



*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**  
**November 2, 2011**

**Roll Call:**

Ruth-Ellen Post, Chairwoman-Present	Ross McLeod, Selectman Member, Arrived 8:50 pm
Margaret Crisler, Vice-Chair-Present	Kathleen DiFruscia, Selectman Alternate, Excused
Pam Skinner, Member-Excused	Lee Maloney, Alternate-Present
Kristi St. Laurent, Member-Arrived 6:48 pm -	Sy Wrenn, Alternate-Excused
Carolyn Webber, Member-Present	Vanessa Nysten, Alternate-Present
Jonathan Sycamore, Member, Excused	Rob Folan, Alternate-Excused

**Staff:**

Laura Scott, Community Development Director  
Elizabeth Wood, Town Planner  
Mimi Kolodziej, Planning Assistant

**Call to Order/Attendance/Pledge of Allegiance:**

Chairwoman Post called the meeting to order at 6:15 pm followed by attendance and the Pledge of Allegiance.

Chairwoman Post appointed Ms. Nysten to be seated for Ms. Skinner and Ms. Maloney to be seated for Mr. Sycamore.

**6-8pm Design Review Regulation Workshop:**

Ms. Karen Fitzgerald of FitzDesign Inc., walked through her updates of the October 24th draft. The changes made were:

- To 300.1, there was language added in the waiver section about whether the waiver met the intent of the Guideline;
- Section 200, the first paragraph had the following language added: "Unless stated otherwise, each regulation applies to all three sections;"
- Section 503.2.2, Shared driveway and parking discussion – The second sentence "shall" was changed to "should";
- In Section 500, In each District paragraph, the Zoning Regulation Section was sited;
- Section 707.4, The last sentence was removed. It discussed the color of the roof material;
- Section 711.3, The last sentence was removed. It dealt with the screening of mechanical equipment on the roof;
- The plant list was enlarged;
- Additional grammar and punctuation changes were made.

Board comments/questions included:

- The Board's decision was to go with "shall" because it is a stronger word than "should"; except for the shared driveway and parking paragraph;
- Attorney Campbell's communication was introduced; It was a legal clarification of page 1 of the Guidelines;

- Attorney Campbell had concern with the language, “exterior alteration of existing,” which conflicts with the Town’s Site Plan regulations; He offered alternative language at the top of page 2 of his memo;
- In Section 400, last paragraph- the phrase “If there are conflicting provisions . . .;” he thinks it may conflict with Zoning Ordinances. His language suggestions are on page 2, #2 of his memo; Ms. Scott will follow-up with Attorney Campbell for clarification on this wording;
- The Waiver Provision – Under the statute, the minimum standard to grant a waiver is 300.2 and 300.3; 300.4 through 300.7 are above and beyond the minimum required;
- It was noted that Attorney Campbell misapplied the word “subdivision” for “site plan” in the first line of #3;
- The Board decided to change the words “has been” to “is” in 300.1;
- Ms. Scott will make grammatical, formatting, and numbering changes; clarify the waiver requests; and clarify language about “exterior alteration of existing...” with Attorney Campbell;
- The Board discussed whether Mr. Campbell should look at the rest of the document and should the Regulations be a Zoning Ordinance or a Site Plan/Subdivision Regulation;” Ms. Fitzgerald reminded the Board that Zoning Ordinances are legal documents that need to be voted in, while Site Plan Regulations only need Board approval. The Board was unofficially polled: The decision was to keep the Guidelines in the Site Plan Regulations, and the Board was split about whether or not to have Attorney Campbell review the entire document.

Mr. Bob Young, WEDC Chairman, noted that the Design Review Regulations subcommittee was composed of volunteer Ralph Valentine, Paul Gosselin, Jay Yennaco and himself. The subcommittee had submitted a memo dated October 27 in response to the October 24 draft of the Regulations. Mr. Valentine was invited to review the WEDC’s memo and his and Board comments included:

Ms. St. Laurent was seated at 6:48 pm.

