

**Town of Warner – Planning Board  
Work Session Minutes  
Monday, August 17, 2009 7:00 PM  
Warner Town Hall, Lower Level**

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

**Also in attendance:** Vanessa Bittermann, Ruairi O'Mahony and Evan Aird from Central NH Regional Planning Commission and Master Plan Committee Member, Jim McLaughlin

**Open Meeting at 7:00 PM**  
**Roll Call**

Ms. Annis opened the meeting at 7:00 p.m. The roll call was taken. Mr. Hartman and Mr. Watts arrived before 7:05 p.m.

**1. ENERGY COMMITTEE – HANK DUHAMEL, CLYDE CARSON**

Mr. Carson had a time conflict so asked to meet at the next work session.

**2. MASTER PLAN COMMITTEE**

Mr. Violette asked Ms. Bittermann to proceed. Ms. Bittermann introduced Mr. O'Mahony and Mr. Aird who will be working on the Transportation Chapter. Mr. O'Mahony spent some reviewing the types of things that they would like to cover in the chapter on Transportation and explaining that they are new to the area and need to work closely with the townspeople on the plan. He read the working goal for the chapter as follows:

To promote the improvement of public roads in Warner; encourage a system of transportation that will meet the mobility needs of all local residents by providing for the efficient movement of people, goods and services within Warner and throughout the region; maintain a commitment to the rural and historic character of the community; and provide a well-maintained and safe transportation system that meets the functional and aesthetic needs of the community, in a cost-effective manner.

He reviewed some of the progress to date: Introduction/Context; Community Survey; Definitions; Existing Conditions; Safe Routes to Schools and Transportation Enhancement Applications Reviewed; Access Management Study for NH103 and Design Charrette reviewed.

He said that he and Mr. Aird had been trying to meet with Allan Brown about the roads, and Mr. Mical later agreed to contact Mr. Brown to set up a meeting with him. He said that their goal tonight is to get a feel from the Board as to what issues they believe should be covered and what areas he and Mr. Aird should pay particular attention to.

There was a discussion of resources regarding roads that the Board members could assist in providing to Mr. O'Mahony and Mr. Aird. In particular, there was a plan made to provide the latest road map that has been prepared by Allan Brown and Richard Cutting. There was also a discussion about population estimates and attempts to get as up-to-date data as possible for population. There was also a discussion about the volume

of traffic that travels on I-89 and how that was proven when I-89 north was closed down for a number of days a couple of weeks ago. Other topics discussed included the downtown area of Warner, traffic around Exit 9 and Market Basket Plaza, extension of sidewalks, making roads more pedestrian and bicyclist friendly, a possible escape route from upper Kearsarge Mountain Road, and State aid for local transportation. In particular, Mr. Hartman requested that a paragraph be added to the Master Plan chapter that State aid for local transportation be allocated to the towns and Mr. O'Mahony agreed that it would be appropriate to add such a paragraph. The discussion about traffic problems when I-89 may be closed and the need to have a way to coordinate with the State when this happens.

There was no further discussion. Mr. O'Mahony said the next step is to get together with Allan Brown and Richard Cutting. Then, he said, for the next session they will have some documentation about the roads and it will, hopefully, be provided a week beforehand so the members can review it. Mr. Aird and Mr. O'Mahony thanked the Board and departed.

Mr. Violette recognized Vanessa Bittermann in order to discuss the housing chapter for the Master Plan. Ms. Bittermann provided a summary of the working goals for the chapter as follows:

- To summarize current housing supply and demographic information on Warner and surrounding areas.
- To present projections and needs for housing units in future decades
- To discuss workforce and senior housing needs
- To discuss land availability and identify preferred areas for future residential development
- To generate recommendations for implementing housing goals, particularly the encouragement of workforce housing development

