

## PLANNING BOARD MINUTES

January 11, 2006

### ROLL CALL:

Nancy Prendergast, Chairman – Present  
Ruth-Ellen Post, Secretary – Present  
Phil LoChiatto, Regular Member – Present  
Neelima Gogumalla, Alternate – Present  
Rick Okerman, Alternate – Not Seated  
Alan Carpenter, Selectmen Alternate – Present

Ross McLeod, Vice Chairman – Present  
Walter Kolodziej, Regular Member – Present  
Pam Skinner, Regular Member – Present  
Steven Griffis, Alternate – Present  
Margaret Crisler, Selectmen Member – Excused

### STAFF:

Al Turner, Director of Planning and Development – Present  
Rebecca Hebert, Town Planner – Present

*Ms. Prendergast opened the meeting at 7:00 pm. Mr. Carpenter, Mr. Griffis, and Ms. Gogumalla replaced Mrs. Crisler, Mr. Kolodziej, and Mr. LoChiatto respectively.*

### PUBLIC MATTERS:

#### Citizens Petitions:

Citizen Petition #1 rezone lot 17-J-70. Mr. Turner: Rezoning brings the property into residential compliance. Mr. McLeod motioned to recommend Citizen Petition #1 to Town Warrant with Board support. Ms. Post seconded. Passed 7-0.

Citizen Petition #2 rezone lot 11-C-800. Attorney Ray Demante: Spoke in favor of the rezoning request from Professional Business and Technology to Business Commercial A, described the evening's presentation, and he would like the opportunity to respond to public comment. *Mr. LoChiatto joined the Board and Mr. Griffis stepped down.* Brian Hoffman, Rizzo Associates: Gave an overview of the town and the site location, showed local retail areas, showed areas of current zoning, showed a future map of the area including Rt 93 & Rt 111 improvements, showed a conceptual plan of lot 11-C-800 containing two retailers, showed a potential office building use on the same lot for comparison. Mr. Demante and Mr. Hoffman: Cobbetts Pond issues identified by James Gove of Gove Environmental, will provide stormwater quality management, tenants have strong stormwater prevention plans, septic site loading comparisons, Commercial A could be a restaurant, zoning change impacts. Discussion: This meeting is for a zoning petition not a site plan review, rezoning impacts. Mr. Demante: Tax dollars will increase, area demand is declining for office buildings, Windham will not become a Londonderry or Salem, parcel of 29 acres. *Mr. Kolodziej joined the Board and Ms. Gogumalla stepped down.*

Ted Maravelias, 34 Mockingbird Hill Road: People who spoke are not Windham residents, opposes zoning change, Lowes brings an eyesore to Windham, Shaws has changed the town and Lowe's will negatively impact the Town.

Patrick Poore, 17 Viau Road: Office park may increase traffic somewhat during commuter hours but large retail store will increase traffic significantly throughout the day, plus weekends and holidays."

Discussion: The petition is for commercial development not necessarily a Lowe's..

Steven Allen, 2 Meetinghouse Road: This will increase tax revenues, Lowe's is considerate, the town will make sure it is done right and Lowes will help us, we should allow it.

Leo Scanlan, Turtle Rock Road: Lives on Cobbetts Pond, has concerns regarding water quality and impacts to the pond, questioned the intended uses of the current zoning, there is a main feeder brook to Cobbetts on this property, discussed retail development problems in other towns, the Master Plan is in favor of community-based developments not big-box developments, the increased traffic will have the traffic go around the pond, Rt 93 will take 8 more years to build, the land is much too fragile, it is too much and way to close to the pond, would like zoning to stay as is.

Russ Wilder, 2 Birchwood Road: He is a former Planning Board member who helped with the rezoning to Professional Business and Technology, there is 8 million square feet of local businesses, we don't

need any more retail, we would like tax generation, an office park is more pleasing and attractive and has lower impact on town services, office parks support local entrepreneurs and are not declining in southern NH, current zoning for this parcel allows restaurant, we should wait for what we want, we already have easy access to Home Depots and Cyr Lumber, retail parking lots generate trash and run-off, Master Plan was changed on purpose because it would be better.

