



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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www.WindhamNH.gov

Planning Board

November 4, 2015

Approved Meeting Minutes

Alan Carpenter, Chairman – Arrived late
Kristi St. Laurent, Member - Present
Margaret Crisler, Member - Present
Joel Desilets, Selectman - Present
Kathleen DiFruscia, Alternate - Present
Ross McLeod, Alt 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 – Excused

Call to Order/Attendance/Pledge of Allegiance

Mr. Rounds was seated for Ruth Ellen

Ms. DiFruscia was seated for Mr. Carpenter

2016 Town Meeting Public Hearing

Open Space Ordinance (Section 611)

Add definitions for conventional subdivision and for yield plan. Remove Section 611.5 pertaining to procedures.

Motion by Ms. Crisler to open Section 611 for public hearing

Second by Mr. Guttman

Vote 7-0-0

Motion carries

Mr. Gosselin explained a yield plan to the public.

Hearing open to the public

No public comments

Ms. Wood alerted staff to the memo dated October 30, 2015 from Attorney Campbell.

Ms. St. Laurent and Ms. DiFruscia are in agreement with adopting Attorney Campbell's definition of a yield plan for section 611.5.4.1.

Ms. Crisler agrees with Attorney Campbell's suggested language for the definition of a yield plan.

Motion by Ms. Crisler to move edits/suggestions per Attorney Campbell made to definition of a yield plan to be inserted in Section 611 of the Zoning Ordinance and Land Use Regulations to warrant.

Second by Mr. Matt

Vote 7-0-0

Motion carries

Subdivision Regulations Workshop- Procedures, Pertaining to Open Space Subdivisions

Ms. Wood gave an overview of the work done by herself and Ms. Post on the subdivision regulations.

Attorney Campbell provided comments in a memo dated October 30, 2015 on the proposed changes to Open Space Residential Overlay Requirements.

Ms. Difruscia asked if Ms. Post had an opportunity to review Attorney Campbell's comments?

Ms. Wood has not received any feedback from Ms. Post regarding Attorney Campbell's comments.

Ms. Difruscia suggested to table this workshop and reschedule when Ms. Post is available to weigh in on Attorney Campbell's comments.

Planning Board in agreement to reschedule the **Subdivision Regulations Workshop- Procedures, Pertaining to Open Space Subdivisions.**

Wetland and Watershed Protection District (Sections 601.4 & 601.4.8.4)

Provides a time limit for the duration of approvals for conditionally approved Wetland and Watershed Protection District (WWPD) Special Permits and also WWPD Special Permits with finalized approval, where permits are not exercised. Includes a provision for extension requests. Also adds provision regarding the installation of WWPD markers.

Motion by MS. Crisler to open Wetland and Watershed Protection District (Sections 601.4 & 601.4.8.4) for public hearing.

Second by Mr. Guttman

Vote 7-0-0

Motion carries

Mr. Desilets made a grammar edit suggestion for Section 601.4.8.1 to move the word 'note' to the end of the first sentence.

Open for public hearing

No public comment

Motion by Ms. Crisler to move Wetland and Watershed Protection District (Sections 601.4 & 601.4.8.4) to warrant
Second by Ms. Difruscia
Vote 7-0-0
Motion carries

Cobbetts Pond and Canobie Lake Watershed Protection Ordinance (Section 616)
Provides a time limit for the duration of approvals for conditionally approved Major Watershed permits and also for Major and Minor permits with finalized approval, where permits are not exercised. Includes a provision for extension requests.

Motion by Ms. Crisler to open for public hearing
Second by Ms. DiFruscia
Vote 7-0-0
Motion carries

Mr. Desilets inquired about the time frame of 120 days for permit extensions.
Mr. Gosselin explained the Board decided to leave the provision extension requests open.

