



TOWN OF WARNER
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Zoning Board of Adjustment

Wednesday, September 10, 2025, 7:00 PM

Town Hall Lower Meeting Room

I. OPEN MEETING and ROLL CALL

The Chair Barb Marty called the meeting to order at 7:00 PM.

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

II. NEW BUSINESS:

A. Continuation of Application: Appeal of Administrative Decision

Case: 2025-7 Applicant: Peacock Hill Rd LLC

Owner: Peacock Hill Rd LLC

Address: Route 103 East

Parcel: Map:07, Lots 39 and 39-1

District: R-2 and R-3

Description: Application appealing the Town of Warner Land Use interpretation of buildable area calculation. Town of Warner Zoning Ordinance Article II. C. 2, and Article III Definitions: Buildable Area

The Board continued deliberating on the appeal of administrative decision. The Chair stated that the Board had consultation with the Town's attorney to clear up legal questions. Each Board member indicated that they do not have anything new to add. The Chair explained that there have been other situations that came before the ZBA that included multiple zoning districts and the Board never made a distinction before when calculating buildable area. She stated that in the past buildable area was always the lot. She read the description of a lot from the town's ordinance "*Lot: means a parcel or portion of land separated from other parcels or portions of land by description as on a subdivision or survey map, or by metes and bounds, for purposes of sale, lease, rent, condominium conveyance, building development or any other reason*". The Chair explained that the buildable area has several things that have to be subtracted (wetlands, poorly drained soil, existing highways etc.) when considering buildable area of a lot. She stated that it does say the total acreage of the parcel. Bev Howe asked why it is not applicable. The Chair explained that when building in a specific district the applicant must meet the conditions of that zoning district. She stated that she does not see a contradiction in the ordinance. She reiterated that whatever district the lot is in, the requirements of that district must be met.

Sam Carr stated that buildable acreage is not a specific measurement in one place of the lot; rather, it is a net calculation of the area. Derek Narducci stated that views this as a hardship of the property but not necessarily in the appeal process. The Chair explained that in this case they are only building on the R-2 lot and they do meet all of the zoning requirements of R-2.

Jan Gugliotti stated that she thought the way she interpreted the ordinance was fairly clear that the applicant could not add the allowance of R3. The Chair stated that she does not interpret the ordinance in that way.

Jan Gugliotti made a motion seconded by Derek Narducci to deny the appeal of case 2025-7 Map:07, Lots 39 and 39-1 Town of Warner Land Use interpretation of buildable area calculation. Town of Warner Zoning Ordinance Article II. C. 2, and Article III Definitions: Buildable Area.

Discussion on the motion: Lucinda McQueen agrees with Jan Gugliotti. She stated that she does not see how zoning requirements just because of the totality of the buildable areas is enough that the zoning requirements are diminished. The Chair stated that the zoning requirements are not diminished, as they are meeting all of the requirements of the zone. The Chair explained that there are lots all over town that are in multiple zones where the buildable area was never considered less than what the totality of the lot is.

Bev Howe stated that she is abstaining from the vote. The Chair stated that to abstain Bev Howe would need to give a reason. Bev Howe stated that she is too confused. James Zablocki asked if one of the alternates could vote in the place of Bev Howe. Derek Narducci explained that abstaining is Bev's vote. The Chair asked if the motion could be withdrawn to allow further discussion to assist Bev Howe. Jan Gugliotti agreed.

Motion withdrawn.

The Chair explained that this decision would not only be applied to the applicant but to the entire town and it was very important that everyone understands. The Chair stated that her position is that the way that the Planning Board interpreted the ordinance in this case is different than it has ever been applied in this town. Jan Gugliotti stated that she feels that a variance is the best way to go. Jan Gugliotti asserted that the Board is being asked to make a legal decision. James Zablocki urged the Board to focus on the application in front of them and not what has been done in the past or in the future. The Chair agreed.

