



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

PO Box 120, Windham, New Hampshire 03087

(603) 432-3806 / Fax (603) 432-7362

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**Planning Board Minutes**

**April 17, 2013**

**Board Members:**

Kristi St. Laurent, Chairman – Present  
Margaret Crisler, Vice Chair – Present  
Pam Skinner, Member – Present  
Jonathan Sycamore, Member – Excused  
Sy Wrenn, Member – Present  
Carolyn Webber, Member – Excused

Ross McLeod, Selectman – Present  
Kathleen DiFruscia, Selectman Alternate, Excused  
Lee Maloney, Alternate Member – Excused  
Vanessa Nysten, Alternate Member – Excused  
Alan Carpenter, Alternate Member – Excused

**Staff:**

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

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

Chair St. Laurent called the meeting to order at 7:02 pm, followed by the Pledge of Allegiance, member attendance and gave a brief synopsis of the agenda.

**SNHPC Alternate Appointments – Review and Recommendation**

- Ms. Ruth Ellen Post spoke about her desire to be appointed to an alternate position to the Southern New Hampshire Planning Committee. She stated she had been on the Planning Board and involved many Town Committees. She stated it would be a nice learning opportunity to get acquainted with members and other towns and work on transportation issues.
- Ms. Eileen Mashimo spoke about her desire to be appointed to an alternate position to the Southern New Hampshire Planning Committee. She stated she has been a resident of Town for 14 years and would like to get more involved. She has attended some regional Planning Committee meetings and can commit. She asked that under RSA 91-A: 3 that any discussion about her application is done in public and not nonpublic session.
- Mr. McLeod asked Ms. Mashimo what her opinion was of the Southern New Hampshire Planning Commission as he heard she thought it was run like a dictatorship. Ms. Mashimo stated she didn't know what Mr. McLeod was speaking about. Mr. McLeod asked her her opinion on the Sustainable Community Initiative. Ms. Mashimo stated she does not support some of the Sustainable Community Initiative but wants what is best for Windham. She objects to the Southern New Hampshire Planning Committee's influence on the Town. She will vote against things that are not in the best interest of the Town. Mr. McLeod questioned her that if

she doesn't want any external control of the Town how can she work with the Commission. Ms. Mashimo stated she can work with them and for him to say that she has concerns with programs in Town would disqualify her is unjust.

- Ms. Crisler stated the applicant has volunteered and done her homework and the Board should recommend Ms. Mashimo's application.
- The Chair asked Ms. Mashimo if she has gone to other towns and spoke against the Sustainable Community Initiative and stated it would restrict individual's rights. Ms. Mashimo stated she was invited to speak and does not agree with the Sustainable Community Initiative. The Chair asked if she had referred to the Southern New Hampshire's Planning Commission as unelected bureaucrats. Ms. Mashimo stated that is an accurate description but she doesn't recall saying that.

**Ms. Crisler motioned to recommend to the Board of Selectmen the appointment of Ms. Post as an alternate to the Southern New Hampshire Planning Commission, seconded by Mr. McLeod. Motion passed 5 – 0.**

**Ms. Crisler motioned to recommend to the Board of Selectmen the appointment of Ms. Mashimo as an alternate to the Southern New Hampshire Planning Commission, seconded by Mr. Wrenn. Motion passed 3 – 2.**

- McLeod stated he is looking forward to Ms. Mashimo reporting back to The Board to show them that she can work with the Commission.

Ms. Crisler read Case#2013-3 into the record.

### **Public Hearing (Continued from 3/6/13)**

#### Case#2013-3/ Final Subdivision Application/Weston Estates

A Final Subdivision has been submitted for 1 Weston Road (21-F-60), located in the Rural District and Wetland and Watershed Protection District. The applicant, Karl Dubay of The Dubay Associates, Inc. on behalf of One Weston Road, LLC, is proposing to subdivide the 16.818 acre property into ten (10) lots for single-family residential development. Also proposed is an extension of Weston Road, ending in an 80' radius cul-de-sac, to access the lots. A buffer easement is proposed along the rear yards of the subdivision in areas abutting residential properties. The existing pedestrian trail easement connecting Weston Road to town conservation land will be maintained. The existing house and accessory structure on the property will be razed.

