



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

3 North Lowell Road Windham, New Hampshire 03087

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

[www.WindhamNH.gov](http://www.WindhamNH.gov)

### Planning Board Approved Meeting Minutes September 30, 2015

Alan Carpenter, Chairman - Present  
Kristi St. Laurent, Member - Present  
Margaret Crisler, Member - Excused  
Joel Desilets, Selectman - Present  
Kathleen Difruscia, Alternate- Excused  
Ross McLeod, Alternate Selectmen - Excused

Paul Gosselin, Vice-Chairman - Present  
Dan Guttman, Member - Present  
Ruth Ellen Post, Member - Excused  
Dave Oliver, Alternate - Excused  
Matthew Rounds, Alternate - Present  
Gabe Toubia, Alternate - Present

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

Chairman Carpenter seated Mr. Toubia for Ms. Crisler and Mr. Rounds for Ms. Post

#### Financial Guarantee - Fletcher Road Extension

- Ms. Scott apprised the Planning Board members that all completed work has been deemed acceptable by the highway department, KNA, and Attorney Campbell

**Motion by Mr. Gosselin to recommend to the Board of Selectmen to hold a public hearing to accept Fletcher Road Ext. (Sta 1 + 50 to Sta 7 + 58.34) and release the remaining escrow account of \$1850.00 +/-, plus any accrued interest, once all invoices are paid.**

**Second by Mr. Guttman**

**Vote 6-0-1, Mr. Desilets abstained as he will be voting on this as a selectman.**

#### 2016 Town Meeting Workshops

Market Square Overlay District Zoning Ordinance and Map (Section 620, 301, 701, and 710.3)

- Chairman Carpenter read the following letters in support of the Market Square proposal into the record: one from Neil Soucy dated September 30, 2015, one from Michael J. Joanis dated September 10, 2015, and one from Bob Pliskin dated September 9, 2015.
- Ms. St. Laurent suggests presenting the concept to town council to see if the mechanism has merit. Ms. St. Laurent would like to discuss the size of the units and how to end up with what the Planning Board envisions.
- Mr. Desilets believes the Planning Board needs to take care of key areas tonight.
- Chairman Carpenter handed out notes for discussion. Below is the discussion referencing the content of the notes that on file.

#### Section 620.1

- Mr. Gosselin and Mr. Desilets are in agreement with Chairman Carpenter's notes for this section

### **Section 620.1.1**

- Chairman Carpenter would like the Planning Board to be specific about their intention for mixed use requirements
- Mr. Gosselin noted that the proposed percentages do not total 100% as they are intended to identify the percentage as minimums. Mr. Gosselin suggested to decrease the residential percentage minimum.
- Mr. Guttman would like to establish a clear definition ‘mixed use’.
- Mr. Desilets pointed out that Section 620.1 defines what mixed use is.
- Mr. Guttman interprets 620.1 is a description, not a definition.
- Mr. Rounds suggested ranges for percentages.
- Mr. Gosselin suggested residential percentage to have a minimum of 5 and maximum of 10. Mr. Gosselin anticipates office space difficult to get tenanted and suggested decreasing office percentage to 5 or 10% to avoid unrented office space.
- Chairman Carpenter asked Mr. Letizio’s input regarding Mr. Gosselin’s office space percentage suggestion.
- Al Letizio encouraged the Planning Board to define what they want with many parameters. However Mr. Letizio is concerned about office space minimum of 15%; he doesn’t want to see restrictions that would prevent development.
- Ralph Valentine, WEDC member commented that office space is hard to fill. Mr. Valentine suggested 5% as the minimum for office space, and residential 10%.
- Mr. Gosselin believes establishing office space minimum at 5% will create an opportunity for a developer to submit a plan and never actually develop the 5% office space.
- Mr. Valentine commented that making office space ADA would require an elevator.
- Mr. Desilets is not convinced having minimum percentages prevents 100% retail and suggests keeping all 4 minimum percentages (retail, office, restaurant, & residential) as suggested by Chairman Carpenter. Mr. Desilets believes the minimum percentages for the above mentioned 4 areas forces a completely rounded mixed use development. Mr. Desilets suggest 5% office, 5% residential, 15% retail, and 15% restaurant as the minimum percentages for each.
- Mr. Gosselin agrees with the 4 uses suggested by Chairman Carpenter and with the proposed percentages for each as suggested by Mr. Desilets.

### **Section 620.3.10**

- Chairman Carpenter referred to the size of CVS at Wall Street in Windham, which is 1300 sq. ft., as the reference point for the suggested language “shall not exceed 10,000 square feet”.
- Mr. Gosselin is concerned that the Chairman’s suggested conditional use permits (CUP) are overly limiting.
- Mr. Desilets believes the Chairman’s suggested CUP is a great start and important for the Planning Board to consider. Mr. Desilets believes it is too complex and would prefer to qualify the size without forcing conditional uses. Mr. Desilets suggested to set a maximum value of 25,000 square feet, and an average no greater than 12,000 square feet.
- Mr. Toubia does not agree with setting averages. Mr. Toubia believes a 25,000 square foot maximum is too large. Mr. Toubia suggested 2 anchor stores up to 25,000 square

feet and allow expansion up to 40,000 square feet and keep the remaining retail sizes at 10,000 square feet.