Motion Ms. Crisler to move Cobbetts Pond and Canobie Lake Watershed Protection Ordinance (Section 616) to warrant.
Second Ms. Difruscia
Vote 7-0-0
Motion carries

Public Hearings for Applications:

Case#2015-26/Major Preliminary/Major Final Site Plan/Major Watershed/WWPD
A Major Preliminary/Major Final Site Plan for 55+ Housing; and Major Watershed/Wetland and Watershed Protection District (WWPD) Special Permit Applications have been submitted for 98 Range Road, a 9.47 acre lot (412,513.2 sq. ft.), located in the Rural District Zone, Cobbetts Pond and Canobie Lake Overlay Watershed Protection District, and WWPD. The applicant is proposing to construct fifteen (15) single-family, detached housing units for residents ages 55+, in adherence with Section 610 of the *Zoning Ordinance* pertaining to Housing for Older Persons. A 24' porous private driveway/road is proposed off of Range Road to access the development and two bio-retention/detention pond areas are designated for drainage. The homes are proposed to be served by two (2) onsite wells and onsite leach fields. A 5' walking trail is proposed along the perimeter of the property. A WWPD Special Permit is being requested for the installation of road shoulder work and a portion of the 5' walkway for a permanent disturbance of 11,500 sq. ft. to the WWPD. A total of 7.66 acres (333,669.6 sq. ft.) or 80% land area is proposed for open space. Waivers have been requested from Sections 603.2.4.22 to have landscaping designed on an individual unit basis rather than by a professional landscape architect and 603.2.4.15 of the *Site Plan Regulations* to not have

exterior elevations plans at a scale of 1"=20'. If a Waiver is not granted from Section 603 of the *Site Plan Regulations*, this application will be heard as a Preliminary Major Site Plan.

Case 2015-26 was not properly noticed therefore will not be heard tonight.

Case 2015-26 is rescheduled for November 18, 2015 as a preliminary hearing.

A site walk for 98 Range Road is scheduled for December 5, 2016 at 9am.

**Case#2015-27/Preliminary Major Site Plan & Preliminary Major Design Review
Subdivision**

A Preliminary Major Site Plan and Preliminary Major Design Review Subdivision Application for a 55+ Housing development has been submitted for Lots 24-F-601-605, 625-627, on Ryan Farm road; the area, composed of a total land mass of 21.7 acres (945,252 sq. ft.) is located in the Rural District and Wetland, and Wetland and Watershed Protection District (WWPD). The applicant is proposing to merge the subject lots together and then subdivide them into five (5) lots; two (2) lots each to contain a structure with three (3) attached rental dwelling units; two (2) lots each to contain a structure with three (3) attached condominium units; and one lot to contain eleven (11) single family detached residential condominium units. The total community is proposed to generate a total of 26 new dwelling units all for residents ages 55+. This is in adherence with Section 610 of the *Zoning Ordinance* pertaining to Housing for Older Persons. The homes are proposed to be accessed by the previously approved and partially constructed Ryan Farm Road. A Wetland and Watershed Special Permit Special Permit will be required at the time of Final Subdivision/Site Plan Application Submission. A cistern is proposed to comply with fire requirements. Walking trails are proposed in the common areas.

Ms. Wood confirmed the preliminary application is complete.

Motion by Ms. Crisler to open for public hearing

Second Ms. Difruscia

Vote 7-0-0

Motion carries

Ms. Wood gave a staff overview of Case 2015-27. This is the first hearing on a 55+ subdivision under the most recent ordinance. Ms. Wood instructed the public on the process and that all comments made tonight are nonbinding. Ms. Wood addressed the anticipated public concerns regarding water rights. Ms. Wood educated the public regarding the history, process, and current rights regarding land development, water rights and reasonable use. Ms. Wood reviewed the town's provision for water use under the current ordinance. Mr. Gosselin paraphrased the water provision regarding new home construction and the water flow standard/requirement prior to receiving a certificate of occupancy. Ms. Wood described the underground geology and its impact on water. Ms. Wood explained that based on the underground geology New Hampshire has deep wells. Ms. Wood invited the public to come into town hall and review hydrogeologist reports regarding underground geology and the impact on town water.

Mr. Desilets asked if any member of staff validates water flow or do they simply take the builders word for the water flow.

