



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

PO Box 120, Windham, New Hampshire 03087

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

www.WindhamNewHampshire.com

Approved Planning Board Minutes Wednesday, April 2, 2014 7pm

Board Members:

Kristi St. Laurent, Chairman – Excused at 7:50pm Ross McLeod, Selectman – Present
Alan Carpenter, Vice Chair – Present Paul Gosselin, Member - Present
Pam Skinner, Member – Excused Steve Bookless, Alternate – Present
Margaret Crisler, Member – Excused Jim Fricchione, Alternate – Present
Vanessa Nysten, Member – Present

Staff:

Elizabeth Wood, Community Planner
Nancy Prendergast, Code Enforcement Administrator
Laura Accaputo, 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 a brief synopsis of the agenda.

The Chair sat Mr. Fricchione for Ms. Crisler and Mr. Bookless for Ms. Skinner.

The Chair announced the Planning Board is looking for an Alternate Member, interviews will be held at the Planning Board Meeting on April 16, 2014 and the deadline to apply is April 10, 2014. They are also looking for Master Plan Subcommittee Members, interviews will be held at the kickoff meeting on April 30, 2014 and the deadline to apply is April 23, 2014. She also informed the Board of upcoming DES Conference and OEP Annual Conference.

2015 Master Plan Development Proposal – Review and Comment

- The Chair explained the Board of Selectmen is scheduled to review and award a bid proposed for the 2015 Master Plan Phase I contract on April 7th. The Planning Board is being asked to review the proposal submitted by the Southern New Hampshire Planning Commission and provide any concerns or comments to the Board of Selectmen for their consideration. There were no other proposals received.
- Mr. Carpenter asked if the Planning Board gave direction to staff as to the scope of work noted in the RFP including the order and direction of the phases. The Chair explained since it was getting to be time for the Master Plan, Ms. Scott proposed to do this in a phased manner to keep within the budget. Ms. Scott was able to cross items off the list that are already compiled or will be compiled for the town through other sources and come up with a list for Phase I. Phase II will consist of anything not in Phase I that the Board wants included in the 2015 Master Plan.
- Mr. Carpenter stated this is not how other Master Plans were done and asked why they needed help. He asked how the scope of work was determined without the Planning Board as this is their primary responsibility. The Chair explained the discussion was initiated with the Planning Commission, to see what services they offer as a town is getting ready to revise its Master Plan, and they provided a scope of work. Mr. Carpenter stated he is not prepared to move forward with

this as he feels the Board has not done its due diligence or discussed what it wants with regards to the Master Plan.

- Mr. McLeod stated this is not a Master Plan creation it is a revision. He does not feel you can possibly know what the budget is when you haven't scoped out what you want to do. A budget should be determined after the scope of work is determined. He also questioned how the steering committee came about and feels this action was taken outside of the authority of the Board. He stated this is an important document that the Board must take ownership of and is perfect for discussion in workshops to engage the public. He also noted Economic Development is not in Phase I and he believes it should be. The Chair explained it was a decision of the Board to have a steering committee rather than undertake it alone as it will be very time consuming. She noted the Board has used subcommittees in the past for things like zoning changes and it has worked well. Mr. Carpenter asked if it was a motion and decision of the Board to have a steering committee and the Chair stated it was not a motion and decision, it was presented to the Board by Ms. Scott to be done in a phased manner and within the budget as opposed to a CIP item. She stated Ms. Scott asked the Board for support for her budget request which the Board did grant. Ms. Nysten pointed out this happened in November but was being worked on by Ms. Scott since April without including the Board as to what changes were being made.
- Mr. Fricchione asked if the issue was with the substance or process because some of the substance such as the creation of a steering committee seems reasonable from an advisory standpoint and has worked well in the past.
- Mr. Gosselin stated if they are going to use a phased approach the Planning Board should decide what is Phase I and Phase II.
- Mr. Carpenter stated he is not convinced they need a phased approach or a steering committee or that the Board has made the decision that this is the structured process they want to follow to arrive at an updated Master Plan. It is the single most important thing the Planning Board does and is what is looked at as evidence for decisions made by the Board. He believes they should stop the process and reset it so they have a document that reflects what the Board and the Community can support.
- Ms. Nysten agreed and stated she would like the point person for the Master Plan to be Ms. Wood and she believes the CIP would be a better source for funding and should be requested as a whole to ensure funding for the entire project.
- Ms. Prendergast suggested the Board go forward with the Board of Selectmen and address some issues such as defining the scope of work at a workshop rather than delaying it.
- Mr. Gosselin replied there are significant questions to be rectified regarding the process and he believes the Board needs to implement the structure of what the processes should be and phasing should achieve what the Town wants.
- The Board asked Ms. Jillian Harris of the Southern New Hampshire Planning Commission if phasing the Master Plan is typically done and she replied it is usually not phased but it is an option.

