



*OLD VALUES - NEW HORIZONS*  
**COMMUNITY DEVELOPMENT**

PO Box 120, Windham, New Hampshire 03087  
(603) 432-3806 / Fax (603) 432-7362  
[www.WindhamNewHampshire.com](http://www.WindhamNewHampshire.com)

**Planning Board Minutes 10/06/10**

**Roll Call Planning Board:**

Phil LoChiatto, Chairman – Present	Rick Okerman, Member – Excused
Nancy Prendergast – Vice Chair- Excused	Ruth-Ellen Post, Member – Present
Kristi St. Laurent, Member –Arrived @ 8:05	Sy Wrenn, Alternate – Excused
Pam Skinner, Member - Excused	Bruce Breton, Selectman Member – Present
Louis Hersch, Alternate - Excused	Lee Maloney – Alternate - Excused
Bruce Richardson – Alternate –Present	Ross McLeod, Selectmen Alternate Member – Excused

**Staff:**

Laura Scott, Community Development Director – Present  
Elizabeth Wood, Community Planner - Present  
Tracey Mulder, Planning Assistant – Present

Seated for Nancy Prendergast is Bruce Richardson.

**Chair LoChiatto opened the meeting at 7:00PM followed by the Pledge of Allegiance.**

**Site Plan Application Revision**

B&H Oil (32 Indian Rock Road 16-D-450)

Ms. Scott noted that this item is before the Planning Board to review the change to the size of the canopy from what was originally approved. This change is due to the size of the structural I-beam for the canopy, which will make the canopy larger, as well as the sign on the canopy larger. Although this change is minor, the Building Inspector did not want to allow the construction of the canopy to continue without Planning Board agreement.

Mr. Peter Zohdi, of Edward Herbert and Associates addressed the Board noting the size of the fascia is larger than anticipated, although still within the guidelines, and they are appearing before the Board to request this small change.

Chair LoChiatto indicated that the question before the Board is whether this change should be allowed with consent of the Board or if it should be classified as a Minor Site Plan change. Ms. Post thought that perhaps it could be considered a Minor Site Plan change and wanted to discuss further.

Mr. Richardson said that the change to the size of the sign does not make any appreciable difference and did not consider this a Minor Site Plan change.

Chair LoChiatto polled the Board to determine if this change meets the intent of the approved site plan without being considered a Minor Site Plan change. The Board agreed this change was minor in nature and does not need a Minor Site Plan hearing.

**Motion by Mr. Richardson to allow the Building Inspector to proceed with the building process of the building permit since it is such a minor discrepancy given that the change does not change the intent of the original Site Plan. Second by Mr. Breton. Motion passed 4-0.**

#### **Financial Release - Delpozzo Subdivision (7-A-1100)**

Ms. Scott noted that the Delpozzo Subdivision was a 2-lot subdivision on North Lowell Road that was conditionally approved in March 2003, with the plans signed by the Planning Board in June 2003. In April 2003, \$500 cash was given to the Town as a financial guarantee for the completion of a condition of approval for 'setting of bounds' per the March 10, 2003 Notice of Decision.

There has been no activity with this financial guarantee since its creation because the bounds were never set. Department staff contacted SFC Engineering, the original engineering firm for the subdivision, to complete the work. The work was completed September 2010. Ms. Scott is asking the Planning Board to recommend to the Board of Selectman to release the entire balance of this financial guarantee, principal plus any accrued interest, to SFC Engineering to pay for the completed work.

Motion by Ms. Post to make a recommendation to Board of Selectman to release the financial guarantee for Delpozzo Subdivision including principal and interest. Second by Mr. Richardson. Motion passed 3-0-1, Mr. Breton abstaining.

#### **Community Development Directors September Report**

Ms. Scott reviewed with the Board her September work accomplishments. The Board noted she has been very busy.