Ms. Wood explained the builder has to go to the state and receive validation prior to receiving a certificate of occupancy.

Mr. Gosselin understands the risks and challenges involved with the water issues related to subdivision and construction. Mr. Gosselin cautioned the public and the Planning Board that the law has to be adhered to when making final decisions about a project based on water impact. The law of the state of NH states everyone has the right to drill for a well on land they purchase the same way a current resident had the right to drill on their property for a well.

Ms. Crisler further commented that the courts will overturn any decision made that is not in line with the law.

Mr. Karl Dubay presented his plan for **Case#2015-27**

Mr. Guttman asked Mr. Dubay to speak to the plan for a single well for the adjoining units. Mr. Guttman asked Mr. Dubay what is the distance from the closest proposed unit to the cul de sac that currently exists on Ryan Farm Road

Mr. Dubay responded there is one well for 4 units. It is proven to be less draw than a single family well.

Mr. Dubay verified there are no children and the traffic involved with children dwelling in a residence and water usage is not part of the consideration for this development.

Mr. Gosselin asked the distance from Del Ray Drive to the intersection on the other side.

Mr. Dubay needs to measure it exactly, but assures Mr. Gosselin there is no cul de sac length issue.

Mr. Guttman informed the public that the fire department does not tap into the resident's homes for water when responding to an emergency.

Ms. Crisler asked who will be the landlord for the rental properties.

Mr. Dubay responded the rental properties will be managed by a home owners associations that is separate from the home owners association for the private/individual owners.

Ms. Crisler pointed out the 55 is not elderly, 55 is active adults.

Ms. Crisler would like to see a community center, club house, and/or recreation center available to the residents; especially because the development is in a remote part of town.

Mr. Dubay is willing to look at the possibility of a community center (club house) and/or recreation center.

Ms. Crisler commented there is a 55+ development in town which was approved as a 1 bedroom unit and the Planning Board members were surprised that many of the units ended up with 3 to 4 bedrooms.

Ms. Crisler would like the Planning Board to look carefully at this issue.

Mr. Gosselin commented from a deed and covenant restriction that if the deed covenants are done properly the units may not be modified beyond 2 bedrooms. Mr. Gosselin asked Mr. Dubay what guarantee does the town have that the rental units don't get sold at a later date and become rental condominiums.

Mr. Dubay assured Mr. Gosselin the protection for the rental units is included in the legal documents.

Ms. Difruscia asked about the pods shown on the plan that are located approximately 50 feet from the power lines.

Ms. Difruscia is concerned about the proximity of the rental units to the power lines and asked Mr. Dubai if it is feasible to move the pods further away from the power lines.

Mr. Dubai commented it is not possible to move the pods further from the power lines because of the topography.

Ms. DiFruscia commented that amenities and recreational services would add value to the development.

Ms. Difruscia would like to see trail connectivity with the existing neighbors.

Mr. Desilets agrees with Ms. Difruscia regarding trail connectivity

Ms. Crisler commented there should be adequate parking space provided in addition to the parking garage space.

Ms. Difruscia asked Mr. Dubai how he intends to address concerns from Police Chief Gerry Lewis.

Mr. Dubai intends to address the Police Chief concerns, no specifics provided at this time.

Ms. Crisler and Ms. Difruscia are not fans of the name 'Del Ray' for the development.

Mr. Desilets does not have an issue with the name Del Ray.

Mr. Gosselin reviewed the ground rules regarding public comment.

8:45 Mr. Desilets excused from the meeting

Mr. Guttman read the letters from Karen Cabana, Jamie & Kelly Parsons, and Amy and Stephen Hickey into the record.

Carla Minsky, 52 Ryan Farm Road

Summarized the following key concerns with a power point presentation:

I. Natural resources:

- Wells and water a big issue
- Irrigation and blasting
- 25 wells on file, many of the wells are not registered.
- The 25 wells registered 9 wells are recorded with 0 GPM
- 9/25 are listed at the 2 GPM are not accurate
- 1 lot recorded at 6g/min is not accurate
- No report filed with the state for Carla's well
- Nothing on file with the state for the current owner's well.
- The current owner has no report filed with the state.
- The town has a 4 GPM on file. Actual output is 0.78 GPM
- 6 of the homes on Ryan Farm Road have multiple wells on the property, some with upwards of 4 wells. None of the multiple wells are on file with the state or the town.

