Planning Board Meeting

Monday, October 3rd, 2022

Gary Fitzgerald
Conceptual Consultation
Map 07, Lot 039
R-2 & R-3

UNAPPROVED MINUTES

B. Transfer Station – Varick Proper, Foreman (ABSENT)

There was discussion of the purchase of a skid steer, which would replace the Bobcat and the JCB. Don said he knew a bit about this. He said the JCB is a good machine, and he isn't sure why Varick wants to get rid of it and keep just one machine. If they are down to one machine and it breaks down, they are in for a world of hurt. He has repaired the machine, himself, to save the Town money. Don thought there was enough going on at the facility to keep two machines busy.

There was some discussion of the plans for a new transfer station. James thought that Varick should be there to discuss the plans. Don thought the project should be split in half or ask the Town for more money to get the job done. It didn't make sense to the Planning Board to push the compactor replacement back until 2024. The Select Board has said that the funds are available, so it wasn't clear as to why it wasn't being replaced in 2023. Andy noted that a bailer isn't slated for replacement until 2025 and the narrative says that it is close to catastrophic breakdown. He wasn't sure why this wasn't being made a priority. Don said there are three bailers, another one of these wasn't in great shape either.

Lois understood that a report from the engineer, regarding the improvements to the transfer station, was slated to be reviewed at an upcoming Select Board's meeting.



IV. NEW BUSINESS

A. Conceptual Consultation

Applicant: Gary Fitzgerald **Owner:** Joseph Anthony

Agent: Anthony Costello (A.C. Engineering & Consulting)

Address: Vacant Lot on NH Route 103 across from Annis Loop

Map/Lot: Map 7, Lot 39 District: R-2 & R-3

Description: Multi-family residential building

The Chair offered the floor to Anthony Costello to give his review of the project. Anthony was attending via Zoom as he currently has COVID. The property is 34 acres in size that they would like to propose a Multi-family building. They did the calculations for density and based them on the open space numbers. This resulted in a 9-unit building on the property. He wanted to see if he was going in the right direction or if he should be doing something different.

Andy said it was hard to see where the building was going to be placed in terms of the boundary line. He also asked what they should do when they overlap the areas; is the building going to be in both districts? Anthony said it would all be in the R-2 district. There is an area halfway into the R-2 district that looks flatter than the rest. That is where the building will be. The square box on the map shows where the leach field will be. It is almost in the center of the property in the R-2 district.

Andy asked where the well would be located. Anthony said he wasn't sure just yet. The Chair asked how the proposal fit with the Zoning Ordinance? He said this is the first time he has seen an open space proposal. Andy said he looked at the Use Table and wondered if this was Multi-family housing or Multi-Family Workforce Housing. Anthony said that he understands the Town is looking for Workforce Housing so he would like to push in that direction. He wanted to learn more about the Town's incentives/bonuses to construct such housing. He wondered what the Board would like to see.

Andy said that a Special Exception will be needed to build Workforce Housing in the R-2

UNAPPROVED MINUTES

district. Anthony said these would be condos and would be for sale. The Chair said Article IV.K. shows the limit of units per structure in the districts. The limit in the R-2 district is four units without doing a Subdivision. His sense is that the open space provisions in the Ordinance were intended for individual single homes, versus Multi-family homes. Therefore, in this district, nine units could not be constructed. Nine units could be constructed in the Commercial district, however.

There was discussion on condo ownership and lot lines. Anthony said the developer would like to build one building. He wondered if this was something they could make work, or if it definitely could not work. The Chair said nine units were not permitted without a Variance from the ZBA. James suggested that splitting the property could work as it is large enough. Anthony said this was an option, but they are trying to make it as clean as possible. The Chair said if they wanted to do more than four units, they would need to do a Subdivision.

Andy suggested the applicant look at the checklist for Site Plan Review. Anthony said he just did a project with the Town about two months ago, so he was familiar with the checklist.

V. UNFINISHED BUSINESS

A. Site Plan Comet, LLC. - Continuation of Public Hearing

Applicant: Comet, LLC. - Adam Quinn

Comet, LLC., Mike Quinn, Manager Owners: Agent: Jamie Hage, Rath, Young and Pignatelli

Address: Route 103

Map 35, Lot 4-3 - frontage on Route 103 Map/Lot:

District: INT & C-1

Description: 24-unit apartment building

The Chair offered the floor to Adam Quinn and said no further information had been forwarded to the Town since the last meeting. His recollection was that Ben Osgood was going to provide updated plans. Adam said that since the last meeting, they have appealed the percentage requirements for Workforce Housing to the Housing Appeals Board and have completed their Invest NH grant. Ben Osgood has not yet completed the list the Planning Board gave them earlier. They need to look through the responses provided by the various groups from the Town that Janice had forwarded to him (School District, Fire Department, and the Regional Planning Commission). James said the Fire Department had requested further information. The Chair said some of the comments from the Fire Department have to do with permitting issues and some are Planning Board issues. Adam said that he would take the comments back to his firm and would address them.

Adam asked if they could come back during the work-session, two weeks away, or for the following month's meeting on November 7. The Chair said November 7th would be best for scheduling reasons. However, the information should be submitted at least a few days in advance of the meeting to review the materials. The new plans would be reviewed by the Town's engineer.

The Chair said they have a statutory deadline. If they were to go into December, they would need a formal extension from the applicant.

Don asked if the Fire Department had an updated version of the plan. Janice answered in the affirmative.

The Chair said they do need to be dealing with the legal documents with regards to Workforce Housing. He said the Housing Appeals Board has up to 150 days to decide.

Planning Board Meeting

Monday, May 5th, 2025

May 5th

the Planning Board has not seen. Karen Coyne agreed and stated that a condition of the site plan approval would be V.A. 11. She further explained that if the Planning Board gets to the point of approving the subdivision plan it could be conditional to the site plan review.

