



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

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**Planning Board Minutes**  
**November 9, 2011**

**Roll Call:**

Ruth-Ellen Post, Chairwoman-Present	Ross McLeod, Selectman Member, Excused
Margaret Crisler, Vice-Chair-Present	Kathleen DiFruscia, Selectman Alternate, Excused
Pam Skinner, Member-Present	Lee Maloney, Alternate-Excused
Kristi St. Laurent, Member-Arrived 7:20	Sy Wrenn, Alternate-Present
Carolyn Webber, Member-Excused	Vanessa Nysten, Alternate-Present
Jonathan Sycamore, Member-Arrived 7:02	Rob Folan, Alternate-Present

**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 6:20 pm followed by attendance and the Pledge of Allegiance.

Chairwoman Post appointed Mr. Wrenn to be seated for Ms. Webber and Ms. Nysten to be seated for Ms. St. Laurent.

**2012 Town Meeting Zoning Amendment Workshops:**

**Multi-Zoned Parcels** (continued from November 2<sup>nd</sup>)

Due to GIS technical difficulties, discussion of multi-zoned parcels was moved to the November 16 meeting.

**Kennels-** Chairwoman Post noted that there had been 3 previous workshops on this topic. At the last meeting, the Board decided:

- To allow commercial kennels in the Limited Industrial and the Commercial A districts only;
- To permit only 4 dogs off-leash outside between the hours of 6 am and 8 am; and
- Stored waste shall be removed weekly from the premises.

Board comments/questions included:

- Adding wording that allows commercial kennels in the non-residential Rural District; The Board will wait to hear from the Public before reaching a decision;
- Three-hundred feet is the setback requirement from other houses; This may not be far enough to not hear barking dogs; No decision was reached;
- Waste removal - discussion of methods, standards, and enforceability. No decision was reached.

Chairwoman Post opened the Workshop to the Public.

Mr. Ralph Sinclair, owner of Woof Woof Personal Dog Services at 70 Range Road, addressed the kennel topic and made the following points:

- Setbacks will not provide a sound barrier, as barking dogs can be heard 4 miles away;
- The Board should consider odor and loose dogs;

- Because the proposed regulations are so limiting, they exclude kennels in Windham;
- Mr. Sinclair is not aware of any animal waste removal ordinance; In general, animal waste is not removed; Theirs is double bagged and removed from the premises weekly; The dumpster company has a removal plan; In a kennel, waste is scooped up along with gravel and would preclude a doggie septic tank; A Proposal for removal may be better than an Ordinance;
- The Dog Officer should be involved; He will be contacted tomorrow and be involved out of concern for the dog welfare;
- The word “adult” will be added to Section E Approvals, #1 (...with four (4) or fewer ‘adult’ dogs...) to allow for litters of puppies;
- F6-Reduction in Setback–Is a policy that does not make sense – There will never be a commercial business with fewer than 10 dogs, so there is no real opportunity for a reduction in setback.

Belinda Sinclair noted:

- The properties that the Board is suggesting for commercial kennels in Windham are so few and expensive; that should they want to move their kennel to another location, they would have to move to another town;
- Because the State owns their property, they will have to move sooner or later. The Sinclairs are considering closing the business. The Board noted that it is not the Board’s intent to eliminate kennels in Town.
- Noise abatement-It depends on the site and should be flexible; Keep the setback requirements and deal case by case;
- If there are 30 dogs in the kennel, 1 or 2 may be barkers. When 1 dog starts barking, they all bark. So the rule cannot apply. It must be up to the integrity of the owners to isolate barkers on the private side of the kennel;

Mr. Jonathan Sycamore was seated at 7:02 pm.

- There are many small, home businesses running 10-12 dogs out of their homes in surrounding Towns and they are not having problems with their Town or Ordinances; Ms. Sinclair asked the Board to consider opening Gateway and PB&T to commercial Kennels;
- Section F-d, Regulation for Commercial Kennels; Customers with a couple of dogs, often insist that their dogs be kenneled together; The Board should not be too particular on this point;
- The American Boarding Kennel Association (name change) and others have suggestions and recommendations for kenneling. Many Associations are in the mid-west and run puppy mills, so the Sinclairs usually exceed their recommendations;
- Mimimum Space Requirements: A minimum of 4 ft X 4 ft or what is appropriate for the breed; A Chihuahua may not need a 4 ft X 4 ft space.

