



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

3 North Lowell Rd., Windham, New Hampshire 03087  
(603) 432-3806 / Fax (603) 432-7362  
[www.WindhamNewHampshire.com](http://www.WindhamNewHampshire.com)

### FINAL Planning Board Minutes Wednesday, July 1, 2015 7:00pm @ Community Development Department

6:30 PM Non-Public with Attorney Campbell

7:00pm

#### 1. Call to Order/Attendance/Pledge of Allegiance

##### Attendance

**Chairman: Alan Carpenter- present**  
**Regular Member: Dan Guttman- present**  
**Vice Chairman: Paul Gosselin- present**  
**Regular Member: Margaret Crisler- present**  
**Regular Member: Kristi St. Laurent- present**  
**Regular Member: Ruth Ellen Post- present**  
**Alternate Member: Kathleen DiFruscia- Alternate Member- present**  
**BOS Rep: Joel Desilets-excused**  
**Alternate BOS Rep: Ross McLeod- present**  
**Alternate Member: Gabe Toubia-excused**  
**Alternate Member: Matt Rounds-excused**  
**Alternate Member: David Oliver-excused**

**Staff: Laura Scott, Community Development Director-present**  
**Elizabeth Wood, Community Planner-present**  
**Anitra Brodeur, Minute Taker-present**

#### 2. Presentation by Steve Keach, KNA Associates, on Section 611 of *Zoning Ordinance and Land Use Regulations*.

Steven Keach addressed the Board. The question set forth was the manner in which one defines density. "How does one determine density?" Mr. Keach indicated density is defined in Section 611.2.2. There are six goals and objectives of the ordinance. Sections 611.5.4 and 611.5.4.1 were also cited as evidence to support the definition of density. Section 611.4.2 was also quoted. There was much overlap in these definitions in statements.

Mr. Keach also discussed the yield plan that is allowed by a traditional subdivision; this has always been the guideline. How do we verify? Do the lots have adequate frontage? Do the lots have adequate areas in the side and front yards? Can the lot be reasonably assumed to be buildable by zoning and under WWPDP? There are also qualitative considerations. There are exclusions that undoubtedly exist on each lot. There must be a "buildable pocket" on each lot where a structure can exist. Mr. Keach continued to discuss shallow soils that often exist in town. These shallow lots can impact the septic needs of the lots. Well placement is also a factor. Finally, the flood plain maps are also consulted. There is design criteria

for lots that exist in the subdivision plan. A yield plan attempts to get the maximum amount of lots in a non-linear pattern. Mr. Keach indicated that the Board has a subjective function to interpret these plans and ordinances.

Ms. Post wanted to thank Mr. Keach for his thorough and detailed response. Ms. Post spoke directly to the phrase "general yield plan feasibility". Mr. Keach responded with the concept of "feasible and realistic".

Ms. Scott left the meeting after this presentation.

Kathleen DiFruscia recused herself at this time because of a potential conflict of interest, 7:53 pm from the public hearing. Ruth Ellen Post excused herself as well at 7:53 pm due to another commitment.

### **3. Public Hearings:**

#### Case#2015-3/Wood Meadow Open Space Subdivision/WWPD-Continued from 6/17/15

A Final Subdivision Application for a Major Open Space Subdivision, Cobbetts Pond and Canobie Lake Watershed Land Development, and a Wetland and Watershed Protection District Special Permit Application (WWPD) have been submitted for property that is accessible by Settlers Ridge and Glendenin Roads (Lots 25-R-6000, 6250, 6260, 7000, 7050, 8002, 8005, 8010, and 9000), located in the Rural District Zone, Wetland and Watershed Protection District, and Cobbetts Pond and Canobie Lake Watershed Overlay Protection District. The applicant, Edward N. Herbert Assoc., Inc., on behalf of the property owner, Wood Meadow Land Development, LLC, is proposing to merge the eight (8) existing lots and then to subdivide them into thirty-nine (39) lots for single-family development and twelve (12) open space lots. The proposal includes the creation of new roads. The WWPD Special Permit is for several proposed road crossings and driveways for a total permanent impact of 92,293 sq. ft. for the Open Space Subdivision proposal. A community well system and individual septic systems are proposed for service of each lot. Lot 25-R-6000 is on the Cultural Resource List and is therefore subject to the Provisions of 719.

Vice Chair Paul Gosselin read the proposal into the record.