Mr. Poore: There is more parking lot usage with retail developments.

Katherine DeFruscia, legal advisor to the Cobbetts Pond Association: Do not chip away at the Master Plan, do not make the zoning change, no one has consulted with the Cobbetts Pond Association, vehemently opposed to the change.

Jim Gove, Gove Environmental: Has looked at the wetland and water quality issues, whatever gets built there has to meet all of the standards, the management will ensure continuing maintenance of water quality controls, there are many issues and the decision should not be based upon water quality issues alone, look at the long term maintenance.

Discussion: Not speaking about any particular corporate entity, which can change over time, but a permanent zoning change.

Mr. Demante: Would like to meet with Attorney DiFruscia, has looked at other sites, restoration of retail space with the Rt 93 expansion, asked for Board support.

Discussion: Thanked for the thoughtful and detailed presentation, petition is contrary to the Master Plan, property tax base, southern NH retail business problems and costs, being patient for future developments now that Rt 93 and 111 have been designed.

Ms. Post motioned for Citizen Petition #2 to appear on the Town Warrant without Planning Board recommendation. Mr. Kolodziej seconded. Passed 7-0.

Citizen Petition #3 rezone lot 3-B-601 from Neighborhood Business to Rural: Joseph Maynard, Benchmark Engineering: This petition and Petition #4 are related and being discussed together. Discussed location, parent parcel was rezoned, variance from ZBA, buildable areas very limited due to recently-discovered wetlands, usable areas have poor visibility from Rt. 28 making it impractical for businesses, considering elderly housing or open space development, continuity of use. Discussion: Rural use, WWPD, no useable space along Rt. 28.

Public comment from Kim Hamel, 191 Rockingham Road: Opposes change because only more houses will be built, it is currently a heavily wooded area, she also opposed variance request.

Russ Wilder, 2 Birchwood Road: Previous Board considered potential uses.

Mr. Maynard: Development of the Spruce Pond subdivision, 117 acres of preserved open space, 165 acres to be preserved with Spruce Pond II, the building area is remote.

Public comment continued with Wayne Morris, Jordan Road: Stated that the previous rezoning happened without knowing all the details, WWPD impacts with the current zoning, zoning would impact use as open space.

Mr. Carpenter motioned to move Citizen Petition #3 to Town Warrant with favorable Planning Board recommendation. Mr. McLeod seconded. Passed 7-0.

Citizen Petition #4 rezone lot 3-B-600 from Neighborhood Business to rural. Mr. Kolodziej motioned to move Citizen Petition #4 to Town Warrant with favorable Planning Board recommendation. Mr. LoChiatto seconded. Passed 7-0.

### **Proposed Map Amendments:**

Amendment # 1 amend map for lots 11-A-1, 11-A-2, 11-A-3, 11-A-4, 11-A-5, 11-A-6 and 11-A-50.

Mr. Turner: Current zone line runs through middle of properties and homes, change would move the zoning line to the property line, no impacts to the industrial land, changes the property to all residential

uses, current zoning is 500' from the brook. Discussion: Property access. Mr. Turner: Attorney Campbell minor change.

Public comment from Steve Allen, 2 Meetinghouse Road: Hydrotech should pay industrial tax, gave the history of zoning line, zoning request is not a big deal, and he has no objection.

Discussion: Attorney Campbell's rewording. Mr. McLeod motioned to move Attorney's Campbell wording for Amendment #1 to Town Warrant. Mrs. Prendergast read Mr. Campbell's rewording. Ms. Post seconded. Passed 7-0.

Amendment # 2 amend map for lot 11-A- 450. *Mr. LoChiatto recused himself and Ms. Gogumalla replaced him.* Mrs. Hebert: Showed the location and the Village Center District. Discussion: 190' of frontage, curb cut concern, driveway permitting if use changes, potential property uses, setback and buffer requirements, Board did not initiate but is a Board recommendation, former discussions emphasized preservation of historic house and not road to Village Center District from Hardwood Road, property hardship issues, Village Center District has more control regarding variances. Mrs. Prendergast read letters from: 1) Christine Allen (strongly opposed); 2) Tom McPherson, Acting Fire Chief (favors proposed road); 3) Gerry Lewis, Police Chief (favors proposed road). Discussion: Curb cut location, Master Plan comments.

