



## 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](mailto:landuse@warnernh.gov)

### *Planning Board Work Session Minutes*

Monday, August 5, 2024

#### I. OPEN MEETING 7:02 PM

##### ROLL CALL:

Board Member	Present	Absent
David Bates		✓
Andy Bodnarik (Vice Chair)	✓	
Karen Coyne (Chair)	✓	
Pier D'Aprile	✓	
James Gaffney	✓	
Barak Greene – Alternate	✓	
John Leavitt - Alternate	✓	
Ian Rogers	✓	
Harry Seidel – Selectboard	✓	
James Sherman – Alternate	✓	

**In Attendance:** Janice Loz – Land Use Administration

#### II. PUBLIC COMMENT

None.

#### III. MINUTES: July 1 and July 15, 2024 – Tabled until September 9, 2024

**James Gaffney made a motion seconded by Barak Greene to table the minutes of July 1<sup>st</sup> and July 15<sup>th</sup> until the next meeting on September 9, 2024. Discussion: None. Vote Tally 6 to 1. Harry Seidel voted in the negative.**

#### IV. NEW BUSINESS

##### A. Conceptual Consultation

**Applicant:** Ryan Fredette  
**Owners:** Pleasant Valley Living Trust  
 Trustees: Ryan Fredette and Katy-Lynne Magoon Fredette  
**Agent:** Steven Lugar – Land Surveyor  
**Address:** 285 Pleasant Pond, Hopkinton, NH 03229  
**Map/Lot:** Map 3, Lot 22  
**District:** OR-1

**Description:** Adjust lot line to transfer parcel to Russell Nolan – 233 Pleasant Pond Road, Hopkinton, NH 03229

Steven Lugar represented the applicants. He presented the requested lot line adjustment transferring 4.32 acres to Russell Nolan of Hopkinton NH. James Gaffney stated that in order to do a lot line adjustment both parcels would need to be within the Town of Warner pursuant to RSA 674:53. He believes the only way to do this is to submit an application for a minor subdivision creating a new lot. He explained that all properties must meet the frontage requirements, but the parcel is land locked. He further explained that the ZBA would need to grant a variance for a non-conforming lot.

Harry Seidel asked for clarification on the specifics of the request to annex land from the town of Warner and combining it with property in the town of Hopkinton. James Gaffney spoke about the challenges of this being a land locked parcel and about the need for joint Land Use meetings between Warner and Hopkinton pursuant to state law. Barak Greene stated that the Planning Board could write a letter of recommendation to the ZBA. Karen Coyne explained that section 6 of RSA 674:53,6 (b) speaks the joint meeting requirement.

There was further discussion on the idea of a joint meeting between the Warner Planning Board and the Hopkinton Planning Board. James Gaffney stated the two Towns could hold a conceptual meeting with the ZBA to discuss the request without taking any action. Harry Seidel and Janice Loz stated that the Zoning Boards would not be allowed to comment on the situation until they have a formal application. Janice Loz stated that the ZBA members could listen to the discussion but they could not comment. She suggested that the Warner Planning Board Chair speak to the Hopkinton Planning Board Chair.

**Harry Seidel made a motion seconded by Pier D’Aprile that the Warner Planning Board and Hopkinton Planning Board have a joint conceptual session to review the case of Russell Nolan and Pleasant Valley Living Trust, Map 3 Lot 22-1.** Discussion on the Motion: James Gaffney stated that he is torn on whether or not a subdivision application should be submitted prior to the joint meeting. Karen Coyne explained this is simply a conceptual consultation meaning an application is not required.  
**Vote Tally 7-0**

The Chair elevated John Leavitt to serve as a voting member for David Bates (absent).