- Mr. Guttman suggested weighted percentages with maximum sizes. Mr. Guttman believes that buildings greater than 15,000 square feet is not a walkable area.
- Mr. Valentine commented that the whole foods store in Lynnfield is 45,000 square feet. Mr. Valentine reviewed the zoning regulations for Lynnfield and asked the Planning Board to consider the maximum building size to make the market walkable.
- Mr. Gosselin is in favor of capping maximum building size to assure a good mix of small stores. Mr. Gosselin believes the Planning Board needs to allow for a few large buildings like whole foods. Mr. Gosselin believes the majority of tenants will want smaller buildings ranging from 10 to 12,000 square feet.

Chairman Carpenter asked the Planning Board for their input regarding maximum building footprint.

- Mr. Gosselin suggested 70-75,000 square feet.
- Mr. Desilets cautioned not to force unusable (alley ways/open areas) areas between buildings.
- Ms. St. Laurent pointed out the alley ways/open areas between buildings provide access to parking behind the buildings/market.
- Mr. Gosselin suggested maximum size to be two buildings at 40,000 square feet which gives two anchors. Mr. Gosselin wants to draft language that stipulates the market will have multiple small offices.
- Mr. Toubia believes limiting the number of large buildings to two is the right number
- Ms. Scott asked the Planning Board how the suggested numbers will fit for something like a hotel or assisted living.
- Mr. Gosselin suggested making it retail only.
- Chairman Carpenter prefers to identify what's excluded VS making it retail only.
- Ms. St. Laurent commented that the average size of the hotel in the U.S. is 115 rooms and 42,000 square feet.
- Mr. Desilets suggested to exclude offices.
- Mr. Gosselin suggested to exclude offices, hotels, and medical facilities.
- Mr. Desilets agrees with a maximum size of 20,000 square feet with an average of 12,000 square feet.
- Mr. Gosselin believes the issue is the average; there are too many ways to play with averages.
- Ms. St. Laurent informed the Board that the overall average at Lynnfield Market is 4700 square feet.
- Chairman Carpenter believes 50% of the tenants will be at or below 10,000 square feet.
- Mr. Vincent believes the market will drive who comes in not the developer and not the ordinance.

Chairman Carpenter opened the hearing to the public

Patrick Nysten

- Agrees with the suggestion of 2 tenants up to 40,000 square feet

- Questions how to keep it balanced
- Pointed out that CVS is 11,500 square feet not 13,000 square feet; and that 10,000 square feet is a ¼ of an acre.
- The ordinance should not be left to chance; encouraged the Board to spell out the limitations
- Agrees with Chairman Carpenter's proposed percentages with the exception of residential which should be lowered to 10%.

#### Vanessa Nysten

- Researched some statistics about Lynnfield Market and relayed the following: the whole project was one phase, whole foods is 45,000 square feet, the market has one concept store, Kings Bowling is 21,000 square feet, and the average size of most of the stores is 1200 to 7,000 square feet.
- Believes 10,000 square feet is the perfect size for in-line stores.
- The town of Lynnfield voted on the project.
- Lynnfield is a much denser town than Windham.
- Believes that 20% of 25,000 square feet is too big.
- The trend for retail is reducing therefore there is no need to have large square footage for stores.

#### John McRobie

- Asked if the 30% impervious area includes the wetlands or is it in addition to the wetlands.
- Ms. Scott replied and explained how the 30% impervious area is calculated.
- Mr. Gosselin confirmed Ms. Scott's explanation by explaining 30% is the maximum impervious, 70% is pervious.

#### Scott Cousins, Morrison Road

- Chairman Carpenters suggested numbers are easy to understand and vote on.
- Concerned about the impact on traffic and believes there is a need for a traffic plan.

#### Tom Case

- Asked about the Cobbetts Pond overlay and impervious surface area.
- Ms. Scott explained if any part of the lot in the watershed the entire lot must follow the ordinance.
- Mr. Case asked why the zoning is in the middle of 111. Ms. Scott replied because the mapping included the DOT ROW in it.
- Mr. Case suggested to eliminate the DOT ROW from the plan.
- Mr. Case is concerned about where a developer will be able to dig for a well due to extensive rock.

Mr. Valentine commented that having the percentages to total 100% many not work because the tenants moving in and out are dynamic, the number would be constantly changing. Every time there is a new tenant the math is recalculated and there is a risk of creating gaps.

Mr. Desilets believes if the 50% under 10,000 square feet are a minimum requirement it fixes the problem identified by Mr. Valentine.

Chairman Carpenter polled the Board members for their input to the minimum office space percentage. Chairman's own preference is a minimum of 5% for offices.

Mr. Desilets and Mr. Gosselin agree with Chairman Carpenter, office space minimum should be set at 5%.

Mr. Guttman, Mr. Rounds, Mr. Toubia, and Ms. St. Laurent are in favor of office space minimum to be set at 10%.

Ms. Scott pointed out the Board that under permitted uses, offices are listed separate from banks.