- A review of the various categories the WEDC sub-committee considered;
- To accurately consider the cost impact, the committee would need a mock plan, pre and post Regulations;
- Suggestions included; concrete walkways and patios vs. high quality paving materials; Bark mulch instead of stone; fewer shade trees; and Bituminous curbing vs. granite curbing;-
- The Board questioned the pricing of Bituminous curbing as too ;low; Mr. Valentine will check;
- The Board suggested that Granite curbing would result in less environmental impact and cost less down the road as it would not deteriorate as quickly;
- By forcing the parking to the rear of a building; the price of the project would be increased, as the developer would need to “dress up” the rear of the building in ways they don’t usually;
- Ms. Fitzgerald had looked at many NH Towns’ Regulations and found that they emphasized making developments look attractive to attract customers. These places are still functioning well and growing, while the strip malls show no growth; for example Freeport, ME vs. Kittery. A more attractive location generates higher rent and more business; The current, crazy economic climate is not one to base long-term building cost decisions on;
- The Board requested the names of the towns she had looked at: Freeport, Brattleboro, Bow, Meredith, Bennington, Salem, Londonderry, Rochester, Simsbury, as well as surrounding towns and their lack of Guidelines. Ms. Scott mentioned that these suggestions are not new; Ms Nysten listed several towns that have one of several types of Design Regulations formats. Ms. Fitzgerald suggested The Board keep their vision in the forefront;
- Ms. Nysten noted that the project site will dictate where the parking goes; It will not necessarily go in the rear; The Board consensus is that they want to avoid an expanse of asphalt out front;

- Mr. Zohdi noted that the most he can get for commercial space in Windham is \$16/sqft. What the Board is proposing will cost \$57/sqft. He thinks the Town is in competition with surrounding towns, not Vermont and Maine. He suggested that Windham have a subcommittee to review the Regulations prior to coming before the Board for site plan review. Otherwise, developers who read the Regulations, will choose not to develop in Windham; He suggested the Board be more reasonable.
- The Board noted that with Windham's location at the intersection of routes 111 and 93, makes the Town a good location for destination shoppers. The Board is looking at the Regulations with this in mind.
- Mr. Zohdi noted that if the cost of the project is more that what the developer can make, no one will develop;
- Mr. Valentine said that economics drives the developers, and the Town should want to increase the tax revenue. He emphasized that these are not Guidelines, but Regulations. He noted that, for every dollar a commercial space brings to the Town in revenue, \$.73 ends up in the General Fund. For every dollar of residential space, the cost to the Town is \$1.05. He noted other financial concerns effecting the Town;
- The Board asked at what point commercial development turns from benefiting the Town economically to becoming a financial liability; Mr. Valentine could not answer the question. Ms. Scott said that it depends on the use of the space.
- Mr. Valentine asked the Board to reconsider many Sections listed on pages 3 and 4 of his memo as being confusing, conflicting, unreasonable or unpractical. These issues concerned between property screening; allowing abutting businesses vehicular access to each others property; location of parking; and the analysis of the scale of the project in relation to surrounding properties;
- Mr. Valentine asked the Board to consider the development from the developers' perspectives.
- Mr. Zohdi used the Dunkin Donuts and Howie Glynn's plaza as an example of how difficult it is to get abutters to cooperate. Vice-Chair Crisler noted that every property on those locations has its own curb cut, with no circulation and does not meet the intent of the Village Center District which was in place before those were built.
- Mr. Valentine thinks the Board is using the waiver process too much and should address the issues head on.
- The intent of the Regulations is to streamline the process, so that developers know better up-front what the Planning Board wants and can be better prepared through the Regulations; saving them time and money. The Regulations also helps the Board and the Public by giving them a common language about a specific field of which they can now communicate more clearly with each other. The Village Center Guidelines did not do the Town much good; so the Board decided early on to opt for Regulations; requirements, not just suggestions.
- Mr. Valentine agrees with the intent, but thinks the Regulations box in the Planning Board.

Chairwoman Post opened the Workshop to the Public.

