



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

PO Box 120, Windham, New Hampshire 03087
(603) 432-3806 / Fax (603) 432-7362
www.WindhamNewHampshire.com

**Approved Planning Board Minutes
Wednesday January 22, 2014**

Board Members:

Kristi St. Laurent, Chairman – Present
Margaret Crisler, Vice Chair – Present
Pam Skinner, Member – Present
Jonathan Sycamore, Member – Present
Sy Wrenn, Member – Present
Paul Gosselin, Alternate – Excused

Ross McLeod, Selectman – Present
Kathleen DiFruscia, Selectman Alternate - Excused
Vanessa Nysten, Member – Present
Alan Carpenter, Alternate – Present
Jim Fricchione, Alternate – Excused
Steve Bookless, Alternate – Present

Staff:

Laura Scott, Community Development Director
Elizabeth Wood, Community Planner
Laura Accaputo, Planning Board Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Chair St. Laurent called the meeting to order at 7:00 pm, followed by the Pledge of Allegiance, member attendance and a brief synopsis of the agenda.

2014 Town Meeting

Warrant/Ballot Review and Approval

- Attorney Campbell explained the Board should take a motion on each amendment and confirm the order and final language for the warrant.

ARTICLE 2

Planning Board Amendment #1: Duration of Variances

- The Chair explained these changes are in line with changes at the state level so that a variance will terminate two years from issuance and allow for a one year renewal.
- Ms. Nysten asked for clarification of when the time period begins and was told by Attorney Campbell it begins at the date of decision/vote from the Zoning Board. Ms. Nysten asked for clarification of what “resolution of the Planning Board” means. Atty. Campbell said that it is the date that the Planning Board votes to approve the application.

Ms. Crisler motioned to move Planning Board Amendment #1, Section 906 Duration of Variances, to Town Warrant with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #2: Personal Wireless Service Facilities

- Ms. Nysten recused herself and Mr. Bookless was seated for this vote.

- The Chair explained this was to be in compliance with recent changes to state laws.

Ms. Crisler motioned to move Planning Board Amendment #2, Personal Wireless Service Facilities, to Town Warrant with Planning Board recommendations, seconded by Ms. Skinner. Motion passed: 7-0-0.

Planning Board Amendment #3: Aquifer Protection District

- Ms. Nysten sat back on the Board.
- Ms. Scott explained the proposed changes will close some loopholes and clarify some definitions and language.
- Ms. Nysten asked for confirmation the subcommittee addressed Attorney Campbell's recommendations and Ms. Scott replied they were discussed at length.
- The Chair asked Attorney Campbell to correct a typo in 609.5.6 by deleting the underscore and to add a hyphen to the word nonconforming.

Mr. Wrenn motioned to move Planning Board Amendment #3, Aquifer Protection District, to Town Warrant, as amended, with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #4: Wetland and Watershed Protection District

- The Chair explained this will require boundary markers along the edge of the WWPD.

Mr. Wrenn motioned to move Planning Board Amendment #4, Wetland and Watershed Protection District, to Town Warrant with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #5: Sign Ordinance-Pre-existing Signs

- The Chair explained this will require a pre-existing, non-conforming sign, if modified, to comply with regulations.

Ms. Crisler motioned to move Planning Board Amendment #5, Sign Ordinance-Pre-existing Signs, to Town Warrant with Planning Board recommendations, seconded by Ms. Skinner. Motion passed: 7-0-0.

Planning Board Amendment #6: Sign Ordinance-Temporary Signs

- The Chair explained this would allow civic and non profit groups to have signs in residential yards and on commercial properties.
- Mr. McLeod stated he was concerned part of this could be a 1st Amendment issue as it only allows for Town organizations. He also believes the size 18 X 24 is too small.
- The Board discussed if the intent was for Windham groups only and Ms. Scott stated she believes this was for Windham only and excluded other towns.
- The Chair stated this came from language currently in the Temporary Sign Ordinance.
- Attorney Campbell stated while he shares the 1st Amendment concerns he believes it can be defended as written.
- Mr. Wrenn stated the size is typical and a non-residential property can have a larger sign.

