



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

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**Planning Board Minutes**

**August 29, 2012**

**Board Members:**

Margaret Crisler, Chairman – Present  
Ruth-Ellen Post, Vice Chairman– Present  
Pam Skinner, Member – Present  
Kristi St. Laurent, Member – Present  
Jonathan Sycamore, Member – Excused  
Lee Maloney, Alternate Member – Excused

Carolyn Webber, Member – Present  
Ross McLeod, Selectman Alternate – Present  
Kathleen DiFruscia, Selectman, Member – Excused  
Sy Wrenn, Alternate Member – arrived at 7:40 pm  
Vanessa Nysten, Alternate Member – arrived at 7:27

**Staff:**

Elizabeth Wood, Community Planner  
Cathy Pinette, Planning Board Minute Taker

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

Vice Chairman Post called the meeting to order at 7:04 pm, followed by the Pledge of Allegiance and attendance.

**Design Review Subcommittee Interview and Appointment**

- Mr. David Demers, 22 Woodvue Rd, addressed the Board. He stated he read about the position on the Design Review Subcommittee and thinks he would be of assistance. He owns a development company in Salem and locally has restored the Searles Castle Guest House, he likes old homes, he did an 1880's Victorian in Chelmsford working with the Historic Society, and he has a rental business and has a good idea of what would look good in town.
- Ms. Post asked Mr. Demers if he has read the Design Review Regulations and what his impression was. Mr. Demers stated he thinks it could be improved and he has some suggestions. Ms. Post asked if he had experience with commercial buildings. Mr. Demers stated the experience he has is limited with commercial rentals.
- Ms. Webber asked Mr. Demers if he would have a problem working with the current regulations. Mr. Demers stated no, he thinks there is always room for improvement.
- The Chairman stated that Mr. Demers had worked for the Salem NH Police Department. Mr. Demers stated he worked for them for 12 years and brings honesty to the position. He thinks he has quite a bit to bring to the table from a parking safety position.

- Mr. Paul Gosselin stated he lives in Windham, he is on the Economic Development Committee, he helped with the Design Review Regulations, he is also involved in Community Development and he feels he brings a lot to the table. With his experience he believes where there is non compliance with the Design Review, he hopes to work with the applicant and the regulations to streamline the process. He wants to make it work more smoothly with the applicant and the town.
- Ms. Webber and Ms. Post thanked Mr. Gosselin.

The Chairman stated there were two one year positions available.

**Mr. McLeod motioned to appoint Mr. Demers and Mr. Gosselin each to a one year position on the Design Review Committee, seconded by Ms. Skinner. Motion passed 6 – 0.**

### **Public Hearings**

Ms. Post read Case #2012-25 into the record.

#### **Case #2012-25 Preliminary/Final Major Site Plan & WWPD Special Permit Application**

A Major Site Plan and Wetland and Watershed Protection District Special Permit Application have been submitted for 183 Rockingham Road (3-B-625) located in the Business Commercial A and Wetland and Watershed Protection District. The applicant, Joseph Maynard of Benchmark Engineering, on behalf of the Owner, Murray Properties, LLC. is proposing to demolish the existing 10,000 sq. ft. structure and build a 25,000 sq. ft. building containing 15,000 sq. ft. of office space, 5,000 sq. ft. of retail space, and a 40 seat restaurant. A parking area with 111 spaces is being proposed along with associated lighting, signage, landscaping and drainage work.

A Special Permit has been requested to permit a portion of the proposed building, parking area, and a dumpster to be located within the WWPD.

Waivers are being requested **from Section 401, 604.1, 1209.01, 1307, 1310, 1313.1, and 1313.3** of the Site Plan regulations.

- Ms. Wood stated that since the hearing notice was given to the Board that the applicant had also asked for a waiver from Section 1301 in regard to parking.
- The Chair stated the applicant was asking for a Preliminary/Final Major Site Plan but she would like to accept only as a preliminary.
- Ms. Post stated that there were 25 issues raised by the Town's consultant. The changes she received tonight at the meeting included 5 pages of additional information.
- The Board concurred that it should only be accepted as a preliminary.