## **B. Conceptual Consultation**

**Applicant:** Richard Antoine

**Owners:** Richard & Heidi Antoine

**Agent:** Richard or Heidi Antoine

**Address:** 576 Kearsarge Mountain Road, Warner NH 03278

**Map/Lot:** Map 18, Lot 039

**District:** R3

**Description:** Subdivide 12.5 acre lot into two lots. One lot will be 8.5 acres and the second lot will be 4 acres.

Tabled until the September 9, 2024 Planning Board meeting

**C. Lot Line Adjustment Application**

**Applicant:** Romeo Dubreuil and Holly Holmes  
**Owners:** Two parcels, one owned by Romeo and Tammy Dubreuil, the other owned by Nate and Holly Holmes  
**Agent:** Romeo Dubreuil and Holly Holmes  
**Address:** Dubreuil - 116 Route 103 East  
Holmes - 118 Route 103 East, Warner, NH 03278  
**Map/Lot:** Dubreuil - Map 10, Lot 74, Holmes – Map 6, Lot 57-1  
**District:** Dubreuil - R3, Holmes – R-2  
**Description:** Proposed Lot Line adjustment between Dubreuil Map 10, Lot 74 and Holmes – Map 6, Lot 57-1.

Holly Holmes presented the proposed lot line adjustment. John Leavitt asked for clarification if lot line adjustments are required to go through a check list. Karen Coyne stated that lot line adjustments are not required to go through a checklist to her knowledge. The Board reviewed the map depicting the parcels that will be adjusted. Holly Holmes advised the Planning Board that the frontage will not change for either lot. James Gaffney would like the structure location and the driveway location depicted on the map. The abutting lots were reviewed and confirmed.

Karen Coyne asked if there were any questions or comments from any of the abutters or general public. No questions or comments from the abutters or general public.

**Harry Seidel made a motion to approve the lot line adjustment between Map 6 Lot 57-1 and Map 10 Lot 74 as described in the survey with the following conditions existing structures, wells, septic's, driveways, setbacks and zoning line be added to the plan. Ian Rogers seconded the motion. Discussion: None. Vote Tally: 7-0 The motion was approved.**

**D. Minor Subdivision Application**

**Applicant:** Mark W. Xenakis  
**Owners:** Mark and Susan Xenakis  
**Agent:** J.E. Belanger Land Surveying, PLLC.  
**Address:** 93 Dimond Lane, Warner, NH 03278  
**Map/Lot:** Map 3, Lot 29  
**District:** R-2 and OC-1  
**Description:** Subdividing an 11.16 acre lot into two residential lots. There will be an existing house on one lot and a single-family residential home will be built on the newly created lot. An existing lane will be extended so the newly created lot will have road frontage (this has been approved by the Town of Warner Selectboard).

Attorney Derek Lick is representing one of the abutters. Furthermore, he advised the Planning Board that he is currently involved in other litigation involving other Planning Board members. Pier D'Aprile and James Gaffney both stated that they would recuse themselves if the board felt that would be best. There was a discussion among the other board members and they did not feel that Pier D'Aprile or James Gaffney needed to recuse themselves.

Jacques Belanger represented Mark Xenakis. Karen Coyne asked if the Planning Board accepts the application as complete.

**Harry Seidel made a motion to accept the minor subdivision application as complete with amendment of the two waivers. Barak Greene seconded the motion. Vote Tally 7-0**

Karen Coyne opened the hearing for the application. She asked for clarification regarding the access easement for the hammerhead. Harry Seidel explained how the hammerhead came to be and approved by the Select Board. He stated that by creating the hammerhead it also gave the land owner suitable frontage. The idea was that upon completion of the hammerhead the owner would then grant an easement to the Town.

John Leavitt questioned if the Town is responsible for maintaining the road. Harry Seidel spoke to Allen Brown who informed him that once the town receives an easement the town is responsible for maintaining it. Tim Allen (by zoom video) stated that it is his understanding that once the road is built the Town accepts the road.

The Board agreed to make the easement, zone delineation and buildable area conditions. The board agreed to notify the Warner River advisory committee.

Attorney Derek Lick spoke on behalf of his clients Julie and Tad Gibson who own the property to the south of the subdivision. He stated that his clients are not objecting to the subdivision but they do have three concerns.

- 1) The Gibson's request that the easement or deed specify that the hammerhead is only to be used as turnaround no other use such as parking
- 2) Due to the proximity of the hammerhead to their property the Gibson's request the installation of a privacy fence/screen
- 3) The Gibson's seek clarification on who owns the road between Gibson's southern boundary and Mr. Xenakis' property. Attorney Lick has reviewed associated deeds, titles, and surveys but is unable to determine the owner.