- Mr. McLeod stated he thinks there will be visibility issues with the size; he wants the size increased and the word Windham taken out.
- Ms. Crisler stated she agrees with Mr. McLeod and doesn't think the language is clear about whether it is intended for Windham groups only.

Ms. Crisler motioned to move Planning Board Amendment #6, Sign Ordinance-Temporary Sign, to Town Warrant with Planning Board recommendations, seconded by Ms. Skinner. Motion passed: 5-2-0 with Mr. Sycamore and Mr. McLeod in opposition.

Planning Board Amendment #7: Impact Fees

- The Chair explained this will bring the ordinance in line with state regulations.
- Ms. Nysten noted some typos; In Section 715.3.5 renumbering existing Section should be 715.3.5.5; Section 715.7.5 should be Rockingham County; and delete the underscores in 715.7.2 and 715.7.4.
- The Board discussed the conversion of a seasonal dwelling to a year round dwelling relative to impact fees and decided to switch the language of 715.3.5.5 to "For the purposes of assessing school impact fees, the conversion of a seasonal dwelling unit to a year-round dwelling unit."
- Wayne Morris, Jordan Road, stated he believes these conversions should also be subject to Safety Impact Fees due to the Fire Dept. having to make a plan for accessing the properties on unplowed roads. These properties are very difficult to access when there is an emergency.
- Attorney Campbell stated that language cannot be inserted tonight and would have to be considered next year.

Mr. McLeod motioned to move Planning Board Amendment #7, Impact Fees, to Town Warrant, as amended, with Planning Board recommendations, seconded by Ms. Crisler. Motion passed: 7-0-0.

Planning Board Amendment #8: Storage Containers

- The Chair explained this is to add a definition of Storage Containers/Storage Trailer to the Zoning Ordinance.

Mr. Wrenn motioned to move Planning Board Amendment #8, Storage Containers, to Town Warrant with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #9: Accessory Building

- The Chair explained this is to clarify the existing definition of accessory building to help with Code Enforcement.

Mr. Wrenn motioned to move Planning Board Amendment #9, Accessory Building, to Town Warrant with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #10: Definition of Boarding or Rooming House

- Ms. Nysten noted some typos in the bold text; replace the word duration with definition and add "ing" to the word Board.

Ms. Crisler motioned to move Planning Board Amendment #10, Definition of Boarding or Rooming House, to Town Warrant, as amended, with Planning Board recommendations, seconded by Ms. Skinner. Motion passed: 7-0-0.

Planning Board Amendment #11: Open Space Residential Overlay District

- The Chair explained this is a refinement of the current Open Space Ordinance.
- Ms. Nysten noted a typo in 611.6.7.2 where the word “exiting” should be “existing”.
- Wayne Morris, Chairman of Conservation Commission, asked the Board to publicize the fact they are not increasing the number of lots when reducing the frontage.

Ms. Crisler motioned to move Planning Board Amendment #11, Open Space Residential Overlay District, to Town Warrant, as amended, with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #12: Neighborhood Business District Rezoning

Mr. Wrenn motioned to move Planning Board Amendment #12, Neighborhood Business District Rezoning, to Town Warrant with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #13: Neighborhood Business District Rezoning

Mr. Wrenn motioned to move Planning Board Amendment #13, Neighborhood Business District Rezoning, to Town Warrant with Planning Board recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Planning Board Amendment #14: Name of Watershed District

- The Chair explained this is to ensure both Cobbetts Pond and Canobie Lake are included in all places where the zone is referenced.

Ms. Skinner motioned to move Planning Board Amendment#14, Name of Watershed District, to Town Warrant with Planning Board recommendations, seconded by Mr. Wrenn. Motion passed: 7-0-0.

Article #3 Shall the Town of Windham, pursuant to authority provided under RSA 155-A:3 (I), adopt the following local amendments to the State Building Code:

- Ms. Scott explained this is to close loopholes and require developers to show all easements, private or public, setback and zoning boundary lines when applying for Business Permits.
- Ms. Nysten noted two errors to the last sentence of each section where the word “is” after the word “application” should be removed.