Chairwoman Post closed the Workshop to the Public.

The Board decided to send the proposed Kennel Ordinance back to committee for reconsideration. The suggestion that the Committee review the current Town Noise Ordinance and allowed Districts was made.

**Vice-Chair Crisler motioned to open to Public Hearing the proposed amendments to Section 706 sign regulations. Ms. Skinner seconded. Motion passed: 6-0.**

**Public Hearings - 2012 Town Meeting Zoning Amendments:**

Section 706 Sign Regulations. To add language that allows up to 8” high street numbers to be included on a wall sign or as a wall sign for identification purposes and not have it count towards the allowable wall sign size.

Vice-Chair Crisler read Section 706 Sign Regulations into the record

Ms. Scott noted that legal council had signed off on this proposal. Mr. Sycamore asked if the Board wanted to regulate any universal aspects; such as, font or design. Ms. Scott mentioned that the Fire Department wanted a certain size for identification purposes only. Usually, the free standing sign is the same font and colors as the rest of their signage. The applicant may want to keep it consistent with their other signs.

Chairwoman Post opened the Hearing to the Public. Hearing none, she closed the Public Hearing.

**Ms. Skinner motioned to move Section 706 Sign Regulations to Town Warrant. Seconded by Vice-Chair Crisler. Motion passed: 6-0.**

Ms. St. Laurent was seated at 7:20 pm.

Section 904 Appeals. To add language that specifies the timeframe (30 days) in which an Appeal of Administrative Decision must be made to the Board of Adjustment.

Ms. Scott noted two minor comments from legal council:

- Section 1 is being proposed, because there is one regulation listed twice in our zoning regulations;
- Currently state law allows appeals to be made in a timely manner; Timely differs from person to person.

The proposal is to delete the duplicate language and to clarify when it is an appeal of Administrative Decision or an appeal to the Planning Board. In both cases, a thirty (30) day appeal period applies.

Ms. Scott reviewed the 10/26 memo from Attorney Campbell and his responses to the proposed amendments.

Chairwoman Post opened the hearing to the Public. Hearing none, she closed the Public Hearing.

**Vice-Chair Crisler motioned to move the amendment to Section 904 to Town Warrant as proposed. Seconded by Ms. Skinner. Motion passed: 6-0.**

Section 709 Yard Sales. To add a Section to regulate Yard Sales, including definitions, a purpose section and general regulations, which specifies hours of operation, signage, display areas, number of sales allowed per month and that those goods for sale must be secondhand or used items.

Vice-Chair Crisler read Section 709 Yard Sales into the record.

Ms. Scott drew the Board's attention to Attorney Campbell's 11/6 memo where he commented:

- Regarding the Yard Sale definition included Charitable and Estate sales. He suggested they be mentioned earlier in the Ordinance language;
- Regarding the 3-day allowance for Estate Sales, Attorney Campbell suggested the Board add a clause prohibiting the property owner from receiving any compensation;
- Regarding the Yard Sale sign- He thought the Board should put in more language about regulating them.

**Ms. Skinner moved to open Section 709 Yard Sales to Public Hearing. Seconded by Vice-Chair Crisler. Motion passed: 6-0.**

Board comments/questions included:

- Under Estate Sales – Change the word “professional” to “licensed auctioneer;”

- Section 709.3.1 – Continue the sentence by dropping the period, adding a comma, and the following language: “, but in no case no more than 12 days in a calendar year.”
- Section 709.3.4 – Move the last clause “...when the sale is not being conducted...” to the beginning of the sentence.
- Chairwoman Post noted the Board may be over-regulating. there are several current Statutes that regulate some of these concerns: Noise ordinances, Nuisance Laws, Traffic Laws, Auctioneers are licensed, State Laws, Sign ordinance. She is concerned about it becoming a commercial enterprise; She would prefer defining it as a home-based retail sales;
- 

Chairwoman Post opened the Hearing to the Public.

