

## PLANNING BOARD MINUTES

September 13, 2006

### ROLL CALL:

Phil LoChiatto, Chairman – Present	Ruth-Ellen Post, Vice Chairman – Present
Nancy Prendergast, Secretary – Present	Walter Kolodziej, Regular Member – Excused
Ross McLeod, Regular Member – Excused	Pam Skinner, Regular Member – Present
Neelima Gogumalla, Alternate – Excused	Rick Okerman, Alternate – Present
Margaret Crisler, Selectmen Member – Excused	Alan Carpenter, Selectmen Alternate – Excused

### STAFF:

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

*Mr. LoChiatto opened the meeting at 7:30 pm. Mr. Okerman replaced Mr. Kolodziej.*

### MINUTES:

- Ms. Prendergast motioned to approve the August 23 site walk minutes. Mr. Okerman seconded. Passed 5-0;
- Ms. Post motioned to approve the August 23 minutes as amended. Mr. Okerman seconded. Passed 5-0;
- Mr. Okerman motioned to approve the August 16 minutes. Ms. Post seconded. Passed 4-0-1. Ms. Skinner abstained;
- Ms. Prendergast motioned to approve the August 30 minutes. Ms. Post seconded. Passed 5-0.

### SIGN PERMITS:

- Windham Pilates, 33 Rockingham Road, replacing the Video Express sign. Discussion: Unauthorized sandwich board sign, use a dark background with light letters, and the applicant needs to attend the meeting.

### OLD/NEW BUSINESS:

- Ms. Skinner, CIP Committee: The road agent, transfer station, and school have presented to the CIP.

### CORRESPONDENCE:

- Letter from Herbert Associates requesting to continue the Village Center District discussion, the Novick Subdivision hearing, and the Mammoth Road/Portions of Rt 111 Waterline discussion;
- Letter from Samuel Nassar requesting a response to his letter of September 9, 2006;
- Letter from Al Turner regarding recent ZBA approvals in regards to the WWPD. Discussion: More information is needed, argument before the ZBA was that they were three lots of record, all require Special Permits, there is a 30-day deadline to appeal, the Board will discuss at next week's workshop meeting, staff will develop a "staff report" regarding this, Conservation Commission saw the plan for one home not three, and the Board needs to understand why the variances were granted;
- Letter from Benchmark Engineering requesting to withdraw the 90 Indian Rock Road hearing;
- Fax to Attorney Campbell asking him to review and respond to a letter from Attorney Gregory Michaels regarding the Windham High School Operations RSA 674:54 (maps attached). Discussion: When will construction begin, staff will follow up with Attorney Campbell, Board viewed maps of the area dated June 12, the letter states that no Planning Board's hearings are necessary, during the road layout meetings the Board could only make recommendations to the Selectmen, and the Board is just being notified;

Ms. Prendergast motioned to grant the request to continue the Village Center District discussion, the Novick Subdivision hearing, and the Mammoth Road/Portions of Rt 111 Waterline discussion to September 27. Ms. Post seconded. Passed 5-0.

## **PUBLIC MATTERS**

### **Haffners Site Plan – Public Hearing**

#### **48 Lowell Road – lot 20-E-252**

Mrs. Hebert: The applicant is proposing to add a 30,000 gallon propane tank to the existing site, the Board's concerns at the conceptual discussion were in regards to safety, the fire department has reviewed the fire safety analysis, the property is in the rural district, the addition required another variance which was approved, and the plan is complete for public hearing. Ms. Prendergast motioned to open for public hearing. Mr. Post seconded. Passed 5-0.

Mrs. Hebert: Development issues include screening, traffic circulation, and requesting five waivers as follows: 1) Section 500 which requires that the plans and supporting materials be submitted in electronic format on a CD as a Pdf file. Their reasoning is that they don't have access to this technology and the site changes are minimal; 2) Section 701 which requires that a plan be submitted depicting the existing contours at two foot intervals. The applicant is requesting a waiver because the proposal to add the propane tank will not affect the topography of the property; 3) Section 704.1 which requires that the soil types be identified by a certified soil scientist recognized by the State of NH. The applicant's reasoning is that they are not doing anything with the soils on the property and would like to waive this requirement; 4) Section 703.3.1 which requires the following statement be noted on the plan set "Note: No structure may be erected nor shall any alteration of the surface configuration of the land be permitted in the Wetlands Watershed Protection District. (WWPD)" The applicant does not state why a waiver has been requested and staff would like the note added to the plan; and 5) Section 1001 which requires that the construction sequence and temporary erosion control measures must be shown on all site plans. Prior to all road and site construction, all erosion control and storm water drainage facilities must be built and stabilized. Staff would like erosion controls on the final plan set. Discussion: ZBA decision states "to permit the expansion of the non-conforming use," the fire department stores hazardous materials equipment on site, the propane tank needs to meet standards and inspections to be done before it could become operational, and not many department comments received even though they were requested.