Mr. Violette said that a number of the Board members attended the workforce housing session in Bradford and learned a lot and they understand that it must be addressed by the first of January. He asked Ms. Bittermann to talk about some of the workforce housing issues that should be considered. Ms. Bittermann said that they are working on a template for a regulatory audit that could be applied to the town's regulations and would address impediments that exist to the workforce housing law requirements. She said that this should be completed sometime in the next few weeks. She added that there would not need to be extra funding for this for Warner because it would be folded into the Master Plan activities. She explained that the law has codified a court case that has been in force since 1991. She said that it gives towns some flexibility in how they comply with the law which generally says that towns have to be providing a reasonable and realistic opportunity for the development of workforce housing. She said that there are definitions in the law of what affordable means and it is based on a number of statistics for the area. She said that one way that is possible is to create an overlay district which would include the areas where the town would like to see workforce housing developed. She said that in those areas, there would be certain flexibilities allowed for developers who are constructing workforce housing projects. Some of those might be certain loosening of zoning restrictions or subdivision regulations to assist them in lowering the cost of development. Another option she said would be inclusionary zoning which would be a voluntary measure where the developer could incorporate some affordable units with other types of units in a development and they would get some kind of incentive for this. She pointed out that when "fair share" is discussed in the law, it only applies if the town is sued by a developer for what they feel is an impediment to a workforce housing plan. She said it can only be used as a defense and it would be up to the courts to decide. Mr. Davies said that in that case it may be worth having something in place in the ordinance to protect against this type of claim. Mr. Violette asked what the town should do now to be sure they are in compliance. Ms. Bittermann recommended that the town wait until the results of the regulatory audit to be sure that there are no specific hindrances in the Ordinances and regulations, and if there are, then they would need to be corrected. Then, she recommended drafting an article to cover workforce housing. She said that crafting some kind of ordinance, whether by creating an overlay district or something else, allows the town to have more control over where workforce housing is developed in town. There was a long discussion about various ideas and ways that Warner could address their responsibility under the new law.

Mr. Davies said that he hopes to have two draft proposals on workforce housing prepared for the next meeting and it will be sent out with the packets for the Board's consideration. There will be one with an overlay scenario and one without. Ms. Annis said that she would support doing just the minimum that was necessary this year to comply with the law and then plan to spend more time looking at it in depth next year and make it more detailed then.

Mr. McLaughlin said that the Building Committee dealing with the Martin Building has concluded that the best use will be for workforce housing. He said that there is Federal funding available for that type of housing. He said they are hoping to have letters of interest by the end of August from potential developers. He said the plan would be for 12 units and that would add to the inventory of workforce housing in town.

Ms. Annis asked if Ms. Bittermann had any more information for the Board. Ms. Bittermann said the next steps would be to do the regulatory audit. Mr. Davies said he would send a copy of his draft on workforce housing to Ms. Bittermann and to the Planning Board by the end of August.

Ms. Annis said that the agenda for the work session on September 21 is quite full, so it was agreed that Ms. Bittermann would come at 8:15 on that night to continue the Master Plan discussions. She thanked the Board and departed.

### **3. ZONING ORDINANCE CONSIDERATIONS**

Ms. Annis said that there was not time to do all the various Zoning updates scheduled for tonight. Mr. Davies asked to run through the ones that he had provided in five minutes.

#### Proposed Changes from Zoning Board re: Area and Use Variances – Rick Davies

Mr. Davies reported that the Zoning Board has decided to consider this after some other more professional wording has come out perhaps from the Local Government Center. He said that the target date for action by the Zoning Board is its October meeting. So, there is nothing for the Planning Board to work on for this which is merely as a result of a change in the RSA which has combined area and use variances so the definition of hardship for both is the same. The wording that he has submitted follows:

NH Senate Bill 147, RSA 674:33 regarding variances was changed effective January 2010.

Suggested revision to Article XVII paragraph D are as follows:

- D. Granting of Variances: Upon appeal, the Board may grant a variance from the terms of this Ordinance for a particular use, a parcel of land, an existing building, or a proposed building pursuant to RSA 674:33, as may be amended.
  - a) The Board may grant a Variance from this Ordinance only after the applicant has demonstrated to the Board all of the following. Each of the following conditions must be found in order for a Variance to be legally granted, as confirmed in writing by the Board. All five Variance criteria must be met for the Variance to be granted:
    - 1. Granting the variance will not be contrary to the public interest.
    - 2. Granting the variance would not be contrary to the spirit of the ordinance.
    - 3. Granting the variance, substantial justice is done.
    - 4. Granting the variance the values of surrounding properties are not diminished.
    - 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

- A. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
  - i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
  - ii. The proposed use is a reasonable one.
- B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

It was agreed to wait until the Zoning Board has acted on this issue.

Ms. Annis asked if there was any additional items that the Board wished to discuss. Mr. Davies asked for sometime to introduce his document on measurable incentives. The Board agreed.

