



TOWN OF WARNER
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Zoning Board of Adjustment

Wednesday, June 11, 2025 7:00 PM

Town Hall Lower Meeting Room

I. OPEN MEETING and ROLL CALL

The Chair called the meeting to order at 7:00 PM.

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 elevated Sam Carr to a voting member.

II. NEW BUSINESS: PUBLIC HEARING

A. Application for a Variance

Case: 2025-3

Applicant: Michael Carroll

Owner: Michael Carroll

Address: 290 North Village Road

Parcel: Map: 9, Lot: 21

District: OR1

Description: Requesting a variance to the setbacks in the OR district to build 36 feet from the northern boundary and 86 feet from the western boundary where 100 feet is required.

ARTICLE IX C. Frontage, lot and yard requirements 1.b.

The Chair asked if anyone has a conflict of interest with the Michael Carroll application. No conflict of interest was expressed. The Chair stated that she has a few questions on map discrepancies relating to acreage, location of building, and maps that are not to scale. Bev Howe asked where the new house would be located. Michael Carroll stated that it will be attached to the main house. He explained that the treehouse structure that is on the property now is a temporary structure that could be removed. The Chair explained the purpose of this discussion is to address the 4th criteria (setbacks) under non-conforming lots. The Chair explained that, in addition to ARTICLE IX C.1.b, this application also depends on the conditions set forth in ARTICLE XV Non-Conforming Use, A. Non-conforming lots.

Michael Carroll explained that he is proposing a 3-bedroom home with an attached breezeway leading to a 22x22 apartment. He acknowledged that the lot is tricky and non-conforming. He stated that the lot contains poorly drained soil. Michael Carroll stated that a state-approved septic design fits on the lot.

Michael Carroll stated that the building envelope is for 2 acres. He stated that he could fit the house in the building lot if it weren't for the wetlands and poorly draining soil and because of that, he is requesting setback relief. He explained that the area proposed is the only buildable area on the lot.

Criteria 1 the variance will not be contrary to the public interest. Michael Carroll explained that the house will be 30x84 with a 1-foot overhang. He stated that the home will be used by the owner. He stated it would be in the public's best interest to locate the house as far away from the wetlands as possible. The location on the building setbacks and wetlands on the property would make this property unbuildable. He stated that the variance would be in keeping with the neighborhood.

Criteria 2 the variance is consistent with the spirit of the ordinance. Michael Carroll explained that the proposal would be consistent with the zoning ordinance. He explained that the ordinance has this section for such a project that will enhance the area in which it is located. He stated that the Town of Warner Zoning Ordinance realizes that not all proposals will fit within the ordinance as written, and in this case the law was created prior to 1941.

Criteria 3 by granting the variance substantial justice is done. Michael Carroll stated that the proposed house will be in a location that will not diminish any property value and will be located in the area of the lot that has no abutting structures. The house will meet the front setback of 50 feet from the roadway where passing vehicles will not see it.

Criteria 4 by granting the variance the value of surrounding properties are not diminished. Michael Carroll advised the Board that the surrounding properties are not diminished. He explained that the surrounding properties and house lots with existing sheds and garages do not meet current zoning requirements. He stated this proposal would be in keeping with the neighborhood. He stated the proposed location will meet the front setback and will be located 100 feet from any structure.

Criteria 5 literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Michael Carroll explained that the hardship would be the location of the wetlands along the shape of the property that was created prior to 1941. The proposed use is a reasonable use because the neighborhood is all single-family homes closer than 100 feet from property lines and the house will be located in an area that will not be within 100 feet from any structure.

The Chair opened the discussion to questions from the Board. James Zablocki asked when the property was purchased. Michael Carroll answered that it was purchased in 2020. Jan Gugliotti asked for clarification on what abuts the western boundary. Michael Carroll stated the western boundary abuts the Town, further noting that three of the borders abut the Town. He explained that there is a small neighboring property that has wetlands and received a variance from the town to build their home.

The Chair opened the floor for public comment.

Andy Bodnarik stated the only question he had was about the buildable area and size of the lot, which had been addressed earlier.

No further public comment was given. The Chair closed the public comment and asked if the Board had any further questions or comments.