- Ms. Wood stated a site walk was done by the Planning Board on March 16<sup>th</sup>. She has received an updated plan from the applicant which should reflect the changes requested but she does not have the drainage reports or the road design. There is an update from Attorney Campbell in the Board's packet and she is waiting for the aquifer study for the water supply in the area., She has given the Board and the applicant a memo dated April 15th from the neighbors and there is also a memo from Dave Sullivan, Town Administrator for the trail easement which has to be

approved by the Board of Selectmen and the Conservation Commission. She stated the Town Administrator has expressed his concerns regarding the trail easement.

- Mr. Karl Dubay addressed the Board. He stated this is a 10 lot standard subdivision and he doesn't believe any waivers are required. There are no wetland impacts, there are no WWPDP issues, and the new road design is updated on the plans. He stated Mr. Keach reviewed the plans and Mr. Dubay has updated the plans with Mr. Keach's recommendations. He stated Mr. Swisher's attorney has provided new trail easement language, which is being reviewed now and that individual landowner should not be responsible for maintaining the trails. They have increased some no cut areas. They will add the data the public has provided tonight to their study on water in the area.
- Mr. Brandon Swisher addressed the Board. He stated the site walk was productive. They've completed 98% of the water study and will share the water study and what they will do to protect the water.
- Mr. Tim Stone, of Stonehill Environmental addressed the Board on behalf of the applicant. He gave the Board the water table draft documents to look at. He then gave a presentation of the Weston Estates Water Resource Impact Study he is conducting, which is on file in the Community Development Department. He stated Windham has a well yield ordinance and when the original wells were installed in the subdivision, they were adequate. He stated they are not "mining" water. He spoke about recharge of the water and how much water goes back into the land. The Board stated that the basic concern of the abutters was that there is only so much water available.
- Ms. Linda Barreira, 10 Bayberry addressed the Board. She stated the applicant and Mr. Stone are using old numbers and she doesn't think it captures what her neighborhood is going through. Mr. Stone stated her comments are true about the age of the data and he explained to her and the abutters the possibilities of why they could be having well issues. He stated they will be doing the wells in the new subdivision according to the new well ordinance.
- Mr. Jason Rogers, 2 Weston Rd., asked if there was some type of protection the Planning Board could give the neighbors if there is a problem with their wells if the subdivision is approved. The Chair stated the applicant would have to abide by the new well ordinance. Ms. Wood stated that there are State resources that are available that can comment on this and she can get an answer to Mr. Rogers question.
- The Board discussed requiring a bond for the wells to see if there is any difference with the water before and after the subdivision is put in if approved and the abutters concerns. Mr. Swisher stated he is not sure about a bond and questioned if it could be proven that the problem is from his subdivision. Mr. Stone stated the types of withdrawals are so small it would be unreliable data. Mr. Dubay stated posting a bond is not something they should have to do. Mr. Dubay stated they would adhere to the new draft well ordinance even though they're covered under the old ordinance. Mr. Dubay stated they also have easements on the new lots if new

wells are necessary for existing lots in the future if necessary. The Board would like a new official report so they can have an expert review. The Board stated the applicant can ask for an extension to May 15 if he chooses. Mr. Swisher asked the Board for an extension to May 15.

