



## TOWN OF WARNER

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# Zoning Board of Adjustment Minutes of October 9, 2024

**#1 The Chair opened the ZBA meeting at 7:02 PM.**

### 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)	✓	

The Chair briefly introduced the order of procedure for the two hearings on the agenda.

### **#2 New Business: Item A**

**Case 2024-06 Applicant Marlo and David Herrick, Warner Aggregates, LLC, application for a special exception for MAP:3 Lot:84-10A to develop a parking and storage lot for campers.**

The applicants were invited to the presenter's table and introduced themselves. Kelly Dearborn joined the Herricks at the table and it was clarified that Kelly is not an agent in the proceedings.

The Chair confirmed that the fees were paid and abutters had been notified. The Board went through the checklist items to confirm if the application was complete.

The Board discussed the driveway permits included in the packets as well as the lack of maps drawn to scale. Letters that were received from the Warner River Local Advisory Committee and from the Warner Conservation Commission with concerns about the project were also mentioned. The biggest concern from the Board was if a fair and reasonable judgment can be made without accurate maps. Board members all voiced concern about the lack of the required maps and agreed that they are essential.

Jan Gugliotti made a motion to continue the application until the November meeting so the applicant can produce the plot plan maps. Bev Howe seconded the motion.

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The Chair asked if the applicant can have the discussed maps by the November meeting? The Herricks confirmed and added that they don't think the public has a clear understanding of the proposal. Derek Narducci said they will have an opportunity to explain more at the November meeting and could also address some of the concerns in the written submissions of the WRLAC and Conservation Commission.

The Chair called the next applicant to the table.

### **#2 New Business: Item B**

**Case: 2024-7 Applicant Diana and Eric Tucker owner Krista and Dustin Chamberlain for 9 West Main Street Map:31 Lot:11, application to develop a 20-unit residential assisted living facility for the elderly.**

The Chair stated for the record that the applicant had just handed the Board a packet with color copies of maps and photos of the property, most of which are included with the original application. The Chair confirmed that the fees were paid and abutters were notified and asked if anyone had concerns about the application being complete?

Sam Carr commented that it doesn't appear that there's any intention to change the footprint of the building. Eric Tucker confirmed.

Bev Howe made a motion to accept the application as complete. Jan Gugliotti seconded the motion. No discussion. All voting members responded in favor of the motion.

The Tuckers introduced themselves and went through the application.

Diana Tucker read through the criteria: The application is for the purpose of operating a residential assisted living facility for the elderly, the main home consisting of five bedrooms will be used for up to nine residents. The attached barn will be converted to have an additional 15 beds with full baths.

- 1. The use requested is identified in the zoning ordinance as one which may be approved by the zoning board in the district for which the application is made:** The property is located in the B-1 district of Warner, which allows for a variety of uses. Such as home business, bed and breakfast, law or medical practice, and more. We believe these stated possibilities are intended uses of a residential home. Assisted living facility falls under these criteria of the B-1 district.
- 2. The requested use is essential or desirable to the public convenience or welfare:**

This will enhance and add value to the community in a very positive manner, offering the elderly community and surrounding areas of Warner a safe and caring home, providing daily assistance with much dignity for all of our elderly residents. This property is conveniently located in the town of Warner and will provide a typical home for a residential assisted living facility home for the elderly. It will provide our residents an opportunity to easily access the many wonderful activities the town promotes. Given the location of the home, it also will provide residents with a quiet place to enjoy the beauty of the home's property and that of Warner.
- 3. The requested use will not impair the integrity or character of the district or adjoining district, nor be detrimental to the health, morals, or welfare:**

The use of the property at 9 West Main Street will enhance the town of Warner and continue to grow. We will continue to add beauty to the community and the town. Our assisted living facility will provide a lovely location for the community of Warner and surrounding towns without harming or impairing the integrity or

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character of Warner. It will in fact increase the welfare of local families, a beautiful home that will provide top-notch assisted care for their loved ones in need of such services.

