



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Planning Board Approved Minutes Wednesday, November 18, 2015 7:00pm @ Community Development Department

Alan Carpenter	Chairman	Present (arrived at 7:57 pm)
Paul Gosselin	Vice-Chair	Present
Kristi St. Laurent	Member	Present
Ruth-Ellen Post	Member	Present (excused herself at 8:55pm, sat once again at 10:15pm)
Margaret Crisler	Member	Present
Dan Guttman	Member	Present
Joel Desilets	Selectman	Excused
Ross McLeod	Alternate/Selectman	Excused
Matt Rounds	Alternate	Excused
Gabriel Toubia	Alternate	Present (in place of Alan Carpenter until he arrived at 7:57pm) (in place of Ruth-Ellen Post for Case#2015-26 at 8:55pm) (in place of Mr. Gosselin at 10:20 pm.)
David Oliver	Alternate	Excused
Kathleen DiFrusia	Alternate	Excused

Staff:

Elizabeth Wood, Community Planner

Dick Gregory, Code Enforcement (left after the porous pavement discussion, 8:00pm)

Anitra Brodeur, Minute Taker

- 1. Call to Order/Attendance/Pledge of Allegiance**
- 2. Subdivision Regulations Workshop**-Procedures, Pertaining to Open Space Subdivisions

A motion was made by Ms. Crisler to move Section 611 and 405 of the Subdivision Regulations to Public Hearing. Seconded by Mr. Guttman. Vote 6-0. Motion passes.

3. 2016 Town Meeting Workshops

- Cobbetts Pond & Canobie Lake Watershed Protection: Porous Pavement (Section 616.3.1)

Ms. DiFrusia communicated with Mr. Gregory via email regarding a definition of porous pavement. This is an addendum to the packet regarding porous pavement. Mr. Gregory read the information aloud; what the Board had presented originally was, indeed, correct.

Vice-Chair Gosselin wanted to first discuss the 616.4 definition.

Mr. Guttman motion to authorize release to public of the Bernie Campbell Memo from October 15th regarding the Watershed Protection District. Seconded by Ms. Crisler. During discussion, Ms. Crisler voiced her reservations. Vote. 3-2-1 Ms. Crisler abstained. Mr. Gosselin and Mr. Toubia against. Ms. St. Laurent, Mr. Guttman and Ms. Post for the motion. Motion did not pass.

Ms. Post made motion to open the vote for reconsideration. Seconded by Ms. St. Laurent.

Ms. Post made a motion that the Board not make it public at this time. Ms. Crisler seconded. 5-1. Motion to NOT make the memo from Attorney Campbell does pass.

Mr. Dubay, as a resident, voiced his concern around releasing the information but this was not a point of order; it as his opinion.

There was a discussion among the Board about whether or not this information should be released to the public. Ms. Wood suggested the approval.

Mr. Guttman made a motion to release pages 1 and 2 of the document and withhold page 3 at this time. This would be subsequent motion if Ms. Post withdrew her motion; she did not.

Returning to the definition of 616.4, Mr. Guttman did his best to define porous pavement within the constraints of not releasing the memo.

Ms. Crisler asked for clarification as to why Mr. Keach's memo was added to the porous pavement packet. Mr. Gosselin stated that it was to compare other communities that had defined this porous pavement.

Ms. Post asked what an applicant could install if pavement were not to be installed in compliance with the permit. "Pervious surface" was also brought up as a term by Mr. Gosselin to be used synonymously with "porous pavement".

Ms. Laurent read Mr. Keach's language from his memo that stated "porous pavement is one form of pervious surface".

The material used would define the maintenance schedule. The Board is in agreement on this fact. Mr. Guttman suggested that, upon submission, the applicant may need to have an agreed upon schedule at the time of application. Mr. Guttman asked Mr. Gregory if we, as a town, have the ability to monitor the maintenance of the porous pavement.

Mr. Gosselin stated that the porous pavement was often used as a way to "get a house built" on a site where the house could not be built if the stipulation of porous pavement were not agreed to.