Barak Greene recapped the conditions:

Condition 1 V.A.1 – true north to be indicated on all drawings

Condition 2 V.A.11 legal descriptions of easements

Condition 3 – is to show location of proposed buildings, wells and septic on Lot 39-2 as per V.A.15

Condition 4 – Lots 39 and 39-1 conditional on it being in the plans for site plan review

Condition 5 - V.C.2 need permits for well and approved septic

Condition 6 – V.C.2 and V.C.7 is conditional on it being in the plans for site plan review

Condition 7 – buildable area for each lot

Ian Rogers made a motion seconded by Harry Seidel to accept the application as complete with the conditions. Motion passed. Karen Coyne and John Leavitt voted in the negative.

Jason Lopez from Keach-Nordstrom introduced Gary Fitzgerald from Peacock Hill Rd LLC. Jason Lopez explained that the total parcel is 34.6 acres on the west side of Route 103, north of Iron Kettle Road. He advised the Planning Board that the proposal is for a minor subdivision of the property into 3 lots. He stated Map 7 Lot 39 will be 11.2 acres with 350 feet of frontage. Lot 39-1 will be 15.2 acres with 368 feet of frontage and lot 39-2 will be 8.1 acres with 200 feet of frontage. Jason Lopez stated the property is spilt by two zoning districts R-2 in the back and R-3 in the front. He stated that lots 39 and lot 39-1 will have a shared access. He stated that each lot will have its own well and septic on site. Jason Lopez noted that the site plan does include a number of the missing conditions previously discussed. He explained that he will transfer the missing data over. He spoke about the wetland mapping and the soil mapping. He explained that they have been granted a DOT permit for access for one lot and they are still reviewing another. Jason Lopez spoke about the buildable areas for each lot. There was a discussion regarding the lots being split by R-2 and R-3.

Barak Greene opened the floor to abutters for comment or questions. Barbara Lassonde asked for clarification on where the shared driveway would be located. Karen Coyne stated that would be a question for the site plan review. Barak Greene closed the public hearing.

Ian Rogers made a motion seconded by John Leavitt to conditionally approve the subdivision of Map 7 Lot 39 with three conditions V.C.1 true north on the site plan, V.C.2 approved water and septic applications from the State, and V.C.15 rough location of structures. Motion Passed.

Discussion on the motion: John Leavitt asked how the site plan could be considered if the conditions of the subdivision specifically referring to the septic have not been done yet. Barak Greene explained that the applicant would not want to spend the money on a septic application until he knows that the subdivision plan would be approved. Karen Coyne explained that the septic is required for the subdivision and is a condition of the approval. Harry Seidel explained that the septic is usually the last step because changes could affect the septic design.

John Leavitt made a motion to table the site plan review pending the septic design. No second. Motion Failed

Discussion on the motion: John Leavitt explained that he has a problem with the septic design being outstanding. He stated that the he does feel it is appropriate to move to the site plan review until the subdivision plan is approved with the conditions met.



C. Public Hearing – Site Plan

Applicant: Peacock Hill Rd LLC Owners: Peacock Hill Rd LLC Agent: Keach-Nordstrom Associates

Surveyor: Jacques E. Belanger Land Surveying PLLC

Address: Map 07 Lot 039 and 39-1 Route 103 East, Warner, NH

District: R-2 and R-3

Description: Two buildings with four units each to be used as multi-family housing Barak Greene opened the public hearing. He confirmed that abutters have been notified and all fees have been paid. The Planning Board reviewed the application for completeness.

Mr. Lopez advised the Planning Board that as discussions develop modifications to the proposed plan might be needed. Conditions/missing information: easements, elevation of buildings, plot plan, vicinity map with labeled districts, use of abutting properties, survey of property lines to show bearings and distances to the angles, zoning districts/boundaries, buildable area, layout of parking, exterior staging and construction details to be indicated, stop sign, note of intention of public utilities service connections, outdoor lighting detailed, signage indicated, landscaping depicted and intention of visibility from the road.

James Gaffney proposed continuing this until the next meeting to provide the applicant with the opportunity to submit the missing information. Mr. Lopez asked if the application was considered substantially enough complete, allowing the review and discussion of the plan to continue since they aren't proposing any shrubs or trees and a view from the road is not required for completeness. Karen Coyne suggested continuing this meeting to June 2nd and in the meantime work with the applicant to obtain the missing information.

Karen Coyne made a motion seconded by James Gaffney to continue the hearing to June 2, 2025. Motion passed.

Harry Seidel asked about fire and access to the buildings.

V. Michael Smith Select Board - Discuss potential lot sales

None

VI. MINUTES

April 7th and April 21st

James Gaffney made a motion seconded by Karen Coyne to table the meeting minutes to the next work session. Motion passed. Ian Rogers voted in the negative.

Ian expressed interest in approving the minutes with the fifteen minutes left in the meeting.

VII. REPORTS

Chair's Report - Chair, Karen Coyne

None

Select Board - Harry Seidel

None

Regional Planning Commission - Ben Frost, Barb Marty

None

Economic Development Advisory Committee

None

Agricultural Commission - James Gaffney

None

Regional Transportation Advisory Committee

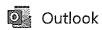
None

VIII. COMMUNICATIONS

None

Email Correspondence

Tuesday, May 6th, 2025, Wednesday, May 7th, 2025



F . . + 85

Peacock Site Plan Nots

From Barak Greene

+ bgreene477@gmail.com

Date Tue 5/6/2025 4:44 PM

To Landuse Secretary < landuse@warnernh.gov>

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Peacock Hill Rd LLC

Site Plan Review

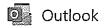
Items missing from application.

Under "Items Submitted with Application:

- F A list of all the proposed easements (with potential locations?)
- G An elevation of the buildings indicating height of proposed structures.
- I Excavation information including potential for blasting or material needed or removed from site

Items Missing from the Plot Plan.

- F Again, need a list of proposed easements
- I Center the lot on the vicinity map and label the districts
- J Add the use of the abutting properties
- O Add bearings and distances
- S Show parking lines (spaces) on the site plan
- V Indication storage and staging areas to be used during construction
- W Indicate the location of the stop sign on the site plan
- Z(cc) Include a note describing the intent and method for providing power (with potential locations?)
- Z(dd) Add location, type and lumens for exterior lighting
- Z(ee) Add location, size and design of a sign
- Z(ff) Add landscaping information such as locations of plants to be added such as bushes, trees, etc.
- Z(gg) Intended visibility from the road (Not necessary but helpful?)