Mr. Peter Zodhi addressed the Board. His comments are relative to the plans dated May 1<sup>st</sup>, 2105. Several tests pits were done soon after the last meeting. Test pits were done in the least invasive way possible on, what turned out to be, town land. The price for the extension of the neighbor's existing driveway would be \$2,500. Mr. Zodhi indicated that there will be plantings on the proposed road per the subdivision regulations. The plantings would be on the proposed road, not the existing roads. Chairman Carpenter stated he was previously speaking to landscaping along Glendenin Road once the road goes through; he would like to see the current vegetative state maintained.

Mr. Gosselin addressed Mr. Zodhi. Mr. Gosselin spoke directly to the Duncan's family lot and whether or not the area near their lot would be able to be reseeded, etc... This property is an easement; the bond money will be used to reestablish vegetation in this area. Mr. Zodhi was clear that a "reasonable request" will be considered if the plan is approved.

Mr. Guttman addressed the Board. He would like to know what trails will be disappearing or going away under this plan as they are highlighted on the landscape plan. There are two trails that go through the middle of the lot that will disappear.

Ms. Crisler asked if the proposed trails connect to a road that has an access point for the public. Mr. Zodhi indicated they would be marked on the Plan of Record.

Mr. Crisler asked where the Community Well System will be located; Mr. Carpenter answered for Mr. Zodhi that a conditional approval would be granted and, working with staff, a design for the community well system would hopefully and eventually meet approval.

Chairman Carpenter opened the meeting up to the public.

Mr. Jeff Martin, 16 Settler's Ridge Road addressed the Board. Mr. Martin asked if the Board is interested on voting on the approval of the subdivision tonight. Section 601.2.5 was cited in reference to the community well. Mr. Martin expressed his concern regarding the conditional community well system. Attorney Callen, representing the client, had asked for the hydrogeological study. The Board felt as if this might have been a request for a study, simply for the sake of a study. Mr. Gosselin stated that it is still legal for a private homeowner to drill for water on their own land. The minimum is 2 gallons per minute flow for a private well, as stated by Mr. Gosselin. Property owners do have rights.

Mr. Martin continued. Section 611.5.4.1 was cited. Mr. Martin would like to know if the soil samples that were included were considered to determine the total number of lots allowed? Is that the case? Has it been reviewed in reference to the yield plan? The Board, through Mr. McLeod, stated they could not respond to that; this would be a question for Mr. Keach. Elizabeth Wood indicated the actual lot plan will be stamped by a soil scientist at the end. The soil samples that result in the yield plan is indicated on pg. 8 of the proposal, inserted by Ms. St. Laurent.

Mr. Martin continued. Ms. Wood responded to the concern around a proposed subdivision in a protected area or watershed area. In this case, there is no actual development in the watershed area. No land disturbed area was proposed in a watershed area, hence, the study would not be needed. There was much discussion around the proper view on the proper map. Eventually, it was discussed, through Mr. Zodhi and Ms. Wood, that one of the proposed buildable lots was taken out because it was found to be in the watershed district. Administrative Authority of the Planning Board was also discussed and utilized to make this decision. Chairman Carpenter also spoke to the potential inaccuracies of the Canobie Lake Watershed map. The map also has lot lines; these lines may not actually be showing the watershed area.

Ms. Diane Jeans, 3 Poplar Road, addressed the Board. When will the landscaping plan be available for the abutters to see? The Board did not know. Mr. McLeod responded to the Board. The discussion around landscaping will come before the Board of Selectmen, not the Planning Board as it is town land. Mr. Jeans then asked with the new test pits, will there be any blasting on Glendenin Road Extention? Mr. Zodhi stated that they would attempt to do it by hammer, not by blasting. Hammering is more ideal for the abutters. Ms. Jean asked where that left the Board. Ms. Crisler stated that a greater distance can be requested by the Board. Mr. McLeod addressed the Board and the audience. If the ordinance exists to allow blasting or hammering, how can the Board then ask for different stipulations for the abutters? Mr. McLeod spoke to the judgment of the Board and that was indeed an allowable feature of decisions. The blasting monitoring is done by a separate company from the actual blasting company.

Mr. Glen Bulduc, 9 Poplar Road, addressed the Board. Mr. Bulduc was very concerned for his neighborhood and the water sources of all of these households. Mr. Bulduc pointed out that every single household on the abutting street was in the audience at this time. Mr. Bulduc

implored the Board to think carefully about the proposed vote. Mr. Bulduc was clear that he had a level of expectation regarding the Board's vote to represent the people of this town.

Ms. Michelle Sakled, 2 Sagamore Road, addressed the Board. Mr. Zodhi had been asked several times by the Board to reach out to the abutters for the location of their wells. Ms. Sakled spoke to the integrity of the neighborhood and how the appearance of the proposed subdivision looks very different than the existing neighborhood. Ms. Sakled also proposed the idea that perhaps plumbing or water access could exist on the lots outside the proposed subdivision, like her road, in case water sources became an issue.

