



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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**Planning Board Minutes
December 11, 2013**

Board Members:

Kristi St. Laurent, Chairman – Present	Ross McLeod, Selectman – Excused
Margaret Crisler, Vice Chair – Excused	Kathleen DiFruscia, Selectman Alternate – Present
Pam Skinner, Member – Arrived at 6:35pm	Vanessa Nysten, Member – Present
Jonathan Sycamore, Member – Arrived at 7:20pm	Alan Carpenter, Alternate – Present
Sy Wrenn, Member – Present	Jim Fricchione, Alternate – Present
Paul Gosselin, Alternate – Excused	Steve Bookless, Alternate – Excused

Staff:

Laura Scott, Community Development Director
Elizabeth Wood, Community Planner
Nancy Prendergast, ZBA Code Enforcement
Laura Accaputo, Planning Board Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Chair St. Laurent called the meeting to order at 6:00 pm, followed by the Pledge of Allegiance, member attendance and a brief synopsis of the agenda.

The Chair sat Mr. Fricchione for Ms. Crisler and Mr. Carpenter for Mr. Sycamore.

2014 Town Meeting Workshops

- Open Space Residential Overlay District Ordinance (Section 611)

Bernie Rouillard of the Conservation Commission sat with the Board

Ms. Wood explained the Open Space Subcommittee is looking to define more clearly who owns land designated as Open Space within a development or subdivision. They also wanted to provide an option for developers to dedicate land as conservation rather than keeping as open space.

Mr. Carpenter as a member of the subcommittee spoke to the intent of the changes and explained when the town adopted the existing Open Space Ordinance the objective was to create cluster housing while still retaining open space, but the existing Open Space Ordinance has not been implemented as intended. These suggested changes will create closer to the road, smaller lot sizes, and tighter housing developments while still retaining 65% open space and give developers the ability to develop something that is more of a cluster community. The town has not implemented the ownership of open space lots properly as much of it is still retained by the original developer. This will give the developer a clearer path of either establishing an association or giving the open space lot to Conservation Commission to manage. The Board reviewed the 12/4/13 Workshop Draft Ordinance Version 3 (Reflecting Atty. Campbell's 12/6/13 Comments)

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The Chair stated the biggest issue is with ownership of the open space land. She asked if there should be a time frame for the developer to establish ownership. Mr. Carpenter believes Attorney Campbell's recommended language in 611.3 "Definitions" for Open Space covers this. The Board then discussed the differences of having Open Space land donated to Conservation versus fractional ownership or tenant associations; including tax implications, uses of common facilities, timing, and options and incentives for developers. Ms. Dunn asked about unintended consequences and asked the Board to consider whether those residing in the development would lose rights as abutters to adjacent properties if land was deeded to the town. Mr. Rouillard helped clarify the uses allowed in Open Space. The Board then discussed the remaining changes to the Open Space Ordinance as recommended by Attorney Campbell and incorporated some of their own changes.

Ms. Wood then summarized the Boards amendments to the Open Space Ordinance:

Check all numbering

611.3 Definitions:

Common Facilities: Land or built facilities serving the open space residential development includes wells, water, and waste treatment systems. Common facilities may be proposed but are not required. Common facilities may also be owned or operated by regulated utility companies.

Eliminate the definition for Conservation Land.

Add to the end of the definition of Open Space the following sentence: Open space land shall be owned as appurtenant to lot ownership, either as an undivided fractional interest as tenants in common or owned by an association whose membership consists of lot owners.

611.5.1 Add the following sentence: The land shall be dedicated prior to the issuance of the first certificate of occupancy.

Change 611.6.7 to 611.6.6 and eliminate the words Conservation Land.

Eliminate 611.6.7.1; 611.6.7.2; 611.6.7.3. and change 611.6.7.4 to 611.6.6.4 (numbering change only)

611.6.6.1 Permanent Open Space. A minimum of 65% of the total area of the development shall be set aside as permanent Open Space.