- Mr. Joe Maynard, Maynard of Benchmark Engineering, on behalf of the Owner, Murray Properties, LLC addressed the Board. He stated that when the Board looks at the details of the land they will see there are only so many ways to use this land. He thinks that when the Board gets into the process they will see that. He also is looking at the timing for the project and Murray Properties would like to get it done this year. If they had to come back for a final hearing it would be another month.

The Chairman stated the Board needs to do their due diligence.

#### Board Questions/Comments

- Mr. McLeod asked if they can take the preliminary and roll it into a final. The Chairman stated it needs to be posted. Ms. Wood stated it would be heard in September. Ms. Post stated it was posted as a Preliminary/Final Major Site Plan and they could hear it and make a decision. The Chairman stated there are other nights it could be scheduled for.

The Chairman entertained a motion.

**Ms. Post motioned to accept Case #2012-25 for preliminary application, seconded by Mr. McLeod. Motion passed 6 – 0.**

- Ms. Wood stated that there have been updates to the application. On 4/12/12 the ZBA granted variances for Section 601.3, 601.3.8, 702 and Appendix A, 702.5 and 706.8 and the easement has been recorded. On 8/28/12 variances were granted by the ZBA for Sections 615 regarding driveway and 601 for a dumpster within the WWPD.
- Ms. St. Laurent questioned if there was a traffic study. Ms. Wood stated DOT didn't require an intensive traffic study. Highway safety had some comments regarding the egress and line of sight. There is a 5 page memo from Keach Nordstrom in the Board's packet. The plan set is also in the packet. The Fire Department looked at the site and stated they needed a fire lane in front of the building. The fire Department would like those lanes marked. As a result of that, the applicant is 5 parking spaces short and that is why the applicant is asking for a waiver.

Mr. Wrenn arrived and was seated at 7:25 pm for Mr. Sycamore.

Ms. Nysten arrived at 7:27 pm.

- Mr. Maynard addressed the Board. He stated the property is located at 183 Rockingham Road and used to be the Windham Inn and the building has been vacant for 4 years. The building is not salvageable and Mr. Murray saw the potential of the land. There are 3 curb cuts and a circle driveway but they have limited sight distance. The southerly driveway is the nearest location and had the best sight distance. It would not be across from Gym-Ken Gymnastics. DOT wants it moved as far south as possible. He has received a variance for the driveway. When 20 acres were given to the Town in front of Spruce Pond, there were easements for drainage, wells, etc, Mr.

Murray now owns those easements which will allow them to send the drainage to the lowest section of the lot. They know they have WWPD impacts. When they started the process, parking was part of Zoning, now it is part of Site Plan Regulations and under the Planning Board. They plan on pulling everything away from RT. 28. All of the run off does not go into the WWPD. Mr. Keach asked for catch basins which the applicant did. There is only 12 feet to Rt 28 not 20 feet as required. They have placed a large Clean Solutions septic down in the corner. A variance he requested was to install solar trees in the WWPD along the ridge. The building will be Geothermal. Due to the Fire Department request they had to reduce parking to 106 from 100 which is required. Spruce Pond had a number of traffic studies. He has met with DOT and they have no problem with the traffic. He has also worked with someone in Salem who has confirmed his numbers. The biggest issue is sight distance. Mr. Murray will be moving some large trees.

### **Board Concerns/Questions**

- The Board was concerned about having fire truck access and maintenance access to the back of the building and exits in the back for tenants. The Board stated there should be more emergency exits. Also, the size of the cistern. There was a question of the floor plan.
- Mr. Maynard stated that there is a cistern and there will be a line coming out to the front if necessary. The building also has sprinklers. The Fire Department is fine with that. There will be exits on the side and a center stairwell. Mr. Maynard stated all maintenance items are in the ceilings. The size of the cistern has not been designed yet but will probably be 30,000 gallons. It will be review and approved by the Fire Department. Mr. Maynard stated he has floor plans but they are not required for the Board.
- The Board was concerned about snow storage on the underground propane tanks.
- Mr. Maynard stated Mr. Murray plows with bobcats that throw the snow. Ms. Post stated that was not the safest way and expressed concerns if someone else did the plowing and didn't do it the same way.
- The Board was concerned about the dumpster location and odd placements of different items.
- Mr. Maynard stated they are trying to lessen the impact in the WWPD. There is a treatment swale that will be right behind the dumpster.
- The Board was concerned about a sea of asphalt and would like to hear more about storm water run off and permeable surfaces.
- Mr. Maynard stated the lot was very wet and shallow to ledge. The plan for drainage is surface runoff with detention ponds with shallow slopes.

