



## 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

# Zoning Board of Adjustment AGENDA

Wednesday, November 8, 2023  
Town Hall Lower Meeting Room  
7:00 PM

**Zoom Protocol:** This meeting will be held in person at the Town Hall and remote participation through Zoom conferencing. *\*Please mute your audio, until recognized to speak. Use the raise-the-hand feature or the chat feature to get the Land Use Administrators attention in order to be recognized to speak. All conversation in the 'chat' is inclusive and documented as part of the public record.* All meetings are audio and video recorded on **Zoom**.

Join Zoom Meeting: <https://us02web.zoom.us/j/84102051310>

Meeting ID: 841 0205 1310

Passcode: 1234

### I. OPEN MEETING and ROLL CALL

### II. NEW BUSINESS

### III. UNFINISHED BUSINESS

#### A. Continuance of Hearing for a Variance Application

Case: 2023-05

Applicant: Pier D'Aprile

Agent: Pier D'Aprile

Address: 115 Bible Hill Road

Map/Lot: Map 12, Lot 5

District: R-3 and OC-1

**Details of Request:** Preparing for a minor subdivision for two lots. One newly created lot will meet the requirement of 250 feet of frontage. The other newly created lot will have 80-feet of frontage.

**Continue Board Deliberations.** Site Walk discussion.

#### B. Discuss Rules of Procedure addition suggested by the town's Attorney.

#### C. Consider application additions and checklist changes.

### IV. REVIEW OF MINUTES OF PREVIOUS MEETING: October 11, 2023

### V. COMMUNICATIONS AND MISCELLANEOUS

A. Concerns for the Planning Board

B. Derek and Janice to discuss 2023 Land Use Law Conference - ZBA Track

### VI. ADJOURNMENT (Motion, Second, Vote)

Note: Zoning Board meetings will end no later than 10:00 P.M. Items remaining on the agenda will be heard at the next scheduled monthly meeting.

All interested parties are invited to attend. Correspondence must be received by Noon on the day of the meeting.



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**Zoning Board of Adjustment**  
***Minutes of October 11, 2023***

**I. The Chair opened the ZBA meeting at 7:00 PM.**

**A. ROLL CALL**

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

**Also present:** Janice Loz, Land Use Administrator

7 **II. NEW BUSINESS - None**

8 The board discussed the appointment of Derek Narducci to the position of a voting member.  
9 Harry would step down to an Alternate position on the board. The Chair noted that Jan G. and  
10 Derek had both previously expressed an interest in serving as the Vice Chair. Beverley said  
11 she had no interest in the position, neither did Lucinda. Jan G. said she felt Derek would make  
12 a great vice chair.

13 **Beverley Howe nominated Derek Narducci as Vice Chair of the Zoning Board. Seconded**  
14 **by Jan Gugliotti. Discussion:** None. **Voice Vote Tally:** 4 to 1 to 0. Derek abstained.  
15 **Summary:** The motion passed to nominate Derek Narducci as ZBA Vice Chair.

16 **III. UNFINISHED BUSINESS**

17 **A. Continuance of Hearing for a Variance Application**

18 **Case:** 2023-05  
19 **Applicant:** Pier D'Aprile  
20 **Agent:** Pier D'Aprile  
21 **Address:** 115 Bible Hill Road  
22 **Map/Lot:** Map 12, Lot 5  
23 **District:** R-3 and OC-1

24 **Details of Request:** Preparing for a minor subdivision for two lots. One newly created lot  
25 will meet the requirement of 250 feet of frontage. The other newly created lot will have 80-  
26 feet of frontage.

## UNAPPROVED MINUTES

27

28 The Chair opened the continuation of Case 2023-05. The site walk was not conducted due  
29 to a family emergency for the applicant. The applicant requested the board continue the  
30 application until November so the board will have time to conduct a site walk.

