

## PLANNING BOARD MINUTES

January 3, 2007

### ROLL CALL:

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| Phil LoChiatto, Chairman – Present           | Ruth-Ellen Post, Vice Chairman – Present      |
| Nancy Prendergast, Secretary – Present       | Walter Kolodziej, Regular Member – Present    |
| Ross McLeod, Regular Member – Present        | Pam Skinner, Regular Member – Present         |
| Neelima Gogumalla, Alternate – Not Seated    | Rick Okerman, Alternate – Not Seated          |
| Margaret Crisler, Selectmen Member – Excused | Alan Carpenter, Selectmen Alternate – Excused |

### STAFF:

Al Turner, Director of Planning and Development – Present  
Shaun Logue, Town Planner – Present

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

### MINUTES:

- Ms. Prendergast motioned to approve the December 20 minutes as amended. Ms. Post seconded. Passed 4-0-2. Mr. LoChiatto and Mr. McLeod abstained;
- Mr. McLeod motioned to approve the December 6 minutes as amended. Ms. Prendergast seconded. Passed 6-0;
- Mr. McLeod motioned to approve the November 29 minutes. Ms. Prendergast seconded. Board discussion: Mrs. Crisler had comments at a previous meeting. Passed 6-0.

### BONDS:

- Johnson Street, bond reduction, release \$19,740 and retain \$13,260. Mr. McLeod motioned to approve the partial release. Ms. Post seconded. Passed 6-0;
- Glance Road, final release of \$26,202. Mr. McLeod motioned to approve the final release and recommend that the Selectmen hold a public hearing to accept Glance Road as an official town road. Ms. Post seconded. Passed 6-0.

### SIGN APPLICATION:

- 17 Mammoth Road landscaping business sign permit. Mr. Turner: Presented that the sign has been brought into compliance, and has solid black with lighter lettering. Discussion took place concerning sign illumination, and the sign is not located on a plot plan. The Planning Board directed staff to inform the applicant and to bring back information to the next meeting.

### CORRESPONDENCE:

- Letters from Attorney Campbell regarding the expiration of variances;
- ZBA notice regarding Great Mountain View January 9 hearing. Mr. Turner will represent the Planning Board at the meeting;
- Letter from Dan MacRitchie, Great Mt View, regarding January 9 ZBA hearing;
- Letter from the State of NH regarding a traffic impact study and scoping meeting;
- Letter from PSNH regarding the 2006 NH Economic Review;
- Letter from Herbert Associates regarding the Terra Bella cul-de-sac. Board discussion: Board input is needed, cul-de-sac location, and approved as temporary but the Board may require a roundabout. Mr. McLeod motioned the subdivision stands as approved as a temporary cul-de-sac. Mr. Kolodziej seconded. Board discussion: More information needed, its use as a traffic calming measure, and topography. Passed 5-1. Ms. Post opposed.

**PUBLIC HEARINGS:**

**Antista Subdivision – 2 lots – Public Discussion**

**75-77 Meetinghouse Road, lot 9-A-1100**

Mr. Turner presented that the applicant is proposing a two lot subdivision with an existing driveway and house on 10 acres, a driveway easement is needed, located the WWPD, and no waivers requested.

Karl Dubay, MFH Design: The parcel is 10 ½ acres, in the aquifer protection, both lots will be 5 acres in size, the WWPD impact is for the driveway, there is good soils on the property, there are previously disturbed areas, new driveway will be 700' long and will be mostly gravel, they will keep tree canopy over the driveway, septic plan is designed, there are easements for the driveway and well radius, there is good sight distance out front, fire department requested a paved turnaround area and to maintain a clear area around the turning stub, no state permits are needed except for the septic, will be a 4 bedroom house, the driveway is at grade, has met with the Conservation Commission and they had no negative issues, and one waiver is required. Board discussion: Emergency vehicles turn around access location, and fire department has input for driveways over 100' long.

Public comment: Ruth Licata, 83 Meetinghouse Road; and Stephen Whipple, 107 Nashua Road: Concerned about the location of the new house, driveway and the wells, location of the septic system, how many stories will the building be, and will the tree lines be kept. Mr. Dubay responded: Explained the location and re-vegetation of a buffer, there will be deeded protective well radius, explained the location of septic and well, there is no room for more homes, the septic is approximately 200' away from Mr. Whipple's home, the home will be two stories with walk-out basement, there will be 85' of tree buffer.

