

## PLANNING BOARD MINUTES

September 5, 2007

### ROLL CALL:

Ruth-Ellen Post, Chairman – Present	Ross McLeod, Vice Chairman – Present
Nancy Prendergast, Secretary – Present	Walter Kolodziej, Regular Member – Present
Phil LoChiatto, Regular Member – Present	Pam Skinner, Regular Member – Present
Neelima Gogumalla, Alternate – Present	Rick Okerman, Alternate – Present
Alan Carpenter, Selectmen Member – Present	Margaret Crisler, Selectmen Alternate – Excused

### STAFF:

Al Turner, Director of Planning and Development – Present  
Shaun Logue, Town Planner – Present

- *Ms. Post opened the meeting at 7:00 pm.*
- *The Board stood and recited the Pledge of Allegiance.*

### MINUTES:

- Mr. McLeod motioned to approve the July 25 minutes. Mr. Kolodziej seconded. Passed 6-0-1. Mr. McLeod abstained.
- Mr. McLeod motioned to approve the August 15 minutes. Mr. Carpenter seconded. Passed 5-0-2. Mr. Kolodziej and Mr. McLeod abstained;
- Mr. LoChiatto motioned to approve the August 22 minutes as amended. Mr. McLeod seconded. Passed 6-0-1. Ms. Prendergast abstained.

### CORRESPONDENCE:

- Confidential legal communications from Attorney Campbell regarding the CIP Committee composition. Board discussion: The CIP Committee has its first meeting tomorrow evening, and the letter should be forwarded to the Selectmen;
- Confidential legal communications from Attorney Campbell regarding Faith Road and Scotland Road intersection. Board discussion regarding the Selectmen should have a copy;
- Letter from the Joint Board of Licensure and Certification regarding architects;
- Confidential legal communications from Attorney Campbell regarding pedestrian trails;
- Letter from Mr. Turner to Richard Messina, Manor Motel, regarding his 1984 site plan approval for a second 52-unit motel building. Mr. Turner further explained he'll need to meet up-to-date requirements, and it's only for a motel not extended stay. Board discussion that he is not in compliance with the current units, and the location of the 52 units.
- Application for a Special Permit from J. M. Gray and Associates. Mr. Turner stated this went before the ZBA, Mr. Gray was told he needs to pay the Planning Board fees but disagrees with Mr. Turner, also the proper forms were not filled out, Mr. Turner will contact Attorney Campbell, Mr. Gray told Mr. Turner he was not going to pay any additional fees. Ms. Post read the letter from Mr. Gray;
- Eagle Tribune article titled "Residents oppose road under regional rail trail". Board discussion regarding why is this in the correspondence;
- Postcard notice regarding Pre-proposals for DES watershed restoration and assistance grants.

### OLD/NEW BUSINESS:

- CIP is meeting tomorrow evening at 7:00 pm.

### LIAISON REPORT:

- Mr. Carpenter, Selectmen, discussed the blasting and processing of ledge on Ledge Road, a consultant has been hired, Selectmen are looking to protect residents and lessen the inconvenience.

#### **OLD/NEW BUSINESS:**

- Ms. Post reviewed the agenda. Mr. Kolodziej motioned to continue to September 19 the Heights of West Windham, Pike Assisted Living Site Plan, and the DeLuca Lot Line Adjustment. Mr. LoChiatto seconded. Passed 7-0.

#### **PUBLIC MATTERS:**

##### **Spruce Pond II Open Space Subdivision – 95 lots – Public Hearing Continued**

##### **Rt 28 / Rockingham Road, lots 3-A-565, 1000, 3-B-600, 601, 800, 860, 890, 900 and 1001**

Mr. LoChiatto motioned to reopen the public hearing. Mr. Kolodziej seconded. Passed 7-0. Mr. Turner stated that the Board asked for information from Conservation Commission regarding the Special Permits and that information has not been received. Mr. Turner turned over the discussion to the applicant.

Attorney Peter Bronstein reviewed the application to date including it is a second phase of 95 lots, this is a master plan of the entire plan, and is a 1.7% increase of lots in Windham. He distributed and discussed data requested by the Board in regards to comparing this subdivision to others for the number of lots and WWPD disturbance.