Mr. David Riese, 2 Lakewood Road, recognized the efforts of all parties. He writes requirements for aerospace defense equipment. He had the following comments:

- If one uses the word "shall", the cost, performance, and schedule impact should be considered;
- Avoid subjective words; such as attractive and quality;
- The "shall" statements should be written unambiguously and be verifiable;
- There is a lot of redundancy and conflicting requirements;
- In Section 300, the word "felt" should be changed to "rules" or "votes";
- There are conflicting requirements within the document; for example, in the parking section;
- The Regulations/requirements are verbose and should be simplified and consolidated to ensure success on the part of the applicant; He thinks it may be difficult to get compliance in the current draft;

- He offered to assist with the editing process. The Board accepted his offer.
- Ms. Scott asked the Board to clarify the intent of accepting editing offers.
- The Board asked Ms. Scott to provide Mr. Riese with a copy of the Design Regulations.

Mr. Ross McLeod, unseated BOS Board member, had the following comments:

- He cautioned the Board about relaxing the Guidelines and ultimately bringing down property values. Some building costs are short term; the effects of which are long term.
- He noted Section 502 as being presented in too subjective a fashion. In order to comply with this, the developer may come prepared with a handful of waivers.
- Section 502.4 which discusses screening may be improved by having the word “landscaping” included;
- Looking at adjacent parcels with an eye to connecting them is an eternal problem; He suggested various ways to address this;
- Section 504.2.1; He discussed parking requirements as being site dependent; The term “as much as possible” and “shall” might need to be changed;
- Regarding Mr. Valentine’s discussion about “adjacent parking demands” may be better stated as “vehicular” demands;
- He suggested the Board incorporate all of Attorney Campbell’s comments.

Mr. Bill Shroeder had seen the letter from Chairwoman Post in the local newspapers asking for Public feedback regarding the Design Review Guidelines. He thinks it is worthwhile doing this. Articulating goals and trying to make new development aesthetic and reasonably cohesive is worth doing. He noted Section 506, which mentions storm water management, and although it is not about aesthetics, should be kept.

Mr. Robert St. Laurent, 32 Range Road, supports regulations that help guide developers. He thinks the Board should strive to be as clear as possible in their Guidelines. If the Town wants good retail, then they need to support good development and need to invest. Adding \$10,000 to a project over 30 years, of collecting .rent, doesn’t matter. Selling property out short, sells out your neighbor. As a resident, he wants good/quality development. The 40 acres on route 93 and the corridor on route 111 needs to be planned with strict guidelines. He would like to see the Board keep going, push harder, and solicit more input. Windham is here for the residents; not the developers.

Mr. Pat Nysten, a licensed Construction Supervisor, has looked at the Regulations carefully. He does not agree with the discussion of exponential costs. He thinks the Regulations include good development practices. Several of the recent projects before the Board already incorporate good development standards. The Regulations are to assure that nothing goes astray. Quality development is a win/win situation for the developer and the Town. The WEDC Community Survey revealed two key points from the residents; one was the impact on property value. A poor development can have an adverse effect on abutters and the community. He agreed that it needs to be tweaked; but the Board needs to keep going. This is a living document and addresses concerns expressed by the Citizens.

Mr. David Riese addressed the word “quality”; and said that if the Board embodies quality within the specific regulations, then the Town will get what they are looking for.

Chairwoman Post closed the Workshop to the Public.

Board comments/questions included:

- The Board noticed that Section 702.7 of the Design Regulations was removed without Board approval; Section 702.7 will be re-inserted into the Design Regulation Guidelines.

- The Board clarified that the Town's Site Plan Regulations require a design by a "licensed professional." engineer. An architectural plan must be stamped and signed by a "licensed architectural engineer."
- The Board discussed the next step with the Regulations. They thought there was more work needed with additional discussion about parking and landscaping. They expressed a desire to incorporate some of the excellent suggestions offered from the WEDC and the Public.
- Ms. Scott will request an extension of the Consultant's contract through April and the Board will continue working on its own returning to it in late January/early February.
- Mr. Valentine requested that the changes Attorney Campbell suggested, and the "shall" changes be made, and that the new Draft be made available to the WEDC fairly soon. Ms. Scott will make the changes and make it available well in advance of the next workshop.

Chairwoman Post called a brief recess and reconvened the Board at 8:50 pm.  
Mr. Ross McLeod was seated at 8:50 pm.