E. Haffner Fournier, president: Does not have any new information from the last meeting, has spoken to the fire chief and has his approval, has met with Mr. Turner in regards to screening, has met with the neighbors, and will have a double row of trees as a screen. Regarding waivers: Waiver of Section 500, he is requesting this waiver because he does not have that type of computer program, not changing anything except the stations. Discussion: The drawings can be made electronically very easily. Mr. Fournier: Waiver of 701, no changes to the contours are being made; Waiver of 704.1, he is not doing anything that hasn't already been done before for the previous site plan, and he has removed tanks and cleaned up the whole site. Discussion: The land has been certified by a soils scientist, and nice job cleaning up the property. Mr. Fournier: Waiver of Section 703.3.1 is not doing anything in that area and the note will remain. Waiver of Section 1001, no erosion controls are needed because it is on the same grade but it is okay to put that in. Mr. LoChiatto read the comments from the Conservation Commission.

Ed Anderson, Education and Safety Training Associates: Prepared the fire safety analysis for the property, there is no propane containment, it does not spill, leaks become a vapor, containment is not an issue, every opening on the container has internal valves, valves will close in case of an accident, it is a retro fit requirement, the fire safety analysis is a requirement since 2001, he reviewed the analysis, there is 20,000 gallon cistern approximately ½ mile away, he stated that the fire chief says there is a 4 minute

response time and the fire fighters have been trained in hazardous materials, and Mr. Anderson gave his background in this field. Discussion: What would happen if someone were to shoot at the tank with a rifle? Mr. Anderson: Stated it would not likely do much but put a dent, and the tanks are sturdy. A BLEVE would be a worse case scenario which hasn't happened in this country in a long time because of the safety features used, if a BLEVE were to occur the heads would not come off, they come apart when they are flame impinged, as long as there is liquid behind the steel, the steel will not weaken, it is a fairly common installation, and the propane tank referenced in the report that could rocket-type projectile is a 80-100 gallon tank not a 20,000 gallon tank. Discussion: The research in the report (page 7) contradicts Mr. Anderson's statements in regards to a BLEVE.

Public input from Carolyn Webber, Cobbetts Pond Road; Todd Spencer, 50 Lowell Road; Amy Spencer, 50 Lowell Road; Bruce Breton, 20 Searles Road; Jess Dery, 52 Lowell Road; What about armor-piercing steel-jacketed bullets? Would that cause a fireball? And how far would that reach? Would like to see a letter in the file that says the fire department could handle anything that could happen at this site. Documentation on the EPA's website states a .4 mile radius explosion, is there a percent of the fail/safe not working, is the Town of Windham ready to fund an evacuation? What about if the pipes break? How is the fire department notified of a problem at the site? Appreciates the trees but it doesn't make her feel safe for her family, moved to Windham to be safe and that is not occurring at this point, the neighbors are residentially zoned, feels unsafe and afraid to live in her house. The whole site is up for evaluation, non-conforming use granted by a variance, continue the meeting to get all the department comments, if a tank is pierced and catches fire what happens if the fire goes towards the oil storage? The cistern is ½ mile away and would leave the town unprepared for another emergency, have the Emergency Management Committee at the next meeting, and fearful of living so close to the tank

Mr. Anderson and Mr. Fournier responded to the public input: yes an armor-piercing steel-jacketed bullet would penetrate, has no way to answer the fireball question, normal evacuation is ½ mile, if propane tanks were that much of a problem they would not be at the schools, has not heard of any of the new fail/safe valves failing, if the pipes break it may ignite but then would go out, the site is all self extinguishing, and the abutters are quite a distance away.

Discussion: No letter from the fire department, fire department was at the engineering meetings and they have their own inspections that need to be done, and should get something in writing from the fire department. Mr. Fournier: Would not come before the Board if it were not safe, and mentions the schools because they have propane tanks near them. Mr. LoChiatto reviewed the July 12 minutes. Discussion: Staff to get something from the fire department to give security to the abutters, discussed the NFPA-58 minimum distances required (page 23 of the Fire Safety Analysis), fire department has a key to the gate, pneumatic shutoff turns off everything and placed where the fire department wants it, and showed the traffic patterns for getting on and off the site. Mr. Fournier agreed that the site will not be used at night. Discussion: The July 12 meeting states the hours of operation to be 6:00 am-6:00 pm, need comments from fire department, emergency management and the police department, and consequences of something going wrong could be catastrophic.