31 Jan G. commented that she did a site walk and strongly recommended it. Derek drove by  
32 the property and would like to see where the house will go on the property. Beverley said  
33 she participated in the initial site walk a few years ago. Janice said the house is now  
34 supposed to be in a different location. Sam said he interpreted it to be close to the same  
35 location.

36 The Chair said the previous applicant had staked out the location of the house, while Mr.  
37 D'Aprile has a general envelope where the house is going. He has not actually sited the  
38 house, yet. The Chair asked if Sam had been on the property, and he said he drove by it.

39 Derek said if we were to give a variance can it come with conditions. Derek said when  
40 someone comes down the proposed driveway they are almost sitting in the neighbor's  
41 living room across the street. It is less than 10-feet away from it. He was wondering if they  
42 could make a condition that the driveway goes to the other side and doesn't face the  
43 neighbors living room. Maybe we could set a condition that there has to be evergreen  
44 trees or something there. Therefore, when someone comes down the driveway it gets  
45 blocked before they turn and is not facing that neighbor's house. The Chair said they can  
46 definitely make screening a condition. Beverley said it is not going to be a public road, the  
47 applicant may come down once a night. Derek said he is just trying to do what is right for  
48 both the applicant and the neighbor. The board questioned whether the neighbor in  
49 question was new and whether he was around during the previous application.

50 **Derek Narducci made a motion to continue the hearing to the November 8, Zoning**  
51 **Board of Adjustment meeting. Jan Gugliotti seconded the motion. Discussion:**  
52 **None. Voice Vote Tally: 5 to 0. Summary: The hearing on D'Aprile, case number 2023-**  
53 **05 was continued to November 8.**

54 Janice said she would work on getting dates together for a site walk of the D'Aprile  
55 property. The Chair said they could get permission to walk on the property and if there are  
56 stakes or an indication where things are going to be, that would be useful. Janice reminded  
57 the board that if the application for a variance was approved then it would go to the  
58 Planning Board for a subdivision. The board could make the Planning Board mindful of any  
59 conditions you want to put on the applicant.

60 Janice also told the board a letter from an abutter has been received although the board  
61 is in deliberations. The Chair clarified the board is in deliberations and usually they don't  
62 take public input after the public hearing has been closed. The Chair said they can reopen  
63 the hearing if they need to take in more information. Janice said it may be a good idea to  
64 reopen the hearing to discuss what you saw on the site walk and potentially discuss it with  
65 the applicant. The Chair said they wanted the letter as part of the packet for next month.

66 Beverley asked if he should give a drawing of the shape of the road. Janice said she  
67 recalls the road will be shifted when it becomes a driveway. The Chair said accurate stakes  
68 in the ground would give the board a sense of where the driveway will be.

69 Beverley asked if the board has granted something similar in the past, such as, making  
70 one lot conforming and one non-conforming. Janice thought this was the only property of  
71 that nature. Janice said it is a hot topic, there have been a few people who have acreage

## UNAPPROVED MINUTES

72 in the back of the property with small frontage. Although, this is unique in that they are  
73 able to create a conforming and a nonconforming lot.

74 Janice said when this property was before the board previously it was at least three  
75 continuous meetings.

76 Beverley wondered if they should ask their attorney for advice. For instance, is this  
77 something they should do in terms of setting a precedence. Maybe as a town we should  
78 decide if we are going to do this or not. Beverley said it doesn't bother her one way or  
79 another, she was just wondering.

80 The Chair said they have to take each case on its merits. But, you do have to consider the  
81 cumulative effect of these decisions.

82 Janice said the lawyer would probably say the board only has the ordinances to follow.  
83 The board makes their decision on the merits. The board would determine whether or not  
84 this case is unique for some reason or if this property has a hardship that warrants a  
85 variance. The Chair added that wouldn't apply to every other property with small frontage  
86 and larger back acreage. Beverley said they granted this application previously but you  
87 couldn't really see the house. Janice said, right it didn't change the curb-side presence on  
88 the road.