**2012 Town Meeting Workshop:**  
**Multi-Zoned Parcels**

- Chairwoman Post noted the members who worked on this sub-committee: Ms. Maloney, Chairwoman Post, Mr. Wrenn, Ms. Nysten and Ms. Wood;
- She explained that there are 96 lots in Town that exist in two different zones. Thirty-four (34) of those lots will be presented tonight, so the Board may recommend which one zone they think they should fall in to. Abutters have been notified at each of the lots;
- There will be no zoning changes made tonight. The Board may vote to send them to Public Hearing, at which point they may be voted to go to Town Meeting;
- Ms. Wood related the historical nature of this situation. Ultimately, each lot has two sets of uses. The intent is to simplify the zoning. The Sub-committee made recommendations for a zoning that is consistent with the primary structure and what is abutting each property;
- The Sub-Committee used 6 criteria (listed in the Board's memo) and is giving the owners, abutters, and the Public the option to state which zoning they would like;
- Mr. Rex Norman, the Town Assessor, was present to answer any questions about whether the rezoning affects property values.

Chairwoman Post allowed the Public to address the Board as their lots were presented.

Lot #21-B-25 (3 Copps Hill Rd)

- Ms. Wood clarified for the property owner what the differences are between Residence District A and the Rural District.
- Mr. Norman noted that there are no differences in value between the two Districts. Valuation is dependent on location use.
- -Ms. Chris Bowman, 3 Copps Hill Road, sees no disadvantage to either District and accepts the Board's recommended changes. He would also like to think about it.

**Vice-Chair Crisler moved to accept the Sub-Committee's recommendation of changing Lot #21-B-25 to the Rural Zone District and move it to Public Hearing. Ms. Maloney seconded. Motion passed: 7-0.**

Lot #19-A-400 (70 Mammoth Rd)

- Ms. Wood explained that this parcel is north of the power line easement. Under the power lines are zoned Rural and the rest is zoned Residence C.

- Mr. Fred Ford, owns this 10 acre lot and has livestock. When he purchased the property in 2005, it was clearly zoned all Rural. He would like to keep it Rural. Mr. Ford will have an opportunity to re-evaluate his decision at the Public Hearing.

•

**Vice-Chair Crisler motioned to move to Public Hearing Lot 19-A-400 (70 Mammoth Rd) changing the District from Multi-zone to Rural at the owner's preference and it matches the rural use of the land. Ms. Maloney seconded. Motion passed: 7-0.**

Lot #21-F-36 (34 Marblehead Rd)

- Mr. Rick Okerman of 3A Marblehead Road expressed an interest to keep this lot zoned Rural; He abuts conservation land, another Rural zoned lot which he may purchase later for agricultural use; and his house is in the Rural Zone.

**Vice-Chair Crisler moved to accept the property owner's recommendation of changing Lot #21-F-36 to the Rural Zone District and to move it to Public Hearing. Ms. Maloney seconded. Motion passed: 7-0.**

Lot #21-B-10 (Copps Hill Rd)

- Mr. Zohdi explained that Lot #21-B-10 is an Open Space area and will never be developed. Each homeowner owns a portion of this space.
- Ms. Jennifer Simmonds of 17 Porcupine would like to be assured that this area stays as Open Space because this property is a steep drainage ditch.

**Vice-Chair Crisler motioned that Lot #21-B-10, which is the Open Space lot for the Porcupine Road Development, be zoned 100% Rural and be put forward to Public Hearing. Ms. Maloney seconded. Motion passed: 7-0.**

Lot #21-B-27 and Lot 21-B-28 (5 & 7 Porcupine Rd)

**Vice-Chair Crisler motioned that Lots #21-B-27 and 21-B-28, be put forward to Public Hearing to be changed from Mixed Use to Rural District in order to conform to the other lots in the Subdivision. Ms. Maloney seconded. Motion passed: 7-0.**

Lot #21-B-23 (4 Copps Hill Rd)

- 60% is Residential A.
- Ms. St. Laurent made a case for making it zoned Rural and the new side street makes it a house off of Copps Hill which is mainly zoned Rural.