611.6.6.2 Use of Open Space: Such land shall be restricted to open space recreational uses such as nature trails, residential agricultural use, passive recreation, conservation lands, existing agricultural uses and water and wastewater systems as allowed under Section 611.6.5. If the land is subsequently conveyed to the Town in accordance with 611.6.6.3, such space may be used by the general public for the same open space uses or as may be otherwise restricted by the town.

611.6.6.3 – As part of the application process, an applicant for approval of an Open Space Residential Development may elect to deed the designated open space to the Town, acting through its Conservation Commission in accordance with RSA 36-A:4. If an applicant elects to complete such conveyance, it will deed such land to the Town by warranty deed conveying title free and clear of encumbrances except any open space covenants required hereunder which will be recorded immediately prior to the conveyance and contemporaneously with the recording of the subdivision plan.

Mr. Carpenter motioned and Ms. DiFruscia seconded to approve the Open Space Subdivision Ordinance as amended and move to Public Hearing scheduled on Monday

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December 30, 2013 at the Windham Town Hall at 7pm. Motion passed: 6-1-0 with Mr. Fricchione opposed.

Member Jonathan Sycamore was seated at 7:20pm in place of Mr. Carpenter.

- Definitions (Section 200)

Accessory Buildings & Use and Storage Container/Storage Trailer

Ms. Prendergast explained to the Board as the Code Enforcement Officer she gets many questions regarding regulations of carports and wanted clarification as to her jurisdiction for enforcement over these structures. See Ms. Prendergast's 11/26/13 memo to the PB. Attorney Campbell has offered some language changes to the current definition of Accessory Building or Use and has also suggested adding a new definition for Storage Container/Storage Trailer. The following paragraph is recommended to be added to the existing definition of Accessory Buildings or Use:

An accessory building shall include any structure designed to stand more or less permanently or indefinitely, covering a space of land, usually covered by a roof and more or less completely enclosed by walls and used as a storehouse or shelter for persons, animals, vehicles or personal property. It includes canvas, vinyl or similar carports, storage tents (as opposed to personal recreation tents) and shelters. It does not include storage containers/storage trailers.

The new definition recommended by Attorney Campbell for Storage Container/Storage Trailer is as follows:

Storage Container/Storage Trailer: An enclosed container (generally steel or metal) having a floor, walls, ceiling, and access doors which is transportable by trailer truck or similar vehicle and used for storage of goods, materials and inventory (but not for occupancy) which is placed on the ground for use/access. When used on a temporary basis during renovation, reconstruction or relocation of occupants, its presence can be deemed an accessory use to residential use. Long term or indefinite use of such storage containers shall be deemed commercial use and subject to site plan approval by the Planning Board.

The Board discussed both definitions and whether this has been an issue in the past. Ms. Nysten read the current definition for Accessory Building or use and the Board concurred that additional definition as recommended by Attorney Campbell is needed. Some questioned if the definition was too far reaching for including uses.

The Chair opened the workshop to the public at 7:25pm, hearing none the public portion was closed.

Ms. DiFruscia motioned to approve the addition to the current definition of Accessory Building or Use and to include the new definition of Storage Container/Storage Trailer and move to Public Hearing on January 8, 2013, seconded by Ms. Nysten. Motion passed: 7-0-0.

Sign Ordinance (Section 706)

Ms. Prendergast distributed a confidential memo from Attorney Campbell and asked the Board to review it. See Ms. Prendergast's memo to the PB dated 11/25/13. See the draft identified as "PB Public Discussion dated 12/4/13". The Chair explained currently signs are not permitted for advertising of an off site activity such as Boy Scout Registration or Craft Fair and the Board was looking at ways to let this be allowed and include a time frame. The Chair read Attorney Campbell's proposed changes to 706.7.9; Individual property owners may place one unlighted temporary sign advertising an event or meeting for any Windham Civic Organization, non profit group, religious, educational or similar entity. Such sign may be no larger than 18 x 24 on any residential property and

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24 square feet on any property used in a non residential fashion. It may be erected no earlier than 30 days prior to the event or meeting and shall be removed within 7 days afterward, notwithstanding the provisions 706.6.1 such signs may be affixed to trees stakes or fences provided it does not constitute a hazard to traffic or pedestrians. 706.6.1.1 - cross out except as noted in 706.6.1.1 and 706.7.9 and add unless specifically allowed herein. Ms. Prendergast stated her only concern with the recommended language from Attorney Campbell is the length of time (30 days) it is allowed to be erected prior to the event and the Board agreed and amended 30 days to 14 days.