- Mr. Maynard addressed the parking lot. He stated there will be a large island up the middle with a gutter that will drain down. Site conditions make it very limited in what he can do. He is required to put in 18 trees and can only put in 17 the way the plan is. They plan on putting low vegetation in the frontage for line of sight.
- The Chairman would like a site walk. She is very concerned about the line of sight. She suggested maybe the applicant is putting too much on this fragile site. Ms. Post thinks the plan might be a little ambitious for this site. Ms. Post would like to see the short traffic study. Mr. Maynard stated he will provide that.
- The Chair questioned how many parking space the applicant really needs. Mr. Maynard stated he doesn't have a tenant yet but wants to make sure he has adequate parking. The Chair stated in the past the Board has had the applicant put in reserved parking for future use. Mr. Maynard stated he would like that recorded if that is an option.
- Ms. St. Laurent questioned the additional parking, elevation, the proposed walkway and adding more walkways.
- There is no parking wrapping around the building because of the WWPD impact. Mr. Maynard stated the walkway would rise 5%, it is not steep and is gradual. Mr. Maynard explained because of the elevation, the grading drop off and the retaining wall that would have to be put in place additional walkways were not an option.

The Chairman told Mr. Maynard the following were the Board's concerns:

1. Traffic study
2. Snow storage issue – the Board wants to look into
3. Dumpster location
4. No emergency egress in back – There should be?
5. Landscaping – Would like more landscaping
6. Location of walkways
7. Elevations and floor plans

The Chairman asked the Board if they wanted to move forward with the whole application this evening. Mr. Maynard respectfully asked to defer to date specific.

- There was a discussion among the Board if the applicant would have to pay more fees. Ms. Wood stated yes.
- There was a discussion among the Board regarding preliminary and final approvals by the Board.

The Chairman entertained a motion.

**Ms. Post motioned to close the preliminary and to accept jurisdiction for the final application.**

- Ms. St. Laurent agreed with the premise but the abutters would not be notified and the hearing has not been opened to the public.

**Ms. Post withdrew her motion.**

The Chairman opened the hearing for public discussion at 8:10 pm.

- Mr. Sheldon Wolfe, 186 Rockingham Rd, addressed the Board. He stated his main concern is how they would remove snow especially if we have lots of snow as it will reduce parking. He thinks the whole project makes a lot of sense and is a good thing coming into the Town. It is good they are reducing the carbon footprint.

The Chairman closed the public comment session at 8:13 pm.

- Ms. Wood stated that each application should be treated equally and if there are waiver requests the public should be notified for the fire lane. Section 801 was not noticed for floor plans and would need to be noticed. Mr. Maynard stated he would provide that.

The Board agreed to re-notice the additional waiver.

The Chairman entertained a motion.

**Ms. Post motioned to close the preliminary and to accept jurisdiction for the final application, seconded by Mr. McLeod. Motion passed 7 – 0.**

- The Chairman scheduled a site walk for September 8<sup>th</sup> at 8:00 am. Ms. Skinner asked that Mr. Morris of the Conservation Commission be notified.

The Chairman entertained a motion.

**Ms. Post motioned to continue Case #2012-25 to date certain, September 18, 2012 at 7:00 pm, seconded by Ms. Skinner. Motion passed 7 – 0.**

The following case will not be heard tonight.