Joseph Maynard, Benchmark Engineering, distributed an updated detailed agenda for the meeting. He discussed the reconfiguration of lot 3-B-819 to make the open space more contiguous and the buildable area is out of the WWPD. He showed the area on a wall map. Board discussion regarding the change is better. The Board requested information from the fire department, police department, and highway department regarding the waiver requests. Ms. Post read the comments from the police department, highway agent, and fire department. Mr. Maynard had an additional letter from the fire department which Ms. Post read. Ms. Post read a letter from Conservation Commission. The Board discussed the minutes from the Conservation Commission regarding Spruce Pond II. Mr. Turner will get the last Conservation Commission minutes when Spruce Pond was discussed. Board discussion that information should not be given to individual Board members but should go to the Chair, has the communication the Board legally jeopardize the subdivision, does the Board want comments or minutes from the Conservation Commission, the fire inspector does not have the authority to approve waivers but can support the waivers, and need comments from the Conservation Commission and not the minutes.

The Board decided to review and vote on the waiver requests individually. Mr. Maynard read waiver request #1, showed the areas on the map, and explained the coverage. Mr. Turner explained 4ft of coverage is preferable under roads because of frost, this is off the road and pipes should be fine, a portion of the pipe is on Mallard Road, the pipe will be wrapped in stone and covered with filter fabric before buried, and Jacob Road pipe is off the road and there should not be any problems. Board discussion will it be a problem over time, the roads to maintain the pipes is not on top of the pipe, minimal slope in the area, humping it over would look unnatural, and there is no standing water in the pipes. Mr. Carpenter motioned to grant the waiver request #1 typical road cross sections cover over pipes as follows: Northland Road pipe from DMH #7 to DMH #8, 2.8 ft in easement; Jacob Road pipe from CB #57 to DICB, 1.6 ft in easement; Mallard Road pipe from CB #117 to CB #116, 2.7 @ railroad; and Mallard Road pipe from CB #121 to CB # 119, 2.7 @ railroad in light of the highway department comments, staff comments, Keach-Nordstrom comments, the unique road construction, pipe installation and pipe location. Mr. Kolodziej seconded. Passed 7-0. Public comment from Chris Rosetti, 3 Mitchell Pond Road stated that public input regarding the waivers was received at a previous meeting,

the issues that he thought were going to be discussed the evening were not being discussed, and that the Planning Board should set the agenda not the applicant. Board discussion that public comment was being asked for regarding the waivers only.

Mr. Maynard stated that the second waiver request is for velocity of the flow within the pipes, 7.5 ft max is allowed as per our regulations, and wants to slow the water down where it exits. He read a portion of the request Mr. Maynard stated that scarring of the pipes would occur at 18-20 ft per second at a constant flow after 15-20 years, these are acceptable limits for general engineering practices, using reinforced concrete with sealed joints, and will be less than 7.5 ft per second at the outlet. Mr. Turner stated that these waivers would not be required for our new regulations, this plan came before the Board when the older standards were in effect, the 7.5 ft requirement is 20 years old when pipes weren't as sturdy, the higher velocity helps keep the pipes clean, and we want the slower velocity at the outlet. Mr. Maynard stated that the capacity is not changing, and it's conveying the water faster. Mr. Turner stated that we have not had any problems with these velocities. Mr. Maynard stated these are designed for a 50-year return frequency but check them for a 100-year storm, and the designer is conservative. Staff including the highway agent has reviewed all the pipes and catch basins for efficiency and will require less maintenance. Mr. Maynard showed the location of the basins on the map. Mr. Turner stated that we're trying to avoid blasting, modern pipes can handle the velocity, and faster velocity helps keep the pipes clean.

Mr. LoChiato motioned to grant the waiver request #2 Section 601.1 velocity of flow within the pipes for the following road as specified by the applicant in the submitted waiver request document: Northland Road, 7 locations; Jacob Road, 9 locations; Buckland Road, 7 locations; Taninger Road, 2 locations; Mallard Road, 2 locations as there is support from the highway department, staff, and outside drainage review. Mr. Kolodziej seconded. Passed 7-0. No public comment.