Mr. Bob Poole of Morrison Road asked why the Town needs this Ordinance, what is the penalty, who is the enforcement officer and how will it be enforced? He suggested that the Hawker’s/Peddler’s Town Policy should be considered. He mentioned that the State law has an exception – anyone selling personal goods on their own property is exempt. If they are not selling personal items, they fall under the Hawker’s/Peddler’s Policy . He noted that Windham has a Sunday Business Activities Ordinance which states you can not run a business on a Sunday, Yard sales are not mentioned; therefore you cannot do Yard Sales on Sunday. He suggested having the BOS redo the Hawker’s/Peddler’s Ordinance so that anyone having a yard sale for more than 2 days in a month be required to get a Hawker’s/Peddler’s License which has prohibitive requirements.

Ms. Scott responded to Mr. Poole’s questions:

- Most code enforcement cases come to the Town; no one goes looking for them;
- The Hawker’s/Peddler’s Ordinance has been on the BOS agenda for over a year for reconsideration;
- Fire/Police are too busy to take on Hawker’s/Peddler’s infractions;

**Vice-Chair Crisler motioned to move the proposed amendments to Section 709 Yard Sales back to committee for further refinement and repost for Public Hearing. Mr. Wrenn seconded. Motion passed: 6-0.**

Building Code. To see if the Town will vote to authorize the Building Inspector, as designated by the Selectmen, to enforce the State Building Code as authorized under RSA 155-A:1(III), with the enforcement powers as provided in RSA 676 for enforcement of local land use ordinances.

Vice-Chair Crisler read the notice into the record.

**Vice-Chair Crisler motioned to open Building Code for Public Hearing. Seconded by Ms. Skinner. Motion passed: 6-0.**

Ms. Scott reviewed the history of the current Building Code which was adopted in 2003 at a time when the Building Inspector, Department Head, and Code Enforcement Administrator were the same one person. Because of changes within the Department structure, this Building Code language and designation causes confusion. The recommended changes are to clear up this confusion. The BOS, Code Enforcement Officer, Attorney Campbell, and Ms. Scott as the Department Head all agree to the proposed change.

Board comments/suggestions include:

- Is it necessary to include the last sentence in the new version; No – It is there for clarity on the ballot. The Board decided to place the last sentence in parentheses;
- The Board decided to favor the second version recommended by Attorney Campbell.

Chairwoman Post opened the Hearing to the Public. Hearing none, she closed the Public Hearing.

**Vice-Chair Crisler motioned to move the amendment to the Building Code, which authorizes the Building Inspector, rather than the Code Enforcement Administrator, to be the designated authority for the State Building Code, to the Town Warrant. Mr. Wrenn seconded. Motion passed: 6-0.**

Section 200 Definitions, Section 603.1, & Section 704 Off-Street Parking & Loading Areas. To delete Section 603.1; to amend Section 200 definition of “recreational vehicle” to “recreational vehicle/recreational camper” and delete “by a light duty truck”; amending Section 704.1.1 by deleting “and employees”; amending Section 704.1.2 by deleting the parking regulations for “places of public assembly” with the intention of moving this regulation into the Site Plan Review Regulations; into the delete Section 704.1.3-704.3.7 with the intention of moving these regulations into the Site Plan Review Regulations; to amend Section 704.4 Limitations on Parking to clarify that the regulations apply to “recreational vehicles/recreational campers” and motor vehicles, that a recreational vehicle/recreational camper may not be occupied for more than 30 days in a 365-day period without approval from the Board of Health under certain conditions, where a recreational vehicles/recreational campers can be stored on a property; and adding a Section allowing the outdoor, overnight parking of one registered and inspected commercial vehicle having less than 12,000 gross vehicle weight and no more than two axles.

Vice-Chair Crisler read the hearing notice into the record.

**Vice-Chair Crisler motioned to open Section 200 Definitions, Section 603.1, & Section 704 Off-Street Parking and Loading Areas to Public Hearing. Seconded by Ms. Skinner. Motioned Passed: 6-0.**

Ms. Scott highlighted the changes to be made in these Sections:

- Change the definition section
- Change some of the uses permitted and
- The parking areas.