Jan Gugliotti asked if the applicant has plans to take down the existing tree house. Michael Carroll stated he would if he needed to. The Chair asked if DES came out to view the wetlands. Michael Carroll explained that the surveyor that did the septic design also has the wetland stamp, and they delineated the wetlands on the property. Lucinda McQueen asked if he would need to bring in soil. Michael Carroll

does not believe he will. James Zablocki asked for clarification on whether in today's ordinance this property is considered unbuildable. The Chair explained that the ordinance addresses a non-conforming lot. She read a portion of the ordinance "*Any lot with less buildable area or frontage than required in the district, which is lawfully established, recorded, and taxed as a Lot of Record before the enactment or amendment of this ordinance, shall be deemed a non-conforming lot. 2. Such lots may only be built on, for residential purposes*" if it meets the 4 criteria. The Chair explained that the applicant is requesting a variance for a specific number of feet. Michael Carroll concurred; he advised the Board that he has the support of both neighbors.

Jan Gugliotti made a motion seconded by Sam Carr to grant the Application for a Variance Case: 2025-3 for Michael Carroll to allow him to build his residence 36 feet from the northern boundary, 86 feet from the western boundary pursuant to ARTICLE IX C. Frontage, lot and yard requirements 1. b. and ARTICLE XV Non-Conforming Use, A. Non-Conforming Lots: 2.

Discussion on the motion: Jan Gugliotti explained that it does not appear that this will cause any harm. She stated that when he purchased the property he was acting in good faith with his intention to build on the property. The Chair noted that Jan's comments speak to it not being contrary to the public interest, substantial justice and the value of surrounding properties will not be impacted. She stated the structure will be 50 feet off the road in a fairly wooded area. Jan Gugliotti stated the surrounding town owned properties will not lose recreational value. The Chair stated that anyone aggrieved of this decision can file an appeal for the next 30 days.

Motion passed unanimously.

B. Application for a Variance

Case: 2025-4

Applicant: John Burke

Owner: Burke Farm, LLC

Address: 193 Pumpkin Hill Road

Parcel: Map: 14, Lot: 51

District: R3

Description: Requesting a variance to construct an accessory apartment 200 feet from the primary dwelling where the ordinance requires that the distance be no greater than 75 feet. XIV-B Accessory Apartment F.

The Chair asked if anyone has a conflict of interest on the Burke Farm LLC application. No conflict of interest was expressed. The Board determined the application to be complete. John Burke stated that his family has owned the farm since the mid 1960's, and the land has been kept in current use. He explained it has become clear that they need a full-time farm manager to maintain the farm. John Burke stated that there is a conflict between keeping the house as a family recreational space and someone who is hired to keep the farm operational. John Burke stated that he will be the farm manager. The location was selected for its proximity to the paddock and the orchards. He stated that the family believes this is the best location for the caretaker.

Criteria 1 the variance will not be contrary to the public interest. He stated that it is in the public's interest to maintain and restore the farm, in keeping with Warner's traditional farm landscape. John Burke explained that the farmhouse is large and difficult to heat, the apartment would be efficient.

Criteria 2 the variance is consistent with the spirit of the ordinance. John Burke stated that he does not believe that granting the variance is contrary to the spirit of the ordinance because it will help maintain

the small-town farming values and charm of Warner. He explained the apartment will not detract from the health, safety or welfare of the people of Warner. They do not anticipate any increase in the number of people residing on the property, meaning traffic will not be impacted. He spoke about the expected decrease in energy consumption in the winter because he will not be heating the large farmhouse.

Criteria 3 by granting the variance substantial justice is done. John Burke explained that granting the variance will allow for the restoration of the traditional landscape and increase the efficiency of the farm.

Criteria 4 by granting the variance the value of surrounding properties are not diminished. John Burke stated that the granting variance will enhance the values of the surrounding properties by allowing the farm to be restored. The Chair asked if the ADU would be visible from the road. John Burke stated that it will not be visible, it will be located behind the barn and shielded by a wooded area on the west side.

Criteria 5 literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. John Burke believes that the literal enforcement of the ordinance would make it impossible for the farm manager to efficiently monitor the farm assets (barns, fields, cattle and pasture).

The Chair stated that there is a steep hill limiting the placement of the ADU. John Burke agreed, elaborating that the hill, stream, pond and barns make the proposed location the only reasonable location. The Chair asked if it will be necessary to install a separate well and septic system. John Burke confirmed a septic system will be needed but there is a well in the vicinity that they will tap into. Sam Carr asked about the driveway to the ADU. John Burke stated an existing road in the area would be used for the driveway.