Public comment from: Mr. Eric Nickerson, current land owner: Original owners asked for rezoning, Mr. Nickerson then purchased the piece, he asked for the two Chief's opinions.

Attorney Bill Mason, representing the owner: Showed the Village Center District, discussed good future planning, access to the district and traffic flow, existing and future access points, access and egress important for the Village Center District. Mr. Nickerson: Ability to take a left hand turn at the light and enter the district, general traffic flow. Attorney Mason: Mixed-use development outlets. Discussion: Any traffic engineer study. Mr. Nickerson: Best use of the property. Discussion: Preservation of the historical home not mentioned, driveway to achieve 4<sup>th</sup> access, abutting residences, Hardwood Road slopes, Mr. Nickerson: First chance to speak at a public forum.

Karla Doukas, 7 Hardwood Road: Had a prepared statement but petitioner's new emphasis changes her response, rural zoning keeps control, the zoning change impacts buffer lines, there will be increased volume traffic, traffic speeds on Hardwood Road, accidents on Hardwood Road, variance hardship factors, protective covenants on the property, zoning change gives greater rights.

Terance Sullivan, 39 Oriole Road: Speeds on Hardwood, amount of cars, this change is a terrible mistake, high school is going to bring more traffic, would like the house to stay as it is.

Patty Sheldon, 6 Hardwood: Lives on the hill, explained accidents, had has to redo her lawn, terrible hill and can't imagine another road coming onto it.

Carol Pynn, 19 Cobbetts Pond Road: Concerns for the historic house built in 1911, gave brief history, typical federal style, national register 1994, the house should be preserved as part of the Master Plan.

Discussion: Driveway effect on the historic house, driveway access.

Wayne Morris, Jordan Road: On Planning Board for Village Center Distract and can't remember why the lot wasn't included, the whole block should be considered, the building is more protected more as a Village Center District building, existing problem on Hardwood Road.

Steve Christenson, 4 Hardwood Road: Concerned with Hardwood Road traffic, prefers housing along his lot, discussed road slopes, would not like it to become a restaurant.

Susan Hoey, 4 Eastwood Road: Her land abuts the Village Center District, concerned with traffic, too much speeding on Hardwood Road, it is a dangerous place to put a driveway.

Dave Sheldon, 6 Hardwood Road: Concerns include traffic, line-of-sight, road access options.

Diana Fallon, 26 Rock Pond Road: Stated that if the parcel is not included it is excluded and isolated.

Attorney Mason: Only asking for the parcel to be treated with the development standards of the Village Center District.

Ms. Doukas: Would like to see this land developed first, there are lots of “shoulds” but no “musts,” there is more control with current zoning.

Karl Dubay, MHF Design and resident: Volunteered during the Village Center District development, lines were drawn and can change, discussed area development, the historical homes should be protected, traffic access, supports the zoning change.

Discussion: Property should be Village Center District, Hardwood Road is not included in the Village Center District, maintaining existing building, property wasn't part of the Master Plan, premature change, zoning change needs rationale, rationale keeps changing, changes the Master Plan, may be good but needs further looking into.

Mr. Kolodziej motioned to move Amendment #2 to Town Warrant. Discussion: Attorney Campbell's rewording. No second. Discussion: The topic is worthy of more conversation; noted that the amendment was not going forward due to failed motion.

Amendment # 3 amend map for lots 14-B-4900 and 14-B-4900C. Discussion: Town Counsel advises against this change at this time. No motion was made. The amendment will not go forward to the Town Warrant.

Amendment # 4 amend map for lot 17-J- 70. Discussion: Town Counsel advises against this change as redundant. No motion was made. The amendment will not go forward to the Town Warrant.

