



TOWN OF WARNER

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Zoning Board of Adjustment *Minutes of August 14, 2024*

I. The Chair opened the ZBA meeting 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) | | ✓ |
| James Zablocki (Alternate) | ✓ | |

Also present: Janice Loz, Land Use Administrator

1. NEW BUSINESS

A. Application for a Variance

Case: 2024-05
Applicant: Rebecca Augeri
Property Owner: Stephen and Rebecca Augeri
Address: 224 Newmarket Road
Map/Lot: Map 13, Lot 30
District: R3 & OC-1

Description: Seeking a variance to the terms of Article XIV-B, Section F., to allow for an accessory dwelling to be placed 90 feet from the primary dwelling unit. The ordinance requires a distance no greater than 75 feet between an accessory dwelling and the primary dwelling unit.

The Chair asked the board to review the application.

Jan Gugliotti made a motion to accept the application as complete, seconded by Derek Narducci. Motion passed unanimously.

The Chair opened the public hearing. Rebecca Augeri confirmed that the abutters were noticed and the fees were paid. Rebecca Augeri advised the board that her father needs to be closer to her for medical reasons. She informed the board that her property has hills, wetlands and significant sloping. She stated that the 75 feet limit is very challenging. The Chair explained that the board will go through the criteria and ask questions of the applicant.

APPROVED MINUTES

#1 Granting the Variance will not be contrary to the public interest: The Chair said the board will question if there is any risk to health and safety for clean air or impact waterways. She explained that the applicant has a 13-acre property and is asking for a 15-foot variance. Derek Narducci stated that he has driven by and confirmed that property does have significant slope.

#2 Granting the variance would not be contrary to the spirit of the ordinance: The Chair explained that the second criteria of the ordinance is if by granting the variance is the spirit of the ordinance observed. The Chair stated that ADUs were originally created to provide multi-generational affordable housing. Jan Gugliotti questioned the 75-foot requirement. The Chair explained that the 75 foot requirement prohibits property owners from going too far into the backland. Derek Narducci stated that it prevents a home subdivision.

#3 By Granting the variance, substantial justice is done: The Chair explained that the board must consider substantial justice, is the gain to the applicant outweighed by the loss to the public. The Board does not see any loss to the public.

#4 By granting the variance the values of surrounding properties are not diminished: The Chair asked if the variance is granted would it diminish the value of the surrounding properties. The Board did not feel that would be the case as the structure would not be visible from the road or adjacent properties.

#5 No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and the proposed use is a reasonable one: The Chair stated that the applicant has explained that because of the septic, well, wetlands and slope of the land, the property cannot be reasonably used in the strict performance of the ordinance. The closest buildable area is 90 feet from the primary dwelling.

The Chair opened the floor for Board questions.

Sam Carr stated that he drove to the location and finds that the description of the lot is accurate and agreed that the only practical location is as outlined in the application. He stated that a variance of 15 feet is fair. The Chair asked about the right-of-way that is listed in the property deed. Rebecca Augeri stated that she is unaware of where the ROW is located. She explained that the original Lovejoy property was 72 acres.

The Chair stated that there is no one online or in attendance to add to public comment. The Chair closed the public hearing. The Board began deliberating.

Derek Narducci, Lucinda McQueen and Jan Gugliotti all stated that they liked and supported the project. James Zablocki expressed concern about the deeded right of way.

Janice Loz asked if the Board was satisfied with the answers to the criteria questions. The Board confirmed that they are satisfied.

Derek Narducci made a motion to grant a variance for the property located at 224 New Market Road Map 13 Lot 30 for a 15-foot variance to build an ADU. Motion was seconded by Lucinda McQueen. Discussion: The Chair pointed out that the property district has been correct to include both the R3 & OC1 districts. Voice Vote Tally: 5-0.

The Chair stated there is a 30-day appeal process.

REVIEW OF MINUTES OF PREVIOUS MEETING – July 10, 2024

Page 1 strike “later on in the meeting” insert “ Sam was temporarily elevated to a voting member until Jan arrived at 7:07 pm”

Page 1 line 33 strike “scale” insert “a plan drawn to scale.”

APPROVED MINUTES

Page 1 line 31 correct to read property line set backs.

Page 2 line 35 strike board insert Board

Page 2 line 35 strike agreement insert expressed a readiness to proceed.

Page 2 line 35 strike consistency insert more clarity

Page 2 line 38 rewrite to read: “either not accept application because it is in complete without the scale drawing or to hear the application and require a scaled plan as a condition of approval”.

Page2 line 41-42 review the recording of meeting to include more detail from the discussion.

Page 2 line 42 strike everything after garage insert “within regulation setbacks”.

Jan Gugliotti made a motion to accept the July 10, 2024 minutes as amended. Beverley Howe seconded the motion. Motion passed unanimously.

UNFINISHED BUSINESS

- A. Continue discussion on ZBA Application General Instructions. [Variance](#), [Special Exception](#), [Equitable Waiver](#), [Appeal from an Administrative Decision](#).

The Board discussed and reviewed recent changes made. The Chair explained the change to the equitable waiver dimensional requirements, removing the word ‘uses’. Jan Gugliotti explained a change to the Appeal from an Administrative Decision second sentence under #3 should say decisions (plural). Janice Loz stated the document throughout needs to reflect Select Board not Board of Selectmen. Janice Loz suggested correcting Board of Adjustment to read Zoning Board of Adjustment (ZBA) throughout. The Chair suggested that if the Board decides to remove #5 the Planning Board and the Select Board should be informed. The Board discussed the need for #5 at all and decided to come back to the question at the next meeting. There was a discussion on condensing the document. Jan Gugliotti spoke about including language requiring site plans to show the roof overhang. Janice Loz stated that line 4 needs to be corrected to read “pay the fees”. Sam Carr suggested removing line 4 because it is covered under #7. He suggested removing #3. Janice Loz suggested #2 should include a link to the ordinance. She stated that the fee for abutters notification has been increased to \$12 per letter.

There was a discussion on requiring applicants to read their application at the hearing but decided that because the written statement is already part of the record, it does not need to be read into the minutes. There was a discussion on the adding language that clarifies the applicant or their representative will be required to present their application. Janice Loz suggested editing line 12 to parse out the complete process to proceed. Sam Carr questioned #14 regarding who can appeal a decision, the Board agreed to add a person with standing. The Chair will reach out to the Select Board and Planning Board for their feedback on the change to #5.

COMMUNICATIONS AND MISCELLANEOUS

The Chair advised the Board that the Planning Board is beginning to look at amendments to the Zoning Ordinance. She asked the members to provide any suggestions they may have.

ADJOURNMENT

Beverley Howe made a motion seconded by Jan Gugliotti to adjourn the meeting. Motion passed unanimously.

The meeting adjourned at 8:33 PM

Respectfully submitted by Tracy Doherty