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**COMMUNITY DEVELOPMENT**

PO Box 120, Windham, New Hampshire 03087  
(603) 432-3806 / Fax (603) 432-7362  
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**Planning Board Minutes**  
**Wednesday, February 12, 2014 @ 6pm**

**Board Members:**

Kristi St. Laurent, Chairman – Arrived at 6:10pm	Ross McLeod, Selectman – Excused
Margaret Crisler, Vice Chair – Arrived at 6:15pm	Kathleen DiFruscia, Selectman Alternate - Present
Pam Skinner, Member – Present	Vanessa Nysten, Member – Present
Jonathan Sycamore, Member – Present	Alan Carpenter, Alternate – Excused
Sy Wrenn, Member – Excused	Jim Fricchione, Alternate – Excused
Paul Gosselin, Alternate – Present	Steve Bookless, Alternate – Arrived at 7pm

**Staff:**

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

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

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

Mr. Gosselin was seated for Mr. Wrenn.

**49 Range Road-Request for Extension**

Ms. Scott explained the applicant is requesting a one year extension to May 15, 2015 to start construction. See Planning Board memo dated 2/4/14.

**Ms. Skinner motioned to grant the extension, seconded by Mr. Sycamore. Motion passed: 5-0.**

**Public Hearing-Applications (*Rescheduled from 2/5/14*)**

Ms. Nysten read Case #2014-5 into the record.

Case #2014-5 Customary Home Occupation/Conditional Use Permit

A Customary Home Occupation/Conditional Use Permit has been submitted for 15 North Lowell Road (11-A-620) in the Residence B District. The applicant, Joe Maynard of Benchmark Engineering, on behalf of Jeff Thompson is proposing a Customary Home Occupation for a bonded automotive dealer with 1 employee (resident) to sell approximately 12 vehicles from the site per year. This business has been licensed by the State of NH and been operational consistently from this location since 1985. There is an existing sign on the property and there are no proposed changes to the property.

Ms. Scott explained this business has been in place since 1985; it is a pre-existing non-conforming use and there are no records of any complaints/code enforcement on file for this operation. Since it is a pre-existing use it would not require Planning Board approval for a Customary Home Occupation/Conditional Use Permit however

the owner, Mr. Jeff Thompson, would like to bring his operation into compliance. See Planning Board memo dated 1/29/14.

Chair St. Laurent arrived at 6:10pm.

The Chair asked Ms. Scott if the application was complete and was told yes.

**Ms. Skinner motioned to accept and open Case #2014-5 for Public Hearing, seconded by Mr. Gosselin. Motion passed: 6-0.**

Mr. Maynard of Benchmark Engineering explained the State is doing away with bonded dealers and making them licensed dealers. Mr. Thompson would like to continue operating his business and selling vehicles from his home. Currently the vehicles are parked on the property or in a garage on the property. There is a sign on the side of the garage that he would like to move to the front of the garage. There are no other proposed changes. The primary reason for the request is to have a legitimate allowed use and to have the file documented.

Ms. Crisler arrived at 6:15pm.

#### **Comments/Questions from the Board**

- The Chair asked if there would be any for sale signs on the cars and Mr. Thompson answered no.
- Ms. DiFruscia asked if there was any mechanical work being done on the vehicles and Mr. Thompson replied there are no repairs being done on the premises.
- Ms. Crisler asked if there were any employees and Mr. Thompson answered just himself.

The Chair opened the hearing to the public at 6:20pm and hearing none the public portion was closed.

**Ms. DiFruscia made a motion to approve the Customary Home Occupation/Conditional Use Permit for Case #2014-5, seconded by Ms. Skinner**

The Chair asked if the motion should include the relocation of the sign and Ms. Scott replied yes.

**Ms. DiFruscia amended her motion to include allowing the relocation of the current sign from the side of the garage to the front of the garage, seconded by Ms. Skinner**

Ms. Nysten asked for clarification as to the number of vehicles that would be parked outside and was told one vehicle for sale.