Board discussion: Plans say it is a 3-bedroom home, the septic plan shows 4-bedroom, driveway easements and parameters, and requested staff to send the plan out for public comment.

**Bauchman Site Plan – Public Discussion**

**120 Haverhill Road, lot 9-A-400**

Mr. Turner: This property has been involved in a law suit, the judge ruled that it is not a commercial building, no vehicles are stored on the property based on court testimony, the towing trucks can be stored at night, the decree has been violated, he has been towing, repairing and storing vehicles night and day, he has 4 employees on the site, and per the decree had 30 days from November 29, 2006 to remove all vehicles, the applicant still wants to go forward with a new addition even with the court action, wants to get a variance to allow the business, and the current zoning is rural. Mr. Turner distributed a copy of the court decree to the Board.

Brian Bauchman, 120 Haverhill Road, owner: The ZBA has not made a decision, he is allowed to run the towing business, has not repaired vehicles since August of last year, has been trying to straighten this out since 2001, he can work on his own and family vehicles, and is trying to get straightened out for repairing and storing of vehicles. Board discussion: The Board does not have much say on the court rulings, the zoning is rural and this is not an allowed use, what is the applicant looking for from the Board. Mr. Bauchman: Withdrew ZBA application without prejudice. Through the court order he can run the towing business, bought the property in 1993, Frank Keefe (former Code Enforcement Officer) okayed the business back in 1993, was supposed to put a 50' x 50' building. Mr. Turner: Respectfully disagreed with Mr. Bauchman. Board discussion: Stick to the addition and not the court order.

Peter Zohdi, Herbert Associates: Mr. Bauchman needs a variance, he wants to repair vehicles, it is under dispute but will work with the staff, he currently cannot repair or store any cars there, would like to go to the ZBA for storing and repairing, looking for a denial to get a variance, he showed the location of the building and driveway, proposing a chain link fence and plantings, the proposed parking area is away from abutters, there is an existing house on the site. Mr. Turner: A 100' buffer for all buildings and parking lots is required from a residential zone.

Public comment from: Joe Collins, 9 Galway Road; Mark Snyder, 5 Galway Road; Don Bergstressor, 11 Galway Road: The property abuts residential property, it is not a legitimate business on the property, allowed to construct garage to house 2 towing vehicles in the event he had to tow vehicles in the evening, not allowed to conduct a business or have employees, property is zoned rural, concerned with noise and odors, can smell diesel fuel, concerned with the large Shepard dog coming onto his property, there is no commercial property along this portion of Rt 111, it is an illegal business, Mr. Bauchman is providing false statements, there is plenty of commercial property in Town and the business should be relocated, moved to Windham for the serenity not for a towing company behind him, need to maintain our zoning, a family on Kendall Pond Road was given a cease and desist, what is the difference? why has Mr. Bachman not stopped and why aren't cars being towed off his property at his expense, expanded the business and now has 11 large tow trucks, he repairs vehicles, there are truck lights and noise from the site, abutter has reported smoke from the site to the fire department, has been violating the current court order, has expanded the use, letters have been sent to Mr. Bauchman regarding illegal repairs, the addition would exacerbate the illegal business, environmental concerns for leaking vehicles, ten year old problem, Mr. Bauchman advertises in various places for his business, needs a commercial variance, and it is not the right thing to do.

Mr. Turner: Prior Code Enforcement Officer initiated the court action and now he is following it through, have a file for this property, used Mr. Bauchman's ZBA testimony in court, the next court action will be to gather more evidence to put a stop to this.

Public comment continued with Bob Young, 115 Haverhill Road: Has not encountered any problems with the operations of the business.

Sgt Michael Caron, Maintenance supervisor of Windham police department: Police department used to use Bauchman until the cease and desist, the vehicles were secure, the work was done promptly, the police department would use them again, and he is not representing the police department.

Tom McPherson, fire chief: On the fire department for 27 years, has not had any environmental issues for the fire department with Mr. Bauchman, the fire department would work with him in the future if approved, and there have been no environment or hazardous materials issues from the property.

Don Berggestresser, 11 Galway Road: Asked if any testing has been done to the property for hazardous materials. Chief McPherson: Stated he has no authority to test private property.

Board discussion: Not an allowed use in the zone, and needs to go to the ZBA.

**Pesando Subdivision – 2 lots – Public Hearing  
off Bear Hill Road, lot 20-E-135**

Mr. Turner: Proposed 2 lot subdivision with a portion to be dedicated as open space, a variance was granted in 2005 and clarification was issued in 2006 by the ZBA, the variance still valid, there is an

existing 50' right of way, there is a cistern included, and it meets the requirements for a public hearing. Mr. McLeod motioned to accept for public hearing. Ms. Post seconded. Passed 6-0.