Ms. Prendergast motioned to continue to September 27 for the purpose of receiving information from the fire department, emergency management, and the police department. Ms. Skinner seconded. Passed 5-0.

**9 & 11 Rocky Ridge Lot Line Adjustment Plan – Public Hearing**  
**9 & 11 Rocky Ridge Road – lots 17-J-100 & 100A**

Mrs. Hebert: Originally approved with a condition that the properties remain seasonal, would like to

reconsider and become year round on lot 100A, would like to tear down the house and put up a new home, the property has a state approved septic system, has permission from the Selectmen and the appropriate variances have been received from the ZBA. Mrs. Hebert read the motion for the original approval from the minutes for the lot line adjustment which states the properties are to remain seasonal. Staff feels that application is ready for review. Ms. Prendergast motioned to open the public hearing. Ms. Post seconded. Passed 5-0.

Mr. Joseph Maynard, representing Roland and Nancy Shrull, owners of lot 17-J-100A: Minutes do state that the lots are to remain seasonal, the recorded plans say they need to come back before the Board for change from seasonal, septic system has been approved without any state waivers, has all the proper variances, and this is the last loop hole before they can start construction. Discussion: Variance granted on March 14, 2006, pertains only to lot 100A, the building will be torn down and replaced, and new dwelling will be more centered on the lot. Mr. LoChiatto reread the motion for the original approval from the minutes for the lot line adjustment.

Mr. Maynard: The Planning Board does not govern seasonal to year-round use, not sure why the condition was placed, the lot line adjustment was an equal land swap to resolve that one of the cottages was built over the lot line, and the town has an ordinance as to how to convert from seasonal to year round.

Discussion: Regulations regarding a shared septic system, have permission from the Selectmen to build on a Class VI/Private Road, and the public hearing is only to remove the condition. No public comment. Mr. Maynard: The new dwelling is outside the 50' shoreland protection. Discussion: The existing structure is 1 ½ stories, will be 1 ½ with a walkout basement, applicant is working with the neighbors not to block the abutters view, the existing structure is being torn down, the state has approved the septic without waivers, and has proper variances and proper releases from the Selectmen.

Mr. Post motioned to approve the application for conversion of house on lot 17-J-100A from seasonal to year round use as it already has a state approve septic system design with out waivers, has received the proper variance and proper releases from the Selectmen. Discussion: Not looking for a conversion and the motion was withdrawn.

Ms. Prendergast motioned to grant the request of the removal of the existing seasonal restriction (note #6) on plan D-31269 as the requirements for such conversions are detailed in Section 1200 of our zoning ordinance. Ms. Post seconded. Passed 5-0.

Mr. LoChiatto thanked Mrs. Hebert for her service to the Town and wished her luck in her new position.

### **Freda Hardware Change-of-Use – Public Hearing** **4 Ledge Road – lot 11-A-165**

Mrs. Hebert: Site plan review for 4 Ledge Road which houses an existing refrigerator storage facility, the proposed use is for 2000 sq. ft. of retail and 3750 sq. ft. office space, the retail use is for the hardware store and the applicant is proposing two office rental units, the property is in the Industrial District which allows for 500 sq ft of retail, the ZBA granted a variance to allow the 2000 sq ft of retail space, and a variance was granted to permit an addition to the building, and an equitable waiver also granted, Mr. Freda will renovate the building as shown on the plans, pavement is existing, will cut back on the gravel that encroaches the lot, may want to consider screening along the lot line, proposing to establish a swale along the side of the driveway, regrade the swale and shoulder along the road and widen the driveway, fire department requests a cistern be on the property, they have gases (helium and

propane) for distribution, waivers have been request, and the plan is ready for public hearing. Ms. Prendergast motioned to open the public hearing. Mr. Okerman seconded. Passed 5-0.

Discussion: The driveway is at the limits for the fire department, the cistern will be located where the fire department wants it, there will be changes to the façade and roof, existing pavement is in terrible shape, parking spot #16 should be relocated, department comments have been included in the staff comments, there is sheet drainage and the swale will help, the drainage has been signed and stamped by Jack Szemplinski, and Mr. Turner was on the site during a rain storm.

Mr. Maynard, Benchmark Engineer: Stated the building was built in 1978 prior to stormwater management, no more impervious surfaces being added, sheet flows towards Ledge Road, will be cleaning and regrading the road site ditch, has worked with road agent, there is no additional runoff from the site, and it is a stabilized site. Discussion: There are no requirements for stormwater treatment, it is highly encouraged, and it is a small parking lot. Mr. Maynard: The lighting will meet the ordinance, the business closes by 8:00 pm and the lights will go out, and the lighting is dark sky compliant.