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

#### Case #2014-4 WWPD Special Permit

A Wetland and Watershed Protection District (WWPD) Special Permit Application has been submitted for 21 Walkey Road (17-I-111D), located in the Residence A District, WWPD and Cobbetts Pond/Canobie Lake Watershed Protection Overlay District. The applicant, Benchmark Engineering Inc, on behalf of J&A Barbagallo Nom Trust, is proposing to raze an existing seasonal residence and construct a single family year-round home with farmers porch, deck and new septic entirely within the WWPD. In conjunction with this, the applicant has also submitted a Major Cobbetts Pond/Canobie Lake Watershed Protection Ordinance Land Development Application.

Ms. Prendergast explained this request has been through the TRC process and Engineering Review and the application is complete.

**Ms. DiFruscia motioned to accept and open Case #2014-4 for Public Hearing, seconded by Ms. Crisler. Motion passed: 7-0.**

Mr. Maynard of Benchmark Engineering explained they have the necessary variances to raze the house and reconstruct a new dwelling on the property. He explained the layout of the property including the location of the well, septic, patio, and shed. He noted the request has gone through Shoreline Protection and was granted a permit and the State has approved the septic. As part of the redevelopment the impervious coverage is reduced by a small amount. The existing septic will be replaced by a clean solution septic system and relocated way from the brook and closer to the street. The existing large gravel area will become lawn area and the driveway will be minimized.

#### **Questions/Comments from the Board**

- Ms. DiFruscia asked for the difference in square footage between the existing structure and the proposed structure and Mr. Maynard stated it is being increased by approximately 500 square feet however the impervious coverage will be reduced due to the relocation of the septic and the minimizing of the driveway. Ms. DiFruscia also asked if there was any slope down towards Cobbetts Pond relative to how the water drains off the property and Mr. Maynard answered the water drains toward the back of the property as Walkey Road is the highpoint, the lot is flat and will remain flat.
- Ms. Nysten inquired about the Engineering Review comments and Ms. Prendergast explained they were included in her memo to the Planning Board dated 1/31/14. Ms. Prendergast read those comments into the record and noted that the condition of the NH DES Construction Approval for the septic system was obtained on 1/22/14 (NH DES Shoreland Impact Permit 2014-00106, expiring 1/22/19) and is on file.
- Mr. Sycamore asked if this would trigger Impact Fees at Certificate of Occupancy since it is going from seasonal to year round and Ms. Prendergast answered yes.

The Chair opened the hearing to the public at 6:30pm and hearing none the public portion was closed.

**Ms. Crisler made a motion to grant the WWPD Special Permit and Cobbetts Pond/Canobie Lake Watershed Permit as presented, seconded by Ms. DiFruscia**

Ms. Nysten asked to include the condition from the Engineering Review done by Keach Nordstrom in the motion.

**Ms. Crisler amended the motion to include the condition that all work permitted under the same is confined to that portion of the site situated between the southerly edge of the Walkey Road right-of-way and the limits of the proposed silt fence illustrated on sheet 2 of 2 of the project plans, seconded by Ms. DiFruscia. Motion passed: 7-0.**

#### Case #2013-42 WWPD Special Permit

A Wetland and Watershed Protection District (WWPD) Special Permit Application has been submitted for 23 Bedros Street (6-A-280), located in the Rural District and WWPD. The applicant, Edward N. Herbert Associates, on behalf of Michael E. & Mary E. Ryan Living Trust, is proposing to construct a pool, pool house, patio, retaining walls, water feature, and associated grading in the WWPD. The total proposed permanent disturbance to the WWPD is 4,500 sq. ft.

Ms. Prendergast explained the application is complete and has been granted a variance and been through the TRC process.

**Ms. Crisler made a motion to accept and open Case #2013-42 for Public Hearing, seconded by Ms. Skinner. Motion passed: 7-0.**

Ms. DiFruscia asked if a copy of the variance was included and Ms. Prendergast replied she transposed it in the Planning Board memo dated 1/28/14. She showed Ms. DiFruscia a copy of the original variance.

Mr. Gendron of Edward Herbert Associates described the existing and proposed plan. He explained since the wetland had encroached closer to the house he advised the applicant to have the wetland re-flagged which resulted in a new 100ft WWPD buffer. As the property sits today there is no area that would be feasible to locate the pool as a portion of the house, driveway, and deck is within WWPD area. The entire area is maintained as lawn. He referenced a letter from Mr. Hurley of Gove Environmental Services outlining a buffer planting recommendation to offset the loss of WWPD buffer for the proposed project and a mulch berm to slow and reduce any erosion or other material from entering the wetland.