**Case#2012-27/Subdivision Application**

A Subdivision proposal has been submitted for 53 Blossom Road (Lot 11-A-1620), located in the Rural District and Wetland and Watershed Protection District. The applicant, Wesley Aspinwall of Edward N. Herbert Associates, Inc. on behalf of the property owners, Kenneth and Susan Hebert is proposing to subdivide the existing lot into two lots, thus creating one new lot for a single-family residence. No new roads or other infrastructure is proposed.

Ms. Post read Case#2012-28 into the record.

### **Case#2012-28/Subdivision Application**

A Subdivision proposal has been submitted for 12 & 15 Moeckel Road (Lots 5-9-149 [Pelham] & 25-C-250), located in the Residence District A and Wetland and Watershed Protection District. Per RSA 36:57 this application is being noticed as a development of potential regional impact. The applicant Joseph Maynard of Benchmark Engineering, Inc., on behalf of The Friends of Moeckel Pond, is proposing to subdivide Lot 25-C-250 into three lots; one lot would contain the existing house and accessory structures; one non-buildable lot, one for the purposes of containing a dam and surrounding areas, and; one non-buildable lot to be deeded to the Town of Windham for Conservation land. No new roads, infrastructure, or drainage features are proposed at this time.

Waivers are being requested from **Sections 404.3, 601.16, 601.25, 607, 610, 701.1.2, 701.1.3.5, and 701.1.7** of the Subdivision Regulations.

- The Chairman asked Ms. Wood if the application was ready.
- Ms. Wood stated yes, there is one thing the Board needs to be made aware of and that is soil maps and not having an outside review. On 8/17/12 there were two additional waivers asked for for Sections 601.5 and 601.12. The Planning Director in Pelham gave Ms. Wood an update on what is going on with the Pelham part of the property and asked that they be kept updated. Staff will take care of this.

The Chairman entertained a motion.

**Ms. Post motioned to accept jurisdiction for Case#2012-28, seconded by Ms. Webber. Motion passed 7 – 0.**

- Mr. Joe Maynard, on behalf of The Friends of Moeckel Pond, addressed the Board. He explained some history of the lot. He has been working with the Friends of Moeckel Pond so that the dam can have its own non-buildable lot. He has been working with Pelham ZBA and Planning Board, and Windham ZBA and Planning Board. Part of the variance that was requested was for the lot size. Between the Pelham land and the Windham land he meets the lot size. Another variance he requested was to bring it into compliance with shoreline protection as it is classified 2 different ways, one being Golden Brook and one being Moeckel Pond which have two different criteria. The waiver request has been review by the outside consultant and he has already been given a variance for the lot. A variance has been granted so that he doesn't need to do a high intensity soil test as there is already a house there. Mr. Maynard read the waivers he is asking for and why he is asking for each one. His memo is part of the packet located in the Community Development Department.
- Mr. Maynard commented that regarding Section 601.5, drainage courses, he is not sure he is creating anything new. Regarding section 601.12, no new homes so the applicant is not sure why a perk test is necessary.

- Mr. Maynard stated he went before the Pelham ZBA and they conducted a site walk. They had some concerns about the dam. The ZBA seemed ok with it. The Pelham Planning Board had more concerns about the dam. He is meeting with both Boards in September. He stated since he is not doing anything with the dam they will have to come back for that when it's time for dam construction. Right now he just wants to subdivide the lot.

The Chairman opened the hearing to the public at 8:40 pm.

- Ms. Nysten question Mr. Maynard about the waiver for Section 607, the entire Section. Mr. Maynard stated yes, he is not doing anything for erosion control but when they do the dam, he will. Ms. Nysten asked about section 610. Mr. Maynard stated that would require a special permit request when the dam portion begins.

The public comment period was closed at 8:42 pm.

The Chairman entertained a motion.

**Ms. Webber motioned, for reasons outlined in the memo of 7/27/12 from Benchmark Engineering, to grant the waivers requested, seconded by Ms. Post.**

**Ms. Webber amended her motion to remove Sections 601.5 and 601.12 from her motion as they were not needed at this time, seconded by Ms. Post. Motion passed 7 – 0.**

Ms. Post stated her reasons for seconding the motion were that there was no new construction taking place, no driveways or roads, and the dam will be handled by a second application.

The Chairman entertained a motion.