The Chair asked if the nine residents in the main building will be there while you develop the barn? Eric Tucker confirmed that the five bedrooms will act as shared bedrooms, a maximum of two beds per room. But our plan is once the barn is finished to have solo rooms for all residents.

The Chair asked to confirm that for those limited residents in the beginning, they would still have to provide all the services, three meals a day, snacks, activities, everything that is required and that a manager will run the facility. Eric Tucker confirmed that before you can move people into the home the Department of Health and Human Services will advise us on how to modify the property, and then before we are granted the license, they will do a final on-site inspection.

Diana Tucker added that with assistance of the fire marshal, all the codes will be followed and the facility will be ADA compliant everywhere, as required.

Derek Narducci asked if there is not a current fire suppression system in the house as it sits right now? Eric Tucker said, correct. Both the home and the barn will have a substantial fire suppression system as per State law.

The Chair asked about the plans for parking. Eric Tucker stated possibly expanding the front parking into the yard area onto the left, but certainly in the back as well. There was discussion about the timing and extent of the parking facility for staff, residents, and visitors and alternate bus transportation provided for the residents.

Jim Zablocki pointed out that he volunteers at an assisted living facility in New London and the residents there are allowed to have cars, which adds to the parking volume.

Derek Narducci asked about the staff to resident ratio. Eric Tucker answered that there is a five to one resident to caregiver ratio during wake hours, during overnight hours it would be a 10 to 1 ratio. So, four people during daylight hours, two people at night. Along with an administrator who will manage and must be there for at least 40 hours a week.

Jim Zablocki asked for more clarification on parking and number of staff. Eric Tucker said the current driveway will accommodate six spots, but they are absolutely open to extending it significantly further in the front.

Sam Carr asked about the square footage of the house and barn and pointed out that in ARTICLE X, Business District-B1, ordinance F. states a maximum of four thousand square feet for new construction and that existing buildings may be expanded to include a total of 4,000 square feet. He thinks the house itself was probably built before the ordinance but, wouldn't this apply to the addition of the finished square footage in the barn?

Eric Tucker answered that the house is 5,400 square feet and 7,000 in the barn. He does not believe this change to an existing structure is contrary to the ordinance because the structure is existing not an expansion.

The Board discussed the meaning of the ordinance and the conceptual drawings that were included with the packet. Discussion concerning ADA compliance, cooking facilities and common areas.

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The Chair asked for any other questions from the Board before opening the hearing to the public?

Lucinda McQueen asked if it is written in stone for you to have as many rooms as there are right now? Or could you have more open space and common space for each person. It's really important that people aren't packed in.

Eric Tucker said the short answer to your question is that is not set in stone. It is absolutely massageable. And what I will also say is that the architecture firm that we have retained, has done over a hundred different assisted living designs, and they are going to advise us as to what works best, and we are going to take their advice, and I would assume that they would agree with you if there's a definite need for a greater social and living space.

There was discussion about the facilities in each room and common areas in the main house, such as the kitchen and screened in porch vs. the barn addition.

### **Open Public Hearing**

The Chair asked if the Board had any other questions? Hearing none, the Public Hearing was opened and the Chair asked abutters to speak first and to state your name and where you live, for the record.

Danielle Thompson, I'm an abutter at 27 West Main Street. I think the general concept is good, but I do have a few significant concerns about the plan as it stands. I appreciate the detail you've provided so far and you've been very willing to answer questions, which bodes very well. Warner is a charming and rural town. How will you ensure, that this expanding construction takes that into account? I know it may be tough to bring this barn, beautiful barn, up to commercial real estate codes, so are you redoing the facade? Are you trying to keep the facade? Just trying to understand how this fits in with the town.