The Chair opened the workshop to the public at 7:52pm, hearing none the public portion was closed.

Ms. Nysten motioned to make the changes to the ordinance as amended and move to Public Hearing on January 8, 2013, seconded by Ms. DiFruscia. Motion passed: 7-0-0.

Administrative Review – Freestanding Sign 57 Range Road

Ms. Prendergast explained to the Board she received an application from Peter Mullett for a free standing sign to be located at 57 Range Road. He has received variance relief from Section 706.8 of the Zoning Ordinance to allow a sign within the setbacks. The sign meets the remaining requirements of Section 706. See Ms. Prendergast’s 11/25/13 memo to the PB.

Mr. Mullett described the building and property and stated the sign will complement the area and highlight the building.

Questions/Comments from the Board

- Ms. Nysten asked if the sign would be placed on the grass area of the property and Mr. Mullett replied that it would not be on the grass it would be in an area diagonal with the sidewalk. Ms. Nysten also asked if the sign would impact sight lines of vehicles exiting the lot and Mr. Mullett explained due to the curve of the road there will be no visual impact to traffic.
- The Chair requested the DOT sign be marked on the plans.
- Ms. DiFruscia asked if the sign would be illuminated at night and Mr. Mullett answered yes with up-lighting.

Ms. DiFruscia motioned to amend the site plan with the approval of a free standing sign as designated on the documents presented with the addition of noting the location of the Department of Transportation sign located at the front of the lot, seconded by Mr. Wrenn. Motion passed: 7-0-0.

TRC Discussion – *Moved to future meeting date*

The Chair reordered the agenda and went to the 2014 Town Meeting Public Hearing for Sign Regulations, Section 706.

2014 Town Meeting Public Hearings

Sign Regulations, Section 706

Amend Section 706.3.1 by adding the following subsection:” 706.3.1.1 Any changes or modifications to a pre-existing non-conforming sign, except as allowed in Section 706.7, must meet these regulations.”

Ms. Prendergast explained this is to clarify that if you have a pre-existing non-conforming sign and you want to make modifications to it you still have to follow these regulations. See the draft called “PB Public Hearing 12/4/13”

The Board discussed what constitutes changes. The Board then asked Ms. Prendergast to read the entire Section as amended by Attorney Campbell into the record. Section 706.3.1.1 Any changes or modifications to a pre-existing non-conforming sign, except as allowed in Section 706.7, shall require that the resulting sign meet these regulations.

The Chair opened the Hearing to the public at 8:10pm, hearing none the public portion was closed.

Mr. Wrenn motioned to move to Town Warrant the Sign Ordinance changes in Section 706.3.1.1 using Attorney Campbell's language, seconded by Mr. Sycamore. Motion passed: 7-0-0.

Section 200 Definitions, Lot Frontage

To amend the zoning ordinance to add a definition for Lot Frontage: A linear distance of property measured 50' distant from and parallel with the front lot line, where the front lot line adjoins the public way. Total frontage can only be measured on any one (1) front lot line and excludes totaling frontage on "corner lots" or "double front" lots.

Ms. Wood explained there was confusion among staff about what the definition of lot frontage was in the ordinance. There was no clear definition of lot frontage in the Zoning Ordinance. She consulted with the Town Attorney and Engineer to come up with an interpretation of what lot frontage is in Windham. Ms. Wood explained after consulting with Steve Keach regarding how corner lots were regulated she found his information conflicted with Attorney Campbell's.

The Board discussed both interpretations and how to consider applications submitted prior to this decision. The Board then proposed the following definition, Lot Frontage: A contiguous linear distance of property measured 50ft distant from and parallel with the front lot line, where the front lot line adjoins the public way. Lot frontage measurement excludes totaling frontage on double front lots.

The Chair opened the Hearing to the public at 8:35pm.