II. Material change of neighborhood and additional traffic impact is a concern.

III. Potential adverse property value.

Submitted a signed petition in opposition of the development.

Ms. Crisler requested Carla give a hard copy of the presentation to staff for submission into the record.

Ms. Difruscia asked about the potential impact to property values. Has someone gone out and actually made an assessment as to what the impact will be.

Carla explained her assessment of decreased property value is based on opinion of real estate agents.

Mr. Gosselin requested that Carla submit the petition to staff if she wished it to be entered into the record.

Ms. Difruscia asked the age of the homes on Ryan Farm Road.

Multiple responses from the public was the first home was built 2009

Amanda Gleason, 11 Field Road

The road completion is not seen as a positive for the community.

Issues with the wells are a concern.

How does a deed for 55+ apartment complex get changed.

Mr. Gosselin replied it is a deed restriction placed on the home. The Planning Board does not have any involvement in changing a deed restriction.

Peter Root, 47 Ryan Farm Road

There is no oversight in the well reporting process.

The well driller is responsible for submitting a report.

His well was reported at 2 GPM and it is recorded with the state at 0.5 GPM.

There should be third party oversight guaranteeing the well reporting process before a certificate of occupancy is issued.

Does the building inspector have to confirm the 2 GPM minimum before a certificate of occupancy is granted.

Ms. Wood will check the process.

Mr. Guttman asked how many wells the current owner has on his property and how much water do they produce.

Mr. Root responded he currently has two wells on his property. The first well is about 750 feet deep, the second well is about 1100 feet deep with .25 GPM. He currently needs a third well.

Robin DiMartinis, 38 Ryan Farm Road

Agrees with all previous comments and concerns.

There is one driveway on the map sheet 8/15. 24F808 is the proposed house that is directly across from a \$650K house and will depreciate the value of her home.

Mike Cardillo, 34 Ryan Farm Road

Mr. Cardillo has 2 wells on his property. One well is 800feet deep, the other well is 1100 feet deep. The wells (combined) produce less than 1 GPM.

Chairman Carpenter arrived at 9:20pm and joined the Board.

Ms. Difruscia asked if the owners have investigated what is the underlying cause of the wells running dry. Mr. Cardillo has not pursued the cause.

Lisa Tarahocchia, 49 Ryan Farm Road

Ms. Tarahocchia pointed out the part of her P&S and believes it is binding with regards to the remaining lots being developed as individual homes with the same type of existing homes in the development.

Ms. Tarahocchia asked if the owner of the rental properties have to buy the homes as a 55+ community.

Mr. Gosselin replied that the rental units are held to the 55+ statute.

Clayton Leblanc, 42 Ryan Farm Road

Agrees with all previous comments and concerns.

The project is within a rural district, and wetland and watershed district.

Mr. Leblanc referred to Section 610.3.1 and believes reference to wetlands and watershed district is missing from this section.

Mr. Gosselin commented that WWPD is an overlay district and would not be addressed in the regard Mr. Leblanc is referring.

Referred to Section 610.9.3. Mr. Leblanc does not believe the public interest is being served.

Mr. Leblanc suggested the burden of proving the development will not negatively impact property value should be on the developer. There is a real risk of property value being impacted by the water issues.

Jennifer Makris, 55 Ryan Farm Road

Agrees with all previous comments and concerns.

Issue is that the P&S says there are 26 homes being built in the neighborhood and asked why there is a change to the neighborhood.

Mr. Gosselin responded that the 26 homes in question are part of Ryan Farm Phase 2. Unless it is clearly stated there will not be construction on the property next to the homes in phase 2 it can be built on in the fashion proposed.

Ms. Makris takes issue with the development going from single housing to 55+ affordable housing.