Mr. Turner: The location of the property is near the Gage Lands, there is a trail along the right-of-way by the boy scouts, proposed land will need to meet Section 674.41 and to get permission from the Selectmen that the road will not be maintained as a town road, a special permit is requested, the wetlands have been mapped, WWPD means Wetlands and Watershed Protection District, and staff have recommendations of approval.

Board discussion: Existing cistern is not a good design, it should be a functional modern system, the existing Bear Hill Rd is not accepted as a town road, the variance was clarified by the ZBA in March 2006, the Code Enforcement Officer's decision has precedence, and the height of the retaining wall is 27" above the road.

Peter Zohdi, Herbert Associates: The 50' right-of-way to the Gage Lands has not been deeded to the town as of yet, it will be given to the town and recorded at the Registry of Deeds, have all approvals from ZBA, NH wetlands bureau, NH DES, and Conservation Commission, proposing 2 lots, town will own the right-of-way, agreed to 30' no cut zone from property line on lot 20-E-135, cistern is not in working condition and agreed to construct a new cistern, agreed to give a pull in and pull out area for the fire department, and the WWPD shown on the plan. Discussion with Mr. Zohdi: The retaining wall will be a large box system designed by a structural engineer, the driveways can be brought together and would have less disturbance, separate the driveways at the edge of the WWPD and houses do not need to be sprinkled.

Public comment from Rick Okerman, Planning Board Alternate Member: Do we need a lknnox box for the cistern. Mr. Zohdi: All cisterns have knox boxes. Discussion with Mr. Zohdi: The cistern cannot be moved, a new cistern needs to be built, and the berm embankment condition does not need to be a condition of approval. No further public comment. Mr. LoChiatto read the department comments, and the comments have been met by the plan. Board discussion: Work with Trails Committee, and Mr. Zohdi agreed to relocate the trail.

Mr. McLeod motioned to approve the Special Permit as consistent with our WWPD zoning and pattern and practice of subdivision approval. Mr. Kolodziej seconded. Passed 6-0.

Mr. McLeod motioned to waive Section 605.3 of the Subdivision Control Regulations given that a comparable variance has been granted by the ZBA and due to the unique features of the subdivision. Ms. Post seconded. Passed 6-0.

McLeod motioned to approve the Pesando Subdivision with the following conditions: 1) The applicant shall coordinate with the Windham Fire Department to finalize the location and installation of a cistern that meets all codes and requirements reflecting the same on the subdivision plan; 2) All property bounds that are adjacent to town property or rights-of-ways shall be marked with Granite (4" Sq. x 36" Long) and shall be installed level with the final grade. All other corners shall be marked with permanent boundary markers (stone or iron); 3) Plantings shall be required in order to revegetate disturbed areas, but it is not clear until construction starts the number of trees and shrubs that will be replaced. The applicant should work with Planning staff during construction to assure proper replantings; 4) The road shall have a performance guarantee in the form of a bond or letter of credit prior to recording of the final plans; 5) Two granite markers on the sides of the start of the trail as it diverges from the shared driveway indicating that the shared driveway is the beginning of the trail leading to the Gage Land should be

placed at Bear Hill Road similar to those markers approved for use on Candlewood and Canterbury Road; 6) All state, federal and local approvals shall be received prior to the start of construction and recording of the plans; 7) Stone walls should either be retained in place, relocated or stockpiled for future use; 8) Building permits for new construction will not be issued until the requirements for emergency water supply have been met per NFPA 1, as amended, and NFPA 1142, standard on water supplies for suburban and rural fire fighting. These requirements will be implemented by the Town of Windham Fire Chief or his Designee; 9) Applicant shall provide to the Town, prior to the start of construction, evidence that adequate cable, telephone, and electrical service are available to service the proposed development and a plan shall be submitted illustrating the proposed location of these utilities service within the public-right-of-way or utility easements; 10) Applicant is to supply a warranty deed for the road and a certificate of title, which shall be reviewed by Town Council. All legal fees for the Town Attorney will be paid by the Applicant; 11) Individual homeowners' within the subdivision who install irrigation systems will be required to install rain sensors and timers to prevent over-watering; 12) The house address numbers and parcel numbers shall be approved by the Town Assessor prior to recording the plans; 13) The Applicant shall consult a NH certified structural engineer and the town consultant to construct a retaining wall with a minimum finish top of 27" above the edge of the pavement where the wall is within the right-of-way; 14) A vegetative buffer or no cut area should be implemented between lot 20-E-135 and lots 20-E-138 & 139 on Bear Hill Road; 15) Run a single shared driveway from Southgate Drive, along the property line to the edge of the WWPD, at which point the driveway will evolve into two divergent driveways that continue on to the respective garages; 16) Work with the Trails Committee and staff to relocate the trail. Ms. Prendergast seconded. Board discussion: Needs to be a NH certified structural engineer. Passed 6-0.