- Shane Gendron, 24 Bridle Bridge Road, stated he believes including two frontages does not take away from public health and safety.

The Chair closed the public portion at 8:36pm.

Ms. Nysten asked if you can include frontage on private roads as well. Ms. Prendergast answered this is just for public ways. Ms. Nysten asked for the definition of public way.

Ms. DiFruscia motioned to move to Town Warrant the definition for Lot Frontage as amended by the Board, seconded by Mr. Wrenn. Motion passed: 6-1-0 with Ms. Nysten in opposition.

7pm Application Public Hearing

Ms. Skinner read Case #2013-39, Minor Site Plan Application into the record

Case #2013-39 Minor Site Plan Application

A Minor Site Plan Application has been submitted for 122 North Lowell Road (Lot 3-A-800) in the Neighborhood Business/Rural District. The applicant, Town of Windham Community Development Department, on behalf of the property owner, Crossing Life Church, is proposing a 100' x 100' Community Garden on approximately 0.25 acres. A 6' high fence and 15sqft sign is also being proposed. Per Section 303.5 of the Site Plan Regulations, if the application does not

Ms. Nysten clarified at the last meeting during a discussion about buffers in Commercial A and Neighborhood Business Districts (NBD) she thought from reading the chart the buffer was greater when Commercial A abuts a Residential District than when NBD abuts a Residential District. After taking a closer look she discovered that for any district in the Appendix A-1 Chart if a non residential use, building, parking area or driveway is proposed closer than 100ft from a residential zoning district a vegetative buffer or earthen berm of 50ft wide must be provided. (See Note 9 Appendix A-1)

The Board discussed who owned the other properties and whether they provided an opinion on this. Ms. Wood answered that Lot 8-B-4401 was owned by the Town. She spoke with the property owner for Lot 8-B-300 and he said he may come to the meeting and he was neither opposed or in favor of the proposed rezoning.

The Chair opened the Public Hearing at 9:09pm, hearing none the public portion was closed.

Ms. DiFruscia motioned to leave the existing zoning in place for 6 Libbey Road (Lot 8-B-4900), 10 Libbey Road (Lot 8-B-3000), and Libbey Road (Lot 8-B-4401), seconded by Mr. Sycamore. Motion passed: 7-0-0.

- 2) To Amend the Windham Zoning Map by rezoning the following parcel, which is multi-zoned Residence District A & Limited Industrial District to all Neighborhood Business District:
Lot 13-A-100 (16 Roulston Road)

Ms. DiFruscia asked if the landowner provided an opinion. Ms. Wood answered no and explained the owner was notified of the proposed rezoning via certified mail and she did receive the return receipt.

Mr. Fricchione asked what was on the property currently and was told a vacant home.

The Chair opened the Public Hearing at 9:15pm.

- Ms. Dunn stated this is spot zoning and asked why the request wasn't for Limited Industrial Zoning.
- Ms. Wood referenced a memo from Attorney Campbell regarding this specific request.
- Ms. Nysten stated in the past there was discussion about changing this to Limited Industrial and there was tremendous opposition from the neighborhood. The NBD is more transitional and compatible with the residences and businesses in the area. She also noted that a recent study found people are looking for a little more business growth in town.
- Jeff Doucette, 22 Stonehedge Road, asked what happened to the original plan for a 4 unit commercial property which was rejected by the abutters. He believes residential fits here as there are all residences behind this lot. He fears this will add more traffic to the neighborhood and has concerns for safety. He also stated the existing conditions of this lot are an eyesore and he would like something done about that.
- Ms. Nysten asked Ms. Wood to highlight on the map what portion of the lot is zoned Light Industrial and it was then determined the majority of the parcel is zoned Residential A.

Ms. DiFruscia stated in consideration of the concerns of the residents, the concerns for spot zoning, and the fact that the parcel is mostly zoned residential, she moves to change the parcel from multi zoned Limited Industrial and Residential A to all Residential A,

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seconded by Mr. Sycamore. Motion passed: 5-1-1, with Mr. Wrenn in opposition as he believes the location is not a good choice for residential use, and Mr. Fricchione abstaining as the property owner did not give an opinion.