Measurable Incentives – Rick Davies

Mr. Davies said that this was based on the height and area proposals that Mr. Violette introduced a few weeks ago. He said his intent was to attempt to “soften” the proposal and still get at the intent. He read through his proposal as follows:

**The bases of some suggestions below are the heights and areas in the DRAFT presented last month and are suggested for the purpose of promoting discussions. It is too early to consider these “proposed”.**

*The intent of the following is to provide voters with some assurance that mass of larger buildings will be provided with some character which will soften their bulk.*

1. Suggestion for Article IV

- I. Height Regulation: No structure shall exceed 35 feet in height unless approved by the Board of Adjustment or 45 feet for buildings which meet the criteria set forth in Section J. The Board may ... (remainder the same) (note that all subsequent sections would need renumbering)
- J. For additional building height over 35’ each of the following shall be met to increase the average building to a maximum of 45’ average. The intent is to soften the bulk/mass created by a larger building. (there is some duplication for discussion purposes)
  - 1. Building shall be in C-1 or C-2 District
  - 2. Side, front, rear yard setback shall increase (2) feet for each (1) foot height increase.
  - 3. For buildings with pitched roof greater than a 6 in12 pitch for over 50% of the building footprint, the height of building shall be calculated at the point the average

- height between lowest drip edge to the roof ridge line, both taken on the highest roof system on the building
4. The building shall have two distinctly different roof lines and roof pitch orientation. One shall be 6 in 12 or steeper
  5. Flat roof is allowed for up to 30% of the building footprint with full screening of mechanical equipment. Buildings within 1000 feet of a residential district shall have acoustical baffle screening.
  6. For buildings over 40,000 gross SF there shall be a minimum of three roof pitches with two roof pitch directions perpendicular to the other two. Shift the roof ridge elevation a minimum of 3 locations, each at least 15% of the building footprint area.
  7. Buildings shall have a minimum of 12,500 square foot footprint.
  8. Provide different building cladding material type for the first 15' for height (such as brick on the lower and clap boards and trim above. An alternate is to provide a prominent 2' deep projected cornice at the 15' high elevation to architecturally breakup the building mass.(see illustrations)
  9. 75% of the exterior vertical area shall be clapboard siding with 5/4" minimum corner boards, 10" water table, 6" frieze board, prominent window header, minimum 12" rake and 18" eave projection, 12" and 4" fascia. Double hung windows are required for 80% of window area. Brick or stone may be a substitute for siding.
  10. The highest roof system shall have all mechanical equipment totally enclosed within the building.
  11. 100% Screening shall be required for all equipment
2. Facades – above roof line – (maintain existing special exception wording per item I at this time)
    - i. Possible incentives related to % of area and a maximum height
  3. Suggestion - Article XI Item F add criteria for building area increase for C-1 (*leave existing F as-is and add to it*)
    - F. For a building up to 40,000 SF all of the following shall be met
      - i. Minimum of one building footprint offset (jogs) for the greatest of 25% of the building length or 50% of the width. Offsets shall be progressive and visible from all sides.
      - ii. Max 20,000 SF footprint
      - iii. 50% of roof area shall be a pitched roof of at least 6/12
      - iv. Up to 20,000 SF of additional floor gross area is allowed by incorporating the additional area into the pitched roof utilizing dormers for up to 40% of the additional horizontal area
      - v. Provide 70% of parking to the side or rear of the building
      - vi. Vary public elevation(s) appearance. Screen all mechanical equipment.
    - G. For a building up to 80,000 SF all of the following shall be met
      - i. Max 40,000 SF footprint
      - ii. Increase all building setbacks by 50%.