**Proposed Ordinance Amendments:**

Amendment #5: Amend Definitions, Section 200. Mr. Turner: Amendments 5 through 7 relate to the new definition of structure, needs more research, re-evaluate next year. Mr. McLeod motioned to move Amendment #5 to Town Warrant only as it pertains to definition of “Private Way” and to change “non-approved road” to “discontinued road or road not accepted by the town.” Mr. LoChiatto seconded. Passed 7-0.

Amendment #6 Amend Sections 702 Area Frontage Area and Floor Area Requirements and , Section 703, Accessory Buildings and Swimming Pools. No motion was made. The amendment will not go forward to the Town Warrant.

Amendment #7: Amend Section 601.4.9 WWPD. No motion was made. The amendment will not go forward to the Town Warrant.

Amendment #8: Amend Section 602.1.6.3 Prohibited Uses Include. Mr. Carpenter motioned to move Amendment #8 to Town Warrant. Mr. Kolodziej seconded. Passed 7-0.

Amendment #9: Amend Section 606.1.3 Limited Industrial District. Mr. Kolodziej motioned to move Amendment #9 to Town Warrant. Mr. McLeod seconded. Passed 7-0.

Amendment #10: Amend the following sections: Section 704.1.12 Off-Street Parking and Loading Areas, Section 702.4 Area, Frontage, Yard and Floor Area Requirements, and Section 1500 Enforcement. Mr. Kolodziej motioned to move Amendment #10 to Town Warrant. Mr. LoChiatto seconded. Passed 7-0.

Amendment #11: Amend Section 901.2 Board of Adjustment. Ms. Skinner motioned to move Amendment #11 to Town Warrant. Mr. McLeod seconded. Passed 7-0.

Amendment # 12: Amend Section 401 Continuances of Existing Uses and Section 400 Continuance of Existing Uses. Mr. Lochiatto motioned to move Amendment #12 to Town Warrant. Ms. Post seconded. Passed 7-0.

Amendment #13: Amend Section 611.6.2.1 Development Standards. Mr. Kolodziej motioned to move Amendment #13 to Town Warrant as amended by Attorney Campbell. Mr. McLeod seconded. Passed 7-0.

Amendment # 14: Amend Section 611.6.2.2, Secondary Roads. Mr. McLeod motioned to move Amendment #14 to Town Warrant. Mr. Kolodziej seconded. Passed 6-1. Mr. Lochiatto opposed.

Amendment # 15: Amend Appendix A-1 Maximum Percent Building Coverage of Lot. No motion was made. The amendment will not go forward to the Town Warrant. Relates to structure definition.

Amendment #16: Amend Section 706.5 Signs. Discussion: as currently written, the amendment would unduly limit manually-effected price changes at gas stations, notices in church bulletin boards, and the like. Intent is only to limit electronic signs. Letter of opposition received from the New Hampshire Sign Association. Mr. McLeod motioned to move Amendment #16 to Town Warrant inserting the word “electronic” in front of “changeable copy.” Mr. Kolodziej seconded. Passed 7-0.

Amendment #17: Amend Section 705.1 Open Space and Landscaping Requirements. Discussion: Amendments #17 and #18 are related and being discussed together, goal is to protect aquifers from harmful run-off, MBTE, etc. Mr. Dubay spoke as member of the public: questioned definition of “service” station, effect of this change on productive tax base, suggested restricting proximity to surface water only. Mr. Carpenter motioned to move Amendment #17 to Town Warrant. Mr. McLeod seconded. Passed 7-0.

Amendment #18: Amend Section 605.1.4 and Amendment #19: Amend Section 606.1.7. Mr. Carpenter motioned to move Amendment #18 and #19 to Town Warrant without the term “Amendment #19.” Mr. McLeod seconded. Passed 5-2. Mr. LoChiatto and Mr. Kolodziej opposed.

Mr. Kolodziej motioned to adjourn. Mr. McLeod seconded. Passed 7-0. Meeting adjourned at 11:30 pm.

These minutes are in draft form and have not yet been reviewed and approved.

Respectfully submitted, Nancy Charland