#### **2011 Town Meeting Workshop**

Chair LoChiatto read the Town meeting Workshop items into the record. Ms. Scott suggested that since she was working with Ms. St. Laurent on the Agricultural Ordinance, and Ms. St. Laurent had not yet arrived, if the Board would be willing to change the order of the workshop items to have Max % Bldg. coverage of lots as the first item and the Board agreed.

Ms. Scott said all of the Town Meeting items are on the Town's website, Planning Board page, prior to the meetings for the public, and copies are also available the evening of the Planning Board meetings.

#### Max % Bldg. Coverage of Lot - Appendix A-1

Ms. Scott said she included the definitions of the State Building Codes and the definition of structure but the only change she is proposing is on Appendix A-1 is to add note #15 which states "Building coverage of lot shall only measure buildings, as defined in Section 200, which are located on the lot". This change, Ms. Scott believes will clarify how building coverage percentage is measured to eliminate any confusion.

To clarify for the public the term building, Chair LoChiatto read the definition of building as defined in the 2009 International Residential Building Code, which is the building code used by the Town. Chair LoChiatto said as he recalls, the consensus of the Board from the last discussion, was that the term "Building" was defined as the residence or a building being occupied by a business and the term "Structure" is defined as a parking lot, small shed or sign. The Board concurred.

Ms. Scott reiterated the reason this came up as a topic is because she has had many questions from the public trying to understand the nuance between the two terms because in Town's Zoning Ordinance, the two terms

are interchangeable and she would like to clarify before there are any issues and to eliminate cases coming before the Zoning Board of Adjustment.

Mr. Richardson asked since the terms 'Building' and 'Structure' are considered interchangeable in the Zoning Ordinance, if this was going to be changed in this section. Ms. Scott said at this time she is not proposing the change as she would like to determine first, how this would affect other areas of the Ordinance and she will be looking into having this as a 2012 Town Meeting item.

Mr. LoChiatto said he would like to wait for the public hearing on this topic for public input and will wait to discuss percentages on Appendix A-1, as he is not certain the percentages are correct given when they were created.

**Motion by Mr. Breton to move Maximum percentage of Building Coverage, Appendix A-1 to public hearing. Second by Ms. Post. Motion passed 4-0.**

#### Continuation of Existing Uses - Sections 200 and 400

Ms. Scott noted that this is the second time this has come before the Board in a Town Meeting Workshop format. At the September Planning Board meeting, the Board made suggestions to this Town Meeting item, which she incorporated into draft language for the Board's review. There are three proposed definition changes in Section 200:

- Clarifying the term abandon
- Clarifying a non conforming use
- Creating a definition for non conforming structure

The Board read the definitions and requested to make changes to the wording under Abandoned/Abandonment. Ms. Scott clarified for the Board why she added the language regarding the property discontinuance and how a business would meet the threshold of abandonment. Mr. Richardson asked Ms. Scott to clarify how a 'structure' could be abandoned and if this wording should be removed. It was the consensus of the Board to remove the word 'structure' from this definition.

Under Section 400, Ms. Scott noted that she tried to define the difference between uses that are non-conforming and structures that are non-conforming. The Board decided to remove the word 'structure' in Section 403. In addition, in Section 404 the Board discussed what defined the term 'volume or area' with regard to setbacks and if the definition they discussed would trigger ZBA review. Chair LoChiatto noted that the intent of Section 404 is if the applicant has a situation where they need to rebuild, then they can rebuild their non-conforming structure in kind. The Board decided to change the language to read 'volume and area' to encompass the height and footprint of a non-conforming structure. In Section 406 the Board decided to change the wording "and lot frontage" to 'or lot frontage and the word 'existing' to 'current'. The Board asked Ms. Scott to reword Section 406.2 to make the language clearer to understand with respect to expansion and to read, "can only increase the volume or the footprint of the part of the structure that is in non-conforming of the surrounding zoning district".

Ms. Post requested that the word 'adopted' in Section 406.3 should be replaced with the word 'current'.

**Motion by Mr. Breton to bring the Continuance of Existing Use as amended to public hearing. Second by Mr. Richardson. Motion passed 4-0.**

The Board took a recess from 7:55 to 8:08.

