



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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

### Planning Board Minutes October 30, 2013

#### **Board Members:**

Kristi St. Laurent, Chairman – Present	Ross McLeod, Selectman – Excused
Margaret Crisler, Vice Chair – Excused	Kathleen DiFruscia, Selectman Alternate, Excused
Pam Skinner, Member – Present	Vanessa Nysten, Member – Present
Jonathan Sycamore, Member – Excused	Alan Carpenter, Alternate Member – Excused
Sy Wrenn, Member – Present	Jim Fricchione, Alternate Member – Present
Paul Gosselin, Alternate, Excused	Steve Bookless, Alternate - Excused

Tax Assessor – Rex Norman, Present

#### **Staff:**

Elizabeth Wood, Community Planner  
Nancy Prendergast, ZBA/Code Enforcement Officer  
Cathy Pinette, Planning Board Minute Taker

#### **Call to Order/Attendance/Pledge of Allegiance**

Chair St. Laurent called the meeting to order at 7:05 pm, followed by the Pledge of Allegiance, member attendance and gave a brief synopsis of the agenda.

The Chair appointed Mr. Fricchione to sit for Mr. Sycamore.

#### **2014 Town Meeting Workshop: Zoning District Boundaries, Zoning Map**

- Mr. Wrenn stated he, Ms. Nysten and staff looked primarily at the Neighborhood Business District (NBD) Zoning as part of a subcommittee of the Planning Board and tonight we would be discussing the Route 28 corridor. Their task was to give the Planning Board recommendations on certain parcels and their zoning designation. They looked at what makes sense from a planning standpoint. The purpose tonight is to receive public input. Past experience is that the PB did not move a zoning change forward that an owner did not want. Ms. Wood explained the mapping process and stated all the minutes from the subcommittee are on the Town website for the public to review. She stated last year the Board looked at split zoned parcels and this year they looked at a survey that was done by the Economic Development Committee in 2010 soliciting opinions from residents on business growth. The Route 28 corridor was the number 1 place that residents wanted growth. She stated Mr. Rex Norman, the Town Assessor was here this evening to answer questions about tax implications of rezoning. Mr. Norman stated that if a property was rezoned to commercial and there was only a current residential house there now, a person could apply for a special appraisal to keep their property assessed as a residence.
- Ms. Wood explained the process of potential rezoning starting at the workshop possibly moving forward to public hearing then possibly moving forward to Town vote. Even though it is not required by law, the Planning Board has decided to notify owners and abutters in the interest of working with and providing transparency to the public. Ms. Wood also described and displayed

on the screen how the public can access more details such as minutes and mapping from their homes by going on the Town website.

**Ms. Skinner motioned to open the public workshop, seconded by Mr. Wrenn. Motion passed 5 – 0.**

- Ms. Nysten gave the Board a list of parcels that were being considered for rezoning. Mr. Wrenn read minutes from the Subcommittee meetings on each parcel and the subcommittee's recommendations. Ms. Wood displayed the GIS map on the screen showing the parcel details for the Board and public. A few lots under consideration this evening are multi-zoned Commercial District A and Rural District. They were not considered for rezone previously because the zoning map at the time was incorrect showing them as one zone.

**Ms. Nysten motioned to move the change of lots 8-B-4900 (6 Libbey Rd.) and 8-B-3000(10 Libbey Rd. from Commercial A District & Rural District to Commercial A District to public hearing, seconded by Mr. Wrenn. Motion passed 5 – 0.**

**Lot 8-B-4401 is a narrow strip of land on Libbey Rd. and Rockingham Rd. which is owned by the town and abutting the above parcels. It is zoned NBD. It was suggested to make it conform with the abutting parcels on Libbey Rd which are partially zoned Commercial A.**

**Ms. Nysten motioned to move the change of lot 8-B-4401 from Neighborhood Business District (NBD) to Commercial A to public hearing, seconded by Mr. Wrenn. Motion passed 4 – 0 – 1 with Ms. Skinner excused.**

- Lot 3–B–401 (151 Rockingham Rd.). Mr. Wrenn would like to change this zoning to Commercial District A as it was a busy road and this lot would need to meet the setbacks for a commercial building but Ms. Nysten would like to keep it zoned NBD as to not change the character of the abutting neighborhood.