#### **Questions/Comments from the Board**

- Mr. Sycamore asked if there were any concerns the wetlands would continue to encroach toward the house or if these measures would prevent that and Mr. Gendron stated he didn't believe it would encroach any further.
- Ms. DiFruscia asked the extent of the encroachment and Mr. Gendron answered almost 40ft. She asked if something can be done to mitigate further encroachment and Mr. Gendron stated the new plantings will create a new buffer and work as the WWPD should work. He also noted Conservation had no comments and were happy with the proposal.
- Ms. Nysten asked what type of pool and pump would be installed and Mr. Gendron replied it will be an in ground pool with a no backwash filter. He stated he did not know if they were going to use a gunite or liner pool.
- Ms. Nysten noted if the pool has a liner the water will have to be pumped out in the winter and it will not be a good idea to pump it into the wetlands. Mr. Gendron agreed and stated they wouldn't have a problem if the Board made a condition that they hire a service to come in and pump the pool down if they went with a liner pool.
- The Chair asked if the proposed water feature would recycle the water and Mr. Gendron answered yes it would trickle down and recycle. She also asked how big the mulch berm would be and was told a 1 X 1 mulch berm that will become part of the ground mass.
- Ms. Nysten asked about the patio material and Mr. Gendron replied paver patio.
- Ms. DiFruscia asked if the shed will be removed and relocated and Mr. Gendron replied it will be moved out of the WWPD completely. And the play set will be taken out. She also asked for clarification regarding the patio and asked if the materials would be impervious surface and Mr. Gendron replied they intend to use pavers to match some existing pavers they currently have. He said they will be set in sand.

The Chair opened the hearing to the public at 6:50pm and hearing none the public portion was closed.

**Ms. Crisler made a motion to grant the Special Permit as presented for Case #2013-42 with a condition that there will be no filtered backwash or pool water discharged into the WWPD, seconded by Ms. DiFruscia**

Ms. Prendergast asked to also condition it on the plan presented tonight with the plantings and mulch berm.

**Ms. Crisler modified her motion to make it clear that it was per plan presented tonight dated and initialed by the Chair, seconded by Ms. DiFruscia. Motion passed: 7-0.**

#### Case#2014-1 Modification of Existing Subdivision Approval

A proposal has been submitted to amend the existing Subdivision Approval, Case #2012-31, located at 130 Range Road (17-L-43) in the Residence A District and Cobbetts Pond/Canobie Lake Watershed Protection Overlay District. The applicant, Edward N. Herbert Associates, Inc., on behalf of the property owner, 130 Range Road

LLC, is proposing to modify the existing approval by installing treatment swales to mitigate potential run-off from the proposed driveway as opposed to porous pavement.

**Ms. Crisler made a motion to accept and open Case #2014-1 for Public Hearing, seconded by Ms. DiFruscia. Motion passed: 7-0.**

Mr. Gendron of Edward Herbert Associates explained this was a subdivision that was approved a year ago and is in the Cobbetts Pond Watershed Protection District. Part of the original proposal was for the driveway of this lot to be constructed of porous pavement. The owners have asked if there was another way to meet the ordinance and not do the porous pavement as with porous pavement the driveway will require yearly and possibly bi-yearly maintenance. When looking for other possibilities they came up with a buyer retention system where the driveway will be super elevated to tip toward the swale and the water on the driveway will be go into the swale and infiltrate into the ground. It will be filled with a mulch material and gravel with wetland style plants. This proposed swale is about the same treatment as with porous pavement and will require less maintenance.

Mr. Bookless arrived at 7pm.

