



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Planning Board Minutes
February 15, 2012

Board Members:

Chairwoman Ruth-Ellen Post – Present
Vice-Chair Margaret Crisler – Present
Pam Skinner, Member - Present
Kristi St. Laurent, Member – Arrived 7:04
Jonathan Sycamore, Member – Excused
Caroline Webber, Member - Excused

Ross McLeod, Selectman Member - Excused
Kathleen DiFruscia, Selectman Alternate, Present
Sy Wrenn, Alternate Member – Present
Lee Maloney, Alternate Member - Excused
Vanessa Nysten, Alternate Member - Present

Staff:

Laura Scott – Director of Economic Development
Mimi Kolodziej – Planning Assistant

Call to Order/Attendance/Pledge of Allegiance:

Chairwoman Post called the meeting to order at 7:02 pm followed by attendance and the Pledge of Allegiance.

Mr. Wrenn was appointed to sit for Ms. Webber and Ms. Nysten for Mr. Sycamore.
Ms. St. Laurent arrived at 7:04 pm.

Design Review Regulation Workshop:

Ms. Karen Fitzgerald reviewed the incorporated changes to the latest draft which included:

- Changes to the Waiver Section 300, regarding how to submit a waiver and what is allowed;
- Renumbering of sections in the Waiver Section.

Ms. Scott brought the Board's attention to her memo included in the Packet where she summarized the changes the Board had decided to make at their 11/2/11 meeting. Ms. Scott also noted that the packet included:

- Comments from legal counsel,
- Suggestions from WEDC, and
- A memo from the Chairwoman regarding guidelines from the Town of Bedford, NH.

Ms. Fitzgerald walked through the revisions:

- Clarification in Section 200 Scope, where someone wanting to make a minor change would not have to go through the entire process;
- In Section 300, there was clarification of the waiver criteria and how the applicant is meeting the basic intent of the regulation;
- This was done through re-numbering – 300.5 was renumbered so that 300.5.1 through 300.5.4 were under the General Criteria Being Met category; This was recommended by legal counsel. There was no new information added;
- However, incorporation of the word “or” was included.
- Section 400 stayed the same;
- Section 501 – Under Objectives, the numbers were changed to bullets to imply they were not regulations, but objectives;

- Grammatical errors were corrected;
- Section 702.7 was added back into the document, after previously being removed. It regards the need for a licensed architect for site plan review and approval.

Board comments/concerns included:

- Vice-Chair Crisler thinks that the need for a licensed architect is stringent for someone asking for a minor change. However, she thinks it should be left in and be subject to a waiver request;
- Ms. DiFruscia, referring to the letter from WEDC, thought it would be prudent, as the Board walks through the Regulation Document, to consider the “mays” “shalls” and “shoulds.” She suggested using “may” instead of “shall” in Section 702.7. The Chairwoman suggested coming back to this;
- The Vice-Chair, referring to the graphic layout on page 11 of the Regulations, thinks the close-to-the-street setup is more of an urban setting. She asked the Board members their opinions;
- Ms. Skinner said that during the winter, it may be difficult to walk from the rear of the building to the front entrance navigating large snow banks;
- Mr. Wrenn said that the WEDC discussed this at length and will address it later in the meeting;
- Ms. St. Laurent prefers this to the large, front parking lots which do not give the small town feel. This would be good along route 111 where sidewalks would be good. She would like to end up with a street-scape sense;
- Ms. Nysten said that all parking does not have to go in the back, but some could go in front, some at the side, and some in the rear depending on topography. She thought the Board was trying to avoid a large parking expanse in the front;
- Ms. DiFruscia suggested that the topography and what is practical must be taken into consideration for each project. There should be flexibility in the Regulations to allow for a unique site that may be better with side and/or front entrances and other considerations;
- Chairwoman Post favors putting most of the parking in the rear and would also like to see enough Regulation flexibility to allow for individual topography and lot configuration;
- Ms. Scott asked the Board if they wanted all of legal counsel’s recommendations in the 1/19/12 memo incorporated into the document; The Board agreed;
- Vice-Chair Crisler asked if the Regulations is to be a stand-alone document; Ms. Scott said that it is to be a physical, stand-alone document, that will be referenced in the Site Plan Regulations. When the Board adopts the Design Regs, there will be a Public Hearing for the addition of one sentence referencing them to be added to the Site Plan Regulations for the Gateway, PB&T and NBD;
- Vice-Chair Crisler confirmed that the next step would be to eliminate the Design Regulations that currently exist in the Site Plan Regulations; Ms. Scott said that on the Board’s agenda for this year is the task to look at the Site Plan Regs in their entirety;
- Ms. Nysten asked if Mr. Steven Keach is only look at two sections; Ms. Scott said Mr. Keach is being paid to look at Parking, and Drainage and Stormwater. The Board has wanted to clean up the entire document and will be addressing that this year.

