



TOWN OF WARNER

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Zoning Board of Adjustment
Minutes of May 14, 2025

ROLL CALL

Board Member	Present	Absent
Sam Carr (Alternate)	✓	
Jan Gugliotti	✓	
Beverley Howe	✓	
Barbara Marty (Chair)	✓	
Lucinda McQueen	✓	
Derek Narducci (Vice Chair)	✓	
James Zablocki (Alternate)	✓	

The Chair opened the meeting at 7:00 PM and asked if any ZBA member had a conflict of interest regarding tonight’s agenda? No one indicated a conflict of interest. The Chair outlined the order of business for the meeting. The Board will review the application, open the hearing, hear from the applicant and ask questions, open the public hearing to hear from all interested parties, and close the public hearing.

NEW BUSINESS CONTINUATION OF APPLICATIONS AND PUBLIC HEARINGS ON:

A. Application for a Special Exception

Case: 2025-1

Applicant: Concord Area Trust for Community Housing (CATCH)

Owner: Comet, LLC

Address: Route 103

Parcel: Map:35, Lot:4-3

District: C-1, Intervale

Description: Application to construct a 48-unit multi-family workforce housing development in the C-1, Intervale district. Article XIV-A and TABLE-1 Use Regulations RESIDENTIAL #6

Tom Furtado (CEO CATCH) introduced himself and explained what CATCH does. He introduced Jeff Christenson (Attorney), Alex Panagiotakos (COO with CATCH) and Ben Osgood (Ranger Engineering). Tom Furtado stated they are proposing a single building that has 3 stories in the front and 4 stories in the back containing 48 residential apartments (1, 2 and 3 bedrooms). He stated that they use the term affordable housing they are referring to the affordability as regulated by HUD. He stated that there are compliance and restrictions that they must adhere to. Tom Furtado stated that the project needs to be affordable for a minimum of 60 years and there will be a land use restriction on the title of the property. Jeff Christenson stated the property is 13.8 acres. He stated that workforce housing is permitted in this district by special exception. He stated that they are seeking a variance for the front setback. He explained that in 2022 there was a similar project proposed but it included a mixture of market rate and workforce housing. He stated that the Planning Board at that time took the position that a mixed property was not permissible under the zoning ordinance. Jeff Christenson stated this project is entirely workforce housing. Jeff Christenson explained that they are requesting a variance to reduce the setback requirements under Article XI C1, B. He explained the Board is allowed to grant the variance under certain circumstances. He noted that the project does not meet one of the criteria. He stated that one of the criteria is that the parking area has combined access with abutting property. He stated that the Planning Board had specifically asked that they not do that.

The Chair asked for clarification on the applicants request that the ZBA approve a statement of facts. Jeff Christenson explained that the recent change in the state law requires zoning boards to adopt a statement of facts and a statement of law when they make a decision. He advised the Board that as a convenience, they have tailored the application to provide a statement of facts that the ZBA could approve.

Jeff Christenson spoke to the request for special exception to create workforce housing on this property has three elements. He explained the proposal needs to be essential or desirable to the public convenience or welfare in Warner. He stated that Warner needs affordable workforce housing as recognized in the Master Plan. He advised the Board that Mr. Furtado spoke to the superintendent of the Kearsarge School District who indicated that there were teachers who the school district attempted to hire but affordable housing was an issue. Jeff Christenson stated that the proposed project does not change the character of the area.

Jan Gugliotti asked what the boundaries of the area are that will maintain the integrity (just the abutters or the whole town)? Jeff Christenson stated that it would be somewhere between the two. He stated that the term area is not defined in the ordinance he assured that it would go beyond the immediate abutters. Jan Gugliotti disagreed stating that Warner has the character of an old town and a 48-unit apartment building does not fit into that character. Jeff Christenson acknowledged that it is a determination that the ZBA must make. She questioned the reasoning for the number of units proposed. He explained that this proposal is for 48 units because that is the number that makes the project financially viable. Tom Furtado stated that the HUD requirements are for 45-55 units to work under the low-income housing tax credit program.

There was a discussion regarding the term workforce housing. Tom Furtado and Jeff Christenson explained that term is used in the law, but employment is not a requirement. Tom Furtado stated that income is the only criteria. He explained that a single renter can only make between \$43,400 and \$49,600. He explained that New Hampshire Housing audits them for compliance under the HUD guidelines.

Beverley Howe asked if there will be on site management of the property. Mr. Furtado explained that CATCH is the property manager, but they are not on site. Tom Furtado explained the stringent HUD requirements that are verified.

Beverley Howe asked for clarification on the building dimensions and the number stories. She stated that Warner typically has very few people looking for housing. Mr. Furtado explained that NH Housing has indicated that Warner is in dire need of affordable housing.