The Agriculture Ordinance Section was moved to after Subdivision Regulation Workshop so that Ms. St. Laurent, who worked with Ms. Scott on the Ordinance and will arrive at 8:00PM, could contribute to the discussion.

Ms. Scott was excused at 8:00 PM to attend a CIP meeting.

**Kristi St. Laurent arrived at 8:05PM.**

### **Subdivision Regulation Workshop – Stormwater Management and Road Design**

Mr. Steve Keach, of Keach Nordstrom and Associates addressed the Board noting that at the last work session, he went over the complete draft of the road management and stormwater management sections of the subdivision regulations in detail and tonight he is coming before the Board with their recommended changes.

Mr. Keach said that copies of the proposed regulations were distributed to a number of Town employees on of which was Jack McCartney, the Town Road Agent, who was the only one who submitted feedback to Mr. Keach. Mr. Keach discussed an email he submitted to Ms. Scott providing an understanding and rationale behind the proposed changes to the regulations.

Chair LoChiatto thought in order to keep the meeting in a more manageable timeframe, Mr. Keach should address his three significant changes summarized in his email to Ms. Scott. Mr. Keach said he expanded on Section 602.2.3 to include an alternative to 'open drainage' cross section for Residential-1 (low volume) street construction. Mr. Keach read his revision of 602.2.3 and said in this section there are two points that need to be discussed 1) the number of vehicles per day; 2) curb options. Mr. Keach said that the number 200 for vehicles per day he proposed in the ordinance was an arbitrary number and could easily be changed to 400 vehicles per day and the curb options Mr. Keach proposed leaves the decision to the Board, not the applicant.

Mr. Richardson asked what qualifies a low volume road for sheet drainage that differentiates a low volume road from a high volume road needing closed drainage. Mr. Keach responded that for controlling drainage, it is grade of the road. For instance, roads that have steepness to them and generally, ditch lines over 6% are going to be susceptible to scour due to accumulated runoff.

Chair LoChiatto added clarification by noting that if you look at the definition of the Residential-1 road that has a width standard, and keeping in mind the Town has not built a collector road since he has lived in town for the past 10 years, the roads built in this town are Residential-1 and sometimes they end up being a thru way from one road to another. Two reasons this came up 1) with sheet drainage when there is open drainage, sheeting off the road its being treated by natural vegetation before it hits the drainage structure or outfall and providing better treatment of the water 2) when there is a curb, there is more pavement than with sheet drainage. Mr. Richardson said he understands the drainage explanation but he was questioning why the average traffic volume would be limited to 200 vehicles per day and that 400 made more sense and the Board agreed.

The Board had additional discussion about what types of roads are best suited for sheet drainage.

Mr. Keach discussed the difference between open drainage and closed drainage and he believes that open drainage is environmentally friendly. The current closed standards may not work in the Cobbetts Pond Zoning Ordinance and open drainage is environmentally superior and may be consistent with the high standards of this zoning ordinance.

Mr. Keach discussed Section 610.10 to include additional requirements pertaining to minimum content of stormwater management reports. This was done as a result of a conversation Mr. Keach had with the Town Road Agent, Jack McCartney, regarding the need to insure land development projects are not improperly blamed for causing what are often preexisting downstream drainage deficiencies prior to approval. Ms. Post wanted to know how far downstream they should be checked and wondered if there should be guidelines and Mr. Keach said this should be on a case-by-case basis. Chair LoChiatto said this would need public input.

Mr. Keach gave an overview for the new Section 905.5 relative to maintenance of streets prior to public acceptance. The issue is that the Town assumes winter maintenance after the first CO is issued and the Town maintains the street even when the road is not accepted. This section will prevent the Town from maintaining a road prior to acceptance.