**Vice-Chair Crisler motioned that Lot #21-B-23 be put forward to Public Hearing to be changed from Mixed Use to the Rural District because the Lot Line and the Zoning Line will be in line with each other. Ms. Maloney seconded. Motion passed: 6-1. Mr. McLeod opposed citing Residential A makes more sense from where the parcel line will line up.**

Lots #19-A-800, 19-A-801, and 19-A-802 (Pleasant St, 53 Brookview, & Misty Meadow)

- What type of tax impact is there when a parcel is moved from Rural to Residential C; There is no impact when something is already at its highest and best use.

**Ms. Nysten motioned that Lots #19-A-800, 19-A-801, and 19-A-802 be put forward to Public Hearing to be changed from Multi Zoned to Residential C in order to conform to a single use. Ms. Maloney seconded. Motion passed: 7-0.**

Lot #19-A-20 (17 Bridle Bridge Rd)

**Mr. McLeod motioned that Lot #19-A-20 be put forward to Public Hearing and be changed from Multi-zoned to Residential C for continuity with three-quarters of the adjacent parcels. Ms. Webber seconded. Motion passed: 5-1-1. Ms. St. Laurent opposed and Ms. Nysten abstained.**

Lots #14-A-300 and 14-A-400 (20 Bridle Bridge Rd)

**Ms. Webber motioned to move to Public Hearing Lots #14-A-300 and 14-A-400 and be changed from Multi Use to Residential District C for continuity with the abutters and to provide good access to the public highway. Mr. McLeod seconded. Motion passed: 7-0.**

Lot #19-A-400 (Under the Mammoth Rd power line)

**Ms. Webber motioned to move to Public Hearing Lot #19-A-400 changing it from Multi-zoned to Zoned Rural in order to conform with the nature of the neighborhood. Ms. Maloney seconded. Motion passed: 7-0.**

Lot # 19-A-850 (Bridle Bridge)

**Ms. Webber motioned that Lot #19-A-850 be put forward to Public Hearing and be changed from Multi Zoned to Residential District C to connect it with the adjoining properties that are zoned Residential District C. Mr. McLeod seconded. Motion failed: 2-5. Ms. St. Laurent, Ms. Maloney, Ms. Nysten, Chairwoman Post, and Vice-Chair Crisler opposed.**

**Vice-Chair Crisler motioned to move Lot #19-A-850 to Public Hearing and change the zoning from Multi-zoned to Rural District because the two adjacent properties are zoned Rural. Ms. Maloney seconded. Motion passed: 6-1. Ms. Webber opposed.**

**Open Space Ordinance and Commercial Kennels were rescheduled to the next meeting.**

- The Board decided to start at 6 pm at the November 9 meeting;
- Kennels will be discussed first before discussing Open Space;
- Vice-Chair Crisler suggested grouping the lots in clusters for ease of making motions.

Ms. Wood noted that there are 2 changes to be made:

- Places of worship were removed;
- Added: “The size of kennels for cats and other small animals will not be regulated.”

Board comments/questions included:

- Each dog needs to have 60 sqft of kennel space.
- Ms. Webber asked about animal waste pick up; Dog waste will be removed from the dog’s area daily.
- She is concerned about removal from the property; It will be changed to state: “Stored waste will be picked up weekly and removed from the premises.”
- Remove “Rural” and “Gateway” from allowed Districts.
- Staff to create language stating that that not all dogs are allowed out together at 6 a.m.
- 

**Meeting Minutes Review and Approve – October 19<sup>th</sup>**

Minutes were rescheduled to be reviewed and approved at the next meeting.

**Member Binder Updates – Tab #11**

- “Capital Budgeting & the Planning Board” NH Town and City

November 2, 2011 Approved Planning Board Minutes

- 2012-2019 Adopted CIP
- 2012-2019 CIP Spreadsheet

**Old/New Business**

**New application:**

A WWPS Special Permit for 8 Woodview Rd for permission to build a driveway.

**Adjournment**

**Vice-Chair Crisler motioned to adjourn the meeting. Seconded by Ms. Nysten. Motion passed: 7-0.**

Meeting adjourned at 11:02 p.m.

These minutes are respectfully submitted by Ms. Mimi Kolodziej