



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

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**Planning Board Minutes**  
**May 15, 2013**

**Board Members:**

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

Ross McLeod, Selectman – Present  
Kathleen DiFruscia, Selectman Alternate, Excused  
Jim Fricchione, Alternate Member – Present  
Vanessa Nysten, Alternate Member – Excused  
Alan Carpenter, Alternate Member – Excused

**Staff:**

Laura Scott, Community Development Director  
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 7:00 pm, followed by the Pledge of Allegiance, member attendance and gave a brief synopsis of the agenda.

The Chair appointed Mr. Fricchione to sit for Mr. Wrenn.

**Ms. Crisler motioned to hear Case # 2013-8 Minor Site Plan Application as the first item on the agenda, seconded by Mr. McLeod. Motion passed 6 – 0.**

Mr. McLeod recused himself from Case # 2013-8.

Ms. Crisler read Case # 2013-8 Minor Site Plan Application into the record. The Chair asked Ms. Scott if this application was complete. Ms. Scott stated yes.

**Ms. Crisler motioned to accept for public hearing Case # 2013-8 Minor Site Plan Application, seconded by Ms. Skinner. Motion passed 5 – 0.**

**Public Hearing**

**Case # 2013-8 Minor Site Plan Application**

A Minor Site Plan Application has been submitted for 66 Mammoth Rd (19-A-300) in the Rural District & the Aquifer Protection District. The applicant, Peter Zohdi of Edward N. Herbert Associates, Inc., on behalf of Sun Coast Properties LLC, is proposing to add 5 parking spaces &

remove the landscaped islands between the unit driveways, which is an increase of 1,019 sq ft of pavement. In addition, 2 new light posts, relocating the snow storage area & revising the landscaping in the area of the 5 new parking spots is proposed.

- Ms. Scott stated the applicant submitted a letter stating why they thought this was a minor site plan and there is one outstanding item, which is outlined in the Keach memo dated May 8, 2013 regarding ADA parking.

**Ms. Crisler motioned to consider this application a minor site plan, seconded by Mr. Fricchione. Motion passed 5 – 0.**

- Mr. Phil Lochiatto of Sun Coast Properties LLC, addressed the Board. He stating he is proposing to add five parking spaces and remove the landscaped islands between the unit driveways, which is an increase of 1019 sq. ft. of pavement. In addition, two new light posts, relocating the snow storage area and revising the landscaping in the area of the five new parking spots is proposed.

#### **Questions/comments from the Board**

- Are any trees being taken down? Mr. Lochiatto stated no. What is the width of the handicap parking space? Mr. Lochiatto stated 8 feet wide. Mr. Lochiatto was asked if he had given any thought to put in flat pavers between the parking spots between the unit driveways. Mr. Lochiatto stated the space between the garage doors is 4 feet so there should not be a problem.

The Chair opened the hearing to the public at 7:15 PM, hearing no comments the public portion was closed.

- Mr. Lochiatto was asked if this was the only change from the approved site plan. Mr. Lochiatto stated yes. Mr. Lochiatto was asked how many driveways are constructed and he stated just one for the one structure on the site. Mr. Lochiatto was asked what these additional parking spaces were for and he replied they are being added because of feedback from potential buyers who felt that additional parking would be beneficial.

**Ms. Crisler motioned to approve Case # 2013-8 on the condition that the ADA parking spot be 9' wide and that the gore area be 8' wide, seconded by Ms. Skinner. Motion passed 5 – 0.**

Mr. McLeod was seated back on the Board.

Mr. Fricchione recused himself from Case#2013-3.

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

#### **Public Hearing (Continued from 4/17/13)**

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

A Final Subdivision has been submitted for 1 Weston Rd (21-F-60), located in the Rural District & Wetland & 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 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 & accessory structure on the property will be razed.