#### **Questions/Comments from the Board**

- Ms. DiFruscia asked how many feet this was from Cobbetts Pond and Mr. Gendron answered about 1000 feet. She stated her concern is there has been a problem with this type of swale at Griffin Park where the water accumulates and sits there and becomes a bed for mosquitoes. She asked if there are assurances this will drain into the ground and not pool there. Mr. Gendron answered it requires maintenance; it should be kept clean and inspected every few years. He stated there will be a 4 inch perforated pipe underneath that will take out any excess water. Ms. DiFruscia also asked if there will be any plantings added to mitigate runoff and Mr. Gendron answered the entire swale will have a planting every 6 feet and the area behind the turnaround will have plants as well.
- Ms. Nysten noted in addition to the swale there is an underground dry well and Mr. Gendron stated it would collect roof drain water and was part of the original proposal.
- Ms. DiFruscia wanted to comment she believes this is a good alternative and something they've been looking for to reduce storm water runoff from draining into the lake.
- Ms. Crisler also noted she believes this is an improvement over pervious pavement.

The Chair opened the hearing to the public at 7:07pm and hearing none the public portion was closed.

**Ms. Crisler made a motion to approve the modification of the existing subdivision approval at 130 Range Road, Case #2014-1, as presented, seconded by Ms. DiFruscia**

The Chair asked Mr. Gendron if the plans he handed out tonight were different from the ones in the packet and he replied yes they were slightly different with minor percentage grade corrections for the driveway.

**Ms. Crisler modified the motion to as plan presented tonight signed and dated by the Chair.**

Ms. DiFruscia asked if the driveway was now longer than originally presented and Mr. Gendron replied no, nothing has changed.

Ms. Crisler stated she dislikes being handed a fresh set of plans during the meeting and wants them in advance and dated.

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

The Board discussed canceling the meeting scheduled for Thursday February 13, 2014 due to the predicted snow storm and decided to reschedule it for Monday February 17, 2014 at 7pm.

The Chair also informed the Board that Mr. Wrenn was no longer serving on the Planning Board as he was moving out of town. Due to timing his vacancy will be filled by appointment until next year's election. The Chair asked the Board if they wanted to consider appointing a replacement now or wait until after the election. After some discussion the Board decided to wait until after the election to appoint a replacement and asked Ms. Wood to reach out to the current alternates to see if they wish to be considered for appointment. The Board thanked Mr. Wrenn for his dedicated and thoughtful service to the Town of Windham and all agreed he would be greatly missed.

Ms. Crisler was excused at 7:20pm.

The Chair sat Mr. Bookless for Ms. Crisler.

### **Public Hearing-Application (*Continued from 1/22/14*)**

#### **Case#2013-26/Granite Woods**

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 (WWPD). 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 seventeen (17) lots for single-family residential development to be served by separate wells and septic systems, and three (3) open space lots, sized 23.400 acres (1,019,317 sq. ft.), 10.293 acres (448,362 sq. ft.), and 5.631 acres (245,294 sq. ft.) for a total of 39.324 acres (1,712,973 sq. ft.) or 69.2% dedicated to open space. Included in the proposal is the extension of Wilson Road and the creation of a new road ending in a cul-de-sac to access the lots. The total length of the extended cul-de-sac is 1,798 ft., as measured from Jefferson Road to the radius point of the cul-de-sac. A Special Permit Application has also been submitted for a wetland and WWPD crossing for access to the 17-lot subdivision and associated wells within the WWPD.

Ms. Wood explained the subdivision layout plan was reduced from 21 lots to 17 lots and the cul-de-sac length was shortened. Mr. Zohdi recalculated all of the engineering calculations and submitted them to Mr. Keach who provided a follow up review. She also discussed comments received from the Highway Agent stating his concerns which were not previously addressed still remain. Chief McPherson had no additional comments. Town Assessor Rex Norman had some minor concerns which should be stated as a condition of approval.

Mr. Zohdi stated he reduced the plan to 17 lots and would like to get approval. He stated he will incorporate Mr. Norman's changes on the plan that will be signed by the Chair.

#### **Questions/Comments from the Board**

- Mr. Sycamore asked about the rationale between the plans in the packet versus the plans handed out tonight with the extended driveway and the house on the right. Mr. Zohdi replied it is a Yield Plan. Mr. Sycamore stated you have the same yield with both sets of plans but you have one house stuck off into open space and he was curious as to the rationale of that. Mr. Zohdi answered you can't build a house in WWPD, which is what the area is. The Yield Plan only has to show you have enough soils to get 17 lots. Mr. Sycamore asked the length of the driveway to get to that house and Mr. Zohdi answered about 600ft but noted they are not proposing to build that driveway.

