



TOWN OF WARNER

P.O. Box 265, 5 East Main Street
Warner, New Hampshire 03278-0059
Land Use Office: (603)456-2298 ex. 7
Email: landuse@warnernh.gov

Zoning Board of Adjustment ***Revised* AGENDA**

Wednesday, July 10, 2024
Town Hall Lower Meeting Room
7:00 PM

Join Zoom Meeting: <https://us02web.zoom.us/j/84102051310> Meeting ID: 841 0205 1310 Passcode: 1234

I. OPEN MEETING and ROLL CALL

II. NEW BUSINESS

A. Application for a Variance (see attached letter)

Case: 2024-04

Applicant: Daniel Chaloux

Property Owner: Daniel Chaloux and Desiree Kalloch

Map/Lot: Map 07, Lot 040-1

District: R-3

Details of Request: Proposed garage 40 feet from the edge of the right-of-way. Needs a 10-foot variance to the terms of Article VII, Section C.2.

III. UNFINISHED BUSINESS

A. Consider application additions and checklist changes. [Variance](#), [Special Exception](#), [Equitable Waiver](#), [Appeal from an Administrative Decision](#).

IV. REVIEW OF MINUTES OF PREVIOUS MEETING – May 8 and June 12, 2024

V. COMMUNICATIONS AND MISCELLANEOUS

VI. ADJOURNMENT (Motion, Second, Vote)

Note: Zoning Board meetings will end no later than 10:00 P.M. Items remaining on the agenda will be heard at the next scheduled monthly meeting.

All interested parties are invited to attend. Correspondence must be received by Noon on the day of the meeting.



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June 17, 2024

Daniel Chaloux
138 Iron Kettle Road
Warner, NH 03278

Daniel,

The Town of Warner's Zoning Board of Adjustment held a hearing on a Variance request on June 12, 2024 for your property at 138 Iron Kettle Road, Map 07, Lot 040-1 in regards to a purposed garage to be built within the 40-foot setback of the right-of-way.

Unfortunately, you were not in attendance for the hearing and therefore unable to provide testimony. The board has continued the hearing for Case 2024-04 to July 10, 2024 at 7:00 PM this will give you an opportunity to attend, present the application and provide testimony.

If you cannot attend or decide to withdraw your application, **please contact the Land Use office by no later than the deadline date of June 25, 2024**, so that we can move forward within the legal deadlines. Otherwise, if you are not in attendance at the Wednesday, July 10, 2024 hearing the board will have to deny your application without prejudice, which closes the case file while allowing you the opportunity to apply for variance at any time in the future.

Thank you and I hope all is well.

Janice Loz
Warner Land Use Administrator



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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

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

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

11 **II. ANNUAL VOTING OF OFFICERS**

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

16 **B. Barbara Marty nominated Derek Narducci for the Vice Chair position. Beverley Howe**
17 **seconded the nomination.** The Chair asked if there were any other nominations or volunteers.
18 The Chair asked Derek if he accepted the nomination, Derek responded, yes. **Voice Vote Tally:**
19 **5 – 0.** Derek Narducci was elected Vice Chair of the ZBA for a one-year term.

20 **III. REVIEW OF MINUTES OF April 10, 2024**

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

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

24

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25 **IV. APPLICATION FORM EDITS**

26 **Special Exception**

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

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

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

33 The Chair noticed wording to be combined on Page 6.

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

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

37 **Variance**

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

39 **Appeal of An Administrative Decision**

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

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

45 **Equitable Waiver of Dimensional Requirements**

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

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

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

54 **Plot Plan**

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

57 Derek said there are no setbacks on the plot plan.

58 Harry said all the setbacks need to be clear.

59 Derek thinks it fair to ask for all the setbacks.

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

62 The Chair asked Harry if the Building Permit will require a plot plan with setbacks as well, so we
63 can be consistent. Harry said there may be instances when noting setbacks isn't necessary if it

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64 doesn't impact setbacks. People don't have the money in a lot of cases to hire a surveyor. Derek
65 said it could cost up to \$2,800. Harry said it's a judgment call if someone needs a surveyor.

