

PLANNING BOARD MINUTES
December 12, 2007

ROLL CALL:

Ruth-Ellen Post, Chairman – Present	Ross McLeod, Vice Chairman – Excused
Nancy Prendergast, Secretary –Present	Walter Kolodziej, Regular Member – Present
Phil LoChiatto, Regular Member – Present	Pam Skinner, Regular Member – Present
Neelima Gogumalla, Alternate – Not Seated	Rick Okerman, Alternate – Present
Alan Carpenter, Selectmen Member – Excused	Margaret Crisler, Selectmen Alternate – Present

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;*
- *Mr. Okerman replaced Ms. Prendergast.*

CORRESPONDENCE:

- Letter from David Sullivan regarding input for the Town Report from Boards and Committees. Mr. Turner stated that input is required from the Planning Board, CIP Committee and Trails Committee.

OLD/NEW BUSINESS:

- Mr. LoChiatto stated the CIP will be meeting tomorrow and a public discussion with the Planning Board next week. *Ms. Prendergast joined the Board and Mr. Okerman replaced Mr. McLeod.*
- The Board discussed the future schedule, the CIP public hearing will be on the January 2, and the January 9 meeting will be for a zoning public hearing;
- Cliff Sinott would like to meet with the Board on January 16 at 7:00 pm.

CORRESPONDENCE (continued):

- Letter from Treeno Software regarding their company and would like to make a presentation to the Board.

LIAISON REPORTS:

- Mrs. Crisler, Selectmen, stated that she spent 16 days in communist China and brought a copy of the China Daily, and Selectmen are finished reviewing the budget and will have public hearings soon.

PUBLIC MATTERS:

Zoning Amendments – 1st Public Hearing

Board discussion regarding the order of the agenda, only one citizen petition made the advertising deadline for this evening, the other citizen petitions will advertised for the January 9 public hearing, and the Board would like to hear about the other petitions.

Citizen Petitions

Ms. Post read Citizen Petition #1 as follows: Petition by Sandra Hebsch and others to see if the Town will vote “to change one (1) lot from the Rural District to Business Commercial A. The parcel is located in Windham, known as or described as lot 21-U-30 at 3 Cobbetts Pond Road, at the corner of Cobbett’s Pond Road and Lowell Road, consisting of approximately 1.43 acres.” This lot is directly across the

street from the Windham Plaza and the Cobbett's Pond Professional Park and was the former home of Wallace Real Estate and the Butterfield Insurance Agency.

Patrick Wallace, 3 Cobbetts Pond Road, attending with his wife Rita, are the owners of the property, he read a brief statement regarding the property history including ownership and the development of the neighborhood, he has had difficulty in selling their property, and the property is more attractive as a small business rather than a residence. No public comment.

Board discussion regarding in favor as it is a reasonable use of the property, and concerns that the property backs up to wetlands. Mr. Turner stated the property has been used by variance for a real estate office, if the building were replaced it would have to be the same size building, the property is impacted by the Cobbetts Pond Plaza, the property is 1.43 acres and conducive for a small office. Board discussion regarding the change would be consistent with the neighborhood. Mr. Kolodziej motioned to move the citizen petition to the Town Warrant with the recommendation of the Planning Board. Mrs. Crisler seconded. Passed 7-0.

The remaining petitions can be heard but not voted upon. Ms. Post read the petition from Douglas Yennaco regarding rezoning lots 8-B-6100 and 8-B-6150 from Rural to Residential B. She invited the petitioner to make a presentation.

Peter Zohdi, Herbert Associates, stated that he could do a presentation for the all the petitions which deal with Rt 28 which also include the Cyr Family citizen petition and amendment #2 from the Planning Board for lot 8-B-500. Mr. Zohdi posted a map and described the area including the current zoning. Ms. Post stated this will go to public hearing on January 9. Attorney Mason asked if the Board had any questions that needed to be researched for the next meeting. The Board responded whether some of the property should be Neighborhood Business District along the Rt 28 corridor, it may create a strip-type area, and there is a Rt 28 Corridor Master Plan. Mr. Zohdi stated they could discuss the Neighborhood Business District for next year.

Ms. Post read the Shayne Gendron petition regarding rezoning lots 11-A-450, 11-A-451, and 11-A-452 from Rural to Village Center District and invited the petitioner to make a presentation. No presentation was made, and the public hearing will be at the January 9 meeting.