### **Willows Site Plan – Public Hearing**

#### **Mammoth Road / Rt 128, lots 14-A-925 & 930**

Mr. Turner: Proposed 21 unit elderly housing development, the applicant received a variance on January 10, 2006 for the zoning, has met the one year requirement for the variance, the application complies with our regulations and is ready for public hearing. Ms. Prendergast motioned to open for public hearing. Mr. McLeod seconded. Passed 6-0.

Mr. Turner: Showed the location of the property on the map, showed the proposed driveways and building locations, and wetlands on the property, the Board had a site walk on this property, it is not in the aquifer protection, the following reports have been completed: a drainage report, an aquifer determination study, wetlands delineation, and soils survey. The density calculations have been reviewed and 21 bedrooms are allowed on the site, Cobblestone Road is the abutting neighborhood which has single family homes, a Special Permit is required, WWPD will be impacted by the walking trail which is an allowed use for the WWPD, there will be benches and a gazebo, the trail will connect to the Waterhouse Convenient Store, the Warehouses will be updating their site and will incorporate the trail from their site, the State requires that the site is located in an area that is convenient for the elderly, the applicant submitted a book of materials that shows how they comply with the requirement, it's currently 2 lots, want to merge the lots, the road off of Cobblestone Road is approximately 400' long with a turnaround, and he read the staff recommendations from the project review sheet.

Peter Zohdi, Herbert Associates: 18 units will be 1 bedroom, and 3 units will be 2 bedrooms.

Jim Gove, Gove Environmental Services: Has flagged the wetland area and did the soil mapping, it's a transition area and has a sandy overburden, showed areas that have been excavated, portions of the

property were graded and stripped of top soil, the wetland and the buffers have not been disturbed, and offered to answer any questions.

Jack Trembley, landscape architect: He is planning the landscaping for the site to fit the area, showed the three areas of screening, using native plants such as pines and birches, will use a mixed hedge, will use flowering trees along Cobblestone to fit the neighborhood, will use maples along Mammoth Road, the walking path will be mulched, a berm is not planned, and the stonewall will be maintained.

Mr. Zohdi: Offered to discuss the book and letter regarding the Zoning Ordinance requirements. Chairman: Because of the lateness of the meeting the Chairman would like to discuss this item at another meeting, but would like to hear from the public.

Public comment, Bill Irwin, 5 Cobblestone Road: Asked about who would be responsible for the landscaping maintenance, and where will vehicles be stored be on the property? Mr. Zohdi: As per Section 610.8.1 there will be condominium documents which will describe a condominium association and the use of an outside landscaping company, the development is for 55 years old and older, another site does not have a van, no one at Whispering Winds and Windham Meadows has campers or RVs parked on site, they park them elsewhere, and an area was provided at another site for RV parking which has not been needed as yet.

Joe Husson, 3 Cobblestone: Asked what the Board felt after their site walk, does this development fit the neighborhood, and can a study be done to see if the development will bring down the neighboring house values. Board discussion: The Board had a site walk on October 14, the Board is not qualified to know about the devaluation, Mr. LoChiatto read the site walk minutes, Mr. LoChiatto read Section 610.8.3 of the elderly ordinance, can the Planning Board make the judgment about property values, and the burden is on the applicant to address the values.

Mr. Zohdi: Mr. Bergeron met with the Town Assessor and the Assessor has agreed to write a letter stating that the development will not damage neighborhood values. Board discussion: The Board can make sure that the neighboring properties values are not damaged, is the Board qualified to determine property values, and this Board can make a qualitative assessment.

Mr. Kolodziej motioned to continue the meeting to January 17. Mr. McLeod seconded. Passed 6-0.

Mr. McLeod motioned to adjourn. Mr. Kolodziej seconded. Passed 6-0. Meeting adjourned at 10:55 pm.

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