



TOWN OF WARNER

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Planning Board Work Session Minutes

Monday, June 17, 2024

I. OPEN MEETING (7:05 PM) and ROLL CALL

ROLL CALL:

Board Member	Present	Absent
David Bates	✓	
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

7 The meeting opens with the Chair thanking everyone for attending. A moment of recognition is
8 observed for Andy Bodnarik, a former member who resigned due to health reasons. There was a
9 consensus among Board members to acknowledge Andy's contributions and consider a gesture of
10 appreciation. The conversation moved to procedural matters, specifically regarding the posting of
11 meeting agendas. There is a brief exchange about the official timeline for agenda postings and
12 whether it was adhered to in the current instance. This procedural check ensures that all necessary
13 documents and items are prepared and available to Board members in advance of the meeting.

14 II. PUBLIC COMMENT – None.

15 III. Review 2023 changes to RSA's to see if amendments are required to the Zoning Ordinance, the 16 Planning Board's Rules of Procedure, the Subdivision Regulations, the Site Plan Regulations, etc.

17 The meeting begins with members discussing various technical issues regarding the draft of a local
18 bill. They express concerns about the scope and potential impact of the proposed changes. Some
19 members note that certain sections of the bill may not require significant modifications since they are
20 already in compliance with existing regulations. The conversation highlights a general sentiment of
21 cautious optimism tempered by a need for thorough examination. The focus then shifts to the
22 substantive content of proposed amendments received from various sources. Board members express
23 appreciation for public input and suggest integrating these suggestions into a coherent framework for
24 future ordinances. They emphasize the need for clarity and consensus-building in drafting these
25 amendments to address concerns effectively.

26

27 **IV. Continued discussion on Short-Term Rentals (STRs).**

28 Board members debated whether STR's should be considered a type of dwelling unit or a distinct
29 category with specific regulatory requirements. This discussion reflects differing viewpoints on how to
30 categorize and regulate STRs within the local context, emphasizing the need for clarity in defining
31 these terms to avoid ambiguity in future applications.

32 The discussion opens with a focus on defining Short-Term Rentals (STRs) within the Town's
33 regulations. David emphasized the need for clarity on what constitutes a STR, whether or not it should
34 be regulated. The Board purposed working towards crafting this definition during the current session.
35 The Chair supported this idea, noting that the definition must clearly relate to dwelling units. David and
36 the Chair agreed to postpone broader philosophical discussions for a later time, aligning with the fact
37 that defining STRs is a priority.

38 The Chair begins a detailed comparison of different proposed definitions for dwelling units, referencing
39 examples from Town of Conway and Andy Bodnarik's version. They note variations in language but
40 highlight the common exclusion of transient occupancies like hotels and motels. Pier suggested
41 referencing RSA definitions for dwelling and STRs, pointing out that these definitions are aligned with
42 state regulations and could provide a solid basis for the Town's definition. Pier elaborated on RSA
43 48:A1 definition for dwelling and vacation rentals, emphasizing their relevance to the Town's
44 considerations.

45 The Board continued to discuss the need for consistency and clarity in definitions across different
46 versions, aiming to minimize changes and ensure alignment with existing regulations. The discussion
47 turned to Portsmouth's definition of dwelling units and STRs, which several speakers suggest adopting
48 due to its clarity and relevance to residential uses. David proposed incorporating a specific sentence
49 from Portsmouth's definition that clarifies the exclusion of transient uses from dwelling units. David
50 along with others express agreement with this approach, highlighting its potential to facilitate future
51 regulatory decisions without mandating immediate regulation. The Board is split between indicating a
52 preference for the version that aligns closely with existing definitions to minimize changes. While on
53 the other side there is support for definitions that reference a broad range of residential uses while
54 excluding transient occupancies like hotels and motels. The group agrees to continue refining the
55 proposed definitions based on RSA guidelines and Portsmouth's model.

56 There was conversation between various members discussing the need for clarity in defining a
57 dwelling unit within the zoning ordinance. There is a consensus that the current definition lacks
58 specificity, leading to confusion and potential legal challenges. Different proposed definitions are
59 reviewed to address these concerns. The discussion shifts towards comparing different definitions
60 presented by Andy and the State's RSA definition. Andy's definition emphasizes aspects like living,
61 sleeping, eating, cooking, and sanitation facilities as criteria for a dwelling unit. In contrast, the state's
62 definition is broader and potentially includes transient occupancies like hotels and motels, which some
63 members find problematic.