Ms. Crisler has a concern about how the process would be enforced and certified. Mr. Gosselin asked if Mr. Gregory had any thoughts or recommendations regarding realistic enforcement. Mr. Gregory stated that commercial properties are easier to enforce than residential properties. Many of these suggestions are guidelines; they may not be enforceable actions. Mr. Gosselin asked if we were "giving away something for free" by awarding residents pervious surface but then not enforcing the maintenance of these materials.

Ms. Crisler would like this to be a workshop item and invite members of the public to attend and comment. Mr. Toubia does not feel as if this an "enforceable item". The best way, perhaps, is to educate the public about the item.

Ms. Post said there are real advantages to defining the term in earnest and the effectiveness of said defined examples of porous pavement. Some homeowners are often responsible for cleaning out culverts and catch basins. Sometimes these things become self-monitoring. Random inspections might also be helpful. Ms. Ferrisi, 20 Heritage Hill Road, addressed the Board. Ms. Ferrisi suggested that the Board could make the recommendation for “grass paver driveways” to the residents. She cited Keene as a place where this has been suggested to residents.

Mr. Derek Monson, 18 Turtle Rock Road, addressed the Board. Mr. Monson stated the citizens would be motivated to maintain it because it would be expensive to replace were it not porous any longer.

Ms. Crisler also brought up the point that porous pavement is a specific surface that acts in a certain way when maintained. Other surfaces will act and need to be maintained in their own unique way.

Mr. Guttman asked if the Board could leave both pervious surfaces and porous pavement in the language of the definition.

Mr. Gosselin polled the Board. The Board liked the idea of defining both porous pavement and pervious surface. The Board also wanted it noted that the questions surrounding these definitions were largely around maintenance.

It should be noted that 616.4 has the two definitions. 616.13.1 has the maintenance subsection that must be agreed upon. 616.13.2 Would need to be created which would have the schedule for that maintenance.

➤ Vernal Pool Buffer (Section 716)

Ms. Ferrisi addressed the Board regarding vernal pools. The jurisdiction of the ordinance is not the definition; the jurisdiction is the law.

(Chairman Carpenter arrived at 7:57pm.) Votes taken prior to this had Mr. Toubia as a voting member.)

A vernal pool is not defined by its size. A vernal pool is defined by the duration of time it remains wet.

Ms. Post talked about varying definitions from a regulatory point of view. Ms. Ferrisi stated that there were ways to measure time in the soil through egg masses and soil moisture.

Mr. Guttman posed the question as to why the Board would want vernal pools protected in the first place.

If you have a vernal pool, as a homeowner, you may need to expect that ½ acre of your property would be unbuildable. Mr. Gosselin expressed the opinion that a regulation beyond 25 feet may not be necessary.

Ms. St. Laurent stated that the purpose of vernal pools is to protect wildlife. If the buffers are not large enough, the existence of the vernal pools are irrelevant if they cannot support the wildlife they are there to protect.

Mr. Wayne Morris, Jordan Road, addressed the Board. He was proud of Windham for being on the forefront of defining and finding vernal pools and directional buffers to protect wildlife. Vernal pools need the protection of the public.

Chairman Carpenter asked Ms. Wood what the protocol would be once the language was agreed upon; this would be moved to a workshop. Chairman Carpenter polled the Board to see what the wishes of the Board were. Ms. Crisler was interested in changing the words. Ms. Post was also interested in discussing the vernal pools further. Ms. St. Laurent wished to defend the specificity of two months. (The time is

specific to how long a vernal pool would need to be wet to be defined as such.) Ms. St. Laurent would like to see it go forward. 716.5 And 716.5.2 definitions would be the same; the marker would be the same but along the primary vernal pool boundary. Mr. Guttman would like to alter the language and move forward. 716.4 “turn to” would be changed to “secure the services of”. Mr. Toubia would like to know if this would have a financial impact on homeowners.

Ms. Crisler made a motion to move to public hearing as amended. Mr. Guttman seconded. Mr. Gosselin stated that it applies to every vernal pool that exists today; both definitions would be changed; he would like 500 ft. and the secondary buffer removed. Mr. Guttman withdrew his second. He would like to see a more clearly defined area other than 500 sq. feet. Ms. Post seconded now understanding the changed definitions. Attorney Campbell should be consulted to ask what happens to vernal pools that already exist and the buffers that exist. Ms. Post and Ms. Crisler are for. Mr. Gosselin, Mr. Carpenter, Mr. Guttman and Ms. St. Laurent opposed. Vote 2-4. Motion does not pass.