- 3) To Amend the Windham Zoning Map by rezoning the following parcel, which is zoned Neighborhood Business District to Business Commercial District A:
- | | |
|------------------------------------|---------------------------------|
| Lot 8-B-4401 (Libbey Road) | Lot 14-B-5100 (15 Mammoth Road) |
| Lot 14-B-5000 (17 Mammoth Road) | Lot 14-A-1100 (18 Mammoth Road) |
| Lot 14-A-1200 (167 Haverhill Road) | Lot 14-A-1100A (Mammoth Road) |

Lot 8-B-4401 was already discussed and voted on this evening.

The Chair explained again about the buffers for Commercial A district within 100ft of a Residential District.

Mr. Fricchione was excused. The Chair sat Mr. Carpenter for Mr. Fricchione

The Chair opened the Public Hearing at 9:30pm.

- Kevin Waterhouse, 175 Haverhill Road, stated he would like his property also considered for rezoning to Commercial A. He stated he was in favor of rezoning his property at 18 Mammoth Road (Lot 14-A-1100) to Commercial A. He explained anytime he wants to improve his property he has to get a variance because of the current zoning and since it is used as Commercial A and has been there since before zoning, he would like it changed.
- Ms. Nysten mentioned possible tax implication.
- Karen Elgart stated she was opposed to the proposed rezoning citing issues with noise, traffic, and business hours. She also noted her home will be surrounded by businesses.
- Rebecca Zakas, Faith Road, submitted a protest petition opposing rezoning to Commercial A.
- Deb Gerardi, 8 Braemar Road, stated she is opposed to rezoning to Commercial A regardless of setbacks.
- Daphne Kenyon, 11 Faith Road, stated she is emphatically opposed to rezoning. She read the descriptions of NBD and Commercial A district and their allowed uses and stated Commercial A is much more intense. She believes this is spot zoning.
- David Trumble, 14 Braemar Road, stated he is opposed to rezoning and is concerned from a safety perspective.
- Sandra Adamchuk, Braemar Road, stated she is opposed and is concerned for the safety of her children.
- Jennifer Guilmette, Colonial Road, stated she is opposed. Properties that are for sale are not selling, Commercial A would devastate us. Property owners would push limitations.
- Tracey Partington, not an abutter, stated she is opposed. She is pro business but believes we should work to keep existing businesses vital. She stated it is irresponsible to put this forward due to buffers and believes if this is moved forward because one of the properties has a gas station and a drive thru then what about other locations throughout town with those types of business, we could end up like Salem. She also stated there was nothing in the Master Plan about expanding Commercial A across town.
- Ms. Nysten stated buffers were not the reason she voted to move this to Public Hearing and she feels that 50ft is not enough of a buffer. She voted to move forward to get the publics input.
- Karl Dubay, town resident, stated he has done a lot of zoning work and discussed spot zoning. He supports rezoning to Commercial A as he believes the corner is an eyesore with heavy traffic and if changed would be high quality. He stated it already acts as

Commercial A and we should work together to improve the area. Rezoning will generate a one million dollar swing in taxes over ten years. He urged to let the voters decide.

- Rebecca Zakas, Faith Road, agrees it is a busy intersection but stated it is shut down by 9pm, lights out, noise and traffic down. This is not the right spot for Commercial A. If the Planning Board puts something on the ballot it's an almost automatic yes so she asked they don't haphazardly put this forward.
- Jerome Lawrence, 19 Braemar Road, recommends the parcels be rezoned to Rural or Residential and Waterhouse stay NBD.
- Lou Zakas, 22 Faith Road, against rezoning to Commercial A. There are plenty of lots of land around town zoned Commercial A or NBD that aren't developed. Asked the Board to listen to the residents.
- Michael Farris, property owner, stated Waterhouse is already used as Commercial A and rezoning makes it a conforming use. He stated traffic is substantial at this intersection at about 24,000 vehicles per day and provides passage for the motoring and transient public which by definition calls for Commercial A zoning. He stated there will be a major difference in tax base if developed properly and the buffers will only get better. He asked that we hear from the entire town by putting it to a vote.
- Ms. Nysten commented she does not necessarily know that it's true that Commercial A will bring in more tax revenue as any gains from the commercial property could result in loss from the residential properties around it.