The Chair asked for further clarification of the income requirements. Tom Furtado advised that a two-person household can earn between \$52,100 and \$59,520. Rent for a single person earning between \$43,400 and \$49,600 one bedroom is \$1,162 – 1,674 and the rent for a two-bedroom unit is \$1,395 - \$1,674.

B. Application for a Variance

Case: 2025-2

Applicant: Concord Area Trust for Community Housing (CATCH)

Owner: Comet, LLC

Address: Route 103

Parcel: Map:35, Lot:4-3

District: C-1, Intervale

Description: Application to allow construction of a building 20' from the edge of the public right of way where 40' is required in the district. ARTICLE XI Provision C. Frontage, lot, and yard requirements.

Jeff Christensen spoke about the request for the variance. He stated that normally a variance would be unnecessary because there is a provision in the zoning ordinance that would allow this reduction of the

setback, but the Planning Board has asked that the parking area be in the rear or on the side of the building not in the front. He explained that the Planning Board's request relating to the parking location causes the need for a variance because the parking area will not allow access to the adjoining property (Dunkin Donuts). He reiterated that they are requesting a variance to reduce the setback without requiring them to have a shared driveway with Dunkin Donuts. The Chair asked for clarification the language "as determined by the Planning Board" as it relates to the siting and orientation of the building. Jeff Christensen referred to the Zoning Ordinance Article XI C-3. The Chair asked what the grade of the proposed driveway is from the road. Jeff Christensen estimated 8.5% feet.

Beverley Howe asked where the school bus stop would be for any children that live at the property. Tom Furtado stated that is not something that they have any control of. The Chair confirmed and noted that it is not a determination made by the ZBA. There was a discussion about the possibility of a playground. Jeff Christenson stated that the reason for the variance is because of the shape and configuration of the lot. The lot is limited to the layout of the building and parking lot. He stated that there are 60 proposed parking spaces which they believe is adequate. Tom Furtado explained that before the final design there will be done to determine how many 3-bedroom apartments are needed. Jeff Christenson explained that most CATCH renters are retired people or single parents who typically own one vehicle. He stated that they have options to configure additional parking spots.

Jeff Christenson reiterated that this project is beneficial to Warner as it helps fill Warner's need for housing. He stated that the Master Plan calls for additional housing and the State has determined that Warner and the surrounding area need workforce housing. He explained that whether the building is 20 feet or 40 feet back from the road will not impact traffic or crowding other properties. He stated that it will not have a health or safety concerns. Jeff Christenson stated the building does comply with the height restrictions of the zoning ordinance. He stated that the project will not impact the character of the non-rural area where there is a Market Basket, Liquor Store and a McDonalds. He explained the purpose of the C1 district in the zoning ordinance was in part to encourage growth close to the highway preserving the rest of Warner. Jeff Christenson questioned whether there is a significant benefit to the Town that outweighs the difficulties to the applicant by forcing the building to be 40 feet back from the road instead of 20 feet as they are requesting. He stated that the surrounding properties values will not be diminished. Jeff Christenson explained that the zoning ordinance acknowledges that having a reduced setback is often reasonable and empowers the Planning Board to allow it. He reiterated that the Planning Board specifically requested not to conjoin the access with the Dunkin Donuts next door. The Chair stated that the parking lot at Dunkin Donuts is not conducive to having another access. Jeff Christenson explained this is a beneficial use and the variance is required to enable this project to go forward. He stated that workforce housing is allowed in this district and a reasonable use for this property.

The Chair opened the floor for input from the abutters. Nancy Martin Chair of the Conservation Commission stated that the Conservation Commission is concerned that with the lack of space for children to play on the property the conservation easement will be violated. She envisions that it will not take long for there to be a hole in the fence that will give access to the river and the river beach in that area. Nancy Martin explained that the conservation easement is strictly worded to protect the easement and the Warner River.

The Chair opened the floor for public comment. Bob Bower stated that he disagrees with the applicant's statement that the 48 units will answer the workforce housing needs in Warner. He explained that Warner has done a better job than surrounding communities at addressing low income and workforce housing. He stated that the Town is being asked to supply housing for the I-89 corridor. Bob Bower stated that none of the businesses in the area are paying their employees a living wage (26.80/hr), he expressed concern that the renters would face the inability to pay rent if something came up. Bob Bower suggested that rather than

saying this will answer the housing needs in Warner, it will help the State of NH cover up the disparities of wealth inequities that exist in our society. He stated that this will enhance something that is not being addressed.

Ed Mical Emergency Management Director provided copies of the Flood Plain Map to the Board and to the applicant. He explained that their new Flood Plain maps are currently under the 90-day review process. He stated that the Warner River is protected, and the easement is 11.2 acres. Ed Mical stated there is only a small upper portion of the lot that the building could be built on. He cautioned that some of the 2.6 acres that is buildable could be in the flood plain according to the new preliminary maps.