- Ms. Wood reviewed her memo of May 10, 2013 regarding items that were submitted by the applicant since the previous hearing on April 17, 2013, Fire Department comments and concerns, trail easement issues, the town consultant review and recommendations, other committee reviews and comments, a financial guarantee, and the aquifer study. The main concern is the water supply in the area. Ms. Wood has invited Mr. Stephen Roy from DES to speak to the Board and public regarding the water and he is bringing his unbiased opinion she stated.
- Mr. Karl Dubay on behalf of the applicant, Brandon Swisher, addressed the Board. He stated Mr. Tim Stone of Stonehill Environmental, Attorney John Cronin, and Mr. Swisher were also in the audience to address the Board. Mr. Dubay stated they have met all the criteria and all the ordinances. No variances or waivers are requested. This is just a 10 lot subdivision. Mr. Keach did his review and there are only some cleanup issues to be taken care of. They have increased the buffer restrictions in the back of the lots, they also provided cross well easements, they have done replenishment design, extra mitigations, and are finishing up paperwork.
- Mr. Tim Stone of Stonehill Environmental addressed the Board. He stated the data he showed the Board a month ago has not changed. He stated they have responded to the Geosyntec review of the Groundwater Resource Impact Assessment which is outlined in his memo of May 13, 2013. He stated this development is not unusual, it is 16 acres with only 10 lots. He gave an overview of the wells in Windham and the ones he has reported on. He expects some challenges with the new wells in the development but the applicant will follow the Windham Well Ordinance. He stated the applicant is willing to conduct pump tests and provide additional storage if necessary.
- The Board and Mr. Stone discussed the Geosyntec review dated May 8, 2013 and determined the issues in their memo had been adequately addressed. They also discussed the pros and cons of a community well, the new well ordinance, external recharge, proper water management practices in homes and well design issues. Mr. Stone stated he could safely say there will be no significant change to the neighbors wells because of this subdivision.
- Attorney John Cronin addressed the Board. He addressed his memo of May 15, 2013 to the Chair. He spoke about the Stone Hill Groundwater Resource Impact Assessment and the Geosyntec consultant review. He stated any reports regarding future water tables and well performance is based on speculation. He stated that all property owners have equal rights to the groundwater and there is no priority for existing homeowners over existing land owners. He stated that water issues are important but his client will adhere to the town well ordinance.

- Mr. Stephen Roy of DES addressed the Board. He spoke about his position at DES and his expertise on water issues. The Board and Mr. Roy discussed how many gallons were used by typical household. Mr. Roy stated 300 gallons per household per day comes from the New Hampshire Seacoast Study which Mr. Stone used in his calculations and Geosyntec uses 600 gallons per day which comes from the New Hampshire Septic Rules. He stated both reports were correct. He explained community water systems and how many gallons they require. He stated over the last six years there have been issues all over the State and many towns have contacted him about the same issues that Windham is having with their wells. He stated Windham's Ordinance has the most the specificity in the State. The Board asked Mr. Roy in his professional opinion if these new wells in the proposed subdivision would not affect the neighbors as Mr. Stone stated. Mr. Roy said he would not make that generalization. The Board asked Mr. Roy if he had seen wells go dry when new wells are put in. Mr. Roy stated yes. Mr. Roy stated there have been a lot of new developments in Windham and there is a lot of green lawn which indicates people are watering their lawns very frequently. He stated irrigation systems need to be looked at as they use about 1400 to 1700 gallons a day. The Board asked Mr. Roy if the Planning Board could regulate irrigation systems. Mr. Roy stated that is a legal question and perhaps could be done as a public health ordinance.

The Chair opened the hearing to the public.