Ms. Nysten motioned to leave the existing zoning in place for Lot 14-B-5000 (17 Mammoth Road), Lot 14-A-1200 (167 Haverhill Road), Lot 14-B-5100 (15 Mammoth Road), Lot 14-A-1100 (18 Mammoth Road) and Lot 14-A-1100A (Mammoth Road)

- Mr. Dubay stated he thinks the Board should consider the Waterhouse Property for rezoning, they are operating as Commercial A and when they try to make improvements they'll need variances, they will not get refinancing and the cost of not being in the right zone is tremendous. The right thing to do would be to rezone this property.
- Mr. Sycamore asked Mr. Dubay what part of 111 does he think would not be Commercial A and Mr. Dubay answered most of it wouldn't be Commercial A. This is a signalized intersection with heavy traffic.
- Several residents discussed tax impacts and repeated several of the points already made.

The Chair closed the Public Hearing at 10:55pm and went back to the motion.

Mr. Sycamore seconded the motion

Ms. DiFruscia stated she listened carefully to what everyone said and as a Selectman and Planning Board Member she is always concerned about the tax payer and tax base and considering all that was discussed she does not believe that keeping the current zoning as NBD deprives the landowners a reasonable use of their land. It's clear that as a NBD there are good businesses that can go there that are compatible with the residences. She sees no rational justification for rezoning this property. The residents of this town were very clear about where Commercial A should go and it was not here.

Ms. Nysten stated the Master Plan would be reviewed in 2014 and 2015 and encouraged residents to get involved.

The Chair went back to the motion. Motion passed: 7-0-0.

Ms. DiFruscia was excused at 11:00pm.

Ms. Skinner motioned to allow new business after 10pm, seconded by Mr. Carpenter, Motion passed: 6-0-0.

- 4) To Amend the Windham Zoning Map by rezoning the following parcels, which are zoned Rural District to Neighborhood Business District:
- | | |
|-------------------------------------|-----------------------------------|
| Lot 3-B-110 (117 Rockingham Road) | Lot 3-B-112 (119 Rockingham Road) |
| Lot 3-B-1 (5 Bissell Camp Road) | Lot 2-A-1100A (North Lowell Road) |
| Lot 2-A-600 (117 North Lowell Road) | Lot 14-A-50 (8 Mammoth Road) |
| Lot 14-A-100 (16 Mammoth Road) | Lot 3-B-360 (137 Rockingham Road) |
| Lot 14-A-6 (6 Mammoth Road) | Lot 3-B-250 (135 Rockingham Road) |

The Chair stated we will start with the parcels on Rockingham Road, #135 and #137. These parcels are currently zoned NBD, one is vacant and one is being used as commercial.

The Chair opened the Public Hearing at 11:10pm.

- Mike Salvo, owner of 137 Rockingham Road, is in favor of rezoning to NBD.
- The Chair asked about the neighboring property and asked if Mr. Salvo had spoken with the property owner. He replied he had not.

The Chair closed the Public Hearing at 11:14pm.

Ms. Nysten motioned to move to Town Warrant Lot 3-B-360 (137 Rockingham Road) and Lot 3-B-250 (135 Rockingham Road) to change from Rural to Neighborhood Business District, seconded by Mr. Carpenter. Motion passed: 6-0-0.

The next parcels discussed were 117 and 119 Rockingham Road and 5 Bissell Camp Road.

Mr. Carpenter asked the lot size for 5 Bissell Camp Road and Ms. Wood answered 27.5 acres.

The Chair opened the Public Hearing at 11:20pm.

- Mr. Salvo stated he was speaking on behalf of Jim Hatzos, owner of 119 Rockingham Road, who wants the parcel rezoned.
- The Chair asked if he had any proof that he was asked to speak on Mr. Hatzos behalf and Mr. Salvo replied no.
- The Chair asked if Ms. Wood heard from the other two property owners and she replied no.
- Mr. Carpenter asked if this was proposed by the landowners or the sub-committee and Ms. Wood answered the sub-committee.
- Mr. Carpenter stated making a 20 acre parcel that is off the main road a NBD doesn't make sense.

