown; the proposed location of the house is not shown; the location of the well is not shown; the bounds which must be granite. Mr. Watts suggested asking the Water District for a letter saying that it is acceptable to them if the applicant does not hook into the Town water. The members agreed. Mr. Davies asked how long the Board would have to act if it were continued. Ms. Annis said it is 65 days, so the September 14th meeting would fit into that time frame. Mr. Hartman said that the Precinct generally desires that all residents within the Precinct are served with an adequate water supply. He said that the concern

would be that the planned well might turn out to be not as desirable sometime in the future. He asked if there were another pipe that could be tied into, like the one to the CAP building that would be better than the older, smaller one off of Route 103. Mr. Face said that he specifically had asked about that line and was told that they could not tap into that, although they did not say exactly why. He added that he would get the information from them about what the reason is for not allowing it.

Mr. Mical MOVED to accept the application as presented, noting the items that have been discussed. Mr. Watts seconded. The vote was taken and the motion was PASSED unanimously.

Ms. Annis then closed the Planning Board meeting and opened the public hearing. She asked if there were any abutters who wished to speak. She recognized Marc Violette. Mr. Violette asked if the road is Class V, will the Town maintain the entire lane back to the vaults. He also asked if the gates are going to stay closed on both ends, as they are today. Ms. Annis said the answer to the first question is up to the Board of Selectmen. She recognized Mr. Brown. Mr. Brown said that from Route 103 down 429 feet is Town Property, and after the gate, it becomes private property down to the vault and that would not be maintained. He said that that property belongs to the Cemetery Association. Mr. Violette said that his question related to whether the entire complex would be plowed. Ms. Annis said that would be up to the Board of Selectmen, too.

There were no other abutters wishing to speak. Ms. Annis asked if there were any other members of the public who wished to speak. She recognized Ron Dickenson. Mr. Dickenson asked if there is a statement that says that for this application, they have to say where they are going to position the house, the well and the driveway. He said he thought that would be needed for the Building Permit, and not for the subdivision approval. Ms. Annis said when it is subdivided, a very definite well is displayed on the plan so that the radius of the well to the house is known. She added that the building can only be located so close to the abutting property line and the right-of-way, so the Board would like to know where it may be placed.

Ms. Annis recognized Allan Brown. Mr. Brown said that he will be working with the Faces to get the road situation clarified with the Selectmen. He discussed generally the necessity or not of tapping into the Town Water line. Mr. Face said that he did remember that the Water District people had told him that the CAP building line could not be tapped because it might endanger the fire protection system of the building. There were no other comments. Ms. Annis closed the public hearing and re-opened the Planning Board meeting.

Mr. Davies asked Mr. Brown to show on the map where the Town's ownership ends, which he did. He said that it goes 429 feet from Route 103 and the end is marked with a stone bound.

Mr. Watts MOVED to continue the application until the September 14th, 2009 meeting. Mr. Hartman seconded. Ms. Annis told Mr. Face that he will need to petition the Board of Selectmen to reclassify the road from Class VI to Class V. Next, she said that he must get something from the Precinct Commissioners saying that they are not against their using a well, rather than tying onto the water main. Mr. Mical said there was the NH Heritage letter needed; the map and lot number need to be changed on the subdivided parcel; and, the issue of the monument. Mr. Face added that he understands that the position of the driveway and the possible house location need to be added. Ms. Annis said yes, and the well. The vote was taken and the motion was PASSED unanimously.

Mr. Face thanked the Board and departed.

2. DISCUSSION OF PLANNING BOARD BYLAWS AND RULES OF PROCEDURE

Ms. Annis said that the Zoning Board of Adjustment has proposed a change to their procedures to address what happens if the Chair and the Vice Chair are not able to chair a meeting. She said that the Zoning Board's proposal is that the members present vote for a chairman for that night. There was a discussion about this and it was agreed that it would make sense to add a provision in the Rules to cover this scenario. It was agreed that it will be placed as number 3 under OFFICERS A. The following was the wording used by the Zoning Board:

In the absence or unavailability of the Chair and Vice Chair, the members present shall select a Regular Member to exercise the duties of the Chair.