Mr. Carpenter made a motion that the Planning Board instruct staff to send a communication to the Town Administrator, Finance Director, and Board of Selectmen indicating it is the Boards desire to table the conversation around the budgetary line item and bid proposal for the Master Plan until further notice from the Windham Planning Board, seconded by Mr. Fricchione. Motion passed: 6-0-1 with Mr. McLeod abstaining as he will vote on this with the Board of Selectmen.

Mr. Carpenter asked staff when the next workshop would be and was told April 9, 2014. They discussed moving some items to a later workshop so they could discuss strategy, process, and scope of work in a timely manner to report back to the Board of Selectmen. They requested 3 copies of the Master Plan for those members that do not have one.

The Chair was excused at 7:45pm.

Public Hearing-Applications

Mr. Fricchione read Case #2014-8 into the record.

Case#2014-8/Lot Line Adjustment 163 & 165 Range Road –Continued from 3/19/14

A Lot Line Adjustment proposal has been submitted for 163 & 165 Range Road (21-F-42, 43), located in the Rural District Zone and Cobbetts Pond and Canobie Lake Watershed Overlay Protection District. The applicant Meridian Land Services, Inc. on behalf of the property owner Hy-Rize Holdings, LLC., is proposing to adjust the lot line between the two parcels, thus resulting in a lot containing the existing dwelling sized 1.802 acres (79,493 sq. ft), and a vacant lot, sized 1.155 acres, 50,291 sq. ft. The existing cellar hole is proposed to be removed and the area graded for drainage purposes. The property is not listed on the Cultural Resource List or the Historic Resource List. Waivers are being requested from Sections 601.16, 701.1.7, and 606 .5 of the *Subdivision Regulations*.

Ms. Wood explained this was continued from March 19, 2014 to allow for review of the latest Plan by Steve Keach and to allow the Board and any interested party an opportunity to examine the site individually. Staff was also asked to research a zoning item regarding frontage.

- Joe Maynard of Benchmark Engineering addressed the Board. He noted Mr. Keach has reviewed the revised Plans and has written a letter stating he was happy with them. He stated he also has a letter from Ms. Prendergast for a zoning determination which coincides with what they show for frontage on the property. He has not heard any input from the Planning Board regarding the cellar foundation.

Questions/Comments from the Board

- Mr. McLeod asked why the driveway had to run over the cellar hole and Mr. Maynard replied the driveway has to be away from the intersection. Also to meet Cobbetts Pond Watershed requirements it has to be graded to manage run-off to the detention pond. He noted the cellar hole it is not on any historical list and as such they were unable to obtain a Demolition Delay Permit. Mr. McLeod asked given it is the first foundation in town couldn't you run the driveway south of it and Mr. Maynard replied that would impact sight distance going toward the intersection and water flow for drainage.
- Mr. Bookless asked about the rights of property owners regarding historical sites and Mr. Gosselin replied it is at the property owner's discretion if it is on private property and not on any registry.
- Attorney John Cronin, on behalf of the applicant, stated there is a statute in regards to stone walls that serve as boundaries. With respect to this artifact, it is not on any historical list and therefore there is nothing required of the property owner. He would be willing to preserve the stones and make them available for display on town property.

The Hearing was opened to the public at 8:05pm.

- Carol Pynn, distributed pictures of the foundation in question as well as the Simpson foundation on Marblehead Rd. She stated it is not on the list, but the list is an ongoing document and gets updated. There are no RSA's to protect historic artifacts on private property however she appeals to the property owner to preserve it in tact.
- Fred Halloran, 4 Langdon Rd, stated the foundation extends out further than is being stated.