64 There was a debate on whether to explicitly list out transient occupancies or to adopt a more general
65 definition that excludes them. Some members argue for keeping the definition broad to avoid continual
66 updates with changing trends in transient accommodations such as Airbnb rentals and mobile homes.
67 Legal implications are raised, referencing a court case that highlighted the importance of defining terms
68 like transient within zoning ordinances. It is suggested that including a specific definition of transient
69 could strengthen legal arguments and provide clarity in enforcement. Practical examples are
70 discussed, including the presence of tents listed on Airbnb within the town, highlighting the diverse
71 range of properties that might fall under a new definition. Concerns are raised about the town's liability
72 and the practicality of enforcing regulations on such varied accommodation. Acknowledging diverse

73 viewpoints, the Board aims to streamline discussions before diverging into different regulatory
74 approaches.

75 There's a suggestion to adopt Andy's definition with the omission of STRs for now, allowing flexibility
76 to revisit STR regulation separately if needed in the future. The discussion returns to the core elements
77 that should define a dwelling unit, emphasizing necessities like sanitation and cooking facilities.
78 Further deliberation focuses on the necessity of defining "transient occupancies," a term not currently
79 defined in the Planner's Dictionary but essential for regulatory purposes. There was a proposal to
80 amend Andy's definition to exclude transient occupancies explicitly. There was a consensus that the
81 definition should focus on these essential criteria rather than delve into peripheral issues like camping.

82 Further debate centers on what should be explicitly excluded from the definition of a dwelling unit, with
83 opinions varying on listing specific types such as hotels and motels versus adopting a more general
84 exclusion of transient occupancies. Concerns are voiced regarding the practicality of including diverse
85 accommodations under a single definition, citing the potential for legal disputes and regulatory
86 challenges. The example of camps and summer rentals complicates the issue further, prompting
87 caution in defining transient versus permanent residence status. Enforcement mechanisms are
88 discussed, with a preference for a complaint-driven approach rather than extensive regulatory
89 oversight. The group acknowledges the complexities involved in assessing compliance with zoning
90 regulations for diverse types of dwelling units. Members express preferences for Andy's definition due
91 to its clarity on excluding transient occupancies. However, there remains debate on whether to
92 specifically list excluded types or to maintain a more generalized approach to accommodate future
93 changes in accommodation trends.

94 The discussion centers on defining STRs within local ordinances as it pertains to vacation rentals
95 versus transient rentals. Various viewpoints emerge on the duration of stays, differentiation from long-
96 term rentals, and potential zoning implications. Concerns include distinguishing vacation rentals from
97 transient rentals and addressing community impact and legal compliance. The Board debated the
98 inclusion of vacation rentals in the STR definition, anticipating pushback due to seasonal rentals lasting
99 months. There's a consensus to align definitions with State laws, emphasizing transient occupancy
100 and duration limits.

101 Issues such as consecutive versus aggregate stays over a year surface, influencing regulatory
102 decisions. The discussion shifts to defining "domicile" as per State law (RSA 259.23), which outlines
103 specific criteria such as primary habitation and enrollment in local schools. There's a consensus
104 among the Board members that the legal definition of domicile should guide their considerations on
105 how properties are used, especially in the context of transient occupancy. Discussions expand to
106 zoning regulations, exploring where STRs are permissible and under what conditions. The group
107 considers overlay zones and potential impacts on residential neighborhoods versus commercial areas.
108 Specific attention is given to properties converted solely for rental purposes and their impact on
109 community character. The conversation shifts to community concerns, including noise, parking, and
110 overall disruption associated with STRs. Participants stress the importance of balancing economic
111 benefits with preserving residential quality of life. There's a call for clear regulations to address these
112 concerns without unduly restricting property rights or local economic activity.

113 The Board delves into the conversation of refining the definition of transient occupancy to clarify its
114 exclusion from being used as a domicile. This suggestion is met with approval as the Board seeks to
115 align zoning regulations with legal definitions established under state law. A member introduces a
116 definition from the Town of Gorham, New Hampshire, emphasizing transient lodging for less than 30
117 nights, distinct from commercial tourist accommodations like Airbnb. This definition aims to regulate
118 without commercializing local STRs.