4. Administrative Review of Application:

Case#2015-25/Major Watershed/19 Lakeshore Road (21-H-14)

A Major Watershed proposal has been submitted for 19 Lakeshore Road (21-H-14), located in the Residence District A zone and Cobbetts Pond and Canobie Lake Watershed Overlay Protection District. The Applicant, Kurt Meisner of Meisner Brem Inc., on behalf of John and Cheryl Albert, is proposing to add an addition onto an existing residence and to reconfigure the existing driveway. The existing impervious area is 5,189 sq. ft. or 22% and the proposed is 6,997 sq. ft. or 29.8%.

Mr. Meisner addressed the Board. An approval was given by ZBA on November 10th. A Shoreland Protection Permit was also given by the State. There was also a memo by Mr. Keach that was submitted with the permit but Board members did not have copies of said memo. Ms. Wood was kind enough to make copies. Ms. Crisler would like to know how high the building would be and if it would block anyone’s view. Mr. Meisner stated it would not block anyone’s view.

Mr. Meisner stated that many of these recommendations brought up by Mr. Keach have been amended and changed prior to going to the State and the Zoning Board. Ms. Post stated that Mr. Keach is asking for a lot more additional information and she does not think the Board can make a decision at this time.

Ms. Wood suggested that the Board move the application to December 2nd at 7 pm. Mr. Gosselin made a motion to continue this on December 2nd. Seconded by Ms. Post. Vote 6-0.

5. Public Hearings for Applications:

Case#2015-26/Major Preliminary/Major Final Site Plan/Major Watershed/WWPD

A Major Preliminary/Major Final Site Plan for 55+ Housing; and Major Watershed/Wetland and Watershed Protection District (WWPD) Special Permit Applications have been submitted for 98 Range Road (17-I-300), a 9.47 acre lot (412,513.2 sq. ft.), located in the Rural District Zone, Cobbetts Pond and Canobie Lake Overlay Watershed Protection District, and WWPD. The applicant, Peter Zohdi of Edward N. Herbert Associates, on behalf of the property owner, Chadwick Asset Management Land Holdings, LLC, is proposing to construct fifteen (15) single-family, detached housing units for residents ages 55+, in adherence with Section 610 of the *Zoning Ordinance* pertaining to Housing for Older Persons. A 24’ porous private driveway/road is proposed off of Range Road to access the development and two bio-retention/detention pond areas are designated for drainage. The homes are proposed to be served by two (2) onsite wells and onsite leach fields. A 5’ walking trail is proposed along the perimeter of the property. A WWPD Special Permit is being requested for the installation of road shoulder work and a portion of the 5’ walkway for a permanent disturbance of 11,500 sq. ft. to the WWPD. A total of 7.66 acres (333,669.6 sq. ft.) or 80% land area is proposed for open space. Waivers have been requested from Sections 603.2.4.22 to have landscaping designed on an individual unit basis rather than by a professional landscape architect and 603.2.4.15 of the *Site Plan Regulations* to not have exterior elevations plans at a scale of 1”=20’. If a

Waiver is not granted from Section 603 of the *Site Plan Regulations*, this application will be heard as a Preliminary Major Site Plan.

(Mr. Toubia is sitting for Ms. Post for this case.)

A motion was made by Ms. Crisler to open for a preliminary major site plan. Seconded by Mr. Guttman. Vote 6-0. Motion passes.

Mr. Zodhi addressed the Board. Parcel 17-I-300 is the proposed property. Mr. Zodhi summarized the application and the calculations for the proposal. Mr. Guttman discussed “pervious surface” and how that will be used to leverage other factors of the application. Mr. Guttman wanted to know what the maintenance schedule of the pervious surface would be. Mr. Zodhi was asked to find out what percentage of the total surface would be pervious pavement. Mr. Zodhi did some calculation and later stated that 10.62% of the site would be pervious surfaces. Mr. Gosselin asked if these were single family dwellings or condominiums. Chairman Carpenter asked why the landscaping was not more consistent if this was a condominium situation.

