



TOWN OF WARNER

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Zoning Board of Adjustment Minutes of May 8, 2024

I. OPEN THE MEETING AND ROLL CALL - at 7:04 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

The Chair welcomed Jim Zablocki as the board’s new Alternate, who has not yet taken his oath of office.

The Chair said the board was happy to have him and said they will get him a welcome packet with the ordinances and the Rules of Procedure to get him up to speed. She thanked him for joining the board.

II. ANNUAL VOTING OF OFFICERS

A. Harry Seidel nominated Barbara Marty for the Chair position. Beverley Howe seconded the nomination. Barbara thanked them and accepted the nomination and asked if there were any other nominations. No other nominations were made. **Vote Tally:** 5 – 0. Barbara Marty was elected Chair of the ZBA for a one-year term.

B. Barbara Marty nominated Derek Narducci for the Vice Chair position. Beverley Howe seconded the nomination. The Chair asked if there were any other nominations or volunteers. The Chair asked Derek if he accepted the nomination, Derek responded, yes. **Vote Tally:** 5 – 0. Derek Narducci was elected Vice Chair of the ZBA for a one-year term.

III. REVIEW OF MINUTES OF April 10, 2024

The Chair changed the order of the agenda and moved the review of the minutes to the next item.

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Harry Seidel made a motion to approve the minutes of April 10, 2024 as amended. Jan Gugliotti seconded the motion. Discussion: None. Voice Vote Tally: 5 – 0.

IV. APPLICATION FORM EDITS

Special Exception

The Chair asked if the board had edits to the application forms, not the instructions or the checklist.

The Chair started with the application for a Special Exception. The Chair said the text on the application referencing 91-A regulations should be removed because it will be in the general instructions.

Janice was not sure about that and wanted to check with counsel because that wording is on the top of all the Land Use applications.

The Chair noticed wording to be combined on Page 6.

Jan G. noticed there are four conditions but the wording referenced five, that should be changed.

The board discussed making the wording in the application to be as outlined in the Zoning Ordinances.

Variance

The board reviewed changes to the Variance form. No changes were noted.

Appeal of An Administrative Decision

The Chair proposed changing the footer and noting correct number of conditions on the Appeal application.

Janice said the board can hear appeals of the Planning Board, the Selectboard, the Building Inspector and the Zoning Board's decisions as they apply to zoning ordinances or an interpretation of the ordinances.

Equitable Waiver of Dimensional Requirements

Janice liked what the Chair did in bringing the application in line with the RSA.

The Chair noted the explanation in the RSA of the Equitable Waiver which might be a good footer at the bottom of the application. It would say the Equitable Waiver shall not be construed as a non-conforming use and shall not exempt future use construction, reconstruction or additions on the property from full compliance with the ordinance. She said that is in the RSA which explains that when you get an Equitable Waiver that doesn't give you any other rights. It's not the same as a Variance where if you get a Variance, you can then build in line with that Variance in the future.

Harry confirmed that these changes are all straight from the statute. The Chair affirmed.

Plot Plan

The Chair asked if the board wanted to go through the plot plan and the checklist tonight or move on to the next agenda item?

Derek said there are no setbacks on the plot plan.

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Harry said all the setbacks need to be clear.

Derek thinks it fair to ask for all the setbacks.

Janice said there needs to be a statement saying the board needs zoning district setbacks as well as building setbacks.

The Chair asked Harry if the Building Permit will require a plot plan with setbacks as well, so we can be consistent. Harry said there may be instances when noting setbacks isn't necessary if it doesn't impact setbacks. People don't have the money in a lot of cases to hire a surveyor. Derek said it could cost up to \$2,800. Harry said it's a judgment call if someone needs a surveyor.

Sam said potentially an applicant could sign a waiver saying either they get a surveyor, or they waive a right to appeal at the Zoning Board. Something that would establish the responsibility of the choice on the applicant to decide whether it is the risk worth the cost. Most of the time it is not needed, and it is an extra burden to require a surveyor but the risk should be on them.

Jan G. said she understands that redoing our tax maps needs to be done to make them more accurate. If we get to the point where the Town has decent technology and accurate maps. The surveyor is going to have to find another line of business.

Harry said the tax maps are accurate to standard that we would need to have. He said to Sam's point that it is the owner's responsibility to do their homework. Harry said the new Building Permit application will make a big difference. The Chair said we should be consistent.

Sam asked about the software at the library to help the public draw a plot plan. Jan G. said we are going to have to get the software and potentially someone to help navigate it. It is called ArcGIS, it is at least up to a one year project.