Mr. Desilets wants to design an ordinance that avoids a tenant having to go to the ZBA for a variance.

Ms. Scott will get a date put on the map; and add Vanessa's two suggested paragraphs as suggested.

Mr. Desilets thinks 620.3.3 is redundant and should be removed.

Vanessa Nysten

- Appendix A1 is missing.
- Chairman Carpenter asked that Ms. Scott cross reference Appendix A1 and include it back in the document for review at the next meeting.
- Ms. Scott will edit and check for any conflict prior to adding Appendix A1 back into the document.
- 

Derrick Monson, CPIA Board Member

- Requested that something be written into the ordinance about low impact development or reference the CPIA ordinance.
- Ms. Desilets does not think it (Mr. Monson's above mentioned suggestion) is necessary nor will it be helpful.
- Mr. Gosselin disagrees with Mr. Desilets; it is worthwhile to add it (Mr. Monson's above mentioned suggestion) or at the very least won't hurt or detract from what Market Square intends.

Al Letizio

- Not speaking as a WEDC member, supports Mr. Monson's suggestion to add wording which encourages low impact development. Mr. Letizio will bring back such language after the WEDC meeting.
- Ms. Scott pointed out the language already exists in the Watershed ordinance and in current design regulations.

With regards to 620.3.1.0, Chairman Carpenter will craft an email to the Planning Board that will be sent to Attorney Campbell for review at the next workshop which includes the following: a maximum building footprint of 75,000 square feet, up to two (2) tenants may occupy up to 40,000 square feet (excluding office, hotel and medical facilities), 20% below 15,000 square feet, 25% shall not exceed 20,000 square feet, and a minimum of 75% retail occupied units up to or below 10,000 square feet.

Eliminate Section 620.3.3

Ms. Scott will add a reference to Section 302.

**Professional Business and Technology District (Section 614.2.10)**

**Motion by Mr. Gosselin to accept Section 614.2.10 as amended by the Planning Board which states: Retail sales of merchandise, provided that the retail sales area is limited to no more than 15% of Professional, Business, and Technology District projects total occupiable square footage. No single retail tenant space can be larger than 15,000 square feet.**

**Second by Mr. Rounds**

**Vote 7-0-0**

**Motion Carries, will be set for public hearing on 10/14/2015.**

**Signs (Section 706.3.2.3 and 706.3.1.1)**

- Mr. Gosselin commented that it is not realistic to tear down a sign for each new tenant.
- Mr. Desilets asked about an existing sign that the town would like to see removed.
- Ms. Scott commented that when a new tenant comes in they won't be able to hang a sign.
- Mr. Guttman asked what circumstances a new tenant would be denied to use a pre-existing non-conforming sign.
- Ms. Scott offered to draft language for pre-existing nonconforming signs for the Planning Board to review prior to the public hearing on 10/14 regarding changing a panel on a pre-existing non-conforming sign.

**Motion by Mr. Gosselin that all new freestanding signs be managed and brought to the Planning Board by the Code Enforcement Officer as an agenda item once compliance has been ensured with the Sign Ordinance.**

**Second by Mr. Guttman**

Mr. Desilets suggested that the language for the sign ordinance be drafted and reviewed by Attorney Campbell and brought back for a workshop.

**Vote 4-3-0**, Chairman Carpenter, Mr. Rounds, and Mr. Desilets opposed.

**Motion carries.**

## **Vernal Pool (Section 716)**

Lisa Ferrisi

- Conservation Commission representative
- Prefers the directional vernal pool method as opposed to the current method.
- Gave a power point presentation to the Planning Board
- Recommends (in addition to site specific for directional) a prioritization system based on hydro period, and require a vernal pool survey in the spring.

John McRobie

- Recommends that a certified wetland scientist identify a vernal pool on a property and that the survey is paid for by the applicant.

Mr. Rounds asked if 200 feet around a vernal pool is a large enough area to protect the habitat. Mr. McRobie believes the area can only be determined by a certified wetland scientist who surveys the site in the spring during the ‘magical week’.

Mr. Guttman commented that the current vernal pool buffer does not protect the pool or the habitat.

Mr. Guttman believes a decision has to be legally defensible and consistently applied.

Ms. St. Laurent suggested offering two options: a 100 foot buffer around the vernal pool or the applicant hires a certified wetland scientist to decide on a directional buffer.

Chairman Carpenter suggested to bring back a revised, conservation commission approved ordinance before the Planning Board. Chairman offered that a member of the Planning Board assist Ms. Ferrisi in writing the ordinance. Ms. Ferrisi accepted Chair’s offer. Ms. St. Laurent will ask if Ms. Crisler will work on the ordinance with Ms. Ferrisi.

Mr. Valentine pointed out the actual acreage of a 100 foot circular radius buffer around a vernal pool.

Chairman Carpenter reviewed the process making confidential correspondence from Attorney Campbell available to the public.

**Motion by Mr. Desilets to adjourn**

**Second by Mr. Rounds**

**Vote 7-0-0**

**Meeting adjourned at 10:35pm**

**Minutes submitted by Suzanne Whiteford**