Much of this is to be moved out of Zoning into the Site Plan Regulations for greater flexibility. Ms. Scott reviewed Legal comments and will change the language of 704.2.7 to make clearer that overnight parking is allowed on property “where residential use is the primary use of the property by the driver of the vehicle.”

Board discussion/comments included:

- Changing the language of 704.2.7 was agreed to;
- Organizing this large ordinance into 3 sections for ease on the ballot; The three sections would be 1.) Recreational Vehicle Regulations, 2.) Parking and 3.) Overnight Parking of Commercial Vehicles.

Chairwoman Post opened the Hearing to the Public.

Mr. Bob Poole brought up several concerns:

- If a family member from the West Coast comes to visit in his recreational vehicle, he will not be able to hook it up and live in it for a month. Ms. Scott noted that this is the current regulation; not a new restriction. Only if one’s home is destroyed, can a recreational vehicle be used as a residence with approval and current restrictions;
- Examples of a “commercial vehicle” were provided; Mr. Wrenn stated that the sub-committee attempted to keep the Ordinance simple, enforceable, and practical for most situations ;
- What if two members of a family living in the same residence both take home their trucks; The Board clarified that one of the vehicles must be garaged; that is the current Ordinance;

The Board noted that a vehicle is defined as “commercial” by its registration and inspection; Enforcement will be addressed as complaints are registered.

**Vice-Chair Crisler motioned to move to Town Warrant the amendments to Section 200 Definitions and the amendments to Section 704, with the exception of the amendments to Section 704.2.7 and Section 603.1 which will return to Committee and be rescheduled for Public Hearing. Ms. St. Laurent seconded. Motion passed: 6-0.**

Chairwoman Post called a recess at 9:01 pm and reconvened the meeting at 9:12 pm.

**2012 Town Meeting Zoning Amendment Workshops:**

Chairwoman Post altered the agenda by moving the Approval of the Minutes to later in the meeting and noted that the Cell Tower workshop will not be addressed.

**Non-Residential Districts (NBD, Com A & B, VCD) Purpose Sections**

**Section 604 – Neighborhood Business District**

Chairwoman Post read the Purpose Section of the Neighborhood Business District, Section 604, into the record making a couple of spelling/grammar corrections.

**Vice-Chair Crisler motioned to move the Purpose Section of Section 604, Neighborhood Business District, to Public Hearing. Seconded by Ms. Skinner. Motion passed: 6-0.**

**Section 605 – Business Commercial District A**

Ms. Scott noted that the Board had wanted:

- To split out District A and B creating two separate sections;
- This would simply be formatting, numbering, and grammar correction changes;
- Business Commercial District B is being moved from Section 605.2 to Section 617 and being renumbered;
- The Board had decided to make no changes to the language of the Commercial B District;
- There are four parcels of Commercial B in Town with very few uses permitted; and
- The Gateway District had already been addressed.

**Vice-Chair Crisler motioned to move to Public Hearing the amendments to Section 605, as well as, moving the Section concerning Commercial District B from Section 605.2 to Section 617 and renumbering the sections. Seconded by Ms. Skinner. Motion passed: 6-0.**

**Section 612 – Village Center District**

Chairwoman Post read the Purpose Section.

Board comments/questions included:

- Because there is no definition of “recreational,” it leaves a very broad category that encompasses many non-designated uses. Chairwoman Post listed the allowed uses. The Board noted that the original intent for “recreational” was to be trails, open space, and parks for public. Ms. Scott noted that when the Board did the Purpose section, they decided to leave out the building reference, so that down the road there may be another Village Center location.
- There was discussion about defining the term “recreational” specifically, so someone else does not come up with another definition, such as a gun range.

Chairwoman Post opened the Workshop to the Public.

Mr. Pat Nysten of Edgewood Road cautioned the Board to be careful with their use of the term “recreational.” In the absence of a definition in the Ordinance, the common language definition will apply. He suggested deleting the term or defining it. Leaving the definition open will attract the unwanted.

Chairwoman Post closed the Workshop to the Public.

