



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, June 4, 2014 6pm

Board Members:

Kristi St. Laurent, Chairman – Present

Alan Carpenter, Vice Chair – Present

Paul Gosselin, Member – Present

Pam Skinner, Member – Excused

Margaret Crisler, Member – Excused

Vanessa Nysten, Member – Excused at 7:15p

Bruce Breton, Selectman – Present

Joel Desilets, Selectman Alternate – Arrived at 6:30pm

Steve Bookless, Alternate – Excused

Jim Fricchione, Alternate – Excused

David Oliver, Alternate – Arrived at 7pm

Kathleen DiFruscia, Alternate – Excused

Staff:

Elizabeth Wood, Community Planner

Laura Accaputo, Planning Board Minute Taker

Chair St. Laurent called the meeting to order at 6:05 pm, followed by the Pledge of Allegiance, member attendance and a brief synopsis of the agenda.

Interviews & Appointments

-Southern New Hampshire Regional Planning Commission (SNHPC) Interviews/Appointment

- There was one applicant for Representative to the Southern New Hampshire Planning Commission, Carl Griffin, who has been serving as either Commissioner or Alternate Commissioner since 2010. Mr. Carpenter read his letter for consideration into the record.

-Capital Improvements Plan (CIP)-Citizen Position

- There were three applicants for one 3-year citizens position on the Capital Improvements Plan Subcommittee, Neelima Gogumalla, Tony Massahos, and Daniel Popovici-Muller. Ms. Gogumalla was appointed for a three year term which ends in 2014 and is seeking another term. She gave a brief summary of her qualifications and interest in the position. Mr. Massahos was not in attendance and Mr. Carpenter read his letter for consideration into the record. Mr. Popovici-Muller also gave a brief summary of his qualifications and interest in the position.

-Design Review Committee

- There were two applicants for two 3-year positions on the Design Review Committee, Thomas Garden and Brenda Behling. Ms. Behling currently holds one position which expires on June 30th and is seeking reappointment. The other position expires on July 31st. Mr. Garden and Ms. Behling both gave a brief summary of their qualifications and interest in the position.

Mr. Breton motioned per 91-A: 3, II (c), to go into Non-Public Session at 6:35pm, seconded by Mr. Gosselin. The Chair took a Roll Call Vote: Ms. Nysten – yes; Mr. Carpenter – yes; Mr. Gosselin – yes; Mr. Breton – yes; Chair St. Laurent – yes. Motion passed: 5-0.

The Chair called the meeting back to order at 6:50pm due to the arrival of Mr. Massahos, applicant for CIP citizen position, to allow him the opportunity to address the Board. Mr. Massahos gave a brief summary of his qualifications and interest in the position.

Mr. Carpenter motioned per 91-A: 3, II (c), to go back into Non-Public Session at 6:55pm, seconded by Mr. Breton. The Chair took a Roll Call Vote: Ms. Nysten – yes; Mr. Carpenter – yes; Mr. Gosselin – yes; Mr. Breton – yes; Chair St. Laurent – yes. Motion passed: 5-0.

Mr. Carpenter motioned to come out of Non-Public Session at 7pm, seconded by Mr. Gosselin. Motion passed: 5-0.

Mr. Carpenter motioned to make a recommendation to the Board of Selectmen to reappoint Carl Griffin as Representative to the Southern New Hampshire Planning Commission for a full term, seconded by Mr. Gosselin. Motion passed: 4-0-1 with Mr. Breton abstaining.

Ms. Nysten motioned to reappoint Neelima Gogumalla to a 3 year term for the citizens position on the Capital Improvements Plan Subcommittee, seconded by Mr. Carpenter. Motion passed: 5-0.

The Board asked staff to look at the bylaws regarding CIP and make recommendations at the next meeting on the possibility of adding an Alternate Member to this subcommittee. The Board also encouraged the other applicants to attend the meetings and provide input as members of the public.

Ms. Nysten motioned to reappoint Brenda Behling to a 3 year term on the Design Review Subcommittee beginning on July 1, 2014 and appoint Mr. Garden to a 3 year term on the Design Review Subcommittee beginning on August 1, 2014. Motion passed: 5-0.