**Ms. Crisler motioned to move Case#2013-3 to date certain, May 15, 2013 at 7 PM, seconded by Mr. McLeod. Motion passed 5 – 0.**

The Board took a recess at 9 PM and was back in session at 9:08 PM

### **Public Hearing**

Ms. Crisler read Case#2013-4 into the record

#### Case#2013-4/Lot Line Adjustment/Major Watershed (21-Z-267, 275)

A Lot Line Adjustment and Major Cobbett's Pond and Canobie Lake Watershed Development Application have been submitted for 21-Z-267 (2 Horne Road) and Lots 21-Z-275, 276 (Cobbett's Pond Road), located in the Residence District A and Cobbett's Pond and Watershed Overlay Protection District. The applicant, Joseph Maynard of Benchmark Engineering, on behalf of Phillippe Bouchard and James Harvey is in proposing to adjust the lot line by removing approximately 1,600 sq. ft. of lot 21-Z-267 and adding it to Lots 21-Z-275, 276 (currently in the process of being merged) for purposes of allowing Lots 21-Z-275, 276 a more suitable driveway location. The application is also seeking a Major Cobbett's Pond and Canobie Lake Watershed Development permit to construct a single-family residence, deck, shed, steps, patio, driveway and generator on the site for a total of 6,292 sq. ft. or 28.8% impervious surface cover where the current impervious surface cover is 0 sq. ft. or 0%.

- Ms. Wood explained her outstanding concerns, variances received, and 3rd party reviews that are outlined in her memo dated April 12, 2013. She also explained the public notice issues which are included in her memo.

**Ms. Crisler motioned to accept Case#2013-4 for public hearing with assurance from staff that it is complete, seconded by Mr. McLeod. Motion passed 5 – 0.**

- Mr. Joe Maynard of Benchmark Engineering on behalf of the applicant addressed the Board. He stated Mr. Bouchard purchased and merged two lots from Mr. Harvey, and 1600 sq. ft. from Lot 21-Z-267 for the purpose of putting his driveway in a better location due to the grade change and sight distance. Mr. Maynard stated he has a shoreline permit for the work proposed. He stated DOT is in agreement that this is the best place for the driveway. He stated the impervious surface is under 30%, a new single family home will be built, a new septic system will be put in, there will be no drainage improvements but he will put a dry well in per New Hampshire DES requirements, and a new well will be added.
- The Board asked Mr. Maynard if this lot was cleared of trees recently. Mr. Maynard stated yes, they did it because they have a shoreline permit, they have spoken to the Cobbett's Pond

Improvement Association who was fine with the cutting and there have been erosion measures put in place at the lower end of the lot for now.

The Chair opened the hearing to the public at 9:27 PM, hearing no comments, the public portion was closed.

- The Board questioned Mr. Maynard about silt fencing and thought it had to be in place before anything was done. Mr. Maynard stated with tree cutting it is not required and is usually not done until the trees are cut. The Board asked Mr. Maynard about the “unaltered area” on the plans. Mr. Maynard stated that is a State rule and in this case they wrapped the outside “unaltered area”. The Board questioned if Mr. Maynard had the Building Inspector look at the lot. Mr. Maynard stated no, the Building Inspector will look at it when construction starts. The Board had concerns about drainage on the sidewalk. Mr. Maynard stated there is a low spot on the property and he is building a path to the water. The Board questioned Mr. Maynard about retaining walls. Mr. Maynard stated there would be a 4 foot high retaining wall tapering down and a couple of three-foot retaining walls on the grade.
- Ms. Wood stated staff does not feel several of the waivers are necessary as they pertain to new roads (701.1.3.5, 701.1.3.9, and 70 .1.3.11)

**Ms. Crisler motioned to grant, the following waivers from the Subdivision Regulations:**

1. **601.6, with no findings mentioned.**
2. **601.12, 701.1.3.5, 701.1.3.9, with the following finding: The Topographic information is already on the Shoreland Protection Plan.**
3. **601.16, 701.1.7, with the following findings: This is a previously disturbed site and these sections are applicable primarily to new subdivisions and construction.**
4. **601.25, 701.1.3.11, with the following findings: Separate plans have already been submitted for the new septic system and are on file with the Building Department.**
5. **605.5, with the following finding: a small amount of land is being transferred in compliance with Zoning Board of Adjustment request, seconded by Ms. Skinner. Motion passed 5 – 0.**