The Chairwoman opened the Workshop to the Public.

Mr. Bob Young, Chairman of WEDC, said that the WEDC had formed a subcommittee to review the Design Review Regulations which was composed of Mr. Jay Yannaco, Chairman Ralph Valentine, Mr. Paul Gosselin and himself. The Committee had met four times in the last month and, based on their meetings, had put together their letter of recommendations. Mr. Valentine presented their findings.

Mr. Ralph Valentine read the 2/10/12 letter from the WEDC into the record. He especially noted that there are over 170 mandatory “shalls” in the Guidelines and yet had heard the term “flexibility” used frequently by the Board over the past 20 minutes.

Board comments/questions included:

- Ms. DiFruscia said that Mr. Valentine had supported the use of a Design Review Committee similar to the TRC. She asked who he might recommend to be included in this committee. Mr. Valentine said that people familiar with architecture, landscape design, and those familiar with color schemes. The WEDC sub-committee has not given it a lot of thought.
- Ms. DiFruscia like the approach with the Medicus applicant, where the applicant had brought in material samples – this worked well. She expressed concern about the nature of the committee; are they to be paid; does the Town need professional architects;
- Ms. DiFruscia strongly supports Regulations rather than Guidelines; however, still looking at the shalls, shoulds, and mays with the Regulations;
- Mr. Valentine said he had spoken with Fire and Police who had some concerns with accessibility to rear parking. Mr. Lewis is very much against screening the parking from the street for visibility concerns. Mr. McPherson thought front parking is important to establish a fire lane in the front. Both Chiefs are available for further discussion;
- Ms. Nysten did not recall that the Regulations prohibit front parking;
- Mr. Valentine addressed Section 702.7 and Vice-Chair Crisler’s comments about a minor request needing a licensed architect. He suggested qualifying “site plan review” with the word Major or Minor to make the distinction. The Vice-Chair suggested the word “modification” as an alternative; Ms. DiFruscia said that some modifications can be very extensive and may be a major change;
- Mr. Valentine confirmed that Section 1200 would not be eliminated; Ms. Scott explained that the intent was to have a Public Hearing to adopt the Design Regs and one sentence referencing the Design Regulations in the Site Plan Regulations referencing the 3 Districts concerned. Section 1200 will stay in the site plan regs and covers the Rural District. The VCD has their own guidelines in the Zoning regulations which will be looked at later this year;
- Chairwoman Post said the Board will need to draft this one sentence very carefully and also be careful there are not conflicts being set up with other site plan regulations;
- Ms. Scott quoted a statement in the Design Guidelines, which had been recommended by legal counsel. It states if there is a regulation conflict or overlap, the more stringent regulation will apply. It is in Section 400;
- The recent WEDC survey sited Bedford, NH as the #2 town Windhamites wanted Windham to look like; The Chairwoman brought up the document she e-mailed to the Board that morning regarding Bedford; Mr. Valentine read from the Bedford Guidelines where the language was somewhat more flexible; Chairwoman Post found that Bedford had a mandatory list of criteria that every developer had to address. Yet, the criteria do not spell out definite specifics. They are more aspirational statements and allow the developer to address and propose their interpretation of them. This seemed to allow for more creativity and a greater degree of flexibility in the response;
- Mr. Valentine thought that the Chairwoman had reiterated the WEDC position which suggested the 22 page Design Regulation document should be scaled down to something more like a checklist. He also suggested that the Design Review process should slow down somewhat and remembered from the November Board meeting that several Board members agreed.

Mr. Paul Gosselin, WEDC subcommittee member, looked at the specifics of the language and its impact. He made the following comments:

- He found that by page 3 and the 17th waiver, a developer may decide not to build in town;
- There is not much subjectivity in the language, but lots of requirements. He said that the Board should consider converting terminology from “shall” to “should.” “Should” already which implies the Board feels strongly about the item requested. Then, if the applicant has not addressed it enough, the Board can bring it forward and find out why the applicant did not address the request;

- He thinks the Town should encourage variety in projects and not have requirements that frustrate developers and box them in. Something that gives them a chance to design something good for the Town;
- Under 502.5 Street Trees planted in interior islands. If these trees do not have irrigation, they will be dead within a year. This may not be a good use of our Town's well water in summer months. Groundcovers may be better. He cautioned the Board about unintentional consequences of well-intended guidelines;
- Section 503.2.2-Mandating that a development be connected to an adjacent lot that may be vacant or intending on being sold, is very difficult if you are on the development side;
- Section 504.2.6 – There may be possible conflicts with Public Safety;
- He sees the waiver process becoming so lengthy, that the Planning Board would have a tremendous increase in their work load.