Jan Gugliotti asked what is the purpose of saying that the zoning of Zone 2 has to be 2 and 3 has to be 3 but zone 3 is not being built on. Sam Carr explained that it is still part of their lot. The Chair explained that the ordinance says that the relevant zoning requirements pertaining to each zone type shall remain for each corresponding area of a lot. The Chair reiterated that nowhere in the ordinance does it say that diminishes the buildable area. She acknowledged that each of the buildings are on separate lots but they are both in the same zone. She stated that they each meet the requirements.

Lucinda McQueen stated that the stricter zoning ordinance should prevail. The Chair stated that the stricter zoning ordinance does prevail because the proposal meets the stricter buildable area requirement of R3.. Jan Gugliotti reiterated that she does not believe the law allows the applicant to draw from one lot to increase another. Sam Carr clarified that it is the same lot. Jan Gugliotti explained that the founding fathers decided to have two districts there and the stricter zone was never intended to have apartments. The Chair cautioned that the Board should not focus on what is being built there; rather, they should focus on the definition of buildable area. The Chair explained that the definition of buildable area is defined as the total acreage of the lot. She reiterated that the Planning Board interpreted the buildable area as just the R-2. She stated that she is in agreement with the applicant and she questioned why the

Planning Board did not have someone at the last ZBA hearing to explain their decision. Derek Narducci agreed.

The Chair made a motion seconded by Derek Narducci that the appeal of administrative decision in case 2025-7 for Peacock Hill Road LLC be granted. The Board found that the interpretation of the ordinance for buildable area includes the total area of the lot when calculating the land needed to support this development.

Discussion on the motion: Jan Gugliotti stated that she would reluctantly support the motion. Lucinda McQueen stated that she would reluctantly vote in favor of the motion.

Roll call vote: Gugliotti YES McQueen YES Narducci YES Marty YES Howe ABSTAINED questioning how the Planning Board and the ZBA came to two different interpretations.

The applicant requested that the continuation of the application for a variance be tabled until the appeal period for the Administrative appeal has expired and that point they will withdraw their application for a variance. The Chair asked the applicant to send a letter indicating that for the record.

B. Continuation of Application: Variance Tabled

Case: 2025-8

Applicant: Peacock Hill Rd LLC

Owner: Peacock Hill Rd LLC

Address: Route 103 East

Parcel: Map:07, Lots 39 and 39-1

District: R-2 and R-3

Description: Application for a variance to the buildable area requirements. Town of Warner Zoning Ordinance Article II. C. 2, and Article III Definitions: Buildable Area

Andy Bodnarik via Zoom asked when the notice of decision would be posted and what was the final vote. The Chair stated that vote tally was 4 in favor and 1 abstain. She stated that the decision would be posted in 5 days or sooner.

III. REVIEW OF MINUTES – August 13, 2025

Throughout the document strike the first name (Eli) and insert Attorney Leino

Page 2 strike town staff insert land use

Page 4 line 15 should read acknowledged that the area is primarily single family homes

Page 5 strike all audio stopped

Page 6 strike all audio stopped

Page 6 line 32 strike with insert where

Page 6 line 40 strike explained insert asserted

Page 7 line 41 insert is before predominantly

Page 8 line 24 add punctuation (;) and insert instead

Jan Gugliotti made a motion seconded by Bev Howe to accept the August 13, 2025 ZBA meeting minutes as amended. Motion passed unanimously.

IV. COMMUNICATIONS

The Chair recapped some of the recent changes to the Planning and Zoning laws.

James Zablocki inquired if there would be value in putting something before the voters at town meeting to address the need for clarity in the zoning ordinance. The Chair explained that there would be value and the amendment should come from the Board. Bev Howe explained that there have been many Chair's in the past who have made changes and she questioned if that is a good idea. The Chair stated that she has been doing this for 6 years and this is the first time that an interpretation of the ordinance has come before the ZBA. The Chair clarified that there is only one item in question.

Point of order was made by Andy Bodnarik via Zoom. He stated that he recently sent a document from the Strafford County Regional Planning Commission which is a synopsis of the recent legislative zoning and land use changes.

V. ADJOURN

Bev Howe made a motion seconded by Lucinda McQueen to adjourn the meeting. Motion passed unanimously.

The meeting adjourned at 8:14 PM.

Respectfully submitted by Tracy Doherty on 9/16/25