**Ms. Crisler motioned to Conditionally Approve the Lot Line Adjustment Application as presented with the following conditions:**

1. **Add a note to the plan stating that the Driveway must be wide enough for responding fire apparatus as well as a “hammerhead” turn around at the end of the driveway, if the driveway is over 150’ long.**
2. **The Final drawing must be expanded to display recently added graphics, so that the contractor will understand what improvements are to be made and where.**
3. **The permit# from the State for the curb cut must be included on the Plan and a copy of the permit be included in the case.**
4. **A copy of the new septic plan must be added to the case file when it is granted by the State.**

**Additionally the applicant is to work with staff to make the following edits to the plan:**

- **The plans must be updated to reflect the recent lot merger of Lots 21-Z-275 and 21-Z-276 (lot number of 21-Z-276 does not need to be referenced on plan since it no longer exists).**
- **Indicate House numbers on the Plan for each lot once they are confirmed by the town.**
- **Display width of Right-of-Way for existing Streets (Horne Road and Cobbetts Pond Road)**

**Notes:**

1. **The Shoreland Impact Permit was issued on 4/3/13. Add the permit number, #2013-00620, to the plan.**
2. **Correct Note#10 to state that the Variance Requests for Case#6-2013 were granted on 2/26/13 (not February 20, 2013 and October 26, 2010 as currently listed on plan), seconded by Ms. Skinner. Motion passed 5 – 0.**

**Ms. Crisler motioned to conditionally approve the Major Watershed Application with the following conditions:**

1. **The plans must be updated to reflect the recent lot merger of Lots 21-Z-275 and 21-Z-276 (lot number of 21-Z-276 does not need to be referenced on plan since it no longer exists).**
2. **Sheet 1, Existing Conditions details impervious calculations for a driveway. No driveway or impervious surface exists on Lot 21-Z-275 (recently merged with 21-Z-276). Update the plans to reflect the accurate coverage.**
3. **Upon receipt, the applicant must submit the Deed Reference Number of the new survey of record so that Assessing records may be updated**

**Notes**

1. **Indicate the location of any Hydric-A or Hydric-B soils on the plan. If none exist, add a note stating this.**
2. **Indicate exact sections of zoning ordinance that variance relief was granted for on 2/26/13, Case#2013-6.**
3. **The Shoreland Impact Permit was issued on 4/3/13. Add the permit number, #2013-00620, to the plan.**
4. **Per Section 616.9.1 of the Zoning Ordinance and Land Use Regulations, for any new construction, an Effluent Disposal System (EDS) shall be installed in accordance to NH DES regulations requiring a 75 foot setback from Hydric-A soils and a 50 foot setback from Hydric-B soils from any surface water or wetland area. Add a note to the plan to this effect, seconded by Ms. Skinner. Motion passed 5 – 0.**

Mr. McLeod was excused from the meeting at 9:45 PM

**Meeting Minutes – Review and Approve**

March 6, 2013

**Ms. Crisler motioned to approve the March 6 draft minutes as written, seconded by Mr. Wrenn. Motion passed 4 – 0.**

April 3, 2013

**Ms. Crisler motioned to approve the April 3 draft minutes as amended, seconded by Mr. Wrenn. Motion passed 4 – 0.**

### **Member Binder Items**

Given to the Board

### **Old/New Business**

- The Chair stated there are larger Zoning maps available to the Board if they would like them.
- The Board discussed questions for Attorney Campbell from the Board. Some members of the Board gave Ms. Wood their questions while others had e-mailed her their questions.
- The Chair asked Ms. Crisler if she attended the Public Safety Impact meeting. Ms. Crisler stated the meeting is on the 17th.

### **Adjournment**

**Ms. Skinner motion to adjourn, seconded by Mr. Wrenn. Motion passed 4 – 0.**

Meeting adjourned at 10:00 PM

These minutes were approved as amended 5/1/13 and respectfully submitted by Cathy Pinette,  
Planning Board Minute Taker