- Lindsay Halloran, 4 Langdon Rd, stated she did some research and discovered this is the site of the first framed house in town, dating back to the early 1700's. She is asking that the site be preserved.
- Cheryl Rogers, 2 Weston Rd, asked if the wetlands in her yard would be drained and Mr. Carpenter explained anything that takes place will not increase water onto her property. She also asked how close to the wetlands you can build a house and Mr. Gosselin replied the ZBA has granted waivers and those items have already been addressed. The detention pond is not going to drain the wetland it will control the water flow off the proposed new driveway so as not to flood the road or drain into the pond.
- Attorney Cronin stated after speaking with his client he would be willing to give an easement to the town to put a level ground marker on the lawn to monument the site.
- Mr. Bookless stated the proposed lot line transects the existing driveway and asked if there was an easement set up for that and Mr. Maynard answered yes, there is a very specific document stating who controls that portion of the driveway.
- Mr. Fricchione asked if there was a way to have someone determine if the cellar foundation should be added to the historical list and Ms. Pynn answered there are people from the state that could give an opinion on this, however they would need permission from the property owner. She also stated she would rather see it buried than dismantled and it should stay in its original location. Mr. Gosselin stated the only way a land owner could be compelled to preserve something on their land would be if they sold or donated the land to the town. The Planning Board cannot restrict them because of it.
- Mr. McLeod asked Mr. Maynard to identify the measurement for the 175ft of lot frontage. He stated he does not think it was measured properly as written in the ordinance and stated the point of reference for the measurement as you round the corner in this case measures at 155ft. Mr. Maynard stated frontage measurement has always been determined by the street the house is fronting and the Zoning Officer for the town agreed with the measurement.
- Mr. Gosselin stated you can't have two front lot lines. You have one front lot line which is generally the way your house is facing and that is how this measurement is being taken. Mr. McLeod said that would make sense if the ordinance read "from the front lot line" as opposed to "from the nearest front lot line."
- Mr. Carpenter stated his issue is there is not 175ft from 50ft off Langdon Road, there is only 160ft because of the curve.
- Ms. Prendergast stated she looked at the lot line and it meets the current interpretation of how frontage is measured.
- Mr. Carpenter asked why they don't grant an easement and run the driveway in the back of the property and Mr. Maynard stated it will bisect the lot and affect the value of the land and it will also have more impervious surface.
- Joel Desilets, Candlewood Rd, asked the Board if they would ask the property owner if he would be willing to have the state evaluate the historic site.
- Mr. Bookless stated there are two issues; frontage which is within the purview of the Planning Board and the cellar foundation which is the option of the owner. Mr. Fricchione replied he supports a property owners right to do what they want with their land and he understands the foundation is not on any list, however he is not compelled to vote for a waiver
- Ms. Wood explained two of the waivers requested are for soils and the other pertains to the 50ft radial perpendicular from the road where 100ft is required.
- Mr. Maynard stated they could meet the 100ft requirement but it would push everything closer to the neighboring lot line. This waiver will allow them to maintain further setback and more buffer.

- Mr. McLeod stated he still feels the measurement for frontage was not measured properly as stated in Appendix A-1 Section 301 Subsection 2. Mr. Maynard replied he will adjust the lot line by 10ft to satisfy Mr. McLeod's concerns if it means he will get conditional approval.
- Ms. Nysten stated her concern regarding the distance from the proposed septic to the neighbors well and Mr. Maynard explained it is 77ft from the 4k area and meets the requirement.

The public portion was closed at 8:50pm.

Mr. McLeod motioned to grant the waiver from requirements of Sections 601.16 and 701.1.7 given the fact the Zoning Board has granted variances and soil mapping would be of no useful purpose, and considering the merits of the application, seconded by Mr. Gosselin. Motion passed: 6-0.

Mr. McLeod motioned to grant the waiver from requirements of Section 605.5 given the lots geometry, reducing it from 100ft to 50ft will permit a more favorable situation that will be less intrusive to the neighbors, seconded by Mr. Gosselin. Motion passed: 4-2, with Mr. Fricchione and Mr. Carpenter in opposition. Mr. Carpenter voted against because approval of the waiver might set precedent and lead to more odd-shaped lots in the future. Mr. Fricchione did not state his reasons why.

Mr. McLeod motioned to approve the Lot Line Adjustment Application as presented with the following conditions:

- 1. Extend the lot line in a westerly direction along Range Road far enough so that the required lot line frontage of 175' as measured 50' from the nearest front lot line will be met, recognizing that the front lot line is Langdon Road then Range Road and it is understood that proposed driveway easement may change shape based on that lot line shift.**
- 2. Engineering Requirements:**
 - **Pursuant to the requirements of Part Env-Wq 1003.15 of the New Hampshire Code of Administrative Rules, NHDES Subdivision Approval is required under this application. On that basis we recommend: any approval granted by the Planning Board is conditional upon receipt of NHDES Subdivision Approval; and the resulting approval number be noted on Sheet 1 of the final project plans.**
 - **The project plans depict a series of proposed boundary monuments "to be set". We recommend each such monument be installed as a condition of final approval.**
- 3. The property owner is encouraged to make every reasonable effort to preserve the cellar foundation.**

Seconded by Ms. Nysten. Motion passed: 4-2 with Mr. Carpenter and Mr. Fricchione in opposition. Mr. Carpenter voted against the application because he says the required 175ft frontage is not being met on the submitted application. Mr. Fricchione did not state his reasons.