Andy Bodnarik of Runels Loop asked where Warner stands regarding how much of the town's acreage already includes workforce housing. He addressed the economic viability of the project. He stated that economic viability is not guaranteed because you build twice as many units. Andy Bodnarik stated that due to the increase in prices the economic viability is worse now than it was previously. He stated that there has not been a recent traffic control study done to indicate the impact of this project on the immediate area. He stated that there was a proposed hotel in the area and an approved strip mall on the other side of Dunkin Donuts. Andy Bodnarik stated that he has concerns regarding the impacts on the Warner River, wetlands, endangered species and the floodplain. He asserts that there needs to be a new study by a biologist to conduct an ecological assessment on this site. Andy Bodnarik expressed concern regarding fire suppression, he would like to hear from the Warner Fire Chief. He spoke about the public safety relating to the increase in traffic in the vicinity of the roundabout. He addressed the traffic impact on the wildlife. Andy Bodnarik spoke about the drainage impact and impact to the drainage pond in the area. He stated that the fire suppression issue is not just the ability of the fire trucks to get to the site, its ability to access all around the site without causing other hazards. Andy Bodnarik stated that the buildable acreage is approximately 2.6 acres of a 13-acre parcel. He stated that ZBA can control placing conditions on modifications on the external building, limiting the lot coverage for permeable services. He stated that the ZBA can request studies on the impact on traffic, municipal services, and noise/air/water quality. He stated the ZBA can limit the number of occupants. Andy Bodnarik would like the following conditions of approval to be included; the total number of units to be no more than 24 units, require professional and technical studies to monitor compliance and to verify impacts caused by the project (municipal services, traffic, public safety, noise, air quality and water quality). Andy Bodnarik explained that by reducing the number of units from 48 to 24 the need for a variance is eliminated.

A resident from North Road spoke about the significant traffic impact this project will bring to the area.

Ed Mical Pumpkin Hill Road stated this is a government program and the property taxes will be established by a set fee. He stated that the taxpayers will pick up the tab for increase in school and other tax impacts.

Paul Iverson Couchtown Road spoke about the town survey that asked Warner residents what type of housing they wanted to see in town. He stated the survey results show that the majority of respondents want rural housing. He stated that Warner does not want this type of building, and they want to maintain the 40-foot setback.

Anthony Wynands Pleasant Pond Road spoke about the owner of the property Quinn Limited Partnership owns property across the country. Tom Furtado explained that they are purchasing the property from the Quinn's if this project is approved and there is no partnership between CATCH and the current property owner (Quinn Limited Partnership). The Chair asked for clarification on when the property will be purchased. Tom Furtado explained that they have an agreement of purchase when they feel that the time is right based on approvals needed.

John McGilvray West Main Street stated that he understood that the building could not be built without taxpayer money. Tom Furtado explained how the federal low-income tax credit is applied and sold to

investors and turn that into equity for the project. John McGilvray stated that this is taxpayer subsidized housing.

Jeff Christensen stated that much of the concerns raised tonight would be the same if this project was a retail shop or a hotel. He cautioned comparing this project to an alternative development smaller in size. He explained that the Supreme Court has ruled that whether there is a different use the property could be used for is not something that a ZBA can consider when denying a variance. He stated the ZBA must consider this application on its own merits. Jeff Christensen cautioned against limiting the number of units to only 24 and comparing it to a previous application. He stressed there is a reason the previously proposed project is not there. He stated the previous 24-unit proposal did not meet requirements in the zoning ordinance. The Chair clarified that the case was in housing court to fight the decision but in the interim they found out that they were not going to secure funding. Jeff Christensen agreed because the mixed property 24 units could not get funding, making it financially infeasible. He explained that the CATCH proposal does comply with the zoning ordinance. He stressed that this is the way it must be structured to comply with the federal program.

Jeff Christensen addressed the comment that this is a government building that would not be subjected to property taxes. He explained that this property will pay taxes like any other taxpayer. Tom Furtado stressed that this property will not be tax exempt. Jeff Christensen stated that additional students will bring in additional state funding.

Tom Furtado stated that he has spoken to the Warner Fire Chief who did not have an issue with the project. He explained that he spoke to the Hopkinton Fire Chief because there was a concern regarding the height of the building and Hopkinton provides the ladder truck.