Peacock Subdivision - Information request

From Barak Greene

+bgreene477@gmail.com>

Date Wed 5/7/2025 11:27 AM

To Landuse Secretary <landuse@warnernh.gov>; warnernhpb <warnernhpb@gmail.com>

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Karen and Chrissy,

Following up on the discussion at our last Planning Board meeting regarding the Peacock subdivision and site plan:

It would be prudent to request that the applicant demonstrate that at least 5 acres of buildable area exist within the R-2 portion of the lot, in accordance with Article IV, Section K of the Zoning Ordinance. As presented, the application only depicts buildable area calculations for the entire parcel and just visually looking at the lot it does not appear to have the required buildable area. If they are unable to show that the R-2 portion alone meets this requirement, there would be little reason to continue Planning Board review at this time, as the project would instead fall under the more restrictive R-3 zoning and require ZBA relief.

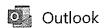
Additionally, it would be appropriate for the Board to request input from the Fire Department regarding the proposed shared access and overall emergency response considerations for the site before the June 2nd meeting, if there even is one.

Best regards,

Barak

Email Correspondence

Tuesday, May 13th, 2025



Site Plan Application

From Landuse Secretary < landuse@warnernh.gov>

Date Tue 5/13/2025 3:18 PM

To Gary fitzgerald <hotrodda57@hotmail.com>; jlopez@keachnordstrom.com <jlopez@keachnordstrom.com>

Cc reception@keachnordstrom.com <reception@keachnordstrom.com>

Good Afternoon,

I wanted to check in regarding your Site Plan application on Route 103 in Warner and to give you a summary of the things the board requested to be included.

The first and seemingly most important piece of information is that they've asked you to show that there are five acres of buildable land in the R-2 portions of each lot. Beyond this, they've asked for the following:

Under "Items Submitted with Application:

- F A list of all the proposed easements (with potential locations?)
- G An elevation of the buildings indicating height of proposed structures.
- I Excavation information including potential for blasting or material needed or removed from site Items Missing from the Plot Plan:
- F List of proposed easements
- I Center the lot on the vicinity map and label the districts
- J Add the use of the abutting properties
- O Add bearings and distances
- S Show parking lines (spaces) on the site plan
- V Indication of storage and staging areas to be used during construction
- W Indicate the location of the stop sign on the site plan
- Z(cc) Include a note describing the intent and method for providing power (with potential locations?)
- Z(dd) Add location, type and lumens for exterior lighting
- Z(ee) Add location, size and design of a sign
- Z(ff) Add landscaping information such as locations of plants to be added such as bushes, trees, etc.
- Z(gg) Intended visibility from the road (Not necessary but helpful)

Please don't hesitate to reach out if you have any questions.

Thanks,
Chrissy Almanzar
Land Use Office
PO Box 265
5 East Main Street
Warner, NH 03278-0059
Land Use Office: (603) 456-2298 Ext. 7
landuse@warnernh.gov

Response to Email Regarding Buildable Area

Tuesday, May 27th, 2025

May 27, 2025

Chrissy Almanzar Warner Planning Board 5 East Main Street Warner, NH 03278

RE:

Jennesstown Manor Site Plan Application Tax Map 7, Lots 39 & 39-1 – Warner

Dear Ms. Almanzar:

Our office is in receipt of the Planning Board review comments dated May 13, 2025. Based on the comments, we have made the required modifications and attached revised plans for review. A response to each comment has been provided below.

• The first and seemingly most important piece of information is that they've asked you to show that there are five acres of buildable land in the R-2 portions of each lot. Beyond this, they've asked for the following:

According to Article II.C.2., "Where a lot is located within more than one Zoning District all the relevant Zoning Ordinance requirements pertaining to each Zoning District type shall remain for each corresponding area of the lot." The parent parcel contains both R-2 and R-3 districts. The proposed buildings are in the R-2 district, where multi-family housing is permitted. Though multi-family housing is only allowed with special permission in the R-3 district, the proposed units are entirely in the R-2 district and therefore compliant with the zoning. Since the property is split by zoning districts one must apply a prorated calculation to determine the buildable area and maximum number of units allowed per the zoning ordinance. See the calculations below for required buildable areas for four dwelling units on a prorated basis:

R-2: 2 acres for one unit + ($\frac{1}{2}$ * 2 acres)/extra units * 3 extra units = 5 acres for four units

R-3: 3 acres for one unit + ($\frac{1}{2}$ * 3 acres)/extra units * 3 extra unit) = 7.5 acres for four units

Lot Number	Lot Area (SF)	Lot Area (acres)	R-2 Buildable Area (acres)	R-3 Buildable Area (acres)	Total Buildable Area (acres)
Map 7 Lot 39	488,497	11.214	4.310	4.464	8.774
Map 7 Lot 39-1	665,946	15.228	2.548	8.502	11.050

Based on the prorated calculation the two proposed lots can support a maximum of 11 units where 8 are proposed.

Under "Items Submitted with Application:

• F-A list of all the proposed easement (with potential locations?)

An easement plan has been added to the plan set, see Sheet 4.

Land Use Correspondence with Counsel

Monday May 12th, 2025, Thursday May 29th, 2025, June 3rd, 2025

Good Afternoon,

Thank you for your reply; are you able to comment on the following:

The applicant uses Article II.C.2 to claim that one must use a prorated calculation to determine buildable area of a lot split by districts. For example, he claims with 4.3 acres in R-2 and 4.4 acres in R-3, the total buildable area for the lot is 8.7 acres.

Is he mistaken?