The Chair opened the hearing to the public at 7:45 pm.

- Ms. Christen Henry, 10 Overlook Rd stated she abuts Lot 3–B–401 and she is concerned with a change from NBD to Commercial A. There would be no buffer between that lot and the Overlook neighborhood.
- Mr. James Thoele, 125 Lowell Rd asked about the different setbacks of the Rural District and the residential. Mr. Wrenn explained this to Mr. Thoele. Mr. Joe Maynard also explained different setbacks for residential and commercial.
- Mr. Greg Daley, 22 Clark Rd stated he was concerned about making this lot Commercial District A.
- Mr. Ken Henry, 10 Overlook Dr. stated NBD is supposed to be for the neighborhood. Changing this lot will change the neighborhood.
- Mr. Mike Salvo, 137 Rockingham Rd. stated he lived on the corner of Flat Rock and he was concerned that the Board did not contact the owner of a property that may be interested in changing their property zoning to NBD from Rural District. He thinks the Board should call the owners and have the owners decide to have their property rezoned. He asked why his lot and Jim Hatzos' lot are not on the list for rezoning. Their lots are zoned Rural but there are businesses

there. Ms. Wood stated when they looked at the GIS it does not show that he has a business. The Chair asked if he wanted his lot to be rezoned and Mr. Salvo stated yes. He stated there are lots of small houses on that road and that should be zoned NBD. He would like to be zoned NBD. Also, he stated Mr. Hatzos of 3-B-112 (119 Rockingham Rd) should be NBD zoned.

- Mr. Fricchione wanted to know what the property owner wants even if they were notified and did not attend.
- Ms. Heather Greenhalgh, 11 Outlook, stated that the visual impact and noise pollution of a Commercial A property would impact her quality of life and the neighborhood.

The Board agreed to move to another workshop lots 3-B-360 (137 Rockingham Rd.), 3-B-112 (119 Rockingham Rd.) , and 3-B- 250 (135 Rockingham Rd.) from Rural to NBD.

**Ms. Nysten motioned to leave Lot 3-B-401(151 Rockingham Rd.) as NBD, seconded by Mr. Wrenn. Motion passed 5 – 0.**

- The Board discussed lot 8-B-6200 (154 Rockingham Rd.) and 8-B-3002 (140 Rockingham Rd.). Lot 8-B-3002 is a split zoned lot and read the minutes from the subcommittee meeting. The discussion revolved around ~~this~~ lot (8-B-6200) being mostly wetlands and probably not buildable. Lot 8-B-3002 is not recommended for rezoning as it is multi zoned and has a large body of water within it.
- Mr. Salvo asked what the tax increase would be if the lot was Commercial as it is multizoned and has wetlands. Mr. Norman stated Commercial A has more value but did not know the tax impact off the top of his head.
- Mr. Tom Case stated that Conservation was buying one of those lots.

**Ms. Nysten motioned to leave lot 8-B-6200 (154 Rockingham Rd.) and 8-B-3002 (140 Rockingham Rd.) zoned as is, seconded by Mr. Wrenn. Motion passed 5 – 0.**

- Lot 8-B-2000 (124 Rockingham Rd.) – Mr. Wrenn read the minutes from the subcommittee meeting and stated the subcommittee recommends this be zoned NBD. Mr. Norman stated this property has an accessory apartment and a zoning change would raise the taxes on it and a special appraisal would not be permitted.
- Mr. Mike Clossin, 120 Rockingham Rd stated there was a small sliver of property owned by the Town (parcel 8-B-1860) between his lot and 8-B-2000. He would like to purchase this lot. He stated he can see through this lot to the next lot (8-B-2000) and would not want to see it changed to Commercial A. Mr. Wrenn stated they are recommending NBD because the lot North of it and across the street are NBD.