Ms. Post read the Mary Griffin petition regarding rezoning a portion of lot 9-A-150 from Rural to Neighborhood Business and invited the petitioner to make a presentation. *Mr. Okerman stepped down and Mr. McLeod joined the Board.*

Mr. Zohdi distributed and showed a map to the Board which showed comparable properties along Rt 111 and potential Neighborhood Business zoning at 150 Haverhill Road. Ms. Post stated the public hearing will be on January 9.

Lewis Zachas, Faith Road, asked the Board to keep an open mind, this rezoning request has been rejected in the past as Village Center District, Neighborhood Business zoning is less restrictive, and consider the 2005 no vote.

The Board went back to the Gendron petition. Mr. Zohdi showed a map of where the zoning would change along Hardwood Heights and Rt 111. Board discussion regarding Mr. Gendron was the second person to sign the citizen petition.

Ms. Post read the McCoy petition regarding rezoning lots 13-A-120, 13-A-150, 13-A-155, 13-A-160, 13-A-161 and portions of lots 13-A-191, 13-A-196, 13-A-197, 13-A-198, and 13-A-290 to Limited Industrial. No presentation was made, and the public hearing will be on January 9. Mr. Turner stated that the Planning Board has made a similar recommendation.

Ms. Post read the Cookson / Demetrio / Kelleher petition regarding rezoning 157, 159 and 141 Rockingham Road to Neighborhood Business. No presentation was made, and the public hearing will be on January 9.

Zoning Map Amendments:

Amendment #1: Amend Zoning District Map: by rezoning portions of all lots not zoned Industrial on the former Lamson Road and former Industrial Road from Residential A District to Industrial District, including Lots 13-A-120, 150, 155, 160, 161, and portions of 191, 196, 197, 198 and 290. The rezoning supports the Windham Master Plan 2005 by promoting office, industrial and retail development south of Flat Route Brook and the southerly portion of Route 28.

Mr. Turner stated the Board discussed the zoning at Industrial Drive, he showed the new road layout with the Rt 111 bypass, he showed the properties suggested to be rezoned, and this has been discussed at the workshops. Board discussion that this is similar to the McCoy Citizen Petition.

Public comment from Robert St Laurent, 32 Range Road, showed his home on the property, he has been a resident for 10 years, he is an abutter to 13-A-191, it is the only parcel south of Rt 111, he asked about what land is left over. Mr. Turner stated the State does not survey the land or file any of the plans. Mr. St. Laurent stated that it doesn't seem reasonable to rezone 1000 ft of landlocked land to access 4-6 acres of land. Board discussion regarding access from Maple Street which is 11' wide, and could do without the sliver of land.

Mr. St Laurent asked about Limited Industrial District in regards to building roads and setbacks. Mr. Turner answered his questions. St. Laurent asked if he and his neighbors could change their zoning. The answer was yes. St Laurent stated that making a sliver of land to get to another sliver of land doesn't make sense.

Robert DeGangi, 25 Range Road, stated he is confused about the rezoning. Mr. Turner clarified this by showing the changes on the map. Mr. DeGangi stated that this will bring more light industrial traffic to Canobie Lake Road.

Mr. David Bates, 12 Range Road, showed his property on the map, he stated that Maple Street would not allow access as the land does not touch Maple Street, the impact is more significant than just one lot, and it impacts all the other residences. Mr. Turner stated the land that is zoned Industrial has access to Maple Street is not being proposed to be changed. Mr. Bates stated the Industrial land is not accessible, and Maple Street is all homes and not a realistic way to access the land. Mr. Turner stated there is one home on Maple Street which is zoned Industrial that is there by variance. Board discussion regarding there are several historic homes on Maple Street.

Alan Kachanian, 6 Maple Street, stated he lives at the Limited Industrial property and his home is by variance and for commercial use, he has 4 1/2 acres, it is useless property without trying to get access to it, Maple Street residents would probably sell, and he is in favor of changing the zoning.

Carol Pynn, Historic District Commission, stated that it is a beautiful historical neighborhood with older homes on a narrow street, and opposed to anything happening to Maple Street.

Mr. Turner read Attorney Campbell's comment and stated all his changes have been incorporated into an updated document. Ms. Post reviewed the changes. Board discussion that it is a minor change, and amendments can be made at this time. Mrs. Crisler motioned to amend zoning map change #1 to remove a portion of lot 13-A-191 that is southeasterly of the new Rt 111. Ms. Skinner seconded. Board discussion regarding the objection to the access, taking it off the table and revisiting at another time, generating the best tax base, leaving the property as Rural eliminates the buffers, and Maple Street could not be used as an access. Failed 3-3-1. Mr. McLeod, Ms. Prendergast, and Mr. LoChiatto opposed. Ms. Post abstained.