119 The conversation shifted with an exploration of legal precedents set by recent court cases, notably
120 referencing the Town of Conway case. This case affirmed that STRs are grandfathered under current
121 zoning laws, despite attempts by municipal bodies like the New Hampshire Municipal Association to

122 challenge this status through legal means. Members acknowledged the legal framework and the
123 challenges of defining dwelling units to exclude transient occupancies without inadvertently validating
124 their previous existence.

125 There was a consensus among members that any zoning amendment should carefully consider the
126 broader impact on the community rather than addressing specific cases. Suggestions included
127 potential amendments to limit the number of cars or impose other restrictions to mitigate the impact of
128 short-term rentals on residential neighborhoods. Concerns were raised about the distinction between
129 residential and commercial use, questioning whether STRs operation should be classified as
130 businesses under local ordinances. The discussion began with concerns raised by various speakers
131 about the impact of STRs on the Town. Board members highlighted issues such as noise complaints,
132 trash accumulation, and the potential for these rentals to change the character of residential
133 neighborhoods. There was an emphasis on the need for regulations to ensure STRs do not disrupt
134 the quiet enjoyment of local residents.

135 Harry drew comparisons with Gorham's STR ordinance, noting two favorable aspects: the requirement
136 for STRs to obtain a rooms and meals tax number from the state, and straightforward safety
137 regulations regarding water, sewer, and chemical storage. However, there was confusion about
138 whether the rooms and meals tax revenue go directly to the State or is partially returned to the Town.
139 The debate then shifted to the practicality and potential liabilities associated with enforcing such
140 regulations.

141 Ian expressed concerns about the high costs and increased liability for the town, especially in
142 emergency situations such as fires. The need for practical, enforceable regulations that do not
143 overburden local authorities was emphasized. The impact of STRs on local housing supply was a topic
144 of concern. Pier referenced anecdotal evidence suggesting a reduction in available housing due to
145 properties being converted into STRs. However, James provided a contrasting view, suggesting that
146 in less tourist-oriented towns like Warner, the effect on housing supply may not be as pronounced.

147 Legal implications and grandfathering of existing STRs were discussed towards the end of the
148 meeting. Concerns were raised about potential legal challenges if the regulations are not carefully
149 crafted. The importance of clarity in zoning ordinances and legal advice was stressed to avoid
150 unintended consequences. The next steps include further deliberation on definitions and regulatory
151 frameworks, guided by legal advice and community input.

152 The discussion moves to voting on a revised definition of "dwelling unit" that includes exclusions for
153 transient occupancies. There is debate over legal implications and the clarity of terms like "hotels" and
154 "motels." Ultimately, a motion is made to accept a modified version of Andy's definition, incorporating
155 exclusions for transient occupancies.

156 **Harry Seidel made a motion to accept Andy Bodnarik's STR definition, accept and after bed**
157 **and breakfast ends, just don't include short-term rentals for now. Ian Rogers seconded the**
158 **motion. Discussion:** So right now we are voting on accepting Harry's motion of the Andy definition,
159 adding the word such and removing the word Short-Term Rental. **Harry withdrew his motion.**

160 **James Gaffney made a motion to take the definition just voted on as the first, the second as**
161 **our current definition of dwelling unit and add "this shall not be deemed to include transient**
162 **occupancies such as hotels, motels, rooming or boarding houses."** David Bates seconded the
163 **motion. Motion Carried.**

164 **V. CIP process and timing for 2024.**

165 Transitioning to administrative matters, the Board discussed the Capital Improvement Plan (CIP)
166 process, noting the need to align with the Town's schedule for site visits and evaluations. This included
167 reviewing past meeting minutes and ensuring compliance with procedural requirements outlined in
168 Town ordinances.

169 **VI. COMMUNICATIONS**

170 The meeting concluded with a brief discussion on the use of technology in administrative processes,
171 particularly in implementing new software tools for town operations. Members expressed interest in
172 exploring labor-saving technologies while ensuring compliance with privacy and administrative
173 standards. The session ended with a request for public comments, noting ongoing efforts to improve
174 the transparency and efficiency of town governance through effective communication and procedural
175 adherence.

176 **VII. PUBLIC COMMENT – None.**

177 **VIII. ADJOURN** at 9:15pm