Ms. Makris asked who enforces adherence to the 55+ housing covenant.

Mr. Gosselin responded the town code enforcement officer is responsible for enforcing the 55+ housing.

Chairman Carpenter responded it is essentially the neighbor's job to enforce the 55+ housing

Ms. Makris does not want to be responsible for policing the covenant and is also concerned about the traffic issues that will be created by the new development.

Ms. Wood clarified that the current residents were shown a plan. If the current property owners had come to the town to research the project they would have seen the plans

Ms. Crisler recalls that the Planning Board approved the lots for single family homes down to Field Road. The developer is combining single family lots to develop 55+ housing. There was no phase 3 when phase 1 and phase 2 were approved.

Chairman Carpenter asked if the applicant has to reopen the application to combine the lots and resub-divide.

Ms. Wood responded the prior Ryan Farm phase 2 does not have any covenants preventing the lots being combined and subdivided.

Ms. Makris believes there is a change in the P&S agreement.

Robin Demartinis, 38 Ryan Farm Rd.

Agrees with all previous comments and concerns.

Alison Trujillo, 29 Ryan Farm Road

Agrees with all previous comments and concerns.

Ms. Trujillo explained that well has uranium in it and it may be from blasting.

Ms. Trujillo is concerned about the blasting and the change in pressure

Ms. Trujillo has water and well issues and concerns similar to what has already been expressed by her neighbors; she can't run her irrigation.

Gary Campbell, 54 Ryan Farm Road

4 GPM, 2 GPM. Building inspector goes on the word of the builder

Retested and it is record at < 2GPM.

Mary Leblanc, 42 Ryan Farm Road

Ms. Leblanc asked if the Planning Board requires the water to be in place before building is allowed?

Ms. Leblanc asked if it is reasonable to allow 26 new homes when there is existing water crisis/issues. It puts all of our homes at risk and is that reasonable.

Ms. Leblanc asked if it is reasonable to allow this type of development in a neighborhood where we all bought into a single family home neighborhood. Who is looking out for us? We are part of the town and the Planning Board should be looking out for them.

Frank Conceicao, 40 Ryan Farm Road

Agrees with all previous comments and concerns.

Mr. Conceicao has a third well on his property.

Mr. Conceicao asked who is checking the wells (depth of well and pump) and signing off on the inspections.

Chairman Carpenter replied that the Board has no authority over the depth of the pump being recorded.

Kathleen Mancicni, 27 Ryan Farm Road

Ms. Mancicni has water issues and is very concerned about water issues.

Ms. Mancicni is concerned about the 55+ changing over from 55+ owner occupied to renters.

Ms. Mancicni is concerned about decrease in value of existing homes as a result of the development.

Mr. Guttman asked if there are any renters on Ryan Farm Road

Ms. Mancicni replied there are no renters, all homes are owner occupied

Steve Voto, 25 Ryan Farm Road

Mr. Voto has 3 wells on his property.

There is a problem with the water.

Mr. Voto asked what would a certificate of occupancy imply.

Mr. Voto commented we all thought we were buying individual homes and the 55+ condos are an impediment to the neighborhood.

Mr. Voto is requesting a separation of the neighborhoods; he would like to disassociate the 55+ condos from the single family home neighborhood.

Mekdes Abebe, 141 Castle Hill Road

Ms. Abebe asked what will be the impact of traffic be to her house.

Ms. Abebe agree with expressed concerns about water and traffic impact.

Chairman Carpenter replied that the Planning Board may request a traffic study for new developments and that would allow the Planning Board to respond to the question.

Mr. Gosselin responded that the road going through Ryan Farm was approved and is required to be built regardless of the proposed development.

Ms. Crisler believes a traffic study has already been done.

Bryan Fillion, 51 Ryan Farm Road

Agrees with all previous comments and concerns.

Mr. Fillion asked why things are changing.

Mr. Fillion asked where are the trails being discussed.

Mr. Fillion is very concerned about water and traffic.

Mr. Fillion commented he bought into luxury homes and how do rentals impact the current homes.