Ms. St. Laurent asked if the road would be a private road. Mr. Zodhi stated it would be a private road 24 ft. in width.

Mr. Derek Monson, 18 Turtle Rock Road, addressed the Board. There are 18 tributaries that go into Cobbetts Pond. In the ordinance, it states that there is a 100 ft. buffer needed for these streams and tributaries. In Mr. Zodhi’s plan, there is only a 50 ft. buffer. Mr. Guttman asked if it was a blocked stream. DES recognizes it as a stream; it is intermittent.

Mr. Zodhi wanted to discuss the stream, that he is now calling a culvert, further.

Mr. Will Wickman addressed the Board representing the Lakeview Farm Homeowners’ Association. The residents in the Lakeview Area are challenged by the flowing water that is consistently part of their lives down below the property.

Attorney Andrew Prolman spoke on behalf of the Nikitas Family (17-I-501) Christless Trust (17-I-500). He would like to highlight a few issues. Penachuck Water on Armstrong Road is located nearby. Is there well overlap in this area? The use of Bella Vista Road is also in question. It can be used if they have the rights to use it. There is a swale on the road that might be considered a stream. Mr. Pearlman would also like to know, for his clients, what the construction hours would be. Finally, the drainage systems are cause for concern. The drainage system only works if the pervious pavement works.

Ms. Crisler wanted to talk about the “study” (inside the residences) that was shown on the plan as well as the open space upstairs and downstairs. Would these become bedrooms? Ms. Crisler also spoke to the age restrictions as a label on the property and the lack of amenities. Mr. Zodhi contested that it was a very small development, only 15 units.

Mr. Gosselin and Chairman Carpenter spent time clarifying what was at the Board’s discretion.

John Alosso, 42 Turtle Rock Road, addressed the Board. The residents that purchase the units will be able to decide how handicap accessible they would need their unit to be. There will be addition measures taken to be sure that all of the units have the handicapped designation beyond preference.

Mr. Toubia did like the plan. He felt like the walk was necessary to get some answers. Ms. Crisler was concerned that there is not an overall landscaping plan along with her previous comments. Mr. Gosselin returned to the idea of porous pavement and asked that Mr. Zodhi come up with a maintenance schedule. Mr. Gosselin does like the idea that each unit could have its own unique landscaping, as it is not completely planned by an architect. Mr. Guttman asked if they would have

access to the water during the upcoming site walk; Mr. Prolman did give access to the water. Ms. St. Laurent wanted to talk about the smaller wetland on the pond and what role that would play as a retention basin for run off, etc.... She also wanted to know about snow removal and how that would work. Chairman Carpenter would like to talk about the walking path at the next discussion.

Mr. Zodhi talked about Penachuck Water. He would like to see a compromise regarding the information he has received from the company.

The site walk would be on December 5th, 2015 on Rte. 111A at 9 am for Bella Vista. A motion was made by Mr. Guttman to continue the preliminary major site plan. Seconded by Ms. St. Laurent. Vote 6-0. Motion passes.

(Ms. Ruth-Ellen Post returned to the Board at 10:15 pm. Mr. Toubia is no longer a voting member once again.)

It should be noted that the subdivision regulations vote occurred at approximately 10:15pm, just before Mr. Gosselin excused himself for the evening.

(Mr. Toubia sat for Mr. Gosselin at 10:20pm)

6. Minutes Review and Approve

-September 2, 2015

A motion was made by Mr. Guttman to approve the minutes for September 2nd, 2015. Mr. Toubia seconded. Vote 6-0. Motion passes.

A motion was made to adjourn by Mr. Guttman. Seconded by Ms. Post. Vote 6-0. Motion passes.

None of the minutes below were approved or amended.

-September 30, 2015

-October 7, 2015

-October 14, 2015

-October 21, 2015

UPCOMING MEETINGS:

December 2nd

December 5th (Site Walks)

December 9th

December 16th

Amended and approved minutes submitted by Suzanne Whiteford, Minute Taker