The Board took a 5 minute recess at 9:03pm and reconvened at 9:08pm.

Mr. Gosselin read Case #2014-11 into the record.

Case#2014-11/Minor Site Plan/4 Cobbetts Pond Rd (21-D-107)

A Minor Site Plan Application has been submitted for 4 Cobbetts Pond Road (21-D-107), a multi-zoned parcel located in the Business Commercial A, Residence District A, Neighborhood Business District, Wetland and Watershed Protection District (WWPD), and Aquifer Protection District. The Applicant, Peter Zohdi of Edward N. Herbert Associates, on behalf of the Property Owner, Windham Plaza Trust, is proposing to add a canopy over the existing gas pump island. New lighting will be part of the canopy and will replace 2 existing lamp posts on the site. No increase in impervious surface is proposed. Waivers are

being requested from Sections 701.2-705 of the Site Plan Regulations. Per Section 303.5 of the Site Plan Regulations, if the application does not qualify as a Minor Site Plan then it will be deemed a Major Site Plan and the application will be heard as a Preliminary Major Site Plan Application.

Mr. McLeod motioned to accept Case #2014-11 as a Minor Site Plan and open for Public Hearing, seconded by Ms. Nysten. Motion passed: 6-0

- Shane Gendron of Edward Herbert Associates addressed the Board. He explained this is a request for a 30 x 40 canopy over an existing gas station island. The pumps will remain in the same place and nothing else will change.

Questions/Comments from the Board

- Ms. Nysten asked about the height of the canopy and was told it is 15ft clearance height and 22ft at its peak. She also asked if the existing buildings were taller than the canopy and was told yes.
- Mr. Bookless asked if the canopy was required to have a fire suppression system and Mr. Gendron replied it was not since this is a full service station.
- Mr. Fricchione asked if there were any other changes and Mr. Gendron replied as part of the application they will be changing out the pumps and tanks through a separate permit from the state to bring them into compliance with new rules. The footprint will not change.
- Mr. McLeod asked about drainage from the roof and Mr. Gendron replied there is a gutter system inside the canopy that will take the water and bring it down the center post and drain into an existing ditch.
- Mr. McLeod stated he feels the energy efficiency of the LED lighting and directing the water into the ditch is a plus.
- Ms. Nysten asked if the small house structure was staying and if the design would be consistent with the existing building and Mr. Gendron answered yes to both.
- Mr. Carpenter asked if the issue of light shielding from Keach Nordstrom has been addressed and Mr. Zohdi replied they have a light engineer working on it.

The hearing was opened to the public at 9:25pm, hearing none the public portion was closed.

Mr. Gosselin motioned to approve the waivers requested from Sections 701.2, 701.3, 702, 703, 704, and 705 of the Site Plan Regulations as this is a pre-existing building and the changes being implemented do not have any impact on their criteria, seconded by Mr. McLeod. Motion passed: 6-0.

Mr. McLeod motioned to approve the Minor Site Plan as presented with the condition it is marked on the plan that the storm water drainage from the roof will be directed toward the grass detention areas and with the condition the applicant satisfies items #1-4 of Mr. Keach's memo dated 4/2/14, seconded by Mr. Gosselin. Motion passed: 6-0.

Ms. Nysten read Case #2014-12 into the record.

Case#2014-12/Customary Home Occupation Permit/64 North Lowell Rd (6-C-400)

A Customary Home Occupation Permit Application has been submitted for 64 North Lowell Road (6-C-400), located in the Rural District. The applicant/property owner, Soon Wan, is proposing to provide an enrichment education and child care service in her home weekdays Monday-Friday from 3:30pm-5:30pm. The home business will accept 5 children ages 5 to 12 years of age at a time. No additional employees will be hired and no alterations are proposed for the site. A 3 sq. ft. sign to advertise the business may be proposed per regulation.

Mr. McLeod motioned to accept and open Case #2014-12 for Public Hearing, seconded by Mr. Gosselin. Motion passed: 6-0.