**Ms. Nysten motioned to leave Lots 8-B-2000 and 8-B-1860 as Rural given input from the public and that the owner would not be able to get a special ~~permit~~ appraisal and their taxes would go up, seconded by Ms. Skinner. Motioned passed 4 – 1 with Mr. Wrenn opposed.**

- Lots 8-B-1000 (108 Rockingham Rd.) and 8-B-1000D (1 Hunt Rd.)– the subcommittee recommends these lots be changed from Rural to NBD.

- Mr. Gabrielle Marinella, Heritage Baptist Church, stated the Church owns both parcels. They purchased the parcels knowing they were zoned Rural and want them to stay zoned that way so they can have a positive effect on the neighborhood.

**Ms. Nysten motioned to leave Lots 8-B-1000 and 8-B-1000D as Rural as they are developed and that is what the owner wants, seconded by Mr. Fricchione. Motion passed 5 – 0.**

- Lots 8-B-900 and 8-B- 850. Ms. Wood stated she had spoken to the Town Administrator and that is Town owned land and could possibly be sold in the future. The Town is looking into possibly having some engineering done. It is currently zoned Rural. The subcommittee recommendation was to rezone these lots to Commercial District A. Mr. Tom Case stated that is a big wetland and there is nowhere to build. Abutter, Amelia Harris, agreed with Mr. Case. The Chair would like Ms. Wood to speak to Dave Sullivan to see if the BOS would like to change the zoning.

**Ms. Nysten motioned to leave as Rural Lots 8-B-900 (98 Rockingham Rd.) and 8-B- 850 (92 Rockingham Rd.) seconded by Ms. Skinner. Motion passed 4 – 1 with Mr. Wrenn opposed.**

- Lot 3-B-110 (117 Rockingham Rd.)– The subcommittee recommends this lot be changed from Rural to NBD as it is currently a motorcycle repair shop.

**Ms. Nysten motioned to move to public hearing Lot 3-B-110 (117 Rockingham Rd.) a change from Rural to NBD, seconded by Mr. Wrenn. Motion passed 5 – 0.**

**Mr. Wrenn pointed out that 119 Rockingham Rd. was already part of this workshop versus a new add on.**

**Ms. Nysten made a motion to amend a previous motion on Lot 3-B-112 (119 Rockingham Rd.) and move to public hearing a change from Rural to NBD, seconded by Mr. Wrenn. Motion passed 5 – 0.**

**Ms. Nysten motioned to move to public hearing Lot 3-B-1 (5 Bissel Camp Rd.) a change from Rural to NBD, seconded by Mr. Wrenn. Motion passed 3-2 with the Chair and Ms. Skinner opposed.**

The Board took a recess at 9:25 pm and was back in session at 9:30 pm

Ms. Skinner read Case#2013-31 into the record.

Case#2013-31/Dinga Subdivision Application/127 Lowell Road (24-E-10)

A Subdivision Application has been submitted for 127 Lowell Road (24-E-10), located in the Residence District A Zone and Wetland and Watershed Protection District (WWPD). The Applicant, Joseph Maynard of Benchmark Engineering, on behalf of Andrew Dinga and Lori Fowler-Dinga is proposing to subdivide a single family lot sized 4.42 acres (192,535.2 sq. ft.) into two (2) lots; one lot sized 2.15 acres (93,654 sq. ft) to include the existing single-family home and another sized 2.27 acres (98,881.2 sq. ft.) for future single-family development. The existing above ground pool will be removed from the property. No land disturbance to the WWPD is proposed.

- The Chair asked Ms. Wood if this application was complete and Ms. Wood stated yes. Ms. Wood stated she recommends if approved as a condition that a note be on the plan that this lot is in the

Aquifer Protection District. She has spoken to the applicant and they are fine with this. She stated her other recommendations were in her memo dated 10/17/13.