- Ms. Cheryl Rogers of 2 Weston Rd. addressed the Board. She asked if the Town of Windham had anything in place now to help people who were having problems with their wells. She stated she is on her third well. The Chair stated that is what the Board is looking for, both a solution for the applicant and the abutters, and being fair.
- Mr. Tom Surette of 3 Langdon Rd. addressed the Board. He asked if the wells go in before the houses. The Board stated yes, that is how the Ordinance was set up. Mr. Swisher stated he will be putting the wells in before the houses. Mr. Charette stated his well went dry when they put in the Bayberry subdivision and he had to put in a new well.
- Ms. Kathy Shea of 12 Bayberry Rd. addressed the Board. She stated she is on her second well and it is 1250 feet deep. She stated when the Settlers Ridge subdivision was put in she had to put in a new well. She understands people have a right to develop their land but her concern it is the Planning Board's job to make sure development doesn't affect the existing wells. She is looking for some type of insurance to help the neighborhood if the wells go dry.
- The Chair asked Mr. Stone to explain the map which was in his letter to Brandon Swisher dated February 26, 2013 that the Board had in their packet. Mr. Stone explain the map.
- Mr. Swisher spoke about irrigation systems, rain sensors and infrequent watering which he would put on the plans. He also suggested to the Board that if any well goes dry, that existing homeowners should need to adhere to the new well ordinance. The Board suggested they could

restrict the lawn area in the new development to help. Mr. Swisher stated he has already done that with increased buffer areas.

- Attorney John Cronin addressed the Board. He stated this plan doesn't require a variance and meets all the criteria. He stated towns have an opportunity to regulate watering in periods of drought but have no authority at other times. This proposal meets or will exceed the Well Ordinance. The Board has no authority to deny based on the Town regulations. Mr. Swisher would not be doing the development if he didn't think he could meet the yield tests. Attorney Cronin would like this application reviewed in light of the existing well criteria. The Chair read out loud the purpose of the Site Plan Regulations for reference. She stated Section 504 states "no detrimental effects of the water supply". She stated she hears the abutters concerns and also realizes the applicant's right to develop but she is concerned about the water. Attorney Cronin stated the Planning Board wrote the Ordinance and the applicant is following the rules.
- The Board suggested Mr. Swisher have one or two low yield wells tested while they're testing the new wells. The Swisher stated he will be monitoring all his wells and the abutters can surely have their own wells tested. He is notifying the abutters when he is testing his wells but does not feel it is his responsibility to monitor their wells.
- The Chair asked Mr. Dubay if Mr. Keach's comments in his May 9, 2013 memo were addressed. Mr. Dubay stated he has done some and will do the rest and has no issues with them. The Board stated the applicant has addressed all the other concerns besides the water. The Chair asked Mr. Dubay about the under drains Mr. Dubay stated he will extend them as recommended. The Chair questioned Mr. Dubay about the length of the cul-de-sac stating that the Subdivision Regulations state it shall not exceed 1200 feet but the plan is for 1320. Mr. Dubay stated Mr. Keach was fine with that. The Chair asked Mr. Dubay about the trail easement. Mr. Dubay stated the trail was being built by Mr. Swisher and Mr. Swisher will be working with the Trail Committee. They will put a note on the plan regarding the process of the trail build.
- Mr. Jim Fricchione of 6 Bayberry Rd. addressed the Board. He asked how much the buffer zones were expanded. Mr. Dubay stated the buffer behind Mr. Fricchione's lot has been expanded to 50 feet from the original 30 feet. Mr. Fricchione asked what happens if someone cuts the buffer. Mr. Dubay stated it will be in the covenant, it is a deed restriction, they are placing placards on the trees and it could be a civil issue. It was suggested by the Board as a conditional approval of the plan that Code Enforcement could deal with it. Mr. Fricchione asked if the Planning Board could say no to the application if there is a recognizable impact. The Chair stated the Board is only allowed to do what the regulations and State statutes allow and they are trying to find a happy medium for all involved.

The public portion of the hearing was closed at 9:53 PM.

- Ms. Crisler went over her list of points and notes taken during testimony for the Board.

- Mr. Dubay and the Board discussed Mr. McCartney's e-mail of May 15, 2013 regarding lot owners being responsible for drainage runoffs and Mr. Dubay stated there are no ditches on the sides of the road.