Eric Tucker stated: So, the reason we chose the property, was for its looks initially. It's kind of a funny story how we found it. If I can digress, we were actually looking at The Maples (Bed & Breakfast Inn), that's for sale. We drove by the Chamberlain's house, and my wife was like, oh my god, look at that house, look at the hydrangeas, and then she goes, there's a for sale sign! So, we banged a uey quick and pulled up and just stood up and looked at it, and we're like, this is just gorgeous, this property is beautiful, so to answer the question, our intention is to maintain the integrity and the beauty of the current house, the last thing we want is for it to look commercial in any way, the only thing we might do to the exterior of the barn besides polish it, clean it up, scrape off some paint that's chipped off, is to potentially add vinyl-siding just for maintenance purposes, but other than that, we want to keep as much of the existing charm as possible ...and keep the cupola.

Danielle Thompson continued: It seems like an exciting but an aggressive plan, how long will construction take? ... is there a budget set? ...and if you go over budget what happens then? My goal in asking this question is to avoid a project that extends over several years and causes construction noise, traffic, etc., on an already busy street, as well as avoiding having the home turned into a facility like this, since it is unlikely that it will be turned back into a residence. So, I want to avoid that.

Eric Tucker answered: Okay so we're kind of aligned in those goals because remember as the barn is being renovated, we will already have residents living in the main home so we want as little disruption to them as possible as well. So, the idea is to keep this as

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clandestine as possible, as not noisy as possible, to the extent that that's even possible but and also while our business is mission driven, taking care of the elderly is also a business and the sooner you can start generating revenue to pay back or to make the payments for the bank the better off we are. So our hope would be that this would not be more than a six to nine month renovation process but the lower the better that it would be our our way of doing this I can't make any guarantees because we haven't even hired a contractor yet but we have an architect and an engineer but the sooner we get to that point we're going to be able to get the barn up and running and operational per code, the better off our business is going to be.

Jim Zablocki asked if the six to nine months projection is for the house or the barn?

Eric Tucker answered: The house can be done almost right away, and there's not a whole lot to do in the house. There's an elevator solution that we've got an alternative to the standard elevator that's acceptable and can go in very quickly. There's a couple of little things from an ADA perspective, ripping out the tub, but those are not even a month-long project kind of thing. So, the sprinkler system will be the big one, for sure. The kitchen's already pretty robust.

Danielle Thompson asked: I just wanted to bring that one up again about the budget, or what happens if you go over budget, or if you're unable to continue construction for any reason. There are some buildings in town, we've dealt with that and so I think that's a concern to address.

Bev Howe commented that she feels Danielle's question is too personal.

The Chair said that Mr. Tucker can decide if he wants to answer or not.

Eric Tucker answered: The lender we work with almost lends exclusively to this business line. They are almost exclusively to the assisted living industry and we have been working very closely with the lender and they have approved us for far more money than they think we will need. And that's unfortunately all the information I have right now. I will say that my wife and I co-own a consulting business that's been in business for six years and does very well. So, we are in a position where if more funds were needed beyond what we could borrow, we could contribute them ourselves. We also have a line of people dying to invest in this project and we're saying, no, we want to do this ourselves, but if we needed to bring in more money that way, that would also be an option.

Danielle Thompson asked: The sewer system. For a five-bedroom house, I'm sure the sewer is more than accommodating... but if you're talking about 20 beds plus staff, will that sewer need to be widened? How does that work and how does that affect the many other businesses on Main Street? I'm assuming you have to shut that off. I don't know much about it. But how would you handle the sewer?

Ray Martin introduced himself: I'm the District Administrator for the Warner Water and Sewer District. Speaking of the sewer, there would probably be some upgrades and another connection. We have plenty of capacity to handle any of this expansion. There was continued discussion and details offered about water capacity, projected needs and recent maintenance to the system.