- Mr. Joe Maynard of Benchmark Engineering stated this was a 4.4 acre lot with sandy soils that were very well drained and they would like to make it into two lots. He stated the Dinga's have lived her for 15 years and they would like to build on the new lot a new house for themselves. The existing pool will be removed. The State subdivision plan has been approved and also a curb cut as it is a State Rd.
- Ms. Nysten asked how long the proposed driveway would be and Mr. Maynard stated approximately 250 feet.
- Mr. Wrenn asked Mr. Maynard if they were okay with Ms. Wood's recommendations, Mr. Maynard stated that she has recommended placards but they are not available for purchase from the Town and there is nothing in the Ordinance that stated they have to be on the trees. He is good with Mr. Keach's request of a 100 x 100 foot square requirement on the plan, he is good with address numbers of 127A and 127B per the Police Chief's recommendation, and he will add the width of the ROW to the plan. Mr. Maynard stated some of the recommendations have already been updated on the revised plan he submitted. Ms. Wood stated her recommendations were based on the original plan (dated 9/26/13) and that is what her memo was based on. There is now a new plan Mr. Maynard has submitted that some of the Board members do not have. The Board, Mr. Maynard and staff discussed the new plan to determine what items were addressed on the plan and what was not.

The Chair opened the hearing to the public.

- Mr. James Thoele, 125 Lowell Rd, abutter, gave the Board a presentation package of his concerns and comments. He stated he is not against the proposal of the subdivision provided it meets the ordinance and setbacks but does have concerns about where a house might be placed in the future due to the sloping issues at the back of the property, the WWPD, the compliance with the Ordinances, the driveway and the view from his windows. He would like the Board to have an independent review of the site by an engineer, the Town Engineer, input from the Conservation Commission, and a site walk.
- Mr. Maynard stated that the wetland behind the property is not Golden Brook but a small stream that leads into Golden Brook. He has been to the Conservation Commission and they are fine with the proposal. The sloping is well under the 12% needed for the WWPD. All setbacks will be met and this is just a preliminary plan for a structure, he is just here this evening to subdivide the lot.
- Mr. Thoele stated he disagrees with Mr. Maynard and stated in fact the wetland behind the lot is Golden Brook. He reiterated that he would like an Engineer to look at the property.
- The Chair stated while she was considerate of Mr. Thoele's concerns, this hearing was about subdivision of the land. The Chair asked Mr. Thoele if he had any issues with the subdivision. Mr. Thoele stated he would decide that after he sees what and where the house would be. Town Engineer has looked at the subdivision and submitted his recommendations. The Board discussed the opposing views of both parties. Mr. Fricchione would like to confirm the data presented by both parties. The Board stated they have had the Town Engineer look at the plan, it has been stamped by a licensed engineer, the regulations have been met for a subdivision and they are just

deciding on the subdivision. The Chair confirmed with Mr. Maynard where the slope is measured, and Mr. Maynard stated the Conservation Commission did not have concerns.

**Ms. Nysten motioned to approve Case 2013-31 the Subdivision Application of 127 Lowell Rd. with the following Conditions: The addresses to change to #127A and #127B, submit a copy of the State Subdivision Permit for the file. Once this has been issued, the permit# must be added to the plan, Submit a copy of the Driveway Permit as Lowell Road is a State-owned road. Add the permit number to the plan, All Final Plans must contain original stamps and signatures, Add a note to the plan indicating that this property is located in the Aquifer Protection District Zone, Indicate the Right-of-Way widths of Lowell Road. If widths vary, note width of widest and narrowest section, and it is recommended the applicant/property owner install placards placed in clear view depicting the WWPD boundary, 100'X100' rectangle to be added to the plan per Mr. Keach's 10/14/13 memo, note 4, seconded by Mr. Wrenn. Motioned passed 4 -0 - 1 with Mr. Fricchione abstaining.**

**Mr. Thoele indicated that he would not be appealing.**

Ms. Skinner read Case #2013-32 into the record.

Case#2013-32/Subdivision Application/118 Kendall Pond Road (1-C-750)

A Subdivision Application has been submitted for 118 Kendall Pond Road (1-C-750), located in the Residence District A Zone. The Applicant, Joseph Maynard of Benchmark Engineering, on behalf of Eden Trust is proposing to subdivide a single family lot sized 4.04 acres (175,982.4 sq. ft.) into two (2) lots; one lot sized 1.65 acres (71,874 sq. ft) to include the existing single-family home and detached garage and another sized 2.39 acres (104,108.4 sq. ft.) for future single-family development.