Thank you, Chrissy Almanzar Land Use Office PO Box 265 5 East Main Street Warner, NH 03278-0059 Land Use Office: (603) 456-2298 Ext. 7

landuse@warnernh.gov

From: Legal Inquiries < legalinquiries@nhmunicipal.org>

Sent: Monday, May 12, 2025 4:03 PM

To: Landuse Secretary < landuse@warnernh.gov>

Subject: Warner: Subdivision Questions

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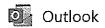
Good Afternoon Chrissy:

Please pardon our delay in answering your email inquiry dated May 7th.

The provisions of Article II, Districts, paragraph C (2) of the Town of Warner Zoning Ordinance provides the answer to your first question. That provision states that "where a lot is located within more than one Zoning District all the relevant Zoning Ordinance requirements pertaining to each Zoning District type shall remain for each corresponding area of the lot." Therefore, with regard to the gentleman who has a 15-acre lot divided between the R2 and R3 districts, if he wishes to build a home completely in the R2 district, he will have to comply with all of the requirements applicable to the portion of the lot in the R2 district, including the requirement that he has 5 acres of land in the R2 district if that is the dimensional requirement for that district.

A proposed subdivision of land need not have depicted the location of the proposed home on the lot as the delineation of well radius and septic system location is sufficient. The planning board does not have site plan approval for individual lots for single and two family residential uses. The property owner could locate a home anywhere on the approved lot so long as the location conformed with the zoning ordinance. There is no need to require for plan acceptance or final approval the location of the proposed home.

Stephen C. Buckley Legal Services Counsel NH Municipal Association 25 Triangle Park Drive Concord, NH 03301 603-224-7447 legalinquiries@nhmunicipal.org



Warner: Subdivision Questions

From Legal Inquiries < legalinquiries@nhmunicipal.org>

Date Tue 6/3/2025 11:31 AM

To Landuse Secretary < landuse@warnernh.gov>

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Good Morning Chrissy:

I cannot agree or disagree that Article II.C.2 calls for a prorated calculation as I have no idea what the property owner means. The language of the ordinance would seemingly require that each area of the lot that is located in a different zoning district shall comply with the dimensional requirements of that district. Nothing more and nothing less.

Stephen C. Buckley
Legal Services Counsel
NH Municipal Association
25 Triangle Park Drive
Concord, NH 03301
603-224-7447
legalinquiries@nhmunicipal.org

The attorneys at NHMA provide general municipal legal advice based on the information that is provided by the inquirer. The attorneys at NHMA operate best when they are answering questions of general municipal law—issues of interest to more than just a few communities—especially questions which can be answered by reference to state statutes or court opinions. In the event you have already received legal advice from your town attorney, please understand that NHMA does not provide second opinions and would defer to the advice of town counsel who is in a much better position to advise on specific facts and circumstances. Please read the full legal services FAQ located here: https://www.nhmunicipal.org/legal-services.

From: Landuse Secretary < landuse@warnernh.gov>

Sent: Thursday, May 29, 2025 12:50 PM

To: Legal Inquiries < legalinquiries@nhmunicipal.org>

Subject: Re: Warner: Subdivision Questions

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Planning Board Meeting, Site Plan Hearing Continuation

June 2nd, 2025

James Gaffney made a motion seconded by John Leavitt to approve the proposed subdivision with the amendments and updates provided. Motion passed unanimously.

B. Peacock Subdivision Subdivision Decision / Site Plan Notes

The second secon

Karen Coyne explained that during a previous discussion there were conditions placed on the subdivision approval. The Planning Board wanted to bring this back up before reviewing the site plan. Jason Lopez advised the Planning Board that the conditions have not been addressed yet. He stated they are waiting to see if the site plan is approved/conditionally approved, if it is not, they will reassess the subdivision.

m

C. Continuation of Public Hearing - Site Plan

Applicant: Peacock Hill Rd LLC Owners: Peacock Hill Rd LLC Agent: Keach-Nordstrom Associates

Surveyor: Jacques E. Belanger Land Surveying PLLC

Address: Map 07 Lot 039 and 39-1 Route 103 East, Warner, NH

District: R-2 and R-3

Description: Two buildings with four units each to be used as multi-family housing

James Gaffney stated that the subdivision conditions need to be addressed before the Planning Board can move forward to the Site Plan Review. Karen Coyne stated the Planning Board previously approved the subdivision with the following conditions; V.A.7 of the Subdivision Application Checklist shall be met providing a true north and magnetic north arrow on plans. 2. V.A.15 of the Subdivision Application Checklist shall be met listing locations of existing and proposed buildings, drives, wells, septic systems, and all other manmade features. 3. V.C.2 of the Subdivision Application Checklist shall be met by providing State approval of individual water service and sewage disposal systems. Karen Coyne spoke about a letter received from the Warner River Local Advisory Committee (WRLAC) addressing their specific concerns. Jason Lopez advised the Planning Board that he has provided his response to the Planning Board and will forward it to the WRLAC after tonight's meeting. James Gaffney stated that typically the response would be sent to the WRLAC addressing their objections and then to the Planning Board. Jason Lopez assured the Planning Board that he will respond directly to the WRLAC. He explained that the DES Alteration of Terrain Bureau (AOT) will not issue a permit until they receive final correspondence.

Karen Coyne stated that at this point the Board needs to determine if the packet is complete. James Gaffney suggested going line by line from the letter sent to the applicant: Items missing from application; under "Items Submitted with Application: F - A list of all the proposed easements (with potential locations?) The Board reviewed information provided by the applicant and agreed item is complete. G - An elevation of the buildings indicating height of proposed structures. The Board reviewed information provided by the applicant and agreed item is complete. I - Excavation information including potential for blasting or material needed or removed from site. The Board reviewed information provided by the applicant. There was a discussion pertaining to the rules and regulations for blasting near a river. Jason Lopez advised the Planning Board that the plan is to do mechanical removal of rock. The Planning Board agreed item is complete.

Items Missing from the Plot Plan. F-a list of proposed easements, I-C enter the lot on the vicinity map and label the districts J-Add the use of the abutting properties O-Add bearings and distances S-Show parking lines (spaces) on the site plan V-I Indication storage and staging areas to be used during construction W-I Indicate the location of the stop sign on the site plan Z(cc)-I Include a note describing the intent and method for providing power (with potential locations?) Z(dd)-Add location, type and lumens for exterior lighting Z(ce)-Add location, size and design of a sign Z(A)-Add landscaping information such as locations of plants to be added such as bushes, trees, etc. Z(gg)-I Intended visibility from the road (Not necessary but helpful?) The Planning Board determined that the missing information has been submitted.