There was a discussion about whether alternate members would be voting and it was agreed that the Board would want the alternates to vote, although there was a question about who would ask them to vote if there is no Chair. However, they agreed that they would want a Full Member to be the sitting Chair. The following wording was agreed to, with it being placed as paragraph 3 under OFFICERS A.:

In the absence or unavailability of the Chair and Vice Chair, the members present shall select a Full Member to exercise the duties of the Chair.

Mr. Mical said that in a previous set of rules, there was a section about election of officers and appointments to committees. He read as follows: "The first regular meeting held in April or as soon as deemed appropriate by the Board will be the organizational meeting during which standing committees are appointed, representatives to particular organizations elected and the Planning Board goals and objectives are established for the coming year." He said that the Board has the Master Plan, CIP and other subcommittees and these committees are not voted on and he said he thought that by statute they must be. He added that if committees are appointed during the year, he thought there should be a vote then to put the people in those positions. It was suggested that it be placed as a separate section called COMMITTEES after the OFFICERS section.

Mr. Mical said he thinks this should be voted on, signed as a committee and then submitted to the Town Clerk. There was a discussion about how the changes will be made. It was agreed that the changes will be read for the next two meetings, including work sessions, and then voted on at the third meeting, as provided for in the AMENDMENTS section.

It was agreed that Mr. Mical's proposal on the Committees would be included after the Officers section as follows:

COMMITTEES

The first regular meeting held in April or as soon as deemed appropriate by the Board will be the organizational meeting during which standing committees are appointed, representatives to particular organizations elected and the Planning Board goals and objectives are established for the coming year.

There was a short discussion about meetings and how they are to be scheduled and continued.

There was a short discussion about using electronic devices to send and receive information during the meeting and being sure that the Board members know what is being sent and received. Mr. Davies suggested adding paragraph H. to the MEETINGS section as follows:

Electronic messages cannot be sent or received without Board approval.

Mr. Mical and Mr. Davies suggested the following wording:

The use of a computer is not allowed by the members during a regular meeting except at the discretion of the Chair or Vice Chair. Electronic messages cannot be sent or received without Board approval.

It was agreed that the first reading of the changes would be at the next work session on August 17.

Mr. Mical said that he thought there should be a section on attendance and currently there is nothing. So, he suggested that it be added under the MEMBERS section. He read from a previous version: "All members, including alternates, are required to attend all meetings of the Board. More than three (3) unexcused absences in a twelve-month period may be cause for review of that individual's ability to perform the duties assigned." There was a discussion of the issue. It was agreed to include the above as Item G. under MEMBERS.

- G. All members, including alternates, are required to attend all meetings of the Board. More than three (3) unexcused absences in a twelve-month period may be cause for review of that individual's ability to perform the duties assigned.

Mr. Mical continued by asking about contact with applicants in public. He said it has been considered before that if a member is contacted by an applicant, then the applicant should be referred to the Chair or the Office. He read what was considered before: "Contacts with Applicants in Public. Board members shall refer inquiries to the Board Staff and shall refrain from discussing any matter currently or scheduled to come before the Board outside of formal meetings. Any Board Member having contact with an applicant regarding the application outside of a formal meeting must declare the content of such discussion prior to the public hearing." There was a short discussion about this. There was not clear agreement about this item. The decision was to put this item in the list to be proposed to be added, noting that there will be further discussion on it at one of the later meetings. The following would be included under MEMBERS, item H [this was not clear where it would be placed, but the Secretary has placed it as item H for now].

- H. **Contacts with Applicants in Public.** Board members shall refer inquiries to the Board Staff and shall refrain from discussing any matter currently or scheduled to come before the Board outside of formal meetings. Any Board Member having contact with an applicant regarding the application outside of a formal meeting must declare the content of such discussion prior to the public hearing.

3. COLOR FOR PLANS – ED MICAL

Mr. Mical said that he went to the session on color coding of plans at the Planning and Zoning Conference. He said the comment of the leader from Exeter was to have the Planning Board members color in plans, rather than the applicant because it gives them an opportunity to really look at the plan. He had outlined the plan from the Faces' subdivision proposal to show how it might appear. It was agreed that the colors make the plans more clear. Ms. Annis suggested that the color coding be adopted immediately, noting that it does not have to be part of the regulations. She said it is simply a procedure that does not have to be written and voted on.