- The Chair asked Ms. Wood if this application was complete and Ms. Wood stated yes. Ms. Wood stated that her memo dated 10/18/13 with her recommendations was based on the plan submitted on 9/26/13 and not the plan dated 10/22/13.
- Mr. Joe Maynard of Benchmark Engineering stated that this house was constructed in the 1960's and the owner would like to split the lot with the new lot having 2.3 acres. There are some wetlands in the back, it has been review by the Conservation Commission and Steven Keach. It is not in the WWPD. He has a curb cut permit submitted to the State. He has State Subdivision approval. The new home will have a new driveway.
- The Chair asked Mr. Maynard if he has met with the Highway Agent. Mr. Maynard stated yes and he had some concerns but it is a State road and they have the final say although Mr. Maynard is using Town regulations as a guideline. The Board and Mr. Maynard discussed the drainage and Mr. Maynard stated they will have swales.

The Chair opened the hearing to the public.

- Mr. Marc Cobery, 112 Kendall Pond Rd. addressed the Board. He asked if the swales will have any affect on his property with the drainage and what the setbacks would be.
- Mr. Maynard stated the water would flow the same way it does now and showed Mr. Cobery his house and how the water flows on the plan.

- Ms. Nysten asked Mr. Maynard about the line of site and if he would be removing any trees. Mr. Maynard stated he would be removing some trees. Mr. Maynard and the Board discussed the line of site and the tree removal.

**Ms. Nysten motioned to approve the 118 Kendall Pond Rd. subdivision as presented Case#2013-32 with the following conditions: Assign an address of 116 Kendall Pond Road to the new lot, A Subdivision Permit is required from the State, Once this has been issued, the permit# must be added to the plan, A Driveway Permit is required as Kendall Pond Rd is State-owned and noted on plan, A copy of the application that was submitted to the state has been included to the file, and All Final Plans must contain original stamps and signatures, seconded by Mr. Wrenn. Motion passed 5 – 0.**

**Ms. Skinner motioned to accept new business after 10:00 pm, seconded by Mr. Wrenn. Motion passed 5 – 0.**

**The Board took a recess at 10:55 pm and was back in session at 11:02 pm.**

Ms. Skinner read Case#2013-33 into the record.

**Case#2013-33/Major Watershed/40 Horseshoe Road (17-L-74)**

A Major Watershed Application has been submitted for 40 Horseshoe Road (17-L-74) located in the Residence District A and Cobbett's Pond and Canobie Lake Watershed Overlay Protection District. The Applicant, Joseph Maynard of Benchmark Engineering, Inc., on behalf of Patrick and Sandra Corbin, is proposing to remove the covered porch and add a garage addition, sized 197 sq. ft. to the existing single-family residence and construct a new septic system along with other site improvements. The proposal would decrease the impervious area from 5,579 sq. ft (38.5% coverage) to 5,560 sq. ft (38.4% coverage) due to a reduction in impervious driveway coverage.

- Mr. Joe Maynard of Benchmark Engineering stated that the Corbin's received a variance from the ZBA to add a garage, take out some pavement and put in a septic system. The Shoreline and State permit should be back in about a week.
- The Chair asked Mr. Maynard if he had taken care of all of Mr. Keach's comments and Mr. Maynard stated yes. Ms. Wood stated that Mr. Keach stated Mr. Maynard could put his Septic Stamp on the plan. Mr. Maynard was agreeable to that.

The Chair opened the hearing to the public, hearing no comment the public portion was closed.

**Ms. Nysten motioned to Approve Major Watershed Application as presented for 40 Horseshoe Rd. with the following conditions: A copy of the NHDES Shoreland Permit must be provided once it becomes available. Add the permit# to the plan, Shade or otherwise demarcate the proposed area of impervious driveway pavement to be removed, Add a legend/key to the plans depicting the symbol for silt fencing (once edited per 10/14/13 KNA recommendation), Note any existence of Hydric-A or Hydric-B soils on the property. If none exist, add a note to the plan stating this. Per Section 616.9.1, septic systems must be set back a minimum of 75' from such soils, and Joseph Maynard must add his original Sanitarian/Septic Stamp and signature to the Final Plan, seconded by Mr. Wrenn. Motion passed 5 – 0.**

Ms. Skinner read Case#2013-34 into the record.