Harry Seidel asked for a better understanding of the visibility from the road. Jason Lopez explained that the building will be visible when passing the driveway. Karen Coyne noted that buildable area is an amalgamation of the two zones not a singular buildable area. She stated that Chrissy Almanzar has reached out to legal counsel but she has not heard back. Jason Lopez explained that they followed the state subdivision guidelines using a prorated weighted average of the two soils. He stated that the calculation of the two lots would support eleven units but they are proposing eight. Barak Greene questioned if a multifamily is allowed in R-3 (audio difficulties 49:55). Jason Lopez stated that the ZBA would need to grant a special exception for a multi-family home. Karen Coyne stated that typically for the purpose of determining the completeness of the application the special exception is not necessary. She explained that in this case the buildable area is contingent upon the fact that a special exception is necessary. Jason Lopez stressed that the multi-family unit will be in R-2, he stated that this is one lot and the use is in R-2 but they are utilizing the soils within the entire property. He stated that he would like to hear the opinion of the Town's legal counsel before the Planning Board sends this to the ZBA for a special exception.

James Gaffney made a motion seconded by Barak Greene that the application is determined to be substantially complete. Motion passed unanimously.

The Planning Board began their discussion on the site plan review. Barak Greene asked what the grade will be on the proposed driveway. Jason Lopez referred to the plan sheet 11 #16 that reflects the center line profile is 14.26% and inside the curves the maximum is 15%. Barak Greene questioned if the Fire Department should weigh in on the grade of the driveway. James Gaffney stressed that the applicant needs to reply to the WRLAC as soon as possible and the Planning Board should invite the WRLAC to the next meeting, Harry Seidel spoke about the safety concern at the bottom of the driveway. Jason Lopez stated that NH DOT has reviewed the application and provided their input. The driveway permit will be forwarded to Director of Public Works Tim Allen for his input. Barak Greene questioned if there will be an easement that will allow the 4 units on the other lot that will rely on the driveway. Jason Lopez confirmed there will be an easement recorded. Barak Greene stated that road will need the town's approval to some degree. He suggested that it could be in the town's best interest to consider a bond for the driveway completion and in the case of blasting. James Gaffney questioned who would be responsible for the upkeep and maintenance of shared driveway. Jason Lopez advised the Board that would be the responsibility of the homeowners association and it would be outlined in the agreement with the homeowners association. Jason Lopez explained that the agreement would be submitted as part of the final conditions. James Gaffney would like that to be a condition of approval.

Jason Lopez recapped the list of amendments that the Alteration of Terrain required.

Karen Coyne asked for clarification on the driveway grade within thirty feet of 103. Jason Lopez estimated the slop to be less than 5% but stated that he would need to calculate that accurately. James Gaffney asked that septic maintenance be addressed and included as a condition of approval. There was a discussion regarding the regulations for well and septic versus municipal services. Karen Coyne and James Gaffney reiterated the importance of hearing from the WRLAC. There was a discussion regarding the date of the next meeting/discussion, possible dates are June 16th and July 7th. Jason Lopez will need to check his availability. He advised the Board that his client would not want community water. He stated that there will be one or two wells but they will not be community systems.

Micah Thompson asked for clarification on the Warner River Local Advisory Committee. James Gaffney explained that the Planning Board is required by law to notify the WRLAC when there is a proposed project with a certain distance to the Warner River. Jason Lopez explained there are rivers throughout the State that are monitored by local advisory committees who are concerned about the water quality. He stated that the

WRLAC is recognized by the State to oversee and provide input on development around those rivers. He stressed that the AOT leans heavily on the advice of the WRLAC. John Leavitt feels that it is unrealistic for the planning Board to place restrictions or investigate the usage of the water of the 4 units. He stated that when designing something you have to use the stats available and to expect anything more than that is unreasonable. Harry Seidel reiterated that his concern is the driveway in the winter. He asked if there is any modifications that could be made to address the winter safety issues.

Karen Coyne opened the floor for public input.

Barbara Lassonde stated that her big concern is the driveway because of the slope going down to Route 103 especially in the winter. She mentioned the other side of the parcel has more of a gradual slope and questioned whether they could switch the sides of the driveway.

Dan Richardson shared his concern regarding the driveway. He expressed his concern regarding run off and flooding of his property. He spoke about the increase in traffic and the headlights shining into his home.

No additional public input was offered. Karen Coyne opened the discussion for the Planning Board.

John Leavitt stated that he went to the property and agreed that the driveway is steep. He stated that the purpose of a serpentine driveway is to reduce the slope. He stated that what is there now is not what the final driveway will look like. John Leavitt stated it will be much less of a slope and much less dangerous. Pier D'Aprile asked if fencing was considered to block the headlights and block the view. Jason Lopez stated they had not considered fencing. He stated that he could discuss the option with his client. Pier D'Aprile and Dan Richardson discussed the issue of water on his property. Mr. Richardson explained that he is concerned that the alteration of terrain will increase the amount of water on his property. Jason Lopez offered to review the plan for drainage. He stated that from the high point the water will run into a treatment pond and into the ground water. He explained that it will end up in the Route 103 catch basins that the DOT maintains. He described the ditch lines that will direct the flow of run off. Jason Lopez explained that they are taking the run off from above the development and diverting it to a drainage manhole system to help minimize the size of the treatment ponds.

Barak Greene questioned if the bottom elevation of the swale can be changed to avoid water running on to Mr. Richardson's property. Jason Lopez explained the drainage analysis looks at the watershed areas. He stated a portion will flow down but a lot of that will be intercepted. He stated that it is the same volume of water. He explained that the total peak rate of runoff and with the level spreader they are capturing it.