**Ms. Webber motioned to approve as presented, seconded by Mr. Wrenn.**

- Ms. Post questioned the comments by the Fire Chief in the memo regarding the 10,000 gallon cistern. Mr. Maynard stated he has no problem putting that on the plan however, 2 of the 3 lots are non-buildable so there would be no need to install a cistern.

**Ms. Webber amended her motion to include a 10,000 gallon cistern shall be located on the plan in case the dam does not materialize and the owner chooses to build more than one home on these three subdivide lots, the conditions Ms. Wood's memo of 8/24/12, No. 4 a – e, the applicant will submit a copy of the NH Subdivision approval and add notes to the plan indicating the approval number if the lot is not merged with the abutting parcel prior to the plan being recorded, seconded by Mr. Wrenn. Motion pass 7 – 0.**

**Ms. Post read Case 2012-26 into the record.**

**MAJOR Watershed Application –17 Ash Street (Lot 16-C-19) #Case 2012-26**

A Major Cobbett's Pond/Canobie Lake Watershed Land Development application has been submitted



for 17 Ash Street (16-C-19), located in the Residential A and Cobbett's Pond/Canobie Lake Watershed Overlay Protection District. The applicant Joseph Maynard of Benchmark Engineering, Inc. on behalf of the owners, 5 King Street Trust, is proposing to construct a garage and breezeway with a room above and to add a deck to the existing home. An existing deck is proposed to be rebuilt, and a new septic system has been designed. The total amount of impervious surface proposed is 4,312 sq. ft for a total of 30% impervious surface coverage of the lot.

The Chairman asked Ms. Wood if this application was ready for acceptance.

Ms. Wood stated yes

The Chairman entertained a motion.

**Mr. McLeod motioned to accept Case 2012-26 for hearing, seconded by Ms. Webber. Motion passed 7 – 0.**

- Mr. Joe Maynard addressed the Board. Mr. Maynard stated that this was at 17 Ash Street and not on the water. There are sections of the lot in the WWPD and also the Shoreline Protection act. He has received approval from the State for the deck, there will be new footings and excavating and he has received variances on 7/24/12 from the ZBA. He filed for a new septic design and they installed a conventional system in the rear of the property.

#### **Comments/Questions from the Board**

- Ms. Post asked if the erosion control and storm management was available.
- Mr. Maynard stated he has used silt fencing around the majority of the property.
- The Chairman asked Mr. Maynard if it would block the view.
- Mr. Maynard stated there was no one behind the property and the neighbors are in favor.
- The Chairman opened the hearing to the public at 9:05 pm, hearing no comments, public comment time was closed.

The Chairman entertained a motion.

**Ms. Webber motioned to approve Case 2012-26 per plans submitted, seconded by Mr. McLeod. Ms. Post added that the applicant's erosion and sedimentation control measures comply with Sections 616.6.2 and 616.10.3 per Steven Keach's memo. Motion passed 7 – 0.**

#### **Meeting Minutes Review and Approve**

August 15, 2012

August 29, 2012 Approved Planning Board Minutes

Amendments were made to the August 15, 2012 minutes.

The Chairman entertained a motion.

**Ms. Post motioned to approve the amended minutes of August 15, 2012, seconded by Ms. Webber. Motion passed 4 – 0 – 3 with Mr. McLeod, Ms. Crisler and Ms. Skinner abstaining.**

### **Old/New Business**

The Chairman and the Board discussed the meeting dates for September. The Board will be meeting on September 5<sup>th</sup>, 12<sup>th</sup>, 18<sup>th</sup> (Tuesday) and the 26<sup>th</sup> at 6:00 pm for a short meeting.

The Chairman announced on September 29<sup>th</sup> there will be a workshop on “Knowing the Territory”.

The Chairman announced that she would volunteer for the WFH subcommittee.

### **Adjournment**

The Chairman entertained a motion.

**Ms. Webber motioned to adjourn, seconded by Ms. Skinner. Motion passed 7 – 0.**

These minutes were approved 10/3/12 and respectfully submitted by Cathy Pinette, Planning Board Minute Taker.