4. PLAN SIZE AND NUMBER – ED MICAL AND BARBARA ANNIS

Mr. Mical said that on the checklist the applicant is required to submit plans that may be reviewed by the Fire Chief or by the Public Works Director. He said that if 5 sets of the large plans were required, then a set could be sent to the Fire Chief and to someone else and still have enough sets for the Planning Board and to have a set on display for the public. He said the other idea is to have copies that are 11x17 that could be sent out in the packets so the Planning Board members could see what is being proposed. He said the wording would be changed on the checklists and in the Site Plan and Subdivision Regulations, in the Plan Submittals sections.

Mr. Davies suggested that this be included in the list in Section III, Paragraph A of the Site Plan Review Regulations, as well as in the checklist. Mr. Mical referred to Section V of the Subdivision Regulations and said that is the checklist and discusses the various items that are required from the checklist. He suggested adding the item about 5 sets and the 11x17 copies there. Mr. Davies suggested making this item 16 in Section V, Paragraph A of the Subdivision Regulations. He said it would include the 5 large copies and 11 copies of the 11x17 size. Ms. Annis said this has been added in one of her suggestions in the following

section about "checklist update." After a short discussion, it was agreed that the placement of these items would be covered under the "checklist update" section.

5. CHECKLIST UPDATE – BARBARA ANNIS

Ms. Annis referred to the papers titled Site Plan – Page 3 & 4 Application Requirements which was paragraph A reprinted from the Site Plan Regulations, Part III, Application Requirements, with suggested changes. The following is what was agreed to for the changes (with the additions being underlined and the deletions lined through):

A. Projects not requiring additional buildings or changes to the exterior dimensions of existing buildings shall submit the following:

1. Completed Application for Site Plan Review and include completed copy of the Application Requirements List at the end of this document.
2. List of current names and addresses of all abutters, and use of abutting properties, identified with location of the structures thereon including access roads and abutters keyed on plan.
3. Fees as set by the Planning Board.
4. Site Plan:
 - a. Sheet size 22" x 34" ~~27" x 23"~~ maximum
 - b. Scale not less than 1"=100'
 - c. Match lines when needed
 - d. ~~Three~~ Five (5) prints of each plan sheet (blue or black ink) 22" x 34" and 11 copies 11" x 17"
 - e. Date, title, scale, north arrow, location map, legend
 - f. Name and address of developer, designer/engineer if required and owner(s) of record
 - g. All existing and proposed easements
 - h. Drawing of site showing boundaries, existing natural features including water courses and water bodies, trees and other vegetation, topographical features, any other features that should be considered in the site design process
 - i. Plan of all buildings with their type, size and location (set backs)
 - j. Location of off-street parking and loading spaces with a layout of the parking indicated
 - k. The location, width, curbing and type of access ways and egress ways (driveways), plus streets and sidewalks within and around site
 - l. The type and location of solid waste disposal facilities (compactors, dumpsters, etc.)
 - m. The location, size and design of proposed signs and other advertising or instructional devices
 - n. The location and type of lighting for all outdoor facilities, including direction and are of illumination
 - o. Right-of-way lines of all existing adjoining streets
 - p. Water supply and sewage disposal facilities
 - q. The zoning districts and boundaries for the site and within 1,000 feet of the site, and
 - r. One hundred year flood elevation line, where applicable.
5. An elevation view or photograph (or rendering) of all buildings indicating their height, width and surface treatment.
6. Landscaping plan showing required details described within these regulations.
7. Copy of the deed, easements or right-of-ways.

- 7-8. Any other exhibits or data that the Planning Board may require in order to adequately evaluate the proposed development for Site Review including but not limited to any state or local permits (driveway, drainage, etc.), prior variances, special exceptions, etc.

It was agreed that this page will be reprinted with lines for checking off beside each item and added at the end of the document to replace the current Site Plan Review Checklist, noting that it has been copied from this section of the Site Plan Review Regulations.