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

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

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

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

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

83 The Chair said how easy is it going to be for an applicant to submit a hand-drawn plot plan.

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

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

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

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

94 Janice said what the ZBA needs may be different than a Building Permit and some of the
95 applications are for the use of a property or of structures. She said the town gets all sorts of
96 applicants. Some do not have the means to hire a surveyor, others do. We need to accommodate
97 everyone. Although, we still need to get the information that the board needs to decide on an
98 application. Not all tax maps are inaccurate, the Assessing office will know if they have a current
99 plot plan that was based on a surveyed plan.

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

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

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

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

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

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

114 V. COMMUNICATIONS AND MISCELLANEOUS

115 A. Minutes

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

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

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

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

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

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

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

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

130 The Chair said they do submit the application and their statements in writing prior to a meeting.
131 They don't have to read their application it can be assumed into the record. Then they verbally
132 embellish their statements in order to convince us that they are right. She didn't feel it was right
133 to limit the time lawyers need to speak.

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

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

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

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

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

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

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145 **B. REHEARING**

146 The Chair noted that a petition for a rehearing was received today. The board will notice the
147 meeting to determine if they will rehear the McLennand variance case. It will have to be within
148 30 days.

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

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

154 **VI. ADJOURNMENT**

155
156 Harry Seidel made a motion to adjourn the meeting. Jan Gugliotti seconded the motion. The meeting
157 was adjourned at 8:38 PM.

/jll



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Zoning Board of Adjustment Minutes of June 12, 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)		✓
James Zablocki (Alternate)	✓	

Also present: Elizabeth Labbe is running the Zoom recording in Janice Loz absence

6 II. NEW BUSINESS

7 A. Application for a Variance

8 Case: 2024-04

9 Applicant: Daniel Chaloux

10 Property Owner: Daniel Chaloux and Desiree Kalloch

11 Map/Lot: Map 07, Lot 040-1

12 District: R-3

13 Details of Request: Proposed garage 40 feet from the edge of the right-of-way. Needs a
14 10-foot variance to the terms of Article VII, Section C.2.

15 The applicant was not present so the Board moved on to review the minutes of May 22nd

16 III. REVIEW OF MINUTES OF PREVIOUS MEETING – May 22 and June 12, 2024

17 It was noted that the May 8th minutes listed on the agenda were not included with the packets.
18 Corrections were made to the minutes of the May 22nd meeting, including grammatical
19 adjustments and clarifications.

20 **Beverley Howe made a motion to approve the minutes of May 22, 2024 as amended.**
21 **Jan Gugliotti seconded the motion. Discussion:** None. **Vote Tally:** 5 to 0. The minutes
22 were approved as amended.

23 **IV. UNFINISHED BUSINESS**

24 Discussion on equitable waivers, administrative appeal, variances, and special exceptions
25 application forms. The Chair supplied copies of suggested edits to the forms which were
26 reviewed by the Board. The changes were discussed and applications approved with edits
27 suggested.

28 **Derek Narducci made a motion to approve changes to the application forms as**
29 **discussed. Jan Gugliotti seconded the motion. Discussion:** None. **Vote Tally:** 5 - 0.

30 Suggested next meeting the Board should review the Checklist, General Instructions, Plot
31 Plan requirements.

32 **V. COMMUNICATIONS AND MISCELLANEOUS**

33 The applicant did not show up for the meeting. Discussion on whether the applicant was aware
34 of the meeting time. Consideration of whether the applicant would be charged again for
35 re-notifying abutters. Consideration of whether to deny the application without prejudice or to
36 table it until further notice from the applicant. Derek checked online to see if there was
37 guidance on the standard procedures, but nothing was found. Decided to table the application
38 until the Land Use office contacts the applicant.

39 **Energy Audits**

40 Discussion on the complexity of building permit energy audits and the time it takes to complete
41 them. Jan G.'s suggestion that she could create an automated system using Excel to simplify
42 the process, similar to a decision tree. Jan G. will follow up with the appropriate Town Offices.

43 **VI. ADJOURNMENT**

44 Meeting was adjourned at 7:40