Mrs. Hebert reviewed the waivers requires: 1) Section 607 which requires the plan be stamped by a registered professional engineer or land surveyor. The applicant would like to waive this requirement because they are referencing previously stamped surveys to develop the site plan; 2) Section 704.1 which requires the soil types be certified by a soil scientist. The Site plan is not proposing any new septic systems and would like to waive this requirement; 3) Section 702 which requires that trees greater than 12" in diameter be located on the property. The applicant is requesting to waive this section because no trees will be cut on the property for the change of use; and 4) Section 913 which requires that the applicant submit a drainage study. The applicant would like to waive this because there are no additional impervious areas proposed on the property. Discussion: The septic is designed for so many gallons per day and then it is made sure that the new use does not increase the intensity, and the septic is reviewed before the building permit is issued.

Mr. Maynard: Further discussed the septic system, the septic is oversized for the former use, it is a pipe and stone system, it has never had a heavy use, the size will meet what is being proposed, there has never been a problem with the system, there will be a 32' x 40' addition and a farmer's porch, business parking spaces along the front, and employee parking spaces along the rear, the driveway is steep, there is access to the property from the abutters, 1000 gallon propane tank with safety features will be 25' from the lot line and from the building with a bollards in front of it, 10,000 gallon cistern on site, a knox box will installed on the building and cistern, will be doing the swale work as directed by staff, the first 40' of the driveway will be improved for access, all variances have been received, he reviewed the requested waivers, the propane tank is partly on pavement and partly on gravel, the existing Freda Hardware sign will move to the new site, it will meet the height requirements, and the sign will be reviewed at another time. Discussion: Storage container in the back for dry storage, there will be all new lighting, bollards will be in front on the propane tank, the location of the tank is 25' off the lot line and from the building, knox box notes are on the plan, the building will be clay colored vinyl sided with black shutters and architectural shingles, and the roof it pitched.

Jim Freda, owner: Discussed the shutters on the building, and would like to shutter the whole building.

Ms. Prendergast motioned to grant the waiver request for Section 607 because the plans are already on file. Ms. Post seconded. Passed 5-0.

Ms. Prendergast motioned to grant the waiver of Section 704.1 because they are not proposing any new

septic systems. Ms. Skinner seconded. Passed 5-0.

Ms. Prendergast motioned to grant the waiver of Section 702 as they are not cutting any trees on the property. Ms. Post seconded. Passed 5-0.

Ms. Prendergast motioned to grant the waiver of Section 913 because there are no proposed additional impervious surfaces and they have their drawings signed and stamped by a professional engineer that has reviewed the drainage. Ms. Skinner seconded. Passed 5-0.

Discussion: Fire department requests, moving of parking space #16, and fixing the paved areas.

Ms. Prendergast motioned to grant the requested change-of-use with the following conditions: 1) All state, local and federal approvals shall be received prior to the issuing of a building permit; 2) Erosion control notes should be added to the plan; 3) The applicant shall include pipe bollards according to the fire department to protect the propane storage area from the vehicles and the parking space numbered #16 shall be relocated away from the propane enclosure; 4) The proposed dumpster shall be enclosed with stockade fencing; 5) The final plan shall address all of the Fire Departments comments outlined in the August 1, 2006 request for comments response form. Which are outlined as follows: a) The 10, 000 gallon fire cistern shall be relocated from the right rear corner of property to right front corner so it will not cause safety concern for firefighters or apparatus during potential fire emergency to building or LPG filling station; b) LPG filling station needs to be located in accordance with NFPA 58 and the drawings be updated with the locating dimension; c) Renovations shall adhere to all NFPA 58 and NFPA 72 requirements; d) A manifest of all combustible, non-combustible gas storage shall be submitted once facility is operational; e) The applicant shall submit detailed floor plans illustrating where all chemicals gases and toxic storage will be kept; f) The applicant shall install a knox box on the building and on the fire cistern to allow access by fire department in the event that entry is required after hours; 6) Note #17 will be modified by deleting "existing lighting to remain"; 7) The building will be vinyl sided, color will be clay with black shutters and architectural shingles will be used; 8) Work with Staff on repairing as necessary existing pavement; 9) The proposed sign shall require a separate sign permit and shall not be approved by the planning board at this time. Ms. Post seconded. Passed 5-0.

**CORRESPONDENCE (continued):**

- Legal communication from Attorney Campbell regarding Windham High School Operation of RSA 674:54 in response to the letter from Attorney Gregory Michaels. Discussion: Two weeks needed to file for a public hearing, and Planning Board could have non-binding comments, but it is too late at this point.

Mr. Okerman motioned to adjourn. Ms. Skinner seconded. Passed 5-0. Meeting adjourned at 11:10 pm.

These minutes are in draft form and have not yet been reviewed and approved  
Respectfully submitted, Nancy Charland