Board comments/questions included:

- Change the term “recreational” to “public space”

**Vice-Chair Crisler motioned to move Section 612.1 to Public Hearing as amended. Seconded by Ms. Skinner. Motion passed: 6-0.**

**Building Code:**

Ms. Scott presented the State and Town history of the building code confusion starting in 2003. Prior to the State enacting a building code, the Town adopted their own. In the interim years, the State adopted one. Ms. Scott stated that the following actions need to be taken:

- Rescind the 2003 Town Building Code;
- Adopt the State Building Code;
- Put in place Windham Specific amendments.

Mr. Sycamore excused himself temporarily.

**Vice-Chair Crisler motioned to move the updating of the Building Code of the Town of Windham as presented to Public Hearing. Seconded by Ms. Skinner. Motion passed: 5-0.**

**Workforce Housing:**

Vice-Chair Crisler noted the members of the WFH sub-committee and a memo submitted by Mr. McLeod who could not be present. She noted that the Committee had hoped to have another meeting to refine their document before November 9<sup>th</sup>'s meeting. The Committee also decided to wait until Keach-Nordstrom had submitted their independent WFH report before meeting to discuss the issue. Vice-Chair Crisler highlighted for the Board the points in the Sub-Committees memo of November 4, 2011 and Mr. McLeod's submitted memo dated November 8, 2011. The Committee will continue to meet.

Ms. Scott drew the Board's attention to Attorney Campbell's memo regarding WFH. Attorney Campbell did not have an opportunity to review the Sub-Committee' memo before composing his.

Board comments/questions included:

- Is it discriminating to use the word “young.” “First-time home buyer” might be better. Ms. Nysten to email to the Committee a copy of Amherst, NH's WFH Ordinance.
- Because the WFH houses stay at the WFH marketing rate, there is little incentive for owners to improve their property.
- Mixed use was defined in the Ordinance as a development with both market rate and WFH homes.
- Placing WFH in Commercial zones was suggested with WFH units atop businesses, for example. The VCD is very expensive property.
- Creating a Housing Authority could be created by going through Town Meeting and the BOS.
- The Sub-committee is looking for feedback and recommendations on how to encourage rental property.
- How does the Board get the message out that WFH is coming by variance, ordinance, or by the courts.
- The next meeting of the sub-committee will be on November 30.

Chairwoman Post opened the workshop to the Public.

Mr. Pat Nysten of Edgewood Road stated that he has seen some very nice Chapter 40B subdivisions. There seems to be a negative perception about them and there is definite need. While watching the KNA WFH presentation, he noticed a repeating theme of “create reasonable opportunities.” He asked how the Town November 9, 2011 Approved Planning Board Minutes

would regulate the density. He mentioned that sewer may be in Town in five years which would create exponential density. Mr. Nysten asked the Board to consider a density bonus such as Salem, NH which expresses the bonus as a Percent of what is permitted in the underlying district. Vice-Chair Crisler noted that the sub-committee went with the State's requirements.

Ms. Scott reviewed the schedule noting that the first Public Hearing must be scheduled by January 3; the last Public Hearing will be on January 17. The first year WFH was on the ballot many voters expressed an interest and voted it down; last year fewer people were interested and it failed.

**Meeting Minutes Review and Approve – October 19<sup>th</sup> & 26<sup>th</sup> :**

Minutes of October 19 were reviewed.

**Ms. St. Laurent motioned to accept the minutes of October 19, 2011 as amended. Seconded by Mr. Sycamore. Motion passed: 4-0-2 Mr. Wrenn and Vice-Chair Crisler abstained.**

The October 26 minutes were continued to the next meeting.

The WEDC has a Friday morning meeting at 7:30 a.m.

**October Staff Member Updates**

- Community Development Director
- Community Planner

Both reports were presented for Board review.

**Old/New Business:**

No new applications have been submitted. The next meeting is next week at 6 p.m.

Ms. Kolodziej will re-submit the September 17 minutes for posting.

**Adjournment:**

**Vice-Chair Crisler motioned to adjourn the meeting; Seconded by Ms. Crisler. Motion passed: 6-0.**

The Planning Board meeting adjourned at 10:55 pm.

These minutes are respectfully submitted for your approval by Mimi Kolodziej.