James Gaffney requested any documentation that illustrates the size of the parcels on either side or the road in question. Attorney Lick stated that his clients have hired a surveyor. Harry Seidel stated that he has had a conversation with the individual who was the road agent at the time. It is his understanding that the original road was poorly made and it was a problem for the Town. The Town at the time secured easements from the property owners in the area. It is not certain that easements were secured from every property owner. The Town did rebuild the road to make it safer.

Jacqueline Stock owner of 71 Dimond Lane stated that they did grant an easement to the Town. Tim Allen advised the board that the Town does maintain the entire road. Michael Smith stated that the easement in question has not been located. Karen Coyne asked Attorney Lick if his clients would grant an easement to the town. Attorney Lick confirmed his clients would grant an easement. He would also like to a condition that clarifies that the lot to the west is a standalone buildable lot.

Attorney Lick suggested that the Select Board needs to make a decision. He further suggested that the Planning Board make a conditional approval subject to the Town and the Gibson's executing an agreement satisfactorily to each party that affirms that the Dimond Lane extends to the Xenakis property and the parcel to the east is a stand-alone buildable parcel. James Gaffney believes the Select Board needs to determine if all easements have been secured. He questioned if the bisected parcels are now individual lots and are they buildable.

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Harry Seidel explained that when a road is built property owners typically grant an easement to the town to build the road and once built the road then becomes part of the town's road system. He spoke about the public safety benefit for the town and residents along the road.

Sara ??? represented 71 Dimond Lane advised the Planning Board that there are 22 property owners who own property that is bisected by the road, and she questioned if they all now have two separate lots.

John Leavitt explained that the issue before the Planning Board is the end of Dimond Hill Road and whether the easement should be granted so the hammerhead can be built. Karen Coyne stated what is before the Planning Board is the condition that a hammerhead cannot be built unless it is a road that goes the entire distance. Michael Smith asserted that the road has already been approved as a town road. Karen Coyne reiterated that the Xenakis' and the Gibson's are requesting that the Town formalize the acceptance of the road. She recapped the Gibson's requested conditions for approval;

- 1) The hammerhead is for turnaround purposes only no parking or storage
- 2) Installation of screening/privacy fence and a statement of who will maintain it
- 3) A public easement subject to the Town and the Gibson's executing an agreement satisfactory to each party that affirms that Dimond Lane extends to the Xenakis property.
- 4) A determination to be made that the lots on the other side of the easement are separate buildable lots.

James Gaffney stated that the Gibson's survey would be helpful if a determination needs to be made on the issue of bisected lots whether they are now two separate lots of record and if they are buildable. He stated that the Select Board will make that determination. Harry Seidel stated the first condition from the Gibson's is reasonable. He feels that the installation of a privacy screening and the determination that the lots on the other side of the easement are separate buildable lots is a private concern of the abutters and should not be handicapping a proposal that will benefit the town. James Gaffney stated the Planning Board cannot determine if a road is a Town road, that would be done by the Select Board. He believes the Select Board, the Xenakis' and the Gibson's need to come to an agreement before the Planning Board can make any decisions.

Barak Greene stated that the conditions mentioned do not prohibit the Planning Board from moving forward and suggest the Planning Board could give a conditional approval upon an agreement between the Town, Xenakis' and the Gibson's.

Final call for public comment.

NAME AND COMMENT UNABLE TO HEAR

Karen Coyne closed the public section and recapped the conditions:

- 1) On the map there needs to be zone delineation and buildable area
- 2) An assertion for the Road Agent that the turnaround will not be used for parking
- 3) Screening, privacy fence and an agreement on who will maintain the privacy fence
- 4) Subject to the town and the Gibson's executing an agreement satisfactory to each party that affirms that Dimond Lane extends to the Xenakis property and in doing so creates lots of record.