Board comments/questions included:

- Ms. Nysten agreed with Mr. Gosselin and asked the Board to change the "Shalls" to "Shoulds" where Mr. Gosselin suggested;
- The Vice-Chair asked Mr. Gosselin if he had read the Section 1200 Guidelines; He had read the section on colors; The Vice-Chair said these Guidelines have been in place since the '90's and have still gotten construction that is not desirable; The Board is looking for Guidelines with more "teeth;"
- Mr. Gosselin concluded that the WEDC is looking for something that works for the whole Town and does not make the Board's work more difficult; He would ask the Board to reconcile what is in the Regulations to what is in Section 1200; Chairwoman Post restated Mr. Gosselin's suggestions saying that she thinks the Board is being asked to walk through the document addressing all the "shoulds" and "shalls;"

Mr. Bob Young, speaking as a Town resident, had some questions on the draft:

- Waivers Section 300.5 – Thinks that "if" statements should be followed by a "when" clause; Ms. Scott noted that just this concern was addressed in legal counsel's memo and will be changed;
- The last bullet item under Section 501 was numbered 502.1 in the previous version. He thinks it was a better fit there; Ms. Fitzgerald noted that during the previous Board discussion, the Board wanted to purposefully move it under Section 501 to offer a more objective sense, rather than a regulation;
- Mr. Young, as WEDC Chairman, said that maybe the Board should change the Document to read all the "shoulds" and then go back and look to see what should be "shalls;" Also, the offer is always open to form a joint subcommittee, the WEDC and the Planning Board.

Ms. Stephanie Foster, Town resident, suggested an additional step of a 1-year trial period to prove the Document, make corrections, and then create a more hard and fast document.

Chairwoman Post closed the Workshop to the Public.

Board comments/questions included:

- The Vice-Chair, addressing the WEDC's comments about attempting to look like Andover, MA, noted the significant differences between the 2 towns and the unlikely probability of that ever happening; She also noted that she feels strong about connectivity to adjacent parcels; She said that a parking lot island more than 3 ft wide can support trees;
- Ms. DiFruscia said that the enforceability of doing trial Guidelines first may be very difficult from the legal perspective. She recommended that the Board look at the 'shalls' and 'shoulds' to build in flexibility and reach out to the Town developers to work together on the remaining Town buildout so as to be creative and draw in business. She would like to see the Board take more time and work with the WEDC;

- The Vice-Chair would like to see a checklist as part of the application process for the Guidelines;
- Chairwoman Post noted that Bedford uses a checklist which expedites and streamlines the process; She had previously asked for a check list for the Site Plan Approval process, and it is currently on the 2012 work list;
- Mr. Wrenn thinks the Town needs stronger guidelines. The Board needs to work with developers and suggested volunteer professionals for the subcommittee meeting prior to the Planning Board process; This will help to expedite and reduce expense;
- Chairwoman Post recapped Mr. Wrenn's comments about a subcommittee similar to the current TRC review board composed of professionals;
- The Vice-Chair agrees with a subcommittee, but does not think it appropriate to have a Planning Board member on this committee;

Ms. Scott noted what she will prepare for the Board's next Design Review meeting:

- Drafting what Section 1200 of the Site Plan Regs will look like with the addition of the one sentence which will reference the Design Review Regulations; and
- She will present examples of subcommittees from other Towns;
- All of legal counsel's changes will be made.

There are two more meetings with Ms. Fitzgerald – March 7 Workshop and April 4 Workshop or Public Hearing.