**Ms. Crisler motioned to approve Case#2013-3 with the following conditions:**

**1. Water Conservation**

**In order to conserve water for the abutting properties and proposed future residents the applicant must add notes to the plan stating that the following will be required:**

- Add language to the Covenants stating that all irrigation systems that are designed and installed must limit water consumption: installed to require an irrigation controller with gap timing and rain sensor**
- The depth of the top soil must be a minimum of 6 inches**
- Abutting property owners must be noticed via certified mail 14-days prior of any well testing.**

**2. Legal Documents**

- The Fire Department must review and approve the final Cistern Easement Document.**
- The Highway Agent must review and approve the final Road Deed. If the Highway agent and applicant do not agree on the language, then the applicant must bring the Road Deed Language back to the Planning Board for review and approval.**
- The proposed “No-Cut Buffer” must be in the form of a private deed restriction rather than as an easement, as noted on the plan and in the Declaration of Restrictive Covenants; and that once this is document is amended to address this concern, that Town Counsel review and approve of the final document language.**

**3. Plan Notes:**

- On Sheet 2, “Lot 25-R-2010” is mislabeled as “21-R-2010”. Correct this. Double check all other lot numbers to make sure they are correct.**
- Benchmark Elevation is indicated on Page 20 but needs to be labeled as such, per Section 601.2.5.**
- Add a note to the plan stating that each driveway will be within 800’ of a cistern.**
- The proposed “No-Cut Buffer” areas shall be in the form of private deed restrictions, not an “Easement” as noted on the plan and in the Declaration of Restrictive Covenants.**

**4. Trail Easement**

- The applicant must work with the Conservation Commission/Trails Committee to ensure that the proposed trail connections to trails on town-owned land are feasible.**
- A clear depiction of the trails system is shown as to how the proposed trail easement ties into the trails system on the open space land (21-B-10); however, it must also show how the proposed trail easement ties into town land (Lot 25-R-7010).**
- No trail will be approved for town ownership/easement without the signatures of the Board of Selectmen on the final subdivision plans. The Property Owner, Board of**

Selectman, and Town Counsel must sign all Trail Dedication paperwork prior to finalizing any approvals.

**5. Engineering Concerns:**

- a. All items of the KNA review memo, dated 5/9/13, must be addressed to the satisfaction of Steve Keach.
- b. Add a note to the plan stating that prior to receiving a building permit, the design engineer must discuss the potential need for a driveway culvert with the Road Agent at platted Lot 21-F-601

**6. Financial Guarantee: A financial guarantee for the road extension must be provided in accordance with Section 704.1.2 of the *Subdivision Regulations*. The bond or other surety shall be approved by the Planning Board with the guidance of the Town Engineer and/or Community Development Department Staff in an amount and form acceptable to the Town. (Referenced in 5/9/13 KNA review under General Comments #2), Seconded by Ms. Skinner, motion passed 4 – 1 with Mr. McLeod voting not in favor due to the drainage issues expressed in Mr. McCartney's e-mail of May 15, 2013**

Mr. McLeod thanked Mr. Roy from the NH DES for speaking to the Board.

The Chair stated when the proposed revised Well Regulations go to the Board of Selectmen, the Planning Board would like to be informed. Ms. Scott said she would make sure the Board was kept informed.

Mr. Sycamore was excused from the remainder of the meeting.

The Board took a recess at 10:22 PM and was back in session at 10:29 PM.

Mr. Fricchione was seated back on the board for Mr. Wrenn.

Ms. Crisler read Case #2013-7 into the record.

**Public Hearing**

**Case #2013-7 Minor Site Plan Application**

A Minor Site Plan Application has been submitted for 38 Rockingham Rd (Lot 13-B-74) in the Commercial Business A District. The applicant, Joe Armano, is proposing to modify the 2 existing retail/warehouse buildings into five (5) 800sqft units (3 units in Building One and 2 units in Building Two) with Office, Retail and/or Commercial Service Establishment uses. There is no new landscaping, site development or parking spaces to be added. Wall sign areas (12sqft) are proposed for each of the 5 tenants and the existing freestanding sign is proposed to be altered to have 5 tenant spaces but there will be no increase in the sign area. Waivers have been requested from Section 602.2.4 & 602.2.5 of the Site Plan Regulations.