-Capital Improvements Plan (CIP) – Planning Board Member Appointments

- There are two Planning Board Member vacancies for (1) year terms on the 2015-2022 CIP Subcommittee. Mr. Carpenter read a letter into the record from Mr. Bookless, Alternate Planning Board Member, expressing his interest in the position. The Board asked staff to email all Planning Board Members to see if anyone is interested in the remaining position.

Mr. Carpenter motioned to appoint Steve Bookless as Planning Board Member to the Capital Improvements Plan Subcommittee and defer the second appointment to next week, seconded by Mr. Gosselin. Motion passed: 5-0.

The Chair sat Mr. Oliver for Ms. Skinner.

Public Hearings-Applications

Mr. Carpenter read Case #2013-36 into the record.

Case#2013-36/55 Londonderry/Home-Based Day Care Continued from 4/30/14

A Home-Based Day Care Customary Home Occupation/Conditional Use Permit Application has been submitted for 55 Londonderry Road (Lot 5-A-199), located in the Rural District Zone. The applicant, Patricia Miller, is proposing to open a Family Day Care Home at her family's primary residence to provide services for a maximum of nine (9) children, three (3) of which would be part-time, after school care. The hours of operation would be from 7:00am to 6:00pm M-F. The proposed location for the Day Care is the 750 sq. ft. existing in-law apartment. No signage or changes to the exterior of the home are proposed. No employees will be hired.

**Mr. Oliver motioned to open Case #2013-36 for Public Hearing, seconded by Mr. Breton.
Motion passed: 5-0.**

Ms. Wood explained the applicant obtained a variance to allow a customary home occupation to occupy more than 25% of the normal living area of the dwelling; the request meets all other requirements.

- Patricia Miller, applicant addressed the Board. She explained she had a daycare at this location previously but had to close down to allow family members to move into the home. This space is no longer being occupied and she wishes to reopen her daycare. She stated the space is one level, up to code, and separate from her living quarters.

Questions/Comments from the Board

- Mr. Carpenter stated his concern for safety regarding the line of sight at this location and Ms. Miller explained they had widened the driveway to allow cars enough room to turn around and pull out of the driveway.
- Mr. Carpenter also asked about the pool on the property and Ms. Miller explained it is aboveground and is fenced in and locked.
- Mr. Desilets asked if this would qualify for a children at play sign and Ms. Miller stated there is a similar sign coming from Nashua Rd and also noted she does not intend to have children in the front yard and will have a fence and gate in place to restrict access to the front yard.
- Ms. Desilets asked for clarification of staffs request for exact square footage of living space currently existing and Ms. Wood explained it was not noted on the town records. Mr. Carpenter asked how they received a variance without this information and Ms. Wood explained it was calculated based upon a rough estimate.
- The Chair asked where the request for dimensions of the paved parking area would be noted and Ms. Wood explained this can be outlined on an aerial photograph or the plot plan.

The Chair opened the hearing to the public at 7:30pm and hearing none the public portion was closed.

Mr. Carpenter motioned to approve the application for Case #2013-36 with the following conditions: the applicant provide the exact square footage of living space currently existing; present an adequately detailed plan showing all parking and access; and the fencing separating the front and back yard be shown on the plan and installed prior to operation, subject to state approval, seconded by Mr. Breton.

Motion passed: 5-0.

Case#2014-15/WWPD Special Permit/40 Mitchell Pond Rd (3-A-609)-Continued from 5/7/14

A Wetland and Watershed Protection District Special Protection District (WWPD) Special Permit has been submitted for 40 Mitchell Pond Road (3-A-609) located in the Residence District A Zone and Wetland and Watershed Protection District Zone. The Applicant, Tory Bianchi of Custom Pools, Inc., on behalf of the property owners Sean and Dianne Sweeney, is proposing to construct an in-ground swimming pool and

surrounding patio entirely within the WWPD. The disturbance to the WWPD would be approximately 1,500 sq. ft. The applicant is proposing to use silt fencing and/or hay bales and install landscaping for erosion control.