**Barak Greene made a motion to grant conditional approval. James Gaffney seconded the motion.**

**Discussion:** John Leavitt is not comfortable forcing the applicant to install the privacy. James Gaffney pointed out that the motion does not specify who installs the fence. Harry Seidel does not support the

fence. He only supports declaring that Dimond Lane goes to the end of the Road. Harry Seidel does not believe it is appropriate to require the applicant or the Town to install the fence. Janice Loz suggested the Board consult with legal counsel regarding the condition requiring the agreement between the Town, the applicant and the abutter.

**John Leavitt made an amendment to the motion seconded by Harry Seidel to remove the requirement of screening as a condition. Amendment Vote Tally: 7-0**

**Barak Greene made a motion seconded by James Gaffney to grant conditional approval with the following conditions:**

- 1) On the map there needs to be zone delineation and buildable area**
- 2) An assertion for the Road Agent that the turnaround will not be used for parking**
- 3) Subject to the town and the Gibson's executing an agreement satisfactory to each party that affirms that Dimond Lane extends to the Xenakis property and in doing so creates lots of record.**

Vote Tally 7-0 The motion was approved

Harry Seidel requested another reading of the motion for clarity. Karen Coyne read back the motion.

**Barak Greene made a motion seconded by James Gaffney to approve the subdivision of an 11.16 acre lot into two residential lots on Map 3 Lot 29 Dimond Lane with the conditions:**

- 1) On the map there needs to be zone delineation and buildable area**
- 2) An assertion for the Road Agent that the turnaround will not be used for parking**
- 3) Subject to the town and the Gibson's executing an agreement satisfactory to each party that affirms that Dimond Lane extends to the Xenakis property and in doing so creates lots of record.**

**The Motion was approved 7-0**

**E. Notices – Tabled until September 9, 2024**

## **V. UNFINISHED BUSINESS**

### **A. Subdivision Application**

**Applicant: Sydney Elizabeth Boyer**

**Owners:** Sydney Elizabeth Boyer

**Agent:** Jon Rokeh – Rokeh Consulting, LLC.

**Address:** Kearsarge Mountain Road, Warner, NH 03278

**Map/Lot:** Map 33, Lot 18

**District:** R2

**Description:** An existing 10.60 acre lot is proposed to be subdivided into four lots with a new subdivision road connecting to Kearsarge Mtn. Road.

Jon Rokeh presented the progress made on the proposed subdivision of Map 33 Lot 18. He explained that he has put together a waiver request for the size of the subdivision to be approved by the road agent. He stated that the cul-de-sac shown on the plan should meet the requirements.

Jon addressed the driveway grading issues. Karen Coyne asked about the stone verses swales. Jon Rokeh explained that the use of swales could send run off down much quicker than stone and he is

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concerned that it will end up passing the catch basins and end up at Kearsarge Mountain Road. He believes stone is the best way to go and will have less impact on the asphalt road.

Tim Allen believes the size of the cul-de-sac is sufficient. He stated that run off in this area is an issue. Jon Rokeh stated that he made a few adjustments to meet the town's regulations.

Karen Coyne recapped the three conditions for approval

- 1) The waiver of a cul-de-sac
- 2) All changes will be in a final set of plans
- 3) Determination of driveway style
- 4) Maintenance consistent with NH Stormwater Manual

**Harry Seidel made a motion to grant conditional approval. Ian Rogers seconded the motion.**

**Discussion:** None. **Vote Tally: 7-0** the motion was approved.

### VI. REPORTS (Tabled until September 9, 2024)

- A. **Chair's Report** – Chair, Karen Coyne – None.
- B. **Selectboard** – Harry Seidel
- C. **Regional Planning Commission** – Derek Narducci, Ben Frost
- D. **Economic Development Advisory Committee** –
- E. **Agricultural Commission** – James Gaffney - None
- F. **Groundwater Protection Committee** – Andy Bodnarik
- G. **Housing Advisory Committee** – Ian Rogers

VII. **COMMUNICATIONS** Discussion on 91-A requirements. Discussion on collaboration outside of a Planning Board meeting. No action or discussion.

VIII. **PUBLIC COMMENT** - None

IX. **ADJOURN**

Adjourned at 10:08 PM.

Respectfully submitted by Tracy Doherty