Pier D'Aprile asked if the developer is open to addressing the abutter's runoff concerns and including his property in the calculations. Jason Lopez stated that in the sub catchment and the pre-development in a 2-year event, the pre-development was 1.06 cubic feet per second, and they dropped that down in their design plan to .71. He stated that a 10-year event is 2.46 cubic feet per second which would be down to 2.13, 25-year event is 4.8 cubic feet per second which would be down to 3.83, and in a 50-year event it was 5.77 which would be down to 5.64. Jason Lopez stated that they have taken the pre-development conditions today and through the design have already lowered it. He stated that Mr. Richardson will have less surface run off. He stated that he is willing to look to see if anything different can be done, he understands the concern.

Harry Seidel acknowledged that there is a lot of water that comes off the hill. He stated that the developer is trying to put in systems that slow the water coming off the hill and reduce it. Harry Seidel asked where the water goes at the bottom. Jason Lopez stated there are 3 culverts. Barak Greene asked about erosion control. Jason Lopez explained that anything over 3:1 will receive temporary erosion control mapping and the long-term vegetation root system will be relied on. He advised the Board that on a slope of 3:1 the AOT requires six feet of benching to be incorporated every thirty feet to prevent erosion.

James Gaffney stated he does have concern regarding the steep slope. He questioned if the Board would want to seek an outside opinion on the slope and other items that the Board is concerned about as well as the concerns of the abutters. Barak Greene recommends that the Town ask their engineer to take a look at this as a condition. Jason Lopez asked for clarification on the protocol for requesting a bond. James Gaffney stated that it has been a while since a bond has been required but the Town does have the right to request a bond. Jason Lopez asked for clarification on what the Town's concerns are that would require a bond. Barak Greene explained his concerns and would prefer to protect the Town's best interest regarding the driveway. Jason Lopez cautioned that a bond is essentially holding something over the developers' head to ensure he finishes the project, but it could prevent the financial feasibility of the project.

Pier D'Aprile asked when construction is estimated to begin. Jason Lopez advised the Board construction would begin upon approval. Pier D'Aprile suggested a condition of approval is to require the development of a storm water protection plan (SWPP).

Donald Lassonde questioned where the septic system would be located on the property. Jason Lopez pointed to the plan the location of the septic system. John Leavitt noted that the State bases their approval on the number of bedrooms, not the number of people. He further stated that to ask them to base the water system on the number of people is unreasonable.

Karen Coyne advised the Board that if this is sent to the engineer an escrow account would need to be established. Jason Lopez suggested continuing this discussion to the next meeting on June 16th. He stated that if the Town's engineering review is not ready for the next meeting he will file an extension. Karen Coyne stated that the Board needs to compile lists for the engineer, the conditions, and discuss the bond.

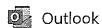
Dan Richardson encouraged the Board to visit the site. Jason Lopez gave permission to the Board to access the site.

At this time Karen Coyne continued the public hearing until June 16, 2025. The Board outlined the list for the engineer; driveway (pitch and grade) review, runoff/storm water, drainage/runoff to abutter, slope stabilization, water/well and retention or drainage points along the river. The Board outlined a list of conditions; legal opinion relating to buildable area for a multi-family in R-2/R-3, an HOA plan approved, septic approved, driveway approved, well approved, fire department consult, WRLAC, driveway slope at Route 103, Public Works consult and a storm water protection plan. The Board discussed researching a bond to address; erosion control or reclamation of the site and completion of the driveway if they do not build both units. Ian Rogers stated RSA 674:36 III-b pertains to issuing a bond.

Jumes Gaffney asked if there are any concerns relating to other projects. Karen Coyne spoke about a packet that was anonymously dropped off at her home that relates to complaints and issues on two other Peacock projects. She explained that the packet included DES violations that led to a temporary cease and desist notice. Barak Greene suggested issuing a performance bond. He would like to know from legal counsel if the information contained in the packet can be used the setting the bond. Karen Coyne asked the Board how they felt about considering past indiscretions. She advised the Board that it is the same builder and a very similar project. She stated that one of the indiscretions were that the builder indicated that he did not want to pursue an approved septic until after he received site plan approval and he did not follow through. Barak Greene acknowledged that some jobs can become difficult. James Gaffney stated the Board could request references. Micah Thompson stated the Board should consider what steps to take if the builder does not follow through. James Gaffney asked if the Board could verify the validity of the anonymous packet. Karen Coyne stated she will ask Chrissy Almanzar to contact DES. Karen Coyne would like the Board to assist her in determining if there are any other properties he successfully completed. James Gaffney reiterated that references could be requested. Harry Seidel agreed that the Town should proceed with caution. He spoke

Correspondence from Second Counsel

June 18th, 2025



RE: Land Use Questions

From Fennessy, Nathan R. <NFennessy@preti.com>

Date Wed 6/18/2025 2:47 PM

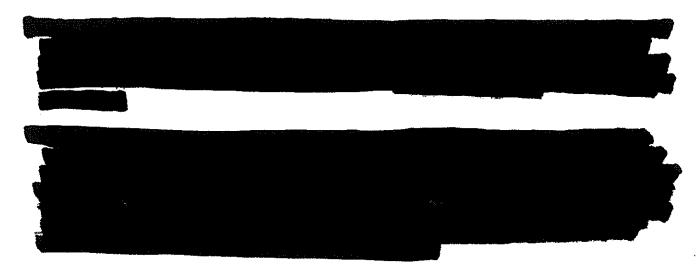
To Landuse Secretary <landuse@warnernh.gov>

Cc Karen Coyne < kcoyne@warnernh.gov>

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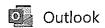
Chrissy,

- 1. I agree with Steve that your zoning ordinance requires that when more than one zoning district applies to a lot "all the relevant Zoning Ordinance requirements pertaining to each Zoning District type shall remain for each corresponding area of the lot." This means that the requirements for R-2 apply to that portion of the lot in R-2 and the requirement for R-3 apply to that portion of the lot in R-3. If there is not sufficient "Buildable Area" in the R-2 portion of the lot to meet the requirements then the developer has the choice of either seeking a variance or moving a building to the R-3 portion of the lot and seeking a special exception.
 - Like Steve, I do not understand exactly what the developer is suggesting with his proposal for a "prorated approach" to the building area. If he is not proposing to build anything on the R-3 portion of the lot, then there is no reason to factor in that portion of the property in calculating the "Buildable Area."
 - I think the developer is suggesting that you should take the "Buildable Area" requirement in the R-2 portion (2 acres + ½ the minimum buildable area for a single family dwelling for each dwelling in excess of 1) and the "Buildable Area" requirement in the R-3 portion (3 acres and + ½ the minimum buildable area for a single family dwelling for each dwelling in excess of 1) and create a prorated buildable area that applies to the entire lot (presumably something between 5 acres and whatever would be required in R-3). I do not believe the zoning ordinance gives the PB the discretion to make that sort of change. If he wants to make that argument, he should probably do so to the ZBA if he wants to argue for a variance.