Mr. McLeod motioned to recommend zoning map amendment #1 including the minor amendments suggested by Attorney Campbell to Town Warrant. Mr. LoChiatto seconded. Board discussion that south of Range Road should be kept residential, this is the time to change the area, and is consistent with the overlay district. Failed 3-3-1. Mrs. Crisler, Ms. Skinner, and Mr. Kolodziej opposed. Ms. Post abstained and stated that she lives close to the area and is abstaining to avoid any hint of bias.

Board discussion that an alternate should fill Ms. Post's seat for a vote, the Board's vote should be accepted, and this would go to January 9 public hearing as there is no vote to remove it. Ms. Post recused herself and Mr. Okerman replaced her. Mr. McLeod took over at Chairman.

Mrs. Crisler restated her motion to amend zoning map change #1 to remove a portion of lot 13-A-191 that is southeasterly of the new Rt 111. Mr. Kolodziej seconded. Failed 3-4. Mr. McLeod, Ms. Prendergast, Mr. Okerman, and Mr. LoChiatto opposed.

Mr. LoChiatto motioned to move map amendment #1 to Warrant including the minor grammatical changes suggest by Town Counsel. Ms. Prendergast seconded. Passed 4-3. Mr. Kolodziej, Ms. Skinner, and Mrs. Crisler opposed. Mr. Okerman stepped down and Ms. Post rejoined the Board as Chairman.

Amendment #2: Amend Zoning District Map: by rezoning portion of lot 8-B-500 (86 Rockingham Road) from Rural Residential District to Residential B District (multi-family). The lot is located in the northeastern portion of Town and is bordered to the east by the Town of Salem.

Mr. Turner showed a map which showed the areas to be rezoned and the abutters zoning also, this zone allows for multi-family, and the property has frontage on Rt 28. No public comment. Mr. Turner read Attorney Campbell's comments, and it is not spot zoning.

Public comment from Pat Ramsen, 10 Depot Road, asked what is meant by multi-family. Mr. Turner stated it would be 3 or more units per building.

Mr. LoChiatto motioned to move zoning map amendment #2 to Town Warrant. Mr. Kolodziej seconded. Passed 7-0.

Amendment #3: Amend Zoning District Map: by rezoning lot 2-A-950 (6 Brown Road) and Lot 2-A-980 (129 North Lowell Road) from Rural Residential District to Neighborhood Business District. The lots are located in the northern portion of Town.

Mr. Turner and Mr. Logue showed the lots to be changed on a map, and showed a current zoning map, and discussed the abutting neighborhood businesses.

Public comment from William Crucius, 5 Brown Road, showed his property on the map, there are seven businesses in the area, the businesses will be abutting up to the residential, it has become a noisy area, residential occupancy is more and more prohibitive, he submitted a petition of 35 residents opposing the change, and would like the zoning to remain as it is.

Bob Vercellin, 7 Brown Road, the gas station has leaked gas into the ground and their wells need to be tested because of it, and does not like the idea of more businesses coming to the neighborhood. Ms. Post explained what Neighborhood Business zoning permits.

Robert Jacobellis, 130 North Lowell Road, stated that he is surrounded by five businesses, been in his home since 1991, trying to preserve the calm and quiet, and this opens up the opportunity for a strip mall.

John Mangan, 1 Depot road, state he has lived here since 1971, loves the area and the neighbors, would like the Board to reverse their decision, it was the Town Center at one time, the rail trail is in the neighborhood, would like the neighborhood to remain as it is, and the next map change being proposed is to keep the historic depot.

Wally Ramsden, 10 Depot Road, stated that his property abuts the caboose, has lived there for 47 years, need to leave the neighborhood as it is, the neighborhood is eroding a little bit of time, and the Board is trusted to protect the quality of life of the citizens,

Carolyn Webber, 19 Cobbetts Pond Road, spoke against the change, the area is pristine, and should keep the historical aspect.

Mr. Crucius stated that he has looked at the back side of Murray Mechanical which has old water heaters, toilets, and there were seven 55-gallon drums there last winter. Mr. Turner stated that they're trying to get the property into conformance. Mr. Crucius stated his point was neighborhood businesses could get out of control.

Mr. Kolodziej motioned to not forward zoning map amendment #3 to Town Warrant. Mrs. Crisler seconded. Board discussion that there is much opposition and it should be removed, there is a misunderstanding of what a neighborhood business is, the change would restore the vitality of the neighborhood, it is consistent with what is there, buffers would be required, put it on the ballot and let the voters decide, and the residents wishes should be respected. Passed 4-3. Mr. McLeod, Ms. Post and Mr. LoChiatto opposed.