Ms. Wood explained the grading plan was not ready and therefore the applicant is requesting a continuance to June 18, 2014.

Mr. Carpenter motioned to continue Case #2014-15 to July 2, 2014, seconded by Mr. Breton. Motion passed: 5-0.

Mr. Carpenter read Case #2014-18 into the record.

Case#2014-18/Okerman & Spinelli Lot Line Adj.3A Marblehead Rd & 173 Range Rd (21-F-35, 36)

Lot Line Adjustment Application has been submitted for 3A Marblehead & 173 Range Road (Lots 21-F-35 & 36) located in the Rural District Zone and Cobbetts Pond and Canobie Lake Watershed Overlay Protection District. The Applicant, Peter Zohdi of Edward N. Herbert Associates, Inc., on behalf of the property owners Richard & Jessica Okerman and Michael Spinelli are proposing to complete a lot line adjustment between the two properties resulting in Lot 21-F-35 being reduced from 4.36 acres to 2.104 acres and an increase in size of Lot 21-F-36 from 5 acres to 7.256 acres. The net loss from Lot 21-F-35 and net gain to Lot 21-F-36 is 2.256 acres. No land development is proposed as a result of this subdivision.

Mr. Carpenter motioned to open Case #2014-18 for Public Hearing, seconded by Mr. Breton. Motion passed: 5-0.

- Shane Gendron of Herbert Associates addressed the Board. He explained the request is for a simple lot line adjustment and land transfer. There is no proposal for future development. Both lots are pre-existing, non-conforming and Mr. Keach does not believe the swap will exacerbate the situation. All of Mr. Keach's comments have been addressed and state subdivision approval was granted on 5/19/14.

Questions/Comments from the Board

- Mr. Carpenter asked the reason for the land swap if not for future development and Mr. Gendron stated he believes the homeowner wants more privacy.
- The Chair asked Mr. Gendron for an overview of Mr. Keach's concerns. Mr. Gendron explained his first comment was regarding subdivision approval by the state which was granted on 5/19/14. His second comment was to correct lot computations on Note 9 which has been done. His third comment was to have the plan stamped by a land surveyor which has been done. His fourth comment was to install boundary monuments at the adjusted southeast and southwest corners of Lot 21-F-35 which will be done before the plan is recorded. His final concern was to correct a drafting error on the title block on Sheet 3 to note the scale is 1" = 50 rather than 1" = 200 which has been done.

The Chair opened the hearing to the public at 7:50pm.

Mr. Gosselin motioned to approve the lot line adjustment and grant the waiver requests from Section 616.6 and Section 601.14 of the Subdivision Regulations as there are no substantial changes being made and no development being proposed, conditioned upon Items #1-5 of Mr. Keach's memo dated May 1, 2014 being addressed, seconded by Mr. Breton.

Motion passed: 5-0.

Mr. Carpenter read Case #2014-26 into the record.

Public Compliance Hearing

Case#2014-26/Granite Woods Open Space Subdivision/Open Space Covenants

A Public Compliance Hearing is being held to review the proposed Open Space Covenants for the Granite Woods Subdivision located on Wilson Road (24-F-1100; 24-F-1120), located in the Rural District Rural District Zone and Wetland and Watershed Protection District. The Open Space Covenants are being provided in accordance with Section 611.5.1 of the *2013 Zoning Ordinance and Land Use Regulations* and pertain to the future ownership, protection, and governance of all planned open space. The Granite Woods Open Space Subdivision was Conditionally Approved on 2/12/14.

Mr. Carpenter motioned to open Case #2014-26 for Public Hearing, seconded by Mr. Breton. Motion passed: 5-0.

The Chair explained this is to review the Open Space Covenants and confirm they are as the Board intended.

Mr. Carpenter was temporarily excused at 8pm.

Ms. Wood stated there was one concern raised by the Conservation Commission regarding trails and public access on the open space parcels. Attorney Campbell agreed and provided suggested language which was incorporated in the document presented tonight.