Harry said he was hesitant about the comment on the plot plan that asks the applicant if they need a surveyor. To say that most residential plot plans are not required to be professionally sealed and stamped by a surveyor is a little murky. In some cases, you don't need a surveyor and in some cases you do.

The Chair asked how easy is it going to be for an applicant to submit a hand-drawn plot plan?

Jim said even though it is a hand-drawn plot plan it's a good exercise for the person who's applying to ensure his property is within the proper distances from abutters. It may not be perfect as it would be if they went through a surveyor, but it forces them to go through the procedure.

Sam said when the town gets a plot plan, and if it's hand drawn with buildings that look close and might be questionable, that's when the Selectboard or the Building Inspector could say this is not adequate or that they don't feel comfortable with it.

A few board members discussed the inaccuracy of town tax maps, to be used as a basis for a plot plan.

The Chair asked the board if the Selectboard should determine what a plot plan should include and not the ZBA.

Janice said what the ZBA needs may be different than a Building Permit and some of the applications are for the use of a property or of structures. She said the town gets all sorts of applicants. Some do not have the means to hire a surveyor, others do. We need to accommodate everyone. Although, we still need to get the information that the board needs to decide on an

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application. Not all tax maps are inaccurate, the Assessing office will know if they have a current plot plan that was based on a surveyed plan.

Harry said to direct an applicant to a tax map is opening the door to people thinking the Town is giving them something that is accurate.

The Chair said she liked Derek's idea of moving the question of whether a surveyor is needed to the bottom of the page. Derek said if the applicant reads through all the questions, and they don't feel comfortable then they might want to consider a surveyor. Also, setbacks have to be added to the form.

Harry said floodplains and wetlands should also be delineated. He discussed the recent review of Floodplain maps.

The Chair said they will add a note about floodplains and the Warner River. Harry said he would work on language.

The Chair discussed the checklist and a referral for a Variance from the Selectboard, Planning Board or a denial of a Building Permit from the Building Department.

Janice said she feels this item in the checklist is problematic. For instance, change it to read "a referral if applicable." The Chair said the word "must" is too heavy handed.

V. COMMUNICATIONS AND MISCELLANEOUS

A. Minutes

The Chair said when there isn't a case before the board minutes can be more condensed.

Janice uses an "ai" transcription software. It creates a rough script which she edits down.

Jan G. said there is transcription software that is better but not verbatim.

Janice said the Town is researching different types of "ai" software and other approaches. If the board made a stipulation that lawyers submit their written statements by noon on the day of the meeting, which they can read or reference and then any additional statements could be summed up. It concerned her that in the last hearing, the lawyer's responses to the criteria for a variance were not made a part of the record, because they were not read into the record. Janice also suggested setting a time limit for the lawyers to speak.

Beverly said she felt some lawyers need to have their time limited.

The Chair thought we should check with town counsel on whether we can limit a lawyer's time.

Janice said their statements need to be summed up and no longer verbatim, because it takes too much time to transcribe. Although, board deliberations will have to be verbatim.

Jim asked why would we ask the lawyers to submit something in writing?

The Chair said they do submit the application and their statements in writing prior to a meeting. They don't have to read their application it can be assumed into the record. Then they verbally restate their written statements in order to support their appeal. She didn't feel it was right to limit the time lawyers are allowed to speak.

Jim said so they submit something ahead of time, that is fine, but, is there anything else they want to add beyond what is written.

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Derek agreed with Sam that it is appropriate to ask them to summarize their responses and to add what they feel is necessary.

Harry said they should read their responses to the criteria. It is a good idea to have them use what they have already written. Harry said we can't afford to have Janice do verbatim minutes. We should just stick to the basics.

Janice said other applicants are required to read their responses to the criteria into the record. Why wouldn't we ask the lawyers to read their responses to criteria into the record.

The Chair said usually the non-attorney applicant has two to three sentence responses to the criteria.

Derek said he doesn't want to limit the time people need to speak.

B. REHEARING

The Chair noted that a petition for a rehearing was received today. The board will notice the meeting to determine if they will rehear the McLennand variance case. It will have to be within 30 days.

The board discussed if Wednesday, May 22, at 7:00 PM would be acceptable. Derek asked to participate by Zoom. The Chair asked the board to read the petition for a rehearing and to get any questions for the lawyer to Janice prior to the board meeting.

Janice said she would not be at the Wednesday, June 12, ZBA meeting, Elizabeth will be filling in and running Zoom.

VI. ADJOURNMENT

Harry Seidel made a motion to adjourn the meeting. Jan Gugliotti seconded the motion. The meeting was adjourned at 8:38 PM.

/jll