Correspondence from Land Use to Peacock Hill Rd LLC

June 23rd, 2025



Map 7, Lot 39 & 39-1 Buildable Area

From Landuse Secretary < landuse@warnernh.gov>

Date Mon 6/23/2025 12:33 PM

To Gary fitzgerald <hotrodda57@hotmail.com>; Jason Lopez <jlopez@keachnordstrom.com>

🛭 1 attachment (203 KB)

Peacock Hill Rd LLC Map 7, Lots 39 & 39-1.pdf;

Good Afternoon,

I've attached a letter summarizing the advice we've been given by our town counsel concerning the appropriate calculation of buildable area for Map 7, Lots 39 & 39-1.

Thank you,

Chrissy Almanzar Land Use Office PO Box 265 5 East Main Street Warner, NH 03278-0059 Land Use Office: (603) 456-2298 Ext. 7

landuse@warnernh.gov



June 23rd, 2025

Jason Lopez, Senior Project Manager Keach-Nordstrom Associates, Inc. 10 Commerce Park N, Suite 3B Bedford, NH 03110

RE: Jennesstown Manor Site Plan Application Tax Map 7, Lot 39 & 39-1, Warner, NH

Dear Mr. Lopez,

Regarding your site plan presentation at the June 2nd Planning Board meeting, as well as your correspondence dated May 27th, 2025, and the interpretation therein of Article II.C.2. of the Town of Warner Zoning Ordinance which states, "Where a lot is located within more than one Zoning District all the relevant Zoning Ordinance requirements pertaining to each Zoning District type shall remain for each corresponding area of the lot," we have asked two separate legal counsel to respond to the assertion that a "prorated calculation" must be used to calculate buildable acreage for the lot. Both have maintained that in accordance with Article II.C.2., the zoning requirements of each district shall remain.

This means that the requirements for R-2 apply to that portion of the lot in R-2 and the requirement for R-3 applies to that portion of the lot in R-3. Therefore, with regard to Map 7, Lots 39 and 39-1, which are divided between R-2 and R-3 districts, if you wish to build a development completely in the R-2 district, you will have to comply with all of the requirements applicable to the portion of the lot in the R-2 district, including the requirement of 5 acres of land in the R2 district for the units proposed.

If there is not sufficient "buildable area" in the R-2 portion of the lot to meet the requirements, then you have the choice to either seek a variance for "buildable area" from the ZBA or move the building to the R-3 portion of the lot and seek a special exception for multifamily housing in R-3.

Neither counsel agrees with the suggested proposal for a "prorated approach" to the building area. If no building is proposed in the R-3 portion of the lot, then you may not factor in that portion of the property in calculating the "buildable area."

The suggestion that you should take the "buildable area" requirement in the R-2 portion and the "buildable area" requirement in the R-3 portion and create a prorated buildable area that applies to the entire lot does not apply, and the Warner Zoning Ordinance does

TOWN OF WARNER

P.O. Box 265, 5 East Main Street Warner, New Hampshire 03278-0059 Land Use Office: (603)456-2298 ex. 7 Email: landuse@warnernh.gov not give the Planning Board the discretion to approve that allowance.

Sincerely, Chrissy Almanzar Land Use Town of Warner landuse@warnernh.gov

Email Correspondence with Attached Request for Continuance

June 30th, 2025, July 2nd, 2025



Outlook

Re: July 7th Agenda

From Landuse Secretary < landuse@warnernh.gov>

Date Wed 7/2/2025 1:05 PM

To Jason Lopez <jlopez@keachnordstrom.com>; Gary fitzgerald <hotrodda57@hotmail.com>

Good Afternoon,

Thank you for your response. I've received your request for a continuance. We will add you to the September 8^{th} Planning Board Agenda.

Thanks,

Chrissy Almanzar
Land Use Office
PO Box 265
5 East Main Street
Warner, NH 03278-0059

Land Use Office: (603) 456-2298 Ext. 7

landuse@warnernh.gov

From: Jason Lopez <ilopez@keachnordstrom.com>

Sent: Wednesday, July 2, 2025 12:07 PM

To: Landuse Secretary < landuse@warnernh.gov>; Gary fitzgerald < hotrodda57@hotmail.com>

Subject: RE: July 7th Agenda

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Chrissy,

Please find the attached continuance request for presentation to the Planning Board on Monday. We will prepare for the ZBA.

Thank you,

Jason

Jason Lopez

Keach-Nordstrom Associates, Inc. Phone: (603) 627-2881 x 106

From: Landuse Secretary < landuse@warnernh.gov>

Sent: Monday, June 30, 2025 3:43 PM

To: Jason Lopez <jlopez@keachnordstrom.com>; Gary fitzgerald <hotrodda57@hotmail.com>

Subject: July 7th Agenda

Caution: This email originated from outside of the organization. Do not click links or open attachments you do not recognize!

Good Afternoon,

I'm reaching out to confirm whether we should expect you at our next Planning Board meeting on July 7th. I know we were putting the external engineer study on hold.