89 Jan G. asked how high this building would be. The Chair said it can't be over 35 feet. Jan  
90 G. said when she goes on Google Earth and sees the topography it seems that people on  
91 Collins Road may see the house. Beverley asked if Collins Road residents are considered  
92 abutters. The Chair said every resident on Collins Road that touches the property was  
93 notified as an abutter.

#### 94 **IV. REVIEW OF MINUTES OF PREVIOUS MEETING:** September 13, 2023

95 **Jan Gugliotti made a motion to accept the minutes of September 13, 2023 with the**  
96 **corrections as noted. Lucinda McQueen seconded the motion. Discussion:** The Chair  
97 will check the Zoom recording for clarifications of a few points and forward corrections to  
98 Janice. **Voice Vote Tally:** 5 – 0. Summary: The motion passed.

#### 99 **V. UNFINISHED BUSINESS (continued)**

##### 100 **Rules of Procedure (ROP)**

101 The board reviewed changes to the ROP suggested by the town's attorney and purposed  
102 wording changes offered by Harry and the Chair. The changes were to the following topics: a  
103 motion for rehearing, defining an applicant, 45-day hearing held after receipt of an appeal,  
104 including specific findings of fact in decisions and 91-A regulating email communications.

##### 105 **Application changes**

106 The board discussed the threshold for requiring a plot plan. Derek suggested anything that  
107 potentially changes an original footprint by 1,000 or 2,500 square feet. The Chair said it could  
108 be a judgment call, plot plans prepared by a survey may be required if the board feels they  
109 can't make a decision without that information. Derek said if an applicant is making a certain  
110 type of change, they are going to need a plan anyway, therefore, it wouldn't be an added  
111 expense. Janice said it could be both, it could be a threshold number and you could make a  
112 notation that if the board determines they need a plan it would be required. Derek said the  
113 only problem he has with "if the board deems it necessary" is it's a timing issue that could  
114 delay the process.

## UNAPPROVED MINUTES

115 The Chair said if they are going for a Building Permit or a subdivision, both require a plot plan.  
116 That represents 80% at least of what comes before this board. The Chair said people don't  
117 usually come to this board with concepts.

118 Janice was concerned about applicants that want to see if they can get a variance or a special  
119 exception before spending money on a Building Permit or a Site Plan. If they don't get  
120 permission from the board then they are out the money they spent to get a certified plan.  
121 Janice said the board has already determined a plan of some kind is necessary. Derek agreed  
122 that it should be some type of drawing. Janice said so you have to define what the parameters  
123 are for a certified plan, or a simple plan drawn to scale. Derek said if they draw it themselves  
124 there is an accuracy issue.

125 The Chair said by the time they come before this board something has already been identified  
126 as being in violation of the ordinances. Sam said the fact they want to proceed sets that bar  
127 for an expense they may have to incur.

128 Janice said for an Equitable Waiver it makes sense to require a certified plot plan, because  
129 they have already done something they shouldn't have. The Chair said they would have had  
130 to get a Building Permit so they should already have a plan.

131 Janice said for a Special Exception it is just a "use" determination. Derek said it could be  
132 determined case-by-case. The Chair said really it is a variance that has to do with building  
133 (construction). Janice said a requirement for a Special Exception could be a simple plan and  
134 a certified plan if necessary.

135 Janice asked if an appeal of an administrative decision needed a plot plan. The Chair  
136 responded it would be a case-by-case determination.

137 The Chair felt a variance application should require a certified plot plan. The record should  
138 clearly show the proposed violation of a setback, for instance.

139 Janice passed out a sample drawing she has done as an example for applicants to include in  
140 the application.

### 141 VI. ADJOURN

142 **Jan Gugliotti made a motion to adjourn the meeting at 8:47 PM. Beverley Howe**  
143 **seconded the motion. Voice Vote Tally: 5 – 0.** The meeting was adjourned.

/jll