The Chair closed the Public Hearing at 11:22pm.

Ms. Nysten motioned to move to Town Warrant Lot 3-B-110 (117 Rockingham Road) and Lot 3-B-112 (119 Rockingham Road) to change from Rural District to Neighborhood Business District and to leave Lot 3-B-1 (5 Bissell Camp Road) as currently zoned, seconded by Mr. Sycamore. Motion passed: 6-0-0.

The next parcels discussed were 117 North Lowell Road and North Lowell Road.

The Chair opened the Public Hearing at 11:23pm.

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- Andrew Dickinson, 117 North Lowell Road, stated at the last meeting he was unsure of how he wanted his property zoned and agreed to move it forward so he could have time to consider how he wanted to proceed. He has decided that he does not want to change the zoning.

The Chair closed the Public Hearing at 11:25pm.

Mr. Carpenter motioned that the Board takes no action on Lot 2-A-600 (117 North Lowell Road) and Lot 2-A-1100A (North Lowell Road), seconded by Ms. Skinner. Motion passed: 6-0-0.

The next parcels discussed were 6 Mammoth Road, 8 Mammoth Road, and 16 Mammoth Road.

The Chair read a letter in opposition of rezoning from the landowner at 6 Mammoth Road into the record.

The Chair opened the Public Hearing at 11:28pm.

- Lou Zakas, Faith Road, asked the Board to keep the zoning as it is based on the earlier discussions.
- Tracey Partington, Galway Road, also opposes rezoning. Stated it will be a traffic nightmare.
- Richard Texeira, opposed to rezoning, same reasons as stated.
- Mr. Carpenter asked if there were any other businesses in this area other than Kendall Pond Pizza and was told no. He thinks that we should see if anything happens with the NBD we already have in the area.

The Chair closed the Public Hearing at 11:35pm.

Mr. Carpenter motioned that the Board take no action on the proposals for Lot 14-A-6 (6 Mammoth Road), Lot 14-A-50 (8 Mammoth Road), and Lot 14-A-100 (16 Mammoth Road), seconded by Ms. Skinner.

The Chair asked to note the discussion that there is currently zoned NBD in the area that hasn't yet been utilized.

The Chair went back to the Motion. Motion passed: 6-0-0.

Ms. Skinner read Impact Fees (Section 715) into the record.

Impact Fees (Section 715)

Amend Section 715.3.2 to clarify when the Planning Board and/or the Building Inspector assesses the impact fee and delete "Code Enforcement Officer"; delete "or in the habitable portion of a residential building" from Section 715.3.5.1; renumber 715.3.5.5 to 715.3.5.6; add new Section 715.3.5.5 stating that the conversion of a seasonal dwelling unit to a year-round dwelling unit is new development for assessing school impact fees; amend Section 715.6 to add "school board" and clarify that it is a Planning Board public hearing; delete "or as a condition for" from Section 715.7.2; replace "Code Enforcement Administrator" with "Building Inspector" in Sections 715.7.3 and 715.9.1; replace "on or before" with "at" in Section 715.7.4; amend Section 715.7.5 to add "Such agreement will be recorded at the Rockingham Country Registry of Deeds"; delete "annually" from Section 715.11.3 and add "within 60 days of the six year anniversary date of when such fee was paid" to the end of that Section; and replace "water and sewer systems including" with "public capital facilities" in Section 715.12.

Ms. Scott explained the changes recommended by Attorney Campbell which are to remove the word “however” from Section 715.3.5.4 and replace with the word “or” and to change the first sentence of Section 715.7.5 to read “The Planning Board and the Assessed Party may establish an alternate, mutually acceptable schedule of payment of impact fees applicable to an assessed property. See Ms. Scott’s 11/26/13 memo to the PB as well as the 12/4/13 Public Hearing Draft.