Mr. Wrenn motioned to move Article 3 to Town Warrant, as amended, with Planning Board Recommendations, seconded by Mr. McLeod. Motion passed: 7-0-0.

Article Assignments/Schedule

- The Board discussed time lines and assignments for press releases for the items proposed for Town Warrant. The press releases are an effort to explain the background, implications, and new language of the Town Warrant items.

2014 Planning Board Proactive Work List and Schedule

- Ms. Scott presented a memo dated 1/14/14 to the Planning Board outlining a tentative list and schedule of items to work on in 2014. She noted as a result of this meeting she added public safety impact fee for seasonal conversions and temporary signs relative to size and whether for Windham Organizations only. She also added the definition of Recreational Vehicle at the request of the Code Enforcement Officer and the definition of pervious and impervious.
- Mr. Carpenter stated the Planning Board has the opportunity to do planning for the community. He would like to dedicate early workshops to looking at surface roads in the area of the new exit and the reconstruction of Route 111 to alleviate traffic congestion.
- The Board discussed the items on the list and made suggestions as to which items they felt should be discussed this year, which items could be discussed at a later date, and which items could be removed from the list.
- Mr. McLeod suggested creating a list to discuss with the DOT for options regarding the Exit 3 interchange, Route 111 work, and bypass areas.
- Mr. McLeod asked if the Board wanted to consider looking at tax increment financing districts (TIF) as a way to get some dormant areas moving. The Board agreed to add it to the list.
- The Board also discussed learning more about Tennessee Gas.
- Mr. Carpenter suggested staff send the list to the Board on a spreadsheet so they can go through the list and prioritize the items.

Financial Release – Cricket Ridge

Ms. Scott explained the Town is holding a letter of credit for the Cricket Ridge Subdivision. The developer is requesting a partial release of \$163,880.76. Both Steve Chabot (KNA) and Jack McCartney (Highway) have signed off on the request. She is asking the Board to recommend to the Board of Selectmen to reduce the letter of credit from \$332,411.76 to \$168,531.00.

Ms. Crisler motioned to recommend to the Board of Selectmen that the Letter of Credit held by Cricket Ridge Subdivision Financial Guarantee be reduced \$163,880.76 and retain \$168,531.00, seconded by Mr. Wrenn. Motion passed 6-0-1 with Mr. McLeod abstaining as he will vote on this with the Board of Selectmen.

Wayne Morris, Trails Committee, addressed the Board regarding a concept from the 2005 Master Plan to work with DOT to make a connection from the west side of Route 93 along the rail bed to the east side. They came up with two concepts, the first is a trail that runs parallel to Route 93 to North Lowell Road and the second and preferred concept is a tunnel under Route 93 (two sections of 135ft tunnels, 12x12 culverts). The Trails Committee is asking for the Planning Board to write a letter in support of the tunnel option.

- The Board discussed both options. They asked about the location, accessibility, and safety of the trail and tunnel. Mr. Babineau of the Trails Committee stated safety and emergency access and communications are governed by Federal Regulations.

Ms. Crisler motioned that the Planning Board recommend to the Trails Committee to promote the culvert approach, seconded by Ms. Skinner.

- Mr. Sycamore asked if it should be addressed to the Trails Committee and Mr. Babineau stated Dave Sullivan, Town Administrator, was gathering recommendations from other committees. Ms. Crisler suggested they send it to the Board of Selectmen and copy the Town Administrator and the Trails Committee.

The Chair went back to the motion

Ms. Crisler amended the motion to address the letter to the Board of Selectmen and copy the Town Administrator and Trails Committee, Ms. Skinner seconded. Motion passed: 6-0-1 with Mr. McLeod abstaining as he will vote on this with the Board of Selectmen.

Ms. Crisler and Ms. Nysten were excused at 9:35pm.

Mr. Carpenter was seated for Ms. Crisler and Mr. Bookless was seated for Ms. Nysten at 9:35pm.

The Board took a 5 minute recess at 9:35pm and was back in session at 9:40pm.