Danielle Thompson asked: I know that the plans are conceptual at this point. However, if you look at the dimensions of several of the rooms, they are just at the state minimum of 100 square feet per room, excluding the bathroom, closets, etc. Is there a commitment to ensure that we go above the bare minimum required by the state? I just think we have two

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facilities in town, so I think some valid concerns were raised about the living areas, the amount of space, the quality of life, and I just think in a town like this that values population of all ages, how can we ensure that it's not just at the minimum that the state requires, but above and beyond to contribute to this town in a richer way. Do you know, what the estimated cost is per month and would it be considered affordable for this area.

Eric Tucker answered: I'm happy to address the room size issue. Yes. And again, I appreciate the question very much. We want to, our mission is to provide as much dignity and respect to our residents as possible. And these plans are pure conceptual. They are not in any way rooted in reality. It was merely just to be able to give the board an idea of generally what we're looking to do and also the architects an idea of generally what we're looking to do. But look, we don't want to do anything bare minimum. I'm the type of individual where there has to be backups for the backups for the backups. We're open to that. We're going to have elevators, I would have stair lifts, too, in case the elevators don't work for a day or something. So, to the extent that we can do it to extend the size of the rooms, we will. To the extent that we can do it and also have enough capacity and have enough living area, we want to find a healthy balance for all that. As for the financial question, I appreciate that one, too. What I will say is, again, mission-driven, but also a business. And as part of the diligence process, we have hired a firm that is doing a market study on all of the other places that will offer similar services. They're providing that information to our bank, as well, and it's our intention to be competitive with whatever other people are charging for the similar services.

Danielle Thompson said: I'd like to say thank you. I don't think any of these questions are too personal or outside of the realm. I'm just really curious and I think this is a great, potentially, great thing for the town. It's just to understand more, and I appreciate it.

The Chair asked if any other abutters wanted to ask questions. Hearing none, asked for non-abutters.

Ed Mical introduced himself, I'm Warner's Emergency Management Director. Have you approached the state for licensing yet? Eric Tucker answered: We have not.

Ed Mical commented: I would suggest that probably you do that as part of figuring things out, because there are a lot of things that are going on in the state with licensed facilities. You're required to have an emergency plan of course and part of that is the fire department and the local emergency management. My other comment is as far as the structure you're going from a single-family residence to how many, 20 plus? So, you've got increased trash that is going to go to the transfer station as far as just something to consider. The other thing is the fire and rescue, to be able to consider the other facilities {in Warner} where the fire and rescue are going to them almost weekly, so you're adding another burden to that, to a volunteer on-call rescue.

Eric Tucker answered: To the first question about licensing, the formal licensing process wouldn't really make sense to begin for us until we actually close on the property and secure the property. But there has been a ton of preparation work, for that endeavor, one of which is a gentleman named Spencer Grant that we've been in contact with who works at the New Hampshire Department of Health and Human Services. We have talked with him extensively about fire suppression, fire safety, ADA compliance, hallway widths, steps, pretty much everything. And it's important to note that the DHHS will be the body that inspects the property prior to awarding the license. So, Mr. Grant has put a lot of effort, opened his door to us. He answers texts in a moment. Anytime we have a question about anything, he responds right away and his words to us are, we want you to be

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successful. It was a wonderful thing to hear. We want your business to be successful. This is a great mission and we want to do anything we can to help you in that endeavor. So we've been in constant contact with him on preparing for licensure. But to the gentleman's point regarding emergency services, the properties that he is talking about, they have a different license than the one we're going for. They are an 805 licensed facility, which is, think of it as like a miniature hospital, higher level of that type of thing, and the residents that they bring there are much further along in the needs of their care. We're suggesting to be an 804 licensed facility, which is really not independent living, slightly above independent living, more adult daily activity help with bathing, help with dressing. They don't generally have too many mobility challenges, but we're there to help with that as well. And also, medication reminders, we won't be administering medicine, we'll be reminding them and have it on premise, and give the pills for them and so forth. So, it is a step down in terms of the severity of their health challenges. I respect the gentleman's opinion and I completely agree that that's a concern, but I don't see our facility needing that level of care that the other ones he mentioned would offer.