**Motion by Mr. Breton to move the proposed Subdivision Control Regulations as amended to public hearing. Second by Ms. Post. Motion passed 5-0.**

### **Excavation Regulations Workshop**

Mr. Steve Keach reviewed the proposed Excavation Regulations he drafted and noted that these regulations are to be adopted in the same method as the subdivision regulations, at a Planning Board Public hearing. He went on to add that the new Excavation Regulation attempts to parallel NH RSA 155E and he has tailored it for local communities. Mr. Keach said he did not rewrite the text for Section 707 of the Zoning Ordinance and wants thoughts from the Board as to which districts they do not want excavation in and his suggestion is to add this language to Section 707 identifying what districts in Town excavation is permitted.

Mr. Keach asked if this approach to the ordinance is what the Board envisioned and RSA 155E can be implemented at the local level. He went on to say this document is a work in progress and after input from the Board, he will present a second draft for the Board's review.

Chair LoChiatto polled the Board to find out if Mr. Keach's approach was the direction the Board wants to take and if he should move forward with drafting the new ordinance on and the Board agreed.

Ms. Scott returned to the Planning Board meeting at 9:30PM

### Agriculture - Sections 200, 602.1, 602.2, 603, 604, and 711

Ms. Scott addressed the Board and said she worked with Ms. St. Laurent on revising these sections of the Zoning Ordinance, and in light of the interest in the community and regulations on the state level, they found several areas where they think the Zoning Ordinance can and should be modified. Ms. Scott provided the Board with proposed changes made to the following Zoning Ordinances: Sections 200; 601; 602; 603; 604; and 711.

Ms. St. Laurent said the regulations on the books now are restrictive and with a general increase in interest by the public for sustainable agriculture, backyard gardens, and roadside farm stands it is important to modify the ordinance. Ms. Scott said this was sent to Johnson Farms on Range Road, as well as other agricultural enthusiasts, and The Rockingham Planning Commission who reviewed and provided comments for this document.

Ms. Scott noted that the goal was to:

- Simplify by using state definitions contained in RSAs
- Using UNH Cooperative Extension Best Management Practices

- Referencing the Commissioner of Agriculture and Food
- Clean up language as to not conflict with the State law

Mr. Richardson asked about use of fertilizers and pesticides and Ms. Scott said there is a state law about use of manure and best management practice about horse manure and use.

Mr. Richardson wants to know if the zoning ordinance sufficiently addresses agricultural issues in all zones. Ms Scott responded that per current zoning, this is only allowed in Commercial Zoning District, but with the proposed changes, Residence A, B & C Districts would allow agriculture as an accessory to a residential use done in accordance with best manage practices adopted by the commission of agriculture, markets, and food and UNH Cooperative Extension. Ms. Scott went on to say that in the Neighborhood Business District, permitted uses are if this is the primary use of the property. In addition, the proposed Zoning Ordinance would allow roadside farm stands to sell their home grown and local homegrown farm products in all residential districts, only if it is an accessory us to the residence, is seasonal and temporary with no buildings or structures constructed for the Roadside farm stand.

The Board discussed what type of livestock would be permissible under the UNH Cooperative Extension Best Practices.

Chair LoChiatto requested that Ms. Scott provide the Board with highlights on the Best Management Practices at the public hearing so that it is clear what is being proposed.

**Motion by Ms. Post to move the Agricultural Section 200, 602.1, 602.2, 603, 604, and 711 to public hearing as amended. Second by Mr. Richardson. Motion passed 5-0.**

#### **2005 Master Plan Benchmark Review**

Prioritization by Board of "Goals Accomplished but Ongoing"

Ms. Wood addressed the Board noting that at previous workshops the Board asked to have this prioritized as to what was top priority with regard to future action. Ms. Wood put into spreadsheet form to make it easier to evaluate.

The board decided to hold off of the Master Plan Benchmark Review until after Town meeting unless it could be worked into the schedule.

#### **Adjournment**

**Motion by Mr. Richardson to adjourn at 10PM. Second by Mr. Breton. Motion passed 5-0.**

Tracey Mulder respectfully submits these minutes in draft.