### **Case#2013-34/Major Watershed/18 Second Street (16-R-177C)**

A Major Watershed Application has been submitted for 18 Second Street (16-R-177C) located in the Residence District A and Cobbett's Pond and Canobie Lake Watershed Overlay Protection District. The Applicant, Joseph Maynard of Benchmark Engineering, Inc., on behalf of Bryan & Lynn Bartsch, is proposing to raze the existing structure and construct a new single-family residence with additions, a new driveway, septic system, and other site improvements. The proposal would decrease the impervious area from 4,401 sq. ft (44% coverage) to 4,125 sq. ft (41.3 % coverage) due to removal of an area of exposed boulders and ledge and a reduction in impervious driveway coverage.

- Mr. Joe Maynard of Benchmark Engineering stated that the shoreline approval has come in for this application and the Septic approval is still pending. The Plan the Board had was dated 9/25 and Mr. Maynard had submitted a revised plan since then but was not included in the Board's packet. He stated he is proposing to raze the existing structure and construct a new single family with additions, a new driveway, septic and other site improvements. He was granted a variance by the ZBA on 9/24/13. The Board and Mr. Maynard discussed the revised plan.

The Chair opened the hearing to the public, hearing no comment the public portion was closed.

**Ms. Nysten motioned to approve Case#2013-34/Major Watershed/18 Second Street (16-R-177C) with the following Conditions: A copy of the NHDES Shoreland Permit must be provided once it becomes available. Add the permit# to the plan, add a legend/key to the plans depicting the symbol for silt fencing, Note any existence of Hydric-A or Hydric-B soils on the property. If none exist, add a note to the plan stating this. Per Section 616.9.1, septic systems must be set back a minimum of 75' from such soils, Amend note 10 on Sheet 1 of the Plan to include the exact sections of the Zoning Ordinance that were granted variance relieve including all conditions, Depict the area of driveway proposed to be removed, thus resulting in the reduction of impervious pavement and Mr. Maynard must add his Certified Sanitarian Stamp and original signature to the final plan, seconded by Mr. Wrenn. Motion passed 5 – 0.**

### **2014 Town Meeting Workshops (cont.)**

*Sign Ordinance, Section 706.3.1, 706.4.1*

- Ms. Nancy Prendergast, ZBA/Code Enforcement Officer, discussed her additions/changes to the Draft Sign Ordinance with the Board and referenced her October 23, 2013 memo to the Planning Board.

**Ms. Nysten motioned to move to public hearing the Draft Sign Ordinance with amendments, seconded by Ms. Skinner. Motion passed 5 – 0.**

- The Board discussed temporary signs for resident's property, organizations and business signs.

*Temporary Signs*

- Ms. Prendergast stated there are a few items she would like to discuss with Town Counsel and she will have something for the Board at a later date.

*Public Email Comments*



- The Chair stated most of Mr. Case's concerns he had in his email are being addressed but she would like him to attend a meeting to speak to them.

*Rooming and Boarding House Definition, Section 200*

- Ms. Wood stated she has made the amendments/wordsmithed the definition that the Board requested. See Ms. Wood's memo to the Planning Board dated 10/18/13.

**Mr. Wrenn motioned to move to public hearing Rooming and Boarding House Definition, Section 200, seconded by Ms. Skinner. Motion passed 5 – 0.**

**Meeting Minutes – Review and Approve**

- October 2, 2013 - postponed
- October 16, 2013 - postponed

**State Surplus Land for Sale**

Lots 13-A-102 & 13-A-196B (Lamson and Roulston Road)

- The Board discussed these small pieces of land that the BOS would like input on as to whether or not the Planning Board would like the Town to purchase.

**Mr. Wrenn motioned that the Planning Board recommend to the Board of Selectmen that the Town not acquire the land, seconded by Ms. Skinner. Motion passed 5 – 0.**

**Ms. Skinner motioned to adjourn, seconded by Mr. Wrenn. Motion passed 5 – 0.**

Meeting adjourned at 12:00 am

These minutes are in draft form and respectfully submitted for your approval by Cathy Pinette,  
Planning Board Minute Taker