- iii. Provide a minimum of two building footprint offsets for the greatest of 25% of the building length or 50% of the width. Offsets shall be progressive and visible from all sides.
  - iv. 50% of roof area shall be a pitched roof of at least 6/12
  - v. Provide landscape trees at all offset intersections
  - vi. Provide 80% of parking to the side or rear of the building
  - vii. Increase landscape area by 1% for every 1,000 SF over 40,000 SF. Provide some screening.
  - viii. Vary public elevation(s) appearance. Screen all mechanical equipment.
- J. Suggestion - if C-2 is created
- i. For up to 40,000 SF – similar to above for C-1 but with 10% offsets, 30,000 SF max footprint, minimum of 15% pitched roof near front of building,
  - ii. For up to 80,000 SF – similar to above for C-1 but with 10% offsets, 60,000 SF max footprint, minimum of 10% pitched roof near front on building
  - iii. For up to 120,000 SF- similar to above for 80,000 SF in C-1 but also include:
    - 1. Increase front setback to 100 feet and side and back setbacks increase by 50%.
    - 2. Increase planting to include screen of two rows of staggered fir trees minimum 12' tall at 15 feet on center
    - 3. Vary public elevation(s) appearance
    - 4. Offset footprint at front and sides twice for 5% of largest dimension. This is not required to be progressive so can produce an in and out effect.
4. Suggestion for Article X item F - Area increase in B-1 to from 2000 SF to 6000 SF
- A. Provide additional public parking – 2 spaces minimum available to the public for each additional 2000 SF
  - B. Roof shall have a minimum of 6 in12 pitch with Architectural grade shingle emulating slate.
  - C. Historical review of design features – (by whom?)
  - D. 75% of the exterior vertical area shall be clapboard siding with 5/4" minimum corner boards, 10" water table, 6" frieze board, prominent window header, minimum 12" rake and 18" eave projection, 12" and 4" fascia. Double hung windows are required for 80% of window area. Brick or stone may be a substitute for siding.
  - E. Lighting per LEED requirements <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=1970>
5. Suggestion for Multiple Buildings on one lot:
- A. For commercial buildings in C-1, C-2 (Article XI F)
    - i. Maximum of 4 buildings
    - ii. Minimum size is 10,000 SF in C-1 and 20,000 SF in C-2
    - iii. 100 feet minimum building separation
    - iv. Sidewalks connecting buildings
  - B. In R-1, R-2 for Multi-Family Development (Article IV K):
    - i. Lot shall have 5 buildable acres per building *–(each building is limited to 4 dwelling units)*

- ii. There shall be a minimum of 100 feet of building separation
  - iii. Minimum landscape fir tree separation (similar to 10' in Regulations)
  - iv. Sidewalks shall be provided connecting buildings
6. Suggestion - R-3 District – Article VII.C.1 add to end of first sentence: unless the lot is served by a municipal water and sewer system in which case the frontage shall not be less than one hundred and thirty feet (150') and the minimum Buildable Area shall not be less than (60,000) square feet.

Suggestions for Use Table relative to Special Exceptions:

- 1. Special Exception:
  - a. Additional criteria to simplify acceptance of certain uses. TBD (ran out of time)
  - b. Intent is to make it easier for developers and ZBA to determine acceptable proposals
- 2. Use Tables page 34:
  - a. Community Facilities:
    - 1. #10 & 11 (Hospital, nursing, rest or convalescent home) – consider “S” in R-1
    - 2. How do #10 & 11 differ from Retail & Services #23 Adult Sheltered Care Facility
- 3. Suggest having a discussion on Building Size to determine logical size for:
  - a. Retail & Services:
    - 1. #7 - Hotel & Motels
    - 2. #9 - Personal & consumer service establishment
    - 3. #13 - Professional & Business offices & services
    - 4. #20 – Other amusement and recreation service, indoor
  - b. Wholesale, Transportation & Industrial:
    - 1. #5 – Wholesale trade & distribution
    - 2. #7 - Research and Development offices or establishments
    - 3. #9 - Light Industrial Firm

Ms. Annis added that she had researched high tunnels, yurts and tents for the Use Tables because the Selectmen are looking into those.

Mr. Davies asked about timing for the different issues that have been researched. Ms. Annis said that the September 21 work session is scheduled to be the CIP and Master Plan. So, she said, it's going to be October and November it will have to be honing in on what has been presented so far. She said there has to be a public hearing no later than December. She said that some may have to be postponed for a whole year. Mr. Davies said he had counted the potential changes and arrived at 17, some of which are from last year. Mr. Violette said that the Board also needs to discuss how to word things better for the ballot for this year. He referred to the opinion that had come from the Local Government Center and said that it needs to be discussed. Mr. Hartman said that the attorney's recommendation is to repeal the local Building Code in its entirety and adopt modifications. He said these things could be done. Mr. Davies said that we could word things differently. There was a short discussion about the Building Code and it was agreed that it would have to be one question: repeal and replace with the new code. It was also agreed that if it were repealed, then the State code would govern and that would be what the Selectmen would enforce.

Mr. Watts MOVED to adjourn the meeting. Mr. Violette seconded. The motion was PASSED unanimously. The meeting was adjourned at 9:10 p.m.