- Ms. Scott stated this application and all material were submitted as a Minor Site Plan/Change of Use Application.

**Ms. Crisler motioned to waive the Bylaws to accept new business after 10 PM, seconded by Mr. McLeod. Motion passed 5 – 0.**

**The McLeod motioned to accept Case #2013-7 as a Minor Site Plan Application, seconded by Ms. Crisler. Motion passed 4 – 1 with the Chair opposed to this being a minor site plan as she has seen the site and the proposed changes do not appear to be minor.**

- Ms. Scott stated in her memo of May 10, 2013 two waivers are requested from the Site Plan Regulations: Section 602.2.4 and Section 602.2.5, and there are two outstanding items from the March 26, 2013 TRC meeting. The Police Department asked that the address for the entire parcel is to be 38 Rockingham Rd. with each unit to be identified by unit number on the outside of the building and the Fire Department request a Knox box location needs to be noted on the plan. The Board asked Ms. Scott if this location has enough parking for five businesses and Ms. Scott replied yes.
- Mr. Joe Armano of 38 Rockingham Rd. addressed the Board. He stated he is proposing to modify the two existing retail/warehouse buildings into five 800 square-foot units with office, retail, and/or commercial service establishment uses.
- The Chair stated she visited the site and stated it is a good location but a challenging location. She stated in the first unit, the third bay is not at grade and would need site work. There is no clear way on the plan to get to the last bay. There is an ADA issue and public access is an issue. The Board asked Ms. Scott if Mr. Keach would be able to do a review for ADA and if the Board can condition the approval on ADA compliance. Ms. Scott stated that could be done. The Chair stated it appears doors are being added at the back of the building but there is no walkway. Mr. Armano asked what the Board would recommend for a walkway. The Board suggested gravel, concrete, or pavement. The Chair stated this application requires a site plan. The Board discussed conditions of having Mr. Keach reviewed for ADA compliance and also Fire Department review for access for the units. The Board asked Mr. Armano about lighting in the area. He stated he is only asking for down lights on the proposed wall signs.

The Chair opened the hearing to the public at 10:50 PM, hearing no comments the public portion was closed.

**Ms. Crisler motioned to grant the requested waivers to the following sections of the Site Plan Regulations: 602.2.4 One copy of the approved Minor Site Plan shall be on Mylar and 3 paper copies submitted to the Town with original stamps and signatures and 602.2.5 Applicants are required to submit the final approved Site Plan in electronic format on CD as an Adobe PDF file, seconded by Mr. McLeod. Motion passed 5 – 0.**

**Ms. Crisler motioned to approve the Minor Site Plan Application with the following conditions: Amend the Plan per the 3/26/13 TRC meeting comments; Police Department - Address for entire parcel is to be 38 Rockingham Road with each unit to be identified by unit number on the outside of the building; Fire Department - Knox box location needs to be noted on the Plans**



**have KNA review the proposed site plan and ensure that it is ADA compliant, seconded by Mr. McLeod. Motion passed 4 – 1 with the Chair opposed as she felt it was a major site plan.**

### **Meeting Minutes – Review and Approve May 1, 2013**

- Minutes were postponed to a later date.

### **Member Binder**

- Member List (Tab #1)
- Department Fee Schedule (Tab #9)

### **Old/New Business**

- Ms. Crisler asked what happened to the branches on the cell tower tree on Rt 111. Ms. Scott stated maintenance was being done to the tower and that the branches were being painted. She will speak with Mike McGuire, Building Inspector, about this.

### **Adjournment**

**Mr. McLeod motioned to adjourn, seconded by Ms. Skinner. Motion passed 5 – 0. Meeting adjourned at 10:55 PM.**

These minutes were approved 5/29/13 and respectfully submitted by Cathy Pinette, Planning Board Minute Taker