The Chair opened the hearing to the public at 8:00pm.

- John Cronin, on behalf of the applicant addressed the Board. He stated they worked with Attorney Campbell to satisfy the concerns of the Conservation Commission. He also stated the covenants were discussed going through the planning process in a general manner with the caveat that Attorney Campbell would have the opportunity to review them. He noted to the extent this is necessary they are going to reserve their right to say the compliance hearing is not necessary and they are there in good faith to answer any questions the Board may have.
- John Drelick, 23 Wilson Road, addressed the Board. He stated his concern regarding parking and additional traffic and speeding in the neighborhood due to the trails. The Chair stated the plan was approved and they were reviewing the Open Space Covenants. Mr. Drelick stated he was also concerned about hunting and asked if hunting would be prohibited. Ms. Wood stated currently shooting is allowed 300ft away from the homes but once the subdivision is finalized it will not be permitted by covenant. Attorney Cronin noted public access would be limited to a certain parcel. Attorney Campbell stated it is his understanding public access to the trail would only be available from the town side and not from the cul-de-sac.
- Attorney Campbell stated in reference to the question of liability to the association that because of the way it is drawn up with all seventeen landowners owning a 1/17th share and opening the space to the public free of charge, both they and the town have recreational immunity except in cases of intentional torts. He recommended the Board approve the Open Space Covenants as presented.
- The Board also discussed the remaining concerns of the Conservation Commission and Attorney Campbell noted regarding Section 5.1, any changes proposed in Open Space must be approved by the Planning Board as clearly addressed in the document.

The Chair closed the public portion at 8:30pm.

Mr. Breton motioned to approve the Declaration of Open Space Covenants as presented on June 4, 2014, seconded by Mr. Gosselin. Motion passed: 4-0.

The Chair sat Mr. Desilets for Mr. Breton.

Case#2014-17/8 Doiron Road-Tree Species Amendment

Ms. Wood explained this is a request to amend the prior approval by substituting Balsam Firs for Hemlocks since Hemlocks are banned from New Hampshire due to an insect issue.

Mr. Gosselin motioned to allow the substitution of Balsam Firs for Eastern Hemlocks and keep the rest of the plantings the same, seconded by Mr. Oliver. Motion passed: 4-0.

Mr. Breton was seated at 8:37pm.

Minutes Review/Approve

-March 5, 2014 - Postponed

-April 2, 2014

Mr. Gosselin motioned to approve the April 2, 2014 minutes as amended by Ms. Nysten, seconded by the Chair. Motion passed 3-0-1 with Mr. Breton abstaining.

-April 30, 2014

Mr. Breton motioned to approve the April 30, 2014 minutes as amended, seconded by Mr. Oliver. Motion passed 3-0-1 with Mr. Gosselin abstaining.

-May 7, 2014

The Chair motioned to approve the May 7, 2014 minutes as amended by Ms. Nysten, seconded by Mr. Gosselin. Motion passed 3-0-1 with Mr. Breton abstaining.

-May 14, 2014 - Postponed

-May 21, 2014

Mr. Gosselin motioned to approve the May 21, 2014 minutes as amended, seconded by Mr. Carpenter. Motion passed 4-0-1 with Mr. Breton abstaining.

Planner's Report

Ms. Wood discussed attending the citizens police academy and suggested at least one Planning Board member attend next year.

Liaison Reports

➤ Board of Selectmen

Mr. Desilets discussed attending the New Hampshire Listens civic engagement in Portsmouth. He noted communities can establish break out groups and establish a local chapter. The website is NHlistens.org.

➤ WEDC

Mr. Gosselin noted the WEDC is working on doing an inventory though town section by section of all non residential zones in town.

➤ Conservation Commission

➤ HDC/HC

➤ Southern NH Planning Commission

Old/New Business (Not to include discussion of pending applications or decisions on matters requiring public notice)

Mr. Breton motioned to adjourn the June 4, 2014 Planning Board Meeting at 9:15pm, seconded by Mr. Gosselin. Motion passed: 5-0.

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