The Board revisited amendment #2. Mr. McLeod motion that the Board reconsider amendment #2. Mr. LoChiatto seconded. Passed 7-0.

Mr. McLeod motioned to move zoning map amendment #2 to Town Warrant with Rural Residential District changed to read Rural District and with Planning Board recommendations. Passed 7-0.

Amendment #4: Amend Zoning District Map: by rezoning approximately 1.5 acres of land at the intersection of Frost and Depot Road from Rural District to Historic District. Herein the 1.5 acres is listed on the Town of Windham Assessor's map as, tax map 2-A-1325 and listed by Windham's Historic

District Commission as an archeological/historical site. The property is owned by the Town and located directly behind the caboose, directly north of the Boston and Maine rail trail.

Mr. Turner showed the potential change on the map, the land is owned by the Town, it is directly located behind the caboose, and he read Attorney Campbell's comments. Board discussion regarding Attorney Campbell's comments, and should editorial comments be part of amendment?

Public comment from Mark Samsel, 4 Depot Road, stated that he is pleased that the depot area is a historic area, there should be little opposition, and he hopes for the Board approval.

John Mangan, 1 Depot Road, stated that as an abutter he approves, and any information that can let the people know where the land is would be helpful.

Wally Ramsden, 10 Depot Road, stated that he is in full support of the amendment.

Beth Talbot, Historic District Commission, 22 Cobbetts Pond Road, asked for the Boards' support of the amendment, and could the Board next discuss amendment #20 (Demolition Delay Ordinance) which ties into this discussion.

Mrs. Crisler motioned to move the zoning map amendment #4 to the ballot with the Board recommendation including the deletion of the last two sentences. Mr. Kolodziej seconded. Passed 7-0.

Zoning Ordinance Amendments

The Board discussed hearing the Demolition Ordinance next.

Amendment #20: Historic Demolition Delay Ordinance

Add section 719 Historic Demolition Delay Ordinance. This amendment would delay the demolition for up to 30 days for any structure over 400 square feet that was built prior to 1940 or appears on the Historic Resource list.

Mr. Turner read the public hearing notice, and the entire ordinance will be posted in two places. Board discussion the ordinance was reviewed by the Board previously.

Carolyn Webber, 19 Cobbetts Pond Road, Historic District Commission, discussed the changing the word "may", the purpose of the ordinance is to document historic resources, and not forcing anyone to do anything.

Board discussion regarding is the applicant required to meet with the HDC? How many days does the applicant have to wait, 30 or 45 days? It should be readvertised, and some grammatical changes were made.

Mark Samsel, 4 Depot Road, stated that it is discriminatory against people with older home, concerned about needing a pubic hearing, agree with the intent and the burden on the homeowner, and what is the cost to the Town?

Mr. Turner stated that the abutters should be notified and it would be at the Commission's expense, a hearing would cost approximately \$400-500. The Board discussed the intent is not to have a hearing, the ordinance has been delayed a year already, how many homes have been lost, and a homeowner is not obligated to keep an 1930's home as a 1930's home.

Carol Pynn, 19 Cobbetts Pond Road, Historic District Commission, stated that the 1940 date was chosen because that this the date the State uses, not meant to infringe upon anyone's rights at all, it is for documentation, and she noted some of the homes that have been demolished without photos. Mr. Turner stated the HDC should make a list of items that they'd like to document, and additional wording regarding ways not to need a public hearing. Board discussion regarding additional wording, discussions need to be a public meeting not a public hearing, what is the definition of substantially renovate?

Mr. Samsel stated that he agrees with the intent but the language needs some work. Board discussion regarding substantially renovated, cannot make any changes at the January 9 meeting, move to the December 19 meeting, Attorney Campbell reviews the legality of the document not how it works, the Board should review the final version before the next meeting,

Ms. Webber stated the intent was not to document renovations or architectural features. Board discussion regarding limit the ordinance to buildings to be razed, and the meaning of the ordinance. The Board reviewed the items for the next few meetings and discussed continuing the public hearing. Mr. Samsel stated he wanted to the hear the zoning ordinance changes as a Zoning Board member. The Board discussed the advertising deadlines for public hearings.

Mr. LoChiatto motioned to continue the public hearing to Wednesday, December 19 at 7:00 pm. Mr. Kolodziej seconded. Passed 6-1. Ms. Prendergast opposed. Meeting adjourned at 10:30 pm.

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