Mr. Maynard discussed the spacing between the catch basins, showed the location on a map, and wants the waiver from Section 601.1 of the old regulations. Mr. Maynard replied to the Board's questions regarding the percentage increase between the catch basins is because of the high points of the road, the catch basin on the other side of the road is 250 ft, and it is not a large drainage area.

Mr. LoChiato motioned to grant the waiver request #3 Section 601.1 spacing between catch basins for the four locations as described in the applicants submitted waiver request as: A) CBS #44 and #45 and CBS #46 and #47 proposed spacing of 225 ft with 200 ft allowed; B) CBS #49 and #50 and CBS #51 and #52 proposed spacing of 250 ft with 225 ft allowed; C) CBS #69 and #70 and beginning of Nathan Road proposed spacing of 360 ft with 350 ft allowed; and D) CBS #122 and #123 and Mitchell Pond Road proposed spacing of 306 ft with 250 ft allowed as given the support of staff, highway agent, and outside drainage review. Mr. Kolodziej seconded. Passed 6-1. Mr. McLeod opposed. Public comment from Mr. Rosetti stated in regards to item #D, Mitchell Pond Estates has its owned drainage system and why should a waiver be granted to build a road that should not be built which could alter the drainage system of an existing subdivision.

The Board discussed the evening's agenda, and there is a statutory clock and an extension will be needed after tonight. Mr. Turner discussed the Board's options in regarding to the statutory clock. Mr. Maynard stated that they are willing to give a two-week extension to September 19. Board discussion regarding there are a lot of outstanding items to be discussed.

Mr. McLeod motioned to move the Clarke Farm North elderly housing to September 19. Mr. Kolodziej seconded. Discussion: Add a September 12 meeting as there is a lot more items to be discussed, should

there be a 30-day extension? Brian Harvey, H&B Homes, stated they will grant the two week extension and may grant another extension if needed. Ms. Prendergast reread the motion. Passed 6-1. Mr. LoChiatto opposed.

Mr. Turner discussed adding a September 12 meeting. Board discussion ensued regarding approximately how much time the Spruce Pond II subdivision hearing will take, and the Spruce Pond hearing on September 12. Mr. Kolodziej motioned to reconsider the prior motion to move Clarke Farm North. No second.

Mr. Maynard discussed the location of the intersection street grades, waiver request #4, and showed the locations on the map, Jacob Road at Northland Road is a 2.7% grade, Taninger Road at turn-about is a 4.0% grade, the 4% grade is due to trying to work with the grades and minimize the fill for the wetlands crossing, will have 2 ft less fill, the 2.7% grade is due to trying to work within the grades. Mr. Maynard stated he has been working with staff and they seem to be okay with it because of the engineering reasons. The outside review, highway agent, fire and police departments also are okay with the intersection street grades. Board discussion with Mr. Maynard regarding the grade in regards to the outside edge of the turn-about, and the circle will be relatively level. Mr. Turner stated that 4% is allowed with a waiver as per Section 602.10. Board discussion regarding safety of a 4% grade. Mr. Maynard stated that there are others in Town. No public comment.

Mr. McLeod motioned to grant the waiver request #4 Section 602.10 intersection street grades as described in the applicants submitted waiver request in light of engineering proof and the reduced impact to the WWPD and wetlands. Mr. LoChiatto seconded. Passed 6-1. Mr. Carpenter opposed.

Regarding waiver request #5 Section 901.8 road side slopes, Mr. Maynard stated they are asking to allow portions of Mallard Road, Taninger Road and Northland Road be constructed with 2:1 side slopes to reduce impacts to the WWPD and wetlands, he showed the locations on the map, and guardrails will be installed for safety. Board discussion in regards to guardrail locations. Mr. Turner described the construction and stabilization of the 2:1 slopes. Public comment from Mr. Rosetti stated that there is a road going where one wasn't intended and it shouldn't be done with a waiver. The Board responded the waivers are being approved, not the construction of the roads.

Mr. McLeod motioned to grant the waiver request #5 Section 901.8 road side slopes in light of construction of guardrails in all areas with 2:1 side slopes and as it reduces impacts to the WWPD and wetlands. Mr. Kolodziej seconded. Passed 7-0.