Jeff Christensen explained that both the Warner Planning Board and the Department of Transportation (DOT) will be evaluating traffic impacts, the location and design of the driveway. He advised the Board that the Institute of Transportation Engineering suggests that this property would have approximately 192 vehicle trips per day and morning rush hour would see 25 and the afternoon would see 27. He stated that if this property was not used for workforce housing the numbers would be much higher at approximately 55 vehicle trips during rush hour. He stated that the Dunkin Donuts next door averages between 249 to 477 vehicle trips. Sam Carr asked for clarification on that statistic, because that would break down to 4-8 cars per minute. Jeff Christenson explained that the statistic is not based on that specific Dunkin Donuts. He explained that it is a hypothetical retail establishment that is used in the national traffic studies. He stated the only way to look at things like this is statistically. Beverley Howe voiced concern about the increase in pedestrians, noting there no sidewalks in the area. Jeff Christenson stated that the Planning Board may require sidewalks in the area. Tom Furtado stated they are not requesting the town install sidewalks.

Jeff Christenson explained that the project is proposed to be developed above the floodplain. He stated that this project is of no greater risk than a retail development. He advised the Board that this will go through the DES alteration of terrain permit process, and they will look at the floodplain, drainage, storm water, water treatment and endangered species.

The Chair stated that a previous meeting was halted because it was determined that there was the potential for regional impacts. The Board then requested input from Central Regional NH Planning (CNHRPC). The Chair stated that CRNHPC has indicated that a traffic study would be needed as well as the proximity to the shared aquifer and surface water/storm water study as part of the site plan review. The Chair explained that CRNHPC did not feel that the number of children would impact the school district in any significant way.

Tom Furtado stated that they will follow all conservation rules and regulations from a development stand point. He explained that he cannot make a statement pertaining to the possibility a child accessing the

conservation easement. Tom Furtado spoke to the need for traffic study assuring the Board that they will complete a traffic study as part of the Planning Board's review. Tom Furtado addressed that taxpayer funded statement. He explained that the federal tax credit program will be used and no other funding from the Town of Warner or the State of New Hampshire will be used.

Ginger Marsh of North Road expressed concern about the potential vehicle danger for children in the area being that there are no sidewalks.

The Chair recapped letters submitted to the ZBA;

- Alice Chamberlain expressing concern about the size of the proposed project, noise, traffic, parking and the building design.
- Mike Amaral stated in his letter that he feels that the hardship is self-created and the solution to the problem is of their own creation. He expressed concern regarding the aesthetics of the building, impact on wildlife in the area, lights and noise.
- Tony Esolen expressed concern about the traffic and impact on the small-town character of Warner.
- Steve Blevens expressed concern about the density of the proposed development, the strain on existing infrastructure and tax burden on services, negatively altering the character of the Town.

Nancy Martin spoke in defense of the Warner River. She feels that this project will significantly impact the conservation easement.

Jessica Esolen spoke about her concerns regarding the impact on the Police services and traffic. She is concerned about workforce housing in general from her past experiences related to safety issues.

The Chair closed the public hearing and opened the discussion to the Board.

Jan Gugliotti questioned if it would be appropriate to ask for a straw vote. The Chair asked the Board how they wanted to proceed. James Zablocki stated that for 26 years in the Master Plan this town has been discussing workforce housing. He stated that the Town has not done anything about that. He stated if not now, when? The Chair acknowledged that the Planning Board has discussed workforce housing, and the town survey did not support a project like this. She stated that the Board needs to decide on what is in front of them. James Zablocki stated that when the Board votes they will need to provide finding of facts. The Chair stated that it will take some time and she is not opposed to a continuation of their deliberations.

Jan Gugliotti made a motion seconded by Lucinda McQueen to continue deliberations until May 28, 2025, at 7:00 PM regarding the application for a special exception and a variance for Map 35 Lot 4-3. Roll Call Vote passed unanimously.

REVIEW MINUTES: April 9, 2025

Lucinda McQueen made a motion seconded by Beverley Howe to accept the minutes as presented. Motion Passed unanimously.

COMMUNICATIONS: Terminology, Pending Legislation

The Chair advised the Board that she spoke to the Town Administrator about finding a place to post applications and associated materials for the public to review. Chrissy inquired about having a designated posting place near her office. Chrissy will speak to the Town Administrator.

The Chair explained that going forward on the agenda under new business it will read application and public hearing to eliminate any confusion.

The Chair spoke about the multiple zoning regulations that are being considered on the state level. She encouraged the Board to write their state representatives if there is a matter that concerns them. Derek Narducci inquired if the ZBA members would consider reciting the Pledge of Allegiance at the start of each meeting. The Chair expressed concern for those who abstain as being painted as non-patriotic. She would like to avoid anything that could cause division. Sam Carr stated that it is a national symbol, and they are participating in a town capacity, so he feels it's not needed.

ADJOURN

Jan Gugliotti made a motion seconded by Beverley Howe to adjourn the meeting. Motion passed unanimously.

The meeting adjourned at TIME 9:56 AM

Respectfully submitted by Tracy Doherty