The Chair opened the floor for public comment.

Andy Bodnarik asked for clarification on the driveway.

Ed Mical asked about utilities to the ADU and access for emergency vehicles. James Zablocki stated that the idea behind an ADU is to make sure that you cannot subdivide the property with an ADU on it because it is too close to the boundary. He stated that this changes that perspective completely. James Zablocki stated that eventually the property could be subdivided into a separate lot. The Chair explained that when the 75-foot rule was put in place for detached structures the Board at that time was trying to prevent people from going into open space and to subdivide. The Chair explained that this deed is clear pertaining to subdividing. John Burke confirmed that the family feels very strongly about not subdividing the land.

The Chair closed the public hearing.

Sam Carr spoke about adding a condition relating to the use of the house as the farm manager residence. The Chair explained that the Board cannot specify who uses the home. She explained that the ordinances have some stipulations to prevent it from becoming two rental properties on the same single-family lot.

The Chair asked if the Board was satisfied with the applicant meeting the criteria. There was no opposition voiced.

Jan Gugliotti made a motion seconded by Lucinda McQueen to grant the request for a variance; Case: 2025-4 Map: 14, Lot: 51 for John Burke and Burke Farm, LLC to allow the construction an ADU 200 feet from the primary dwelling where the ordinance requires that the distance be no greater than 75 feet. No discussion on the motion. Motion passed unanimously

The Chair stated that anyone aggrieved of this decision can file an appeal for the next 30 days.

The Chair suggested moving up item D, the application for a variance for Case # 2025-6, because the request has been withdrawn.

D. Application for a Variance

Case: 2025-6

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 Commercial District Frontage, lot, and yard requirements b.

Jan Gugliotti made a motion seconded by Sam Carr to deny without prejudice the application for a variance Case # 2025-6 for Concord Area Trust for Community Housing to allow construction of a building 20' from the edge of the public right of way where 40' is required in the district. No discussion on the motion. Motion passed unanimously.

C. Application for a Special Exception

Case: 2025-5

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 34-unit multi-family workforce housing development in the C-1 Intervale district. Article XIV-A and TABLE-1 Use Regulations RESIDENTIAL #6

The Chair asked if anyone has a conflict of interest on the CATCH application. No conflict of interest was expressed. The Chair stated that earlier today additional information was submitted revising the proposed plan. Copies of the revised plan were distributed to the Board members for review and a design rendering was displayed.

Tom Furtado, CEO of CATCH, stated that there are a couple different versions that he would like to show the Board. He explained that they withdrew the request for a variance and are only seeking a special exception which is written in the zoning code to allow workforce housing to be developed in this commercial zone. Tom Furtado stated that they heard the Boards concerns regarding the number of units and the size of the building. He explained that they have revised the size of the building by removing the top floor and reduced the number of units from 48 to 34. He stated that by doing this it is more challenging for CATCH to secure funding, but they are relatively confident that they will be able to get funding. He explained that the building had been relocated further back. He stated the revised proposal is well within the zoning requirements of both height and setbacks. Tom Furtado stated that they also addressed the concern about outdoor space by adding an outdoor space. He informed the Board that there are options to change the roof line to dress it up but going with a flat roof will minimize the visibility from the road. Tom Furtado recapped that the revised proposal is attempting to address the concerns expressed by the Board regarding outdoor space, the number of units, height, and the building setback. He reiterated that they are seeking a special exception for 34 units, 2 stories from the front, 3 stories from the back. The building would contain 17 one-bedroom units, 17 two-bedroom units and 53

parking spaces. Tom Furtado clarified that CATCH does pay property taxes estimating \$90,000 per year. Tom Furtado addressed the Board's concern regarding the impact on the school district. He stated that based on their analysis, it is estimated that 8-9 school age children will reside in the building. He explained that 3-4 of those children will not be new to the district as they already live in town. Tom Furtado stated that almost half of their residents live in Town. He explained that he met with the superintendent who did not have any concerns regarding the impact on the district. He stated that based on their average number of residents in their one- and two-bedroom units throughout their portfolio, they previously estimated 58 residents, not 140 as the Board spoke about with the 48-unit proposal. He addressed the Board's concern regarding fire dangers with the two stair towers at the end of the building. Tom Furtado explained that two stair towers are consistent with local, State and National Fire Codes. He assured the Board that the building will adhere to all local, State and National fire codes.