Carla Minsky, 52 Ryan Farm Road

Asked how to submit hard copies of her presentation

Tom Case, 70 Mountain Village Road

Mr. Case asked what a design review is. Mr. Case believes a design review is for the subdivision and has not heard one word about the combining and subdividing the lots.

He has never heard of a site plan for lots that don't exist.

Ms. Crisler does not agree with Mr. Case.

Mr. Case wants to know when the design review for the subdivision will be addressed.

Mr. Case commented that many people are asking why this happened, how does this happen.

Mr. Case believes this happened because the Planning Board changed that rural residents A and rural residents B to allow 55+ housing.

Mr. Case does not appreciate Chairman Carpenter cutting him off every time he gets up to speak. Chairman Carpenter does not believe he is cutting Mr. Case off from speaking.

Mr. Case asked if the trails be wheelchair/handicapped accessible.

Hearing Closed for public comment

Mr. Karl Dubay

The trails are shown on sheets 8, 9, and 10, 11, 12, and 13 of the plan and he will be meeting with the trails committee. The public is invited to walk the trail plan and participate in the planning of the trails.

There is an excessive neighborhood buffer plan proposed in the development on sheet 8 of the plan. Mr. Dubay is going to expand the neighborhood buffer plan to the East between the neighborhoods.

This is a market rate elderly project. The development is going to be a high end villa concept. Mr. Dubay will be preparing a traffic study on the differential between the 8 existing homes; and the proposed development,

Mr. Dubay will be happy to collect data, do statistical analysis, and look at it with the Planning Board.

Chairman Carpenter reviewed the water requirements for a 4 bedroom single family home V a 2 bedroom elderly housing development. Chairman Carpenter asked if the developer has entertained a community well system.

Mr. Dubay replied he would entertain a community well but it will not solve any problems.

Mr. Dubay replied that a design review is a state land use RSA. We are required to submit an application for design review.

Ms. Crisler asked Mr. Dubay to provide a plan showing the abutting homes and abutting wells with the GPM on the abutting homes' wells.

Mr. Dubay will obtain the information.

Ms. St. Laurent is a little uncomfortable with the number of units, the density, and the transition abutting single family homes. Would like to see a little more transition between the existing neighborhood and proposed development.

Mr. Rounds does not have any further comments.

Mr. Guttman asked Mr. Dubay to highlight the well sites on the plan. Greater concern about the viability of the 4 unit house close to the power lines the residents would have to travel under in and out every day.

Mr. Gosselin does not have any further comments.

Ms. Crisler concerned about the lack of amenities.

Ms. Difruscia understands the concerns related to property values. Ms. Difruscia believes amenities and trails and anything Mr. Dubay could bring back to address property value would be appreciated.

Chairman Carpenter is concerned about water issues and will be looking closely at the proposed locations of the wells with relation to the existing wells. Agree with Ms. St. Laurent regarding lack of buffers. Chairman Carpenter would like to see more extensive buffers. Chairman Carpenter commented that statistically, there are current residents that would not have bought a home if they knew they would be living in a neighborhood that changed the lives of the current residents. Loud applause from the public in response to Chairman Carpenter's comments.

A site walk is scheduled for December 5, 2015 at 10am starting at the end of Ryan Farm Road.

Motion by Mr. Guttman to end design review

Second by Ms. Crisler

Vote 7-0-0

Motion Carries

10:29pm Ms. Difruscia excused

Draft minutes from September 2, 2015 reviewed

Motion by Ms. Crisler to approve September 2, 2015 minutes as amended

Second by Mr. Gosselin

Vote 6-0-0

Motion carries

Motion by Mr. Guttman to adjourn

Second by Ms. Crisler

Vote 6-0-0

Meeting adjourned 10:31pm

Minutes submitted by Suzanne Whiteford, Minute Taker

Minutes Review and Approve

- September 2, 2015
- September 9, 2015
- September 16, 2015
- September 30, 2015

Member Binder Updates: 2016-2023 CIP Plan

Adjournment