Ms. St. Laurent pointed out that the lots in the proposed subdivision were indeed comparable in size compared to the abutting subdivision on Poplar Rd and Sagamore Rd. Ms. Sakled retorted by saying that the neighborhood design of open space looks very different. Mr. McLeod stated that he does not understand the concept of "buffer strips". Why is the current neighborhood not being more inclusive of the proposed subdivision? Chairman Carpenter addressed the Board about the proposed look of the subdivision. Here, there will be a different look to the new subdivision, but not a lesser look than the current subdivision.

Mr. Gary Sakled, 2 Sagamore Road, addressed the Board. Mr. Sakled pointed out that these lots were of equal footage in terms of the lot size, but the square footage of the homes would be larger than the current houses in the neighborhood. Chairman Carpenter and Mr. Gosselin retorted that the Board could not guarantee what the square footage of these homes would be.

Mr. Bill Bailey, 19 Settlers Ridge Road, addressed the Board. Mr. Bailey would like to know the Board's position in regards to the impact for WWPD or a wetland area. Mr. Gosselin addressed the question. WWPD building is allowed under a 30% threshold, whereas, in a wetlands area, nothing is allowed.

Ms. Bea Martin, 19 Settler's Ridge addressed the Board. The Duncan family, another abutter, would like to know if the current road would be dug up and loamed. Also, the grate, would that be moved? The Board said it would be. Chairman Carpenter responded by saying the next step if approved would be for the community well to then be planned and developed. Mr. Gosselin responded by saying that the community well system would be for the proposed 39 units and it would be the discretion of the proposed subdivision as to whether or not they would allow other parties to join in.

Attorney John Cronin addressed the Board. There would be a public meeting to show what the proposal of the community well is and both parties would be open to discussing if the neighboring households could join. Mr. McLeod read from a 2013 Hydrogeologic Study of a neighboring subdivision. Mr. Cronin stated he was concerned about a community well condition. Mr. Cronin spoke to the function of cost and the need to be diligent about the placement of the wells for the builder. Mr. Cronin understood there were pros and cons to the community well process and his client was willing to give it a try. If the community well does not work out, an individual well proposal will come before the Board. Ms. Martin asked, "If a well fails on these small lots, what will happen? Will they be able to drill once again for another well?" The Board indicated that they would be allowed.

Mr. Al Syracuse, 20 Settler's Ridge Road addressed the Board. Mr. Syracuse wanted a clarification on who Mr. Keach was and what his role was for the Board. Ms. Wood clarified that Mr. Keach is a consultant engineer contracted by the town since the town does not currently have a full time engineer. Mr. Syracuse addressed signage. He was informed by the Board that subdivision signs

were struck from the proposed subdivision plans, hence, there will be no sign. Mr. Syracuse proposed the idea of a "calming speed bump" similar to the one of Windham Depot Road. Mr. McCartney, Highway Agent, does not like them; he states that they are indeed hard on the plows. Yet, the Board did appreciate the sentiment expressed by Mr. Syracuse.

Ms. St. Laurent spoke to the amount of land that was available to locate the community well on; there is a considerable amount of land. Ms. Crisler emphasized that point and reiterated that the real question in all this was indeed, water.

Mr. McLeod asked if Mr. Zodhi had seen Mr. Keach's May 15<sup>th</sup> memo. He has and had responded.

#### Waivers

**A motion was made by Alternate BOS Rep Ross McLeod to grant waivers from the following sections of the *Subdivision Regulations*:**

- **Section 605.5** to allow less than the required first 100' at a right angle for the proposed side lot line for Lots 25-R-9008 & 9013, 9021; in order to maintain the required frontage at the 20' and 50' front setback because it extends the existing lot line and also because adjustment of lot line geometry would result in an excessive loss of open space because it would cause a loss of open space..
- **Section 605.5** as Lot 25-R-9021 is not radial to the street for the first 100'.
- **Section 601.12** pertaining to the bar scale as the bar scale on Sheet 1 is 1"-200 because this scale allows the detail to be shown on one sheet because this scale would allow the entire plan to be shown on a single sheet.

**The motion was seconded by Ms. Crisler. The Board voted 6-0 to Grant waivers from the following sections of the *Subdivision Regulations*:**

#### Conditional Approval

The Board decided administratively not to require a Major Watershed Application.