Public Hearing – Continued from January 8, 2014

Case#2013-26/Granite Woods Open Space Subdivision/WWPD Special Permit

An Open Space Subdivision Application has been submitted for Wilson Road (24-F-1100, 1120), located in the Rural District Zone and Wetland and Watershed Protection District. The applicant, Peter Zohdi of Edward N. Hebert Associates, Inc., on behalf of the property owner, DHB Homes, LLC, is proposing to merge Lots 24-F-1100, and 1120 and then to subdivide the property into twenty-one (21) lots for single-family residential development to be served by separate wells and septic systems, and three (3) open space lots, sized 20.665 acres (900,167.4 sq. ft.), 10.588 acres (461,213.28 sq. ft.), and 5.674 acres (247,159.44 sq. ft.) for a total of 36.927 acres (1,608,540.12 sq. ft.) or 62.6% dedicated to open space. Included in this proposal is the extension of Wilson Road and the creation of a new road ending in a cul-de-sac to access the lots. A Special Permit Application has also been submitted for a wetland and WWPD crossing for access to the 21-lot subdivision and associated wells within the WWPD.

Ms. Wood explained this was a continuation of the hearing held on January 8, 2014. She told the Board the applicant, Mr. Zohdi, provided a new layout design in response to their recommendations.

Mr. Zohdi stated as a result of the last meeting he made the cul-de-sac shorter and eliminated two lots. The total permanent dredge and fill is now 668 sq. ft; total temporary wetland crossing is 1,513 sq. ft; total WWPD impact is 148,048 sq. ft; and total WWPD in open space is 85,431 sq. ft. The length of cul-de-sac from the beginning of Wilson Road (including existing 600ft) is 1700 sq. ft. Marden Road did not change.

Comments/Question from the Board

- The Chair asked how the wetlands get fed if the water goes into the detention area and Mr. Gove explained the majority of the wetland is being fed by a different area and the wetland will stay wet.
- Mr. Carpenter asked what will happen to the temporary cul-de-sac on Wilson Road and Mr. Zohdi replied that is a decision of the Planning Board and Road Agent. He stated the Road Agent does not want it to stay but the Planning Board makes the final decision. If it is removed it will be cleaned up.

The Chair opened the Hearing to the public at 10pm.

- Attorney Mike Donovan, representing several neighbors, stated they appreciate the efforts to shorten the street and reduce the number of lots however they believe the applicant can make further reductions to lots and street length. He discussed many of the same points he made at the last hearing including sound planning practices, and in summary believes the plan still has too many lots and the length of street is too long. He believes they should eliminate 3 or 4 more lots and either eliminate Marden Road or shorten the long cul-de-sac. He also stated he believes the corner lot does not meet the frontage requirement and should be eliminated.
- Mr. Sycamore asked if staff came up with a maximum yield plan and Ms. Wood replied that is the charge of the Planning Board. She stated the ordinance is not specific as to what the applicant has to provide in terms of a yield plan. The applicant has provided two versions and the most recent draft was reviewed at the last meeting. The Board has to decide whether to extend the length of cul-de-sac beyond 1200 ft before the number of lots can be considered. She stated it is also not known if special permits that may be required will be granted.
- Mr. Carpenter asked about slope of certain driveways and Mr. Zohdi stated they can give those lots individual driveways.
- Mr. Zohdi told the Board his original application was for a Conventional Subdivision but the Conservation Commission asked for Open Space. Mr. Keach sent a report stating the Yield Plan complies with the regulations.
- Attorney Daniel Muller, on behalf of the applicant, stated in regards to the issues with the driveways, the subdivision regulations say lots shown on the plan must show they can accommodate a driveway and they do. He stated in regards to the issue of frontage, the Town's Code Enforcement Officer determined the frontage to be proper on the one lot in question. He stated the Zoning Ordinances are ambiguous and the decision reflects a practice in town so the Doctrine of Administrative Gloss would control.
- Mr. McLeod stated he did not believe the Board was bound by Administrative Gloss if it conflicts with any ordinance. Attorney Muller stated Administrative Gloss applies if it's ambiguous and cited Hansel vs. Keene.
- The Chair asked Mr. Zohdi about the measurement of the cul-de-sac length and noted the Subdivision Regulations state it has to be measured to the radius point (center) of cul-de-sac. She asked him to re-measure and get the exact measurement.
- Mr. Carpenter suggested getting the Boards consensus regarding cul-de-sac length before they have any further discussion on the other issues.
- Mr. Zohdi showed the Chair the report from Steve Keach stating he supports the Yield Plan. The Chair read the letter into the record.
- The Chair stated she told Mr. Zohdi at the first meeting she didn't see 21 lots by right. The Board feels 21 lots is aggressive.
- Pete Stannas, Jefferson Road, stated Mr. Keach determined the Yield Plan was accurate for lot loading, which is what he was asked to do.