Soon Wan, applicant, addressed the Board. He explained he is proposing to provide an enrichment child care service in his home from Monday-Friday from 3:30pm-5:30pm.

The hearing was opened to the public at 9:30pm, hearing none the public portion was closed.

Questions/Comments from the Board

- Mr. Bookless asked if any special permits from the state were required and Mr. Wan explained there are none required if you have less than six children.
- Mr. Gosselin asked if the state will do an inspection for the health and safety of the children and Mr. Wan stated they did not say that was required.
- Mr. Carpenter recommended Mr. Wan put a lock on the fence that surrounds the pool and Mr. Wan agreed.
- Ms. Nysten asked about traffic at pick up time and Mr. Wan stated he has a long double width driveway with an area at the top to turn around.

Mr. McLeod motioned to approve the Customary Home Occupation Conditional Use Permit Application, seconded by Mr. Gosselin.

The Board discussed adding the condition of a lock on the fence surrounding the pool and whether the state will control it; since the applicant doesn't need a permit because of the number of children he will have in his home they decided to amend the motion to include it.

Mr. McLeod amended his motion with the addition of the condition that any access to the swimming pool be locked during business hours, seconded by Mr. Gosselin. Motion passed: 5-0-1 with Mr. Bookless abstaining as he does not feel comfortable granting something without knowing the State's requirements.

Mr. Fricchione read Case #2014-13 into the record.

Case#2014-13/Minor Site Plan/Free-Standing Sign (13-A-196)

A Minor Site Plan for a Free Standing Sign has been submitted for 5 Industrial Drive (13-A-196), located in the Limited Industrial District. The applicant, Jutras Signs, on behalf of Simsbury Partners, LLC., is proposing to replace the existing external sign lighting on the peak of the building with two rows of interior illuminated channel lettering, the top row sized 21ft 5.25in. X 16.25in., the bottom row sized 27ft 4.25in X 16.25 in . The proposal is also to convert the 24in. X 53.5in. (8.9 sq. ft.) directional sign into a freestanding complex sign by changing the face of the sign from an address location to panels to advertise the businesses on site. The existing up-lit lighting will be retained. Per Section 303.5 of the Site Plan Regulations, if the application does not qualify as a Minor Site Plan then it will be deemed a Major Site Plan and the application will be heard as a Preliminary Major Site Plan Application.

Ms. Nysten motioned to accept and open Case #2014-13 for Public Hearing, seconded by Mr. Gosselin. Motion passed: 6-0.

- Kathy Champagne of Jutras Signs addressed the Board. She explained she received variances from the ZBA and is before the Board for the Minor Site Plan revision. The signs are for Elliot Pediatric and Elliot Family Medicine. They are proposing the letters that were externally illuminated be internally illuminated. She showed examples of external lighting on signs

throughout town. She noted the illumination on the sign face is not even and the reflection of the lamp on the background gets in the way and you get light spillover. She stated this type of lighting doesn't do much to increase the readability of the sign. She then showed examples of internally illuminated signs and noted how much clearer and more readable they were.

Questions/Comments from the Board

- Mr. Carpenter asked Ms. Prendergast if the Town's Sign Ordinance allows internally illuminated signs and she answered yes but this plan was initially approved for the external lighting with gooseneck lamps. Mr. Carpenter asked what the variance was for and Ms. Prendergast replied it was for a second free standing sign.

The Hearing was opened to the public at 9:50pm and hearing none the public portion was closed.

Mr. McLeod motioned to approve the Minor Site Plan Application, seconded by Mr. Gosselin. Motion passed: 6-0.

Minutes Review/Approve

- March 5, 2014 - postponed
- March 19, 2014 - postponed

March Planner's Report

Member Binder Tabs

- Zoning Ordinance (Tab 6)
- WWPD Special Permit Application (Tab 10)
- 2014 Zoning Map (Tab 17)
- OEP Handbook (Tab 14)

Old/New Business (Not to include discussion of pending applications or decisions on matters requiring public notice)

Mr. McLeod informed the Board that at the Board of Selectmen Meeting on Monday they will choose the next Selectman Member and Alternate Member for the Planning Board. The Board thanked Mr. McLeod for his service to the Board.

Mr. Fricchione motioned to adjourn the April 2, 2014 Planning Board Meeting at 10pm, seconded by Mr. Gosselin. Motion passed: 6-0.

These minutes are respectfully submitted by Laura Accaputo, Planning Board Minute Taker.