There was discussion about the difference between an assisted living facility and a nursing home.

### **Close Public Hearing**

The Chair asked if anyone else wished to speak from the public before closing the public hearing? Hearing none, she thanked the applicant for answering everybody's question so thoughtfully.

The Public hearing was closed and Board meeting opened for deliberations.

The Chair stated: There are only three basic criteria for a special exception:

**A. The use requested is identified in the Zoning Ordinance as one which may be approved by the ZA in the district for which the application is made:** The use has already been identified as being one that may be approved by the ZBA in the use table under Retail and Services, number 23, as requiring a Special Exception in the B-1 district.

**B. The requested use is essential or desirable to the public convenience or welfare:**

General agreement amongst the Board members that the application and testimony all support criteria B. With Warner's aging population assisted living facilities are essential.

**C. The request will not impair the integrity or character of the district or adjoining district nor be detrimental to, the health morals or welfare.**

Bev Howe stated: It has a big piece of land with the historical society on one side, there's no noise there, and the other side they have the apartment building which is already commercial. Nobody will even notice the change.

Harry Seidel said: This has to do with the integrity and character of the building and the district. I heard that they want to do a vinyl siding on the project, and a lot of people might think that, ah, vinyl siding, is that a detriment to something like this? And their architect, when they get there, will inform them that one of the best ways they can make this building healthy is to do exterior insulation. Instead of doing it on the inside, they can cover the outside and then put siding over it. So, if they're going to do vinyl siding, and they do it well, it can still look like the old historical building, but it does give them the opportunity of doing an energy retrofit on the outside skin. Which is the best way to do it.

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There was additional discussion of preserving the house and the low noise and activity aspects of the use, the community need for alternatives to in-home care and making the space roomy for the residents.

Jan Gugliotti made a motion to approve the application related to MAP:31, Lot:11, and grant a special exception to the zoning requirements in the B1 district to accommodate their plan for a residential assisted living facility for the elderly as specified in the use table under Retail and Services, # 23, Adult Shelter Care Facility. Bev Howe seconded.

There was discussion of the term 'elderly'. Derek Narducci said I want that in there. My only concern with that is it stays assisted living and it's not going to wind up a rooming house someday under a different owner.

The Chair noted that the use table #23 is for "adult shelter care facility as defined by New Hampshire Code and Administrative Rules Chapter HEP 804 and RSA 151:2". That's the special exception they're getting.

The Chair said so we have the motion by Jan and seconded by Bev and called for any further discussion on the motion. The Chair stated a yes vote is in support of the special exception. The motion was approved unanimously by roll call vote.

### **#4 Review minutes: August 14, 2024**

The Chair moved the minutes from August the 14<sup>th</sup> to the next agenda item.

Lucinda McQueen left the meeting and Sam Carr was appointed to fill her spot.

Bev Howe moved to approve the minutes as presented, seconded by Jan Gugliotti, approved unanimously.

### **#3 Unfinished Business – Continue review and edits of Application General Instructions and Checklist.**

There was extensive conversation about conditions vs. criteria, a number of grammatical corrections, adding reference to some RSAs for clarity, changing the abutter notification fee to \$15, changing the application submittal date to 21-days prior to meeting, the term agent vs. representative.

The Chair asked: Would everybody be comfortable if I make these edits before the next meeting so these changes can be published?

Jan Gugliotti moved to accept the General Instructions as amended, Bev Howe seconded. Unanimous vote to approve the motion.

The discussion of a few changes to the checklist including requiring the applicant to submit the copies. The Board voted to bundle the Checklist changes with the motion to change the General Instructions so both can be published in October.

**#5 Communications** – House Bill 1359 ZBA Appeals process. There was a brief discussion on how this new Bill changes who can appeal a ZBA decision.

### **#6 Adjourn**

Sam Carr made a motion to adjourn, seconded by Derek Narducci, passed at 9:07 pm.

Transcript by AI edited and formatted by human