



TOWN OF WARNER

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Zoning Board of Adjustment

Minutes of December 14, 2022

Town Hall in the Lower Meeting Room

1. The Chair opened the ZBA meeting on at 7:00 PM.

A. ROLL CALL

Board Member	Present	Absent
Jan Gugliotti (Alternate)		✓
Beverley Howe		✓
Barbara Marty (Chair)	✓	
Lucinda McQueen	✓	
Harry Seidel (Vice Chair)	✓	

Also present: Janice Loz, Land Use Administrator, Steve Shumsky, Allison Lewis from Keach-Nordstrom Associates, Inc.

2. NEW BUSINESS

A. Application for a Variance to the terms of Article VI.C.1. of the Ordinances

Case: 2022-05

Applicant: Steve Shumsky

Agent: Keach-Nordstrom Associates, Inc.

Address: 30 Pleasant Pond Road

Map/Lot: Map 26, Lot 25

District: R-2

Description: Currently a non-conforming lot of record encroaching on setbacks. Existing structure will be demolished. The proposed new 864 square foot single family home will increase the footprint by 112 square feet. The new structure will be 2-feet closer to the right-of-way.

The Chair addressed the applicant stating that the board is in an unusual situation they do not have a full board in attendance. Although, they do have a quorum of three and can conduct business. The Chair asked the applicant whether they want to proceed with three members or continue the hearing until a full board (five members) is present. She explained that for a decision to be made the applicant would need three concurring votes.

APPROVED MINUTES

Steve Shumsky and his representatives from Keach and Nordstrom informed the Chair they would need to leave the room to have a private conversation about how to proceed. The Chair affirmed.

The Chair explained to the public that all three attending board members would have to vote affirmatively on all five criteria for the variance to be granted. This may, or may not, be achievable with a five-member board, although could be more difficult to achieve with a three-member board.

The applicant returned to the meeting and stated they would like to defer to the next Zoning Board of Adjustment (ZBA) meeting with a full membership of the board. The applicant and the Chair conferred about available dates and agreed on the February 8, 2023, meeting.

The Chair explained the application would need to be accepted as complete, as an administrative detail, before proceeding. The board had a conversation and stated they felt the application was complete.

Harry Seidel made a motion to accept the application as complete. Lucinda McQueen seconded the motion. Discussion: None. **Roll Call Vote:** Lucinda McQueen – Yes, Harry Seidel – Yes, Barb Marty – Yes. The application for case 2022-06, 30 Pleasant Pond Road Map 26, Lot 25 was accepted as complete.

The Chair stated the applicant chose to continue the application for a variance to the ZBA meeting of February 8, 2023. Harry told the abutters in attendance the meeting would be continued to February 8th. The Chair informed abutters if they cannot make the meeting, they are welcome to submit a letter to the Land Use office which will be read into the record.

B. Update on ordinance changes proposed by the Planning Board

The Chair attended the Groundwater Protection public meeting. She informed the board about the Groundwater Protection Ordinances being reviewed by the Planning Board. The Chair also shared a map detailing the aquifer in Warner. She expressed regard for the tremendous work, Alice Chamberlin, Mike Tardiff and Matt Monahan have done concerning groundwater protection in Warner. They have developed maps and six types of businesses they want to prohibit from operating over the aquifer and the three types of businesses and the regulating conditions.

The Chair said the Planning Board is working on definitions on Short Term Rentals. She asked Janice if they are adding anything to the Use Table? Janice said they are discussing definitions and whether to make changes to the Use Table. The Chair said the Planning Board is meeting on Monday, December 19, 2022 if members are interested in attending. Decisions are not yet set in stone, they are open to suggestions.

3. REVIEW OF MINUTES OF PREVIOUS MEETING: November 9, 2022

The Chair said she felt bad for Marilyn who did the minutes, because there was a lot of talking about the Rules of Procedures and not a lot of context.

APPROVED MINUTES

Note: Janice will listen to the Zoom recording and capture missing comments made by Jan G. on page 5 of the minutes.

Harry Seidel made a motion to accept the minutes of November 9, 2022 as amended. Lucinda McQueen seconded the motion. Discussion: None. Voice Vote Tally: 3 – 0. The minutes of November 9, 2022 were approved as amended.

4. UNFINISHED BUSINESS

A. Rules of Procedure Document (ROP)

The Chair asked the board if they wanted to table the discussion on the ROP's until the full board is available. The board said waiting for a full board would be agreeable. Before closing the topic, Janice mentioned that Elizabeth Labbe, Assessing, had mentioned that the addition of noticing conservation easement entities, was problematic. Janice relayed it is very difficult to get that information for notification purposes. She recommended the Chair discuss this with Elizabeth to better understand of the issue and will adjust the ROP accordingly.

5. COMMUNICATIONS AND MISCELLANEOUS

Janice mentioned to the board that she had distributed the ZBA schedule of meetings for 2023 to all members.

Janice said she spoke with the Chair and the lawyer and suggested there are some details the board may want to consider updating in instructions section of the applications. For instance, the board denying an application as incomplete, is not clearly understood by the applicant. The application doesn't specifically clarify that action, which often catches applicants off guard.

The Chair asked if it would be possible to put an applicant signature line at the bottom of the checklist. Janice agreed that would be helpful and asked the board to please look at the checklist and determine what they would like changed. Harry agreed. He said the application needs to be in line with the Rules of Procedures and reworked.

Janice stated that the Planning Board operates differently than the ZBA. The Land Use office can determine whether a Site Plan application is complete. Although, she cannot do that for the ZBA, that would be a determination made by the ZBA with a decision issued. Harry stated that Janice knows what an application is supposed to look like and has the checklist to reference. He said if she see's something that is not done right, why can't she deny the application as incomplete.

Janice explained that referenced in the Site Plan Regulations the Land Use office can deny an application that is incomplete. She may have more authority to do that if it is clearly stated in the application. Harry said it is a waste of their time to come to a meeting and something is not right with the application. The Chair said there are towns where there is a full time Land Use Administrator, and they can reject applications.

APPROVED MINUTES

Janice said the problem with Land Use denying an application as incomplete, is that she does not speak for the board. This board is quasi-judicial whereas, the Planning Board is not. The Chair suggested they do some homework on this issue. Janice said she had done research on denying an application as incomplete. There are towns that have a statement that says an application will be denied by the board if incomplete. Although, not by the Land Use Administrator. The Chair said having more substance in the application and a checklist will help. Harry agreed it would actual help having more clarity and the application would be stronger and clearer.

Also, Janice asked the board to consider requiring a plot plan for variance applications when determining setbacks from the lot lines, instead of Right of Way's (ROW's). The Chair said the Planning Board had discussed this issue, and how the last three ZBA variance applications have been about setbacks from ROW's. Harry said the Planning Board needs to review the best way to delineate a setback. He said currently we are using the property edge of the right of way, which is different on every single road. The Chair said whatever the delineation is will have to be added to the checklist. Janice thanked the board for considering making these changes to the applications. It will help her do her job more effectively and help applicants. The Chair suggested we communicate this conversation to Bev and Jan G.

6. ADJOURNMENT (Motion, Second, Vote)

Harry Seidel made a motion to adjourn the meeting. Lucinda McQueen seconded the motion. Voice Vote Tally: 3 – 0. The meeting was adjourned at 8:05 PM.

/jll