The Chair opened the hearing to the public at 7:38pm.

- Attorney Mike Donovan, representing neighbors of the proposed subdivision, stated his clients still believe for all the reasons previously stated, that sound planning supports 15 or 16 lots. He discussed different ways to either get down to 16 lots or stay at 17 lots with a different formation. They believe that smaller lots surrounded by large sections of open space with connectivity would be preferable and more consistent with the Open Space Development concept.
- Ms. DiFruscia asked why he thinks the current Yield Plan doesn't support 17 lots and Attorney Donovan answered when you have lots that are dependant upon a permit that has yet to be issued, its speculation. The Yield Plan shouldn't be based on speculation and is not an entitlement to a certain number of lots.
- Mr. Gosselin stated a special permit based upon driveways in specific locations cannot be determined until a subdivision plan is approved and he doesn't see how they can use that to lower the lot count.
- Attorney Donovan stated he does not think a Yield Plan should include lots that are speculative.
- Attorney John Cronin, representing the applicant, stated staff and the board have dealt with the Yield Plan in considerable detail. He believes they meet the ordinance for 21 lots and the applicant has conceded to 17 lots. Some of the issues highlighted in terms of open space may be preferred by the abutters but they are not required, the purview of the board is to look at the application that is before you as designed and decided to approve it or not. If they can't get the 17 lots approved in the configuration presented he would recommend to his client to go back to 21 lots. They have met the yield standards and made a lot of compromises and ask for approval.
- Mr. Gove, Gove Environmental Services, stated they have received the wetlands permit for the bridge. The bridge will provide a lot of access for wildlife passage. An archaeological study was done and there were no issues. The threatened species on site, with the new changes, have gone into open space and are now totally protected. The plan is a very environmentally sensitive plan with 69% of the land in open space and good separation from sensitive areas.
- Ms. Nysten asked about the easement to get to the conservation areas and was told by Mr. Zohdi the easement was left in open space to get from one area to the other. She asked if it was for public use and was told yes it will be put in the Open Space documents that it is for public use.
- Ms. DiFruscia asked if Chief Martineau's request regarding the cisterns was noted on the plan and Mr. Zohdi explained it cannot be put on the plans until they know the number of lots. They will comply with the request before final approval.
- Aaron Hampoian, 19 Wilson Road, asked the Board to consider the overcrowding in schools.
- Ted Maravelias, 34 Mockingbird Hill Road, asked the Board to delay the vote until after the election and asked if there was anything the Board could legally do to stop development.
- Ms. DiFruscia explained they cannot delay a project when the applicant has done everything required to bring the plan forward. She explained to stop development you would need a moratorium which is lengthy and not the purview of the Board.
- Mr. Gosselin explained the Planning Board has to follow the laws. It is either legal or not and there is no choice but to go forward if it follows the laws and regulations, otherwise the town could get sued.

The Chair closed the Public Hearing at 8:10pm.

**Ms. DiFruscia made a motion to approve Case #2013-26/ Wilson Road, Granite Woods Open Space Subdivision/Special Permit Application subject to the applicant complying with the conditions noted on Tax Assessor Rex Norman's memo dated 2/10/14 and subject to the applicant addressing each item contained in Mr. Keach's memo dated 2/7/14. The applicant must also submit a copy of a New Hampshire Subdivision Approval Permit and add that permit number to the plan. The Final Plans must contain original stamps and signatures of the surveyor, engineer, soil scientist, and property owners. The length of cul-de-sac has been reduced to 1798 feet, seconded by Mr. Gosselin.**

The Chair wanted to note the continuity of the Open Space.

Ms. DiFruscia thanked the abutters for their input and their help in making this a better plan.

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

**Motion passed: 7-0.**

**Old/New Business** (Not to include discussion of pending applications or decisions on matters requiring public notice)  
The Chair explained to the Board the final piece of the Town Administrators report on Impact Fees will be presented to the Board of Selectmen on February 24, 2014.

**Ms. DiFruscia made a motion to adjourn the February 12, 2014 Planning Board Meeting at 8:30pm, seconded by Ms. Skinner. Motion passed: 7-0.**

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