- The Board discussed the changes and whether offering options of alternate payment schedule is required and the reasons why a developer may want an alternate payment schedule. They also discussed an impact fee relative to condominiums, which is written in the methodology adopted by the Planning Board.

The Chair opened the hearing to the public at 11:45pm, hearing none the public portion was closed.

Mr. Carpenter motioned to approve the Impact Fee Section 715 as read into the record with one change in 715.7.5 replacing “Town of Windham” with the words “Assessed Party”, seconded by Ms. Skinner.

Mr. Wrenn asked about the other change recommended by Attorney Campbell.

Mr. Carpenter amended the motion and included to replace the word at the end of Section 715.3.5.4 “however” with the word “or”. Motion passed: 6-0-0.

Ms. Nysten and Mr. Carpenter recused themselves from PWSF (Sections 200, 605.1.10, 613, and 701.3).

The Chair read PWSF (Sections 200, 605.1.10, 613, and 701.3) into the record.

PWSF (Sections 200, 605.1.10, 613, and 701.3)

Add definitions for “Broadcast Antenna Structure”, “Personal Wireless Service Facility”, “PWSF Towers” and “PWSF Mounts” and delete the definition for “Business Commercial Antenna Structures” under Section 200; Delete “Business Commercial Antenna Structures” and replace with “PWSF towers, PWSF mounts and Broadcast Antenna Structures” in Sections 605.1.10, 613, 701.3.1, 701.3.4, 701.3.5, and 701.3.6; Section 701.3 delete “Business Commercial Antenna Structures” and replace with “PWSF Towers, as defined in RSA 12-K:2(XXIV), PWSF Mounts, as defined in RSA 12-K:2(XX), and Broadcast Antenna Structures, as defined in Section 200”; add “PWSF mounts or Broadcast Antenna Structures at the end of the Section 701.3.5; delete 701.3.7; amend Section 701.3.8 to delete “structure” and add “PWSF towers, PWSF mounts and Broadcast Antenna Structures”; and replace “Business Commercial” with “Broadcast” in Section 701.3.9.

Ms. Scott explained this was being changed to comply with the new state law.

The Board discussed the changes including the distance between structures and which types of towers were included in the Ordinance.

The Chair opened the hearing to the public at 12:15am, hearing none the public portion was closed.

Mr. Wrenn motioned to go to Town Warrant with PWSF Sections 200, 605.1.10, 613, and 701.3 as submitted with the addition of adding the words “intentionally omitted” to Section 701.3.7, seconded by Ms. Skinner. Motion passed: 4-0-0.

Aquifer Protection District (Section 609)

December 11, 2013 Approved Planning Board Minutes

Amend Section 609.1 to add “RSA 674:16(II) and RSA 674:21” and Objective #5; amend Section 609.2 to add “for commercial purposes” to Animal Feedlot definition; add “Aquifer Protection” to Section 609.3; amend Section 609.3.1 to delete “location” and the final sentence in the Section and add the source of the data for the mapping that previously was in the Appendix; amend Section 609.3.2 to delete the existing language and add a new definition of Recharge Area; reformat Section 609.5.1.7; add “Gasoline Stations” and “Outdoor, open and/or uncovered storage of commercial fertilizers” to Section 609.5.1; Amend Section 609.5.2 to change 30% to 50% and delete last sentence; amend Section 609.6.2 to delete the last sentence and add “excluding ‘high load area’ as defined under NHDES Alteration of Terrain Regulations (see Env-Wq 1502(26))”; amend section 609.6.4 to read “Where portions of the parcel are outside of the Aquifer Protection District, potential pollution sources must be located outside the District”; add Section 609.6.6 about best management practices for storage of animal manures, fertilizers and compost; Add Section 609.6.7 regulating groundwater discharge; amend Section 609.7 to add the word “or” between “maintained” and “repaired” and delete “and improved”; and delete Appendix.

The Public Hearing for the Aquifer Protection District (Section 609) was moved to the December 18, 2013 meeting.

Ms. Skinner motioned and Mr. Wrenn seconded to adjourn the December 11, 2013 Planning Board Meeting at 12:25am. Motion Passed: 6-0-0.

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