There was discussion regarding the number of residents per unit. Tom Furtado explained that their statistics show that one-bedroom units will equal 19 people as most of their one bedroom units are rented by a single person. He spoke about the income restrictions of a one-bedroom unit. He explained that the income limitations are based on the household income. He stated that income is recertified every year. Tom Furtado stated that management keeps a close eye on the status of units. Jan Gugliotti questioned the impact on the school district, stating that any more than 3 children would be a burden on the school district. She questioned the estimated number of children. Jan Gugliotti stated the cost per pupil is \$30,000. She expressed concern about how that would impact the taxpayers of Warner. Jan Gugliotti questioned why it's better to have workforce housing centralized verses spread throughout town.

Tom Furtado asked the Board to consider the State's contribution per pupil and the study by the Regional Planning Commission that looks at the cost per pupil. Jan Gugliotti spoke about starting with small complexes (4, 6 or 8 units) to see what, if any problems arise. She stated that her concern is relative to a large influx of people coming into the town and the impact that would have on the town, the character and town services.

Tom Furtado assured the Board that there will be trees on the property, and they will also implement a landscaping design. He spoke about the selection of the parking lot location. He explained that the Planning Board did not want access to and from the Dunkin Donuts next door. He stated that the driveway provides 90 degree turns with 103, as is usually recommended by traffic engineers. He assured the Board that they would adhere to all DOT rules and regulations. Bev Howe stated that there will need to be a traffic light installed. Tom Furtado stated that that would be a determination made by the DOT.

Tom Furtado spoke about the recent Warner housing survey that indicated that 58% of the survey participants felt that Warner needs more low-income housing and 32% felt that their ability to stay in Warner depended on the availability of more affordable housing. He assured the Board that is common across the State. He stated that the Regional Planning Commission conducted a needs assessment report, and it was estimated that Warner needs 76 rental occupied units. Tom Furtado recapped that they are requesting a special exception not a variance. He stressed that the property would adhere to all zoning requirements. He explained that what they are seeking is what is written in the Warner Zoning Ordinance for this particular zone.

Attorney Jeff Christenson addressed the specific criteria of the special exception.

Criteria 1 is this a use subject to special exception? Jeff Christenson confirmed that it is. He explained that this was a district that the town said is appropriate for workforce multifamily housing.

Criteria 2 is this essential or desirable to the public convenience or welfare? He stated that it addresses the need for workforce housing in Warner and the various people that qualify for this housing. He spoke

about the benefits of centralizing the workforce housing because the location is close to public and municipal services. He addressed the concern about living near an affordable housing unit. He stated that one unit versus multiple units eliminates multiple neighborhoods affected.

Criteria 3: character and integrity of the area. Jeff Christenson stated that this building does fit much better in this commercial area of town.

The Chair opened the floor to abutters and general public.

Pier D'Aprile stated that there has been significant changes to the proposed development. He asked if the Board feels that adequate notice was given to the Town. The Chair acknowledged that this is the first time the Board has seen the revised proposal, and it is possible that the hearing will be delayed to give the public and the Board time to consider the changes. Bev Howe stated the plan is missing dimensions and asked where the playground is located. The Chair explained that plan is to scale.

Tom Furtado reiterated that they are only seeking a special exception on the use.

Ed Mical stated that property is affected by the new Flood Plain. Tom Furtado assured that the project will adhere to all rules and regulations.

Andy Bodnarik concurred with Mr. D'Aprile about inadequate time given to review the substantial changes to the proposed development. He read Article 17, further noting that this Board's authority is not limited because much of what Article 17 covers is dealt with at the Planning Board. He stated that the ZBA can limit the number of units. He stated that the Town does not have details on the number of 1-, 2- or 3-bedroom units as of June 8, 2025. Andy Bodnarik stated that the Town does not have a written response from the Kearsarge Regional School District, Town of Hopkinton or the Warner Fire Chief or Police Chief. He stated that the Town has not received site specific detailed analysis of the traffic regarding the proposed development. Andy Bodnarik stated that his concerns regarding the impact that this development would have on the Warner River, adjacent wetlands and storm water. He stated that a new application will be needed for the alteration of terrain permit. He stated the application does not address the public safety issues regarding school bus stops along Route 103. Andy Bodnarik suggested limiting the number of units to 24. The Chair stated that much of Mr. Bodnarik's input will be addressed with the Planning Board. The Chair explained that the ZBA is not allowed to hold up a hearing for permitting. Andy Bodnarik stressed that there are a lot of issues, and he has not seen them addressed in writing. The Chair stated that if the Fire or Police Chief have concerns, they are welcome to provide their input. She stated that the Board welcomes input from anyone. She acknowledged that the Board is able to place conditions on an application to help keep the application in compliance. The Chair asked the Board to weigh in on the issue of not having enough time to consider the changes, asking if this should remain open for another 2-week period. Jeff Christenson clarified that the new plans that were submitted were only associated with moving the building back to move it out of the setback to avoid the need for a variance. The applicant stated that the building itself is the same building in both cases as was presented in the original application. The Chair stated this is the first time the Board has seen the building plan, and this Board is considering the integrity and character of the district.