The Chair closed the Public Hearing at 10:40pm.

- The Chair put before the Board the question of cul-de-sac length for discussion.
- Mr. Wrenn asked staff if Highway Safety had concerns with the length of cul-de-sac. Ms. Wood replied they reviewed the plan and initially asked for a connection to Washington Road but the Board decided against that. They then said they will work with the applicant to get the correct number of cisterns installed.
- Mr. Carpenter stated historically the Board has approved going beyond 1200ft when there is expectation of a future road pushing through and connecting to it, thereby taking away the issue of length. This would not happen in this instance since the residents were not in favor of

connecting and there were significant environmental impacts with connectivity. He also does not think combining the length of Marden Road to the cul-de-sac is consistent with the Board's history or the spirit of the ordinance. He cautioned the Board to be careful of standing on cul-de-sac length because if they deny it they could get a less favorable plan in the future with the potential of a cut through. In consideration of this he votes in favor of the cul-de-sac length with today's revisions.

- Mr. McLeod asked for clarification of the cul-de-sac measurement, discounting Marden Road, and was told almost 1800ft. He stated he agrees with Mr. Carpenter on the cul-de-sac length issue.
- The Chair asked the remaining members of the Board, Mr. Wrenn, Ms. Skinner, Mr. Sycamore, and Mr. Bookless if they agreed with the cul-de-sac length and they each replied they did.
- The Chair stated she appreciated the applicant's willingness to work with the Board and cut back on the length of cul-de-sac as it made a difference in the impact to the WWPD.
- The Board then discussed number of lots and the concerns they had with regards to frontage and WWPD impact with some lots. Mr. Zohdi stated he will adjust the lot lines on the corner lot to avoid any frontage issues. The Chair asked the applicant to consider the 2 houses with driveways primarily in WWPD which cause the greatest impact. If these lots could be eliminated it would bring the number of lots down to 17. She also stated the applicant must prove each lot can have a safe driveway according to Town Regulations.
- The Chair asked the Board to weigh in on the number of lots they agree with. Mr. Sycamore agreed with 17; Mr. Wrenn agreed with 17; Mr. Bookless agreed with 17; Mr. McLeod agreed with 17.

Ms. Wood summarized the Board finds the cul-de-sac length acceptable as presented, with the longest cul-de-sac length extending to Marden Road for a distance of approximately 1764ft (pending measurement to the radius point of cul-de-sac). The Board is amenable to 17 lots if the driveways can be shown appropriately to match the ordinance.

Mr. Carpenter motioned to continue the Public Hearing for Case #2013-26 Granite Woods Open Space Subdivision/Special Permit to February 12, 2014 at 7pm, seconded by Ms. Skinner. Motion passed: 7-0-0.

January 8, 2014 Meeting Minutes – moved to February 5, 2014

Subdivision Regulation Workshop – moved to February 5, 2014

The Chair stated things to discuss will be clarifying the Yield Plan, road width, road length, connections; this is to propose submission requirements, signs, stamps, and seals, and roadway width and design standards.

Mr. Sycamore made a motion to adjourn the January 22, 2014 Planning Board Meeting at 11:20pm, seconded by Ms. Skinner. Motion passed: 6-0-0.

These minutes are respectfully submitted by Laura Accaputo, Planning Board Minute Taker.