**A motion was made by Ross McLeod to Conditionally Approve the Final Open Space Subdivision Application and Wetland and Watershed Protection District Special Permit with the following conditions:**

1. That the following comments and recommendations from the 5/13/15 KNA review memo be addressed to the satisfaction of Steve Keach (Note: Mr. McLeod read the entire comments and recommendations mentioned below into the minutes):
  - a. General Comments #1 & 2
  - b. Zoning Matters #2, 3 (draft covenants to be reviewed and approved by Legal Counsel), and 5 (bullet points 1, 2, and 3)
  - c. Planning/Design Matters # 1, 2, 4, 5, 7, 8, and 9
2. Pay the Tate bid of \$2,500 to Paige Duncan, 21 Settlers Ridge Road, for her driveway, as well as loam and seed the disturbed areas.
3. Remove rusty debris from the woods, particularly along Settler's Ridge Road.
4. Community well system to be designed, engineered, and detailed on an addendum to the plans, subject to staff's approval; otherwise, if individual wells are determined to be necessary, then the applicant will be required to return to the Board for resolution of this issue.
5. Community well to be located as far away as reasonable and practical, and installed before individual lots are sold.
6. Trail heads shall be marked per Trails Committee recommendation before the lots are sold

7. Open Space shall be deeded to the Conservation Commission
8. Offsite abutting well locations shall be identified prior to road construction, where abutters allow (Lots 22-R-10012, 25-R-10014, 25-R-10015, 25-R-10016, 25-R-10017).
9. Add a note on the plan stating that the Applicant certifies that there will be no impact on the Cobbetts Pond and Canobie Lake watersheds by this development.
10. Grant a WWPD Special Permit for several proposed road crossings and driveways for a total permanent impact of 92,293 sq. ft. for the open space subdivision proposal as reflected on the plans set dated May 1, 2015. The Special Permit includes allowance of encroachment for access to community well heads for siting and installing.
11. No blasting on Glendenin Road up to Station 300', as shown on Sheet 30, revised on 6/24/15.
12. Additional plan sheets were submitted, accepted, signed, and dated by the chairman:
  - a. Glendenin Transition Landscape area, dated 6/25/15
  - b. Revised Glendenin Road Profile, dated 6/24/15, amended by the Board and noted on the **sheet**

**The motion was seconded by Mr. Guttman. The Planning Board voted 6-0 to Conditionally Approve the Final Open Space Subdivision Application with the above conditions.**

Case#2015-7/Woodside South II Subdivision

A Final Application for a Major Subdivision and a Wetland and Watershed Protection District (WWPD) Special Permit Application, have been submitted for Lot 20-D-2300 (London Bridge Rd), located in the Rural District Zone, Flood Plain District, and Wetland and Watershed Overlay Protection District (WWPD). The Applicant, Peter Zohdi, on behalf of the property owner, Kerry McKenna Revocable Trust, is proposing to subdivide the existing parcel, sized 27.38 acres (1,192,672.8 sq. ft.) into 12 lots ranging in size from 1.4 acres (60,984 sq. ft.) to 3.67 acres (159,865.2 sq. ft.). The new Burnham Road is to be extended, thus connecting the existing dead end cul-de-sac with London Bridge Road. A WWPD Special Permit is requested for road crossings, drainage, and slope easements for a permanent disturbance of 98,801 sq. ft. Written waiver requests have been submitted from the following Sections of the Subdivision Regulations: 605.5, 601.3.5, 601.3.9.

**A motion was made by Mr. McLeod to open this application for public hearing. Seconded by Ms. St. Laurent. Vote 6-0. Motion carries.**

**A motion was made by Ms. Crisler to move forward new business after 10 pm. Seconded by Mr. Guttman. Vote 6-0. Motion carries.**

Chairman Carpenter asked if there were questions.

Joslyn Steven, 22 London Bridge Road, addressed the Board. Chairman Carpenter was clear that the engineer must not push any water to her driveway since she has water on both sides of her driveway. The Board informed her that as part of the subdivision, an applicant is required to retain all drainage on site.

The Board discussed the best time to continue the discussion.

**A motion was made by Mr. Guttman to continue Case#2015-7/Woodside South to 7:00pm on July 15<sup>th</sup> at the Community Development Department. Seconded by Ms. Crisler. Vote 5-0. Motion carries. (Mr. Gosselin excused himself prior to the vote.)**

This property was viewed during a Site Walk and the Design Review A

**Motion to adjourn was made by Mr. Guttman. Seconded by Ms. Crisler. Vote. 5-0.**

*These minutes are respectfully submitted by Anitra Brodeur and edited by Elizabeth Wood, and Margaret Crisler.*