Regarding waiver request #6 section 605.5 lot lines, Mr. Maynard discussed lot lines are required to be perpendicular and/or radial to street for 100 ft, looking for a waiver for five locations: 1) side lot line on lot 3-B-801 is an existing property line which is not perpendicular to the right-of-way. Mr. Turner stated that stone walls that are boundaries cannot be removed as per state law; 2) side lot line on lot 3-B-887 to following the existing stonewall, the lot line will not be perpendicular to the right-of-way; 3) side lot line of lot 3-B-825 and 826 to follow the existing stonewall, the lot line will not be perpendicular to the right-of-way; 4) side lot line of lot 3-B-876 and 877 to be perpendicular to the street for 51 ft where 100 ft is required, the lot line is proposed between the road and abutting property; and 5) side lot line of lot 3-B-877 and 878 to be perpendicular to the street for 91 ft where 100 ft is required. He showed the locations on the map. No public comment.

Mr. Carpenter motioned to grant the waiver request #6 Section 605.5 lot lines as presented and primarily because they preserve our stone walls which is stated in our Master Plan. Mr. McLeod seconded. Passed

7-0.

Regarding waiver request #7 soils, Mr. Maynard stated that they are asking to not conduct a High Intensity Soil Survey of lot 3-A-1000, and the property will be open space. He showed the location on the map, the lot will be granted to the Conservation Commission, it has direct access to the rail trail, it borders the meadows on Mitchell Pond, it is 12 ½ acres, a boundary survey has been done, and John Thorndike's calculations for soils lot sizing for the remaining parcels show that the property as it stands could support 108 lots (prior to adding these 12+ acres). Mr. Maynard answered the Board's question including H&B bought the additional property for open space and to be able to have larger lot sizes. No public comment. Board discussion that waiver request #8 is for the same lot and the reference to lot 3-A-1001 is a typographical error. Mr. Maynard stated that with waiver request #8 they are requesting a waiver not to locate wetlands on lot 3-A-1000 as no development is taking place near this property.

Mr. Carpenter motioned to grant the waiver request #7 Section 601.17 soils and #8 Section 601.23 wetlands based on the fact that land is remaining in current state and being deeded to the Conservation Commission. Mr. McLeod seconded. Passed 7-0.

Mr. Maynard stated they are asking for a waiver of Section 602.8.5 length of cul-de-sacs, 1,200 ft allowed or 2,400 ft with a waiver, they are asking for: 1) Northland Road at 1,600 ft; 2) Nathan Road at 1,700 ft; and, 3) Taninger Road at 1,500 ft. He showed the locations on the map. Ms. Post reread the comments from the fire department, highway department, and police department. Board discussion regarding temporary cul-de-sac waivers, is there hardship in the land? Mr. Maynard stated it is a large parcel of land and between two railroad corridors, made every effort for outlets and emergency access, the 1,200 ft length limits the development of the parcel. Mr. Turner stated that there are house lots on all of the cul-de-sacs, lots would be eliminated without the waivers, and more roadways would be added. Board discussion okay with Northland Road length, and shortening Nathan and Taninger should not be a problem. Mr. Maynard answered the Board's questions and stated that Taninger is 50-60 ft to the rail-trail, the Board could request a trail, there is a drivable trail, Derry is adamant about which roads will connect to Derry, 2,400 ft has been allowed in the past including Dustin Road, ways to reduce the block length, house lots are designed around the roads, and at previous discussions the Board led Mr. Maynard to believe that there would not be a problem with the length. Mr. Turner stated that the conceptual discussions are non-binding. Mr. Maynard was asked to show on the map the location of a paper street, there could be a future emergency access through a stub through the Diana Road in Derry, and there will be hydrants installed as per the fire department. Board discussion that other subdivisions have been denied because of cul-de-sac length and have prevailed in court, temporary cul-de-sacs do not have the same restrictions, and Bear Hill Subdivision was denied because it was well over 2,400 ft with no alternate way out. Public comment from Al Lemay, 26 Mitchell Pond Road asked who maintains the emergency access dirt road and does it cost the Town money? Mr. Turner responded that the rail trail is not plowed, in emergency it could be plowed, the forestry truck could go up the dirt road but not an ambulance or fire truck, and the rail trail could be used nine months of the year. Mr. Rosetti stated that the waivers are granted for hardship, is their hardship just financial hardship? and asked what the hardship is. Mr. Maynard stated that yes it is a financial loss to lose a lot, the property is unique and trying to develop the land properly with a master plan, the open space preserves the wildlife corridor and wetlands, and he could put a road somewhere else in the subdivision but it would effect the wildlife corridors and wetlands. Board discussion that this waiver be postponed to review history of approved plans and court cases, and enough information is here to make a decision.