The Chairwoman re-capped the tasks before the Board:

- Developing the sentence that makes the transition for Section 1200 and the new Design Regulations;
- Reviewing the document and make a determination on all the "shalls;" Mr. Wrenn suggested that Ms. Fitzgerald make the "should" and "shall" changes based on her experience; Ms. DiFruscia agreed;
- Ms. Nysten recommended track edits in color to be printed by Board members on their home color printers; Ms. Fitzgerald will address every single "shall" and the Board will be open to her recommended changes;
- Making the suggested changes to the definitions as recommended by WEDC;
- Mr. Gosselin to forward his recommended changes to the 3-4 sections he has edited to Ms. Fitzgerald via Ms. Scott to add to the file;
- Legal counsel's recommended changes will be made;
- Ms. Scott will provide samples of subcommittees from other Towns for Board consideration;
- Ms. Fitzgerald will provide another model for citing buildings on a parcel and parking with a more rural, less urban, feel.

Ms. Fitzgerald hears a couple of different opinions coming from the Board regarding what the vision is. The Town needs to keep the vision in mind when considering decisions. The Board needs to define what the look is that the Board is looking for. This will write the Guidelines. The Board should consider the whole picture down the road.

- Vice-Chair Crisler said that it was a consensus of the Board, the WEDC and Public Safety that the current model will not work. She asked Ms. Fitzgerald to look at other options
- Ms. Fitzgerald said that the Town will never have a real urban look because of route 111; Ms. Nysten said that if the parking must be in the front, a 30-50 foot landscape buffer will give a softer look; Mr. Wrenn thinks a 30-50 foot buffer makes sense;
- Ms. St. Laurent asked the Board to consider if they want more of the same building type on route 111 on the parcels that are yet to be developed. She has talked with commercial developers and discovered that if their business plan is to be in a certain type of community, they will be willing to

pay a bit more and want to be assured that the project next to them follows the same guidelines. The Board should consider the WEDC survey as they work to develop the Guidelines.

- Ms. Fitzgerald will bring 1-2 graphic samples of other streetscapes to the next Workshop.

Financial Guarantee Release – Shaws/Wall Street:

Ms. Scott asked the Planning Board to recommend to the BOS that they formally release the \$14,000 street opening construction bond for Shaws/Wall Street initiated in 2005.

Vice-Chair Crisler motioned to recommend to the Board of Selectman that they formally release the street opening bond which has been in place since August 2005 for \$14,000 by Panjelina Construction. Seconded by Ms. Skinner. Motion passed: 6-0-1. Selectman alternate Ms. DiFruscia abstained.

Meeting Minutes Review and Approval:

The minutes of January 18 and February 1 were postponed until March 7 so Ms. Nysten can be in attendance.

January 11, 2012

Vice-Chair Crisler motioned to approve the minutes as amended. Seconded by Ms. Skinner. Motion passed: 6-0-1. Chairwoman Post abstained.

Staff will repost the minutes of 12/28 with a minor heading correction.

Discussion on 2012 Proactive Work List:

- Ms. Maloney is currently working on a work list spreadsheet and will provide a copy to members prior to the 2/29 Board meeting.
- The Board will look at the zoning map's District Boundaries and maybe making some changes – possibly adding some new VCDs.
- Chairwoman Post thanked the writers of the various Public Service articles for their contributions. She encouraged anyone with strong feelings to feel free to write articles.

Liaison Reports:

Board of Selectmen – Ross/Kathleen

- The BOS voted to allow the Planning Board vote to be included on the Board's Warrant Articles on the ballot.
- There is to be a joint ZBA, BOS, and Planning Board meeting on 2/27. It has been requested by the ZBA Chair and is in regards to communication between boards. Mr. Wrenn, Ms. St. Laurent, Vice-Chair Crisler, and Chairwoman Post will be available for the meeting.

Windham Economic Development Committee – Sy

- He is working with Ms. Scott on the "Business Visitation Program."
- His work with the WEDC on the Design Regulations has provided good feedback from a different perspective.
- Ms. Scott reminded the Board about the 2/16 EXPO and the Saturday Shoreland Regulations seminar.

Conservation Commission – Pam

- They are looking at Butterick Rd. Conditions of approval were not noted before they were approved. This is in regard to a Right-of-Way to conservation land. Research is being done.

Rockingham Planning Commission –

- Ms. Scott has forwarded RPC transit/rail meeting material to the Board.
- The VCD project will be started in May.

January Staff Report – Community Development Director:

The Board to review and comment, if need be.

Old/New Business:

- There is a minor site plan change of use application for Dr. Filler on Cobbetts Pond to be a medi spa/esthetician location. It has gone through TRC Ms. Wood to e-mail the board.
- There will be a request for a full-release of a bond for the Condo Association.

Adjournment:

Vice-Chair Crisler motioned to adjourn the meeting and was seconded by Ms. DiFruscia. Motion passed 7-0.

The meeting adjourned at 9:52 pm.

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