Thanks,

Chrissy Almanzar
Land Use Office
PO Box 265
5 East Main Street
Warner, NH 03278-0059
Land Use Office: (603) 456-2298 Ext. 7
landuse@warnernh.gov



July 2, 2025

Town of Warner Planning Board 5 East Main Street Warner, NH 03278

Subject:

Request to Continue

Peacock Hill Rd, LLC, Residential Site Plan

NH Route 103

Warner Map 7 Lot 39 and 39-1 KNA Project No. 24-0307-1

Dear Members of the Board:

On June 23, 2025, the Applicant of the subject project received a letter dated June 23, 2025 from Chrissy Almanzar, Land Use Town of Warner. The letter suggests that the Planning Board does not have the discretion to approve the site plan as presented. Further the letter suggests that the project needs to go before the Town of Warner Zoning Board of Adjustment (ZBA).

On June 2, 2025, the Planning Board formally accepted the subject application as complete. The application is currently under review by the Planning Board and subject to the "65-day clock" to render a decision by August 6, 2025.

Based on the suggestions in the letter the Applicant will go before the ZBA for input. Due to the ZBA calendar the Applicant will need to request continuance of the application. The next ZBA deadline is July 23 for the August 13 public hearing. Then the next scheduled Planning Board public hearing is listed as September 8. Therefore, on behalf of the Applicant, we formally request a continuance of the subject application and to allow an extension of the "65-day clock" to a date certain, September 8, 2025.

Should you have any questions or require further information, please do not hesitate to contact our office.

Respectfully, Keach-Nordstrom Associates, Inc.

Jason Lopez Senior Project Manager

Planning Board Meeting Minutes

July 7th, 2025

2016 and the Planning Board should treat this as if it was grandfathered in. James Gaffney agreed, he further explained that there have been two amendments to the sign ordinance. Ian Rogers asked when the current signs were installed. Derek Evens stated that the signs were installed prior to 2010.

Barak Greene spoke about the proposed enhancement of lighting at the two main entrances, questioning if there are any concerns. Derek Evans advised the Planning Board that the current lighting projects light out and the proposed lighting will project light down. Barak Greene suggested the applicant include a statement on the actual application that there will be no change in light leaving the property. Karen Coyne agreed. Karen Coyne explained to Derek Evans that the Planning Board is recommending that he meet with Chrissy Almanzar, Land Use Secretary, for a determination of site plan review. She stated that unless something drastically changes, the Planning Board findings would be that a site plan review is not required.

Barak Greene suggested the Planning Board change the language "determination of site plan review" to "site plan amendment". Karen Coyne stated that the Planning Board would need to hold two public hearings to make that change. Barak Greene stated that his intention is to make the process clear to applicants. Ian Rogers stated that he supports the idea. The Planning Board agreed to discuss the change at the next work session.

V. UNFINISHED BUSINESS

A. Peacock Hill Road LLC Correspondence – AoT, Legal, Letter

Karen Coyne announced that the applicant has requested a continuance until September 8th. Karen Coyne explained that the Planning Board received the alteration of terrain (AoT) response from Kevin Thatcher. Karen Coyne stated that NHMA and the Town's legal counsel provided similar opinions regarding the buildable area between the two lots. She explained that both opinions maintain that in accordance with Article II.C.2., the zoning requirements of each district shall remain. Karen Coyne stated that the applicant may apply for a variance for "buildable area" from the ZBA.

Ian Rogers appreciates the interpretation of the zoning ordinance and thinks this is a good example of where the zoning ordinance could be clarified to eliminate the need for a legal opinion. Karen Coyne agreed stating that they should be able to interpret their own ordinances. Barak Greene explained that the Planning Board heard from an accomplished engineer who stated that the Planning Board was wrong in their interpretation of the zoning ordinance and the legal opinion was sought to validate the Planning Board's interpretation.

VI. MINUTES: June 16, 2025

Harry Seidel made a motion seconded by Ian Rogers to approve the June 16, 2025 Planning Board meeting minutes as amended and the recording is reviewed. Motion Passed Unanimously.

VII. COMMUNICATIONS

Pier D'Aprile asked the Planning Board to discuss the HOP II that was approved at the June 24, 2025 Select Board meeting. He recapped the five steps in the scope of work: 1) Conduct a housing needs assessment for the Town of Warner, 2) Conduct an audit of Warner's zoning ordinance, 3) Conduct an audit of Warner's site plan review regulations and subdivision regulations, 4) conduct community engagement, 5) Create and/or revise regulations in zoning. James Gaffney stated that the last task should read "propose" because it would have to be voted on by the town. Ian Rogers explained that the Select Board addressed that concern requiring the committee to submit their recommendations to the Select Board and Planning Board. Bob Holmes concurred noting that the task was revised at the Select Board meeting. Pier D'Aprile explained that he is attempting to make the scope crystal clear to avoid the confusion that occurred with the HOP I. Ian Rogers agrees with the importance of maintaining clarity. Barak Greene stated that this grant was applied for without consultation with the Planning Board. He stressed the importance of being very clear in communications with the Planning Board, Zoning Board and Select Board. Karen Coyne explained that the

Planning Board Determination

August 4th, 2025



TOWN OF WARNER

P.O. Box 265, 5 East Main Street Warner, New Hampshire 03278-0059 Land Use Office: (603) 456-2298 ex. 7

Email: landuse@warnernh.gov

Planning Board Determination

Date: Monday, August 4th, 2025

Site Plan Application

Applicant:

Peacock Hill Rd LLC

Agent:

Keach-Nordstrom Associates

Owners:

Peacock Hill Rd LLC

Address:

Map 07 Lot 039, 39-1 Route 103 East, Warner, NH

Map/Lot:

Map 07, Lot 039, 39-1

District:

R-2 and R-3

Description:

Proposing two buildings with four units each to be used as multi-family housing with

a shared driveway.

On August 4th, 2025, the Warner Planning Board voted to determine that the buildable area in the R2 portions of their lots are not sufficient for the proposed structures. The applicant should apply to the Zoning Board of Adjustment for a Variance. This determination was made after a thorough review of Warner's Zoning Ordinances and consultation with multiple counsel: correspondence is attached.

The vote tally was 6 in favor of the motion, one abstained.