Bob Bower stated that the initial application was for 48 units, and it could not be less without jeopardizing the funding. Now, they are proposing 34 units, and they are confident they can secure funding. He stated that more information is needed on the economic viability of the project and the implications on the Town. Tom Furtado stated that there are other grant funding sources like the Affordable Housing Trust fund and other various funding sources that they are considering for the 34-unit development. He asserted that he cannot say with 100% certainty that they can build 34 units and secure the extra funding. He reiterated that he is fairly confident, but it is not a guarantee. Tom Furtado

stated that the Town is not a party to any of the financial responsibilities. He explained that if the funding falls through the project will not be built. Tom Furtado stated that he had a conversation with the Warner Fire Chief and the Hopkinton Fire Chief. He stated that he has not spoken to the Police Chief.

James Zablocki asked if the project could move to the next step without the special exception. Jeff Christenson confirmed that this is one of the first steps needed to move forward. He explained that the special exception, DES approval and grant funding all happen in parallel, and all are required to move forward. Tom Furtado stated that if the special exception is granted, they will move on to the Planning Board, begin the permitting process and financing planning.

Pier D'Aprile stated the building presented is not the same building that was originally presented, noting that the number of units has decreased and the roof line has changed.

Ed Mical recommends keeping the public hearing open. He suggested the Board forward the proposed development to the Fire and Police Departments for their review. Tom Furtado believes that would occur as part of the Planning Board's review.

Emily Evans, asked if the Town has any assurances that if in the future the property is sold that there will be a similar tax obligation. The Chair explained that property taxes are based on the property assessment.

Conner Spurn spoke about the benefits of workforce housing. She stated that housing is available for a tenant at an affordable price. The tenants have an opportunity to invest in the community because they know what their rent will be. She stated that the tenants will contribute to the community through spending their excess income at local shops and restaurants.

Andy Bodnarik stated he is not opposed to workforce housing. He stated the problem is the location on the size of this lot. He stated that just as he believed the lot could not sustain 48 units, he believes the same now. He suggests an application for 24 units, such as has been previously proposed and approved.

The Chair stated the public hearing will be continued in two week.

Jan Gugliotti made a motion seconded by Lucinda McQueen to continue the public hearing to June 25, 2025, at 7:00 PM for additional public review.

Discussion on the motion: Bev Howe feels interior plans are needed. James Zablocki stated that that is for the Planning Board to review. Lucinda McQueen stated the public should have the ability to review the revised plan. Sam Carr stated the new plan shows the 40-foot setback that the public should have the opportunity to weigh in on it. He stated that the new exterior images are very valuable in terms of relating to the character and integrity of the district and surrounding districts. Nancy Martin would like to see a plan that depicts the drainage pond, parking lot and the new location of the building. The Chair stated all the materials will be included in the case file.

Motion passed unanimously.

III. REVIEW MINUTES: May 14, 2025, May 28, 2025

May 14, 2025 ZBA Meeting Minutes

Sam Carr made a motion seconded by Bev Howe to approve the May 14, 2025 ZBA meeting minutes as amended. Motion passed unanimously.

May 28, 2025 ZBA Meeting Minutes

The Board deferred action on the May 28, 2025 ZBA meeting minutes until all members have had a chance to review the minutes.

IV. COMMUNICATIONS

None

V. ADJOURN

Sam Carr made a motion seconded by Jan Gugliotti to adjourn the meeting. Motion passed unanimously.

Respectfully submitted by Tracy Doherty on 6/17/25