The Application Requirements List will be attached at the end as follows:

Application Requirements (reprinted from III. Application Requirements, Paragraph A)

1. Completed Application for Site Plan Review and include copy of the Application Requirements at the end of this document.
2. List of current names and addresses of all abutters, and use of abutting properties, identified with location of the structures thereon including access roads and abutters keyed on plan.
3. Fees as set by the Planning Board.
4. Site Plan:
 - a. Sheet size 22" x 34" ~~27" x 23"~~ maximum
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 - e. Date, title, scale, north arrow, location map, legend
 - f. Name and address of developer, designer/engineer if required and owner(s) of record
 - g. All existing and proposed easements
 - h. Drawing of site showing boundaries, existing natural features including water courses and water bodies, trees and other vegetation, topographical features, any other features that should be considered in the site design process
 - i. Plan of all buildings with their type, size and location (set backs)
 - j. Location of off-street parking and loading spaces with a layout of the parking indicated
 - k. The location, width, curbing and type of access ways and egress ways (driveways), plus streets and sidewalks within and around site
 - l. The type and location of solid waste disposal facilities (compactors, dumpsters, etc.)
 - m. The location, size and design of proposed signs and other advertising or instructional devices
 - n. The location and type of lighting for all outdoor facilities, including direction and are of illumination
 - o. Right-of-way lines of all existing adjoining streets
 - p. Water supply and sewage disposal facilities
 - q. The zoning districts and boundaries for the site and within 1,000 feet of the site, and
 - r. One hundred year flood elevation line, where applicable.
5. An elevation view or photograph (or rendering) of all buildings indicating their height, width and surface treatment.
6. Landscaping plan showing required details described within these regulations.
7. Copy of the deed, easements or right-of-ways.

- 7-8. Any other exhibits or data that the Planning Board may require in order to adequately evaluate the proposed development for Site Review including but not limited to any state or local permits (driveway, drainage, etc.), prior variances, special exceptions, etc.

Next, Ms. Annis addressed possible changes to the Site Plan Regulations. Some of them have been included above in the checklist discussion. She suggested changing the Review Procedures in Section V, page 5, number 2, to read:

Five (5) copies of plans ~~which~~ shall include . . .

Next, on pages 18 and 19, Section IX, B. Parking Lot Design Requirements. She suggested deleting the Location section in paragraph 1 and replacing it. After some discussion, the following wording was agreed to be added in place of the current Location paragraph:

1. Location: Parking lots shall be determined by the Planning Board on the basis of the business located within the buildings.

It was agreed to delete the Designs and their descriptions as not desirable, better or preferred.

On page 27, Paragraph B, #4, it was agreed to change it to the following:

4. It is encouraged that buildings be located toward the front of the lot.

Ms. Annis said it was getting late and asked if the Board wanted to continue tonight or postpone to another night. It was agreed to postpone the remainder to another night.

6. MINUTES

Mr. Hartman MOVED to approve the July 6, 2009 meeting minutes. Mr. Mical seconded. Mr. Hartman asked if the Local Government Center has responded to the question on the wording of the Warrant articles. Ms. Lightfoot said no and she would follow-up with them. There was no further discussion. The motion was PASSED.

Mr. Mical MOVED to approve the July 20, 2009 work session minutes. Mr. Hartman seconded. There was no discussion. The motion was PASSED.

7. COMMUNICATIONS AND MISCELLANEOUS

Ms. Annis said that the work session on August 17 will be very busy. She said that Clyde Carson will be back for the Energy Committee discussion and Vanessa Bittermann will be attending in regard to the Master Plan, in addition to the Zoning and Regulation items that have been scheduled.

There was a short discussion about the Work Force Housing meeting that was held in Bradford. Ms. Annis said that Mr. Violette thinks that we must get something on the books by January 1. Mr. Davies said that his goal is to have something that can be discussed by mid-September. Ms. Annis asked if there was a suggestion from Ben Frost on how to deal with easements and Mt. Kearsarge. There was no firm agreement on what the final suggestion was – to include it or not – or to do an overlay – or to make a new district. Mr. Hartman said that currently the Town zones the entire town as residential, even though there are public lands. Mr. Mical asked if there has been anything back on the conditional approvals that were made recently. Ms. Lightfoot said no. He said he thought a letter should be written to them to follow up.

Mr. Hartman MOVED to adjourn. Mr. Watts seconded. The motion was PASSED. The meeting was adjourned at 10:05 p.m.