Mr. LoChiatto motioned to grant the waiver request #9 Section 602.8.5 length of cul-de-sac where 1,200 ft is allowed and allow the following lengths: Northland Road cul-de-sac 1,600 ft; Nathan Road cul-de-

sac 1,700 ft, and Taninger Road 1,500 ft given support of highway department, fire department, and police department comments and to foster the preservation of the wildlife corridors and wetland habitats. Mr. Kolodziej seconded. Board discussion that without a hardship it changes the standards for future subdivisions, and the Taninger cul-de-sac could be pulled in without maybe losing any lots. Mr. Maynard stated he was giving connectivity to the rail corridor, designed it on purpose so as to not have people cutting through yards to get to the rail trail. Board discussed that if this is approved it will be harder to deny this waiver in the future. Attorney Bronstein stated the standard is set if you have an identical piece of property, this property is unique in its wetlands and WWPD, unique layout and shape, not setting a precedent, the disadvantage of a redesign is that it would impact wetlands and that is the hardship. Board discussion regarding the hardship for cul-de-sac length. Passed 4-3. Mr. Carpenter, Mr. McLeod, and Ms. Post opposed.

Mr. Maynard stated that they are looking for a waiver from Section 702 of the site plan regulations to allow them not to show all trees 12 inches or greater in diameter. Board discussion the property was logged in 1986.

Mr. McLeod motioned to grant the waiver request #10 Section 702 trees 12 inches or greater in diameter given the relatively recent clearing of the lot and that it is largely open space. Mr. Kolodziej seconded. Passed 7-0.

The Board discussed which topic to discuss next. Ms. Post read a letter from NH DES regarding water contaminants. Mr. Maynard stated that the letter is in regards to Spruce Pond I and there is an ongoing water-monitoring plan, there was not any contamination when this was started, the State is trying to figure out where the contamination is coming from. He showed the Phase I well locations on the map. He then showed the well locations for Spruce Pond II, he explained the long approval process for a community well system, the three wells have enough water and quality, has about another year for the approval of the water system, will have 220,000 gallon storage system, and there will be an emergency connection. All Windham lots will be served by the water system, the Special Permit requested is no longer necessary, the closest existing well is approximately 800 ft away, a study was done for the Mitchell Pond Road extension aquifer and there is a natural break by the rail corridor, the lots in Derry are the closest to the aquifer, the well requirements have increased to 2 gallons per minute, the Spruce Pond II wells are getting over 300 gallons per minute, the water system is State regulated, Mr. Turner stated that Pennichuck wanted to charge for hydrants but doesn't because we would've changed them for the pipes to be in our roads. Board discussion continued regarding the water should only service this site, and it should be a condition of approval. Mr. Maynard stated that H&B owns the pipes until Pennichuck accepts them, Pennichuck does not own the Phase I well as yet, H&B Homes is responsible and has hired Pennichuck to maintain it and will eventually sell the system to them once it meets their standards. Board discussion regarding a continuing supply of water for lot owners. Mr. Turner responded that the owner is responsible through the bonding process. Board discussion regarding Pennichuck's franchise rights.

Mr. Kolodziej motioned to continue Spruce Pond II to September 12 at 7:30 pm. Mr. McLeod seconded. Passed 6-1. Ms. Prendergast opposed. Public comment regarding the water system will be heard at the next meeting.

Mr. Kolodziej motioned to adjourn. Mr. McLeod seconded. Passed 7-0. Meeting adjourned at 10:30 pm.

These minutes are in draft form and have not yet been reviewed and approved.  
Respectfully submitted, Nancy Charland