



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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www.WindhamNH.gov

Planning Board Approved Minutes

Wednesday, January 6, 2016

7:00pm @ Community Development Department

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

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

STAFF:

Laura Scott, Director Community Development
Suzanne Whiteford, Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Mr. Rounds seated for Ms. Crisler

2106 Town Meeting Public Hearings

Professional, Business & Technology District (Sections 614.2 and 614.3)

To amend Section 614.2.10 to delete “manufactured or assembled on site”; add Section 614.2.10.1-614.2.10.3 to limit the area dedicated to retail sales to no more than 10% of the districts project’s total occupiable sqft, to limit a single retail tenant space to no more than 7,000sqft, to not allow more than 50% of the retail tenant space to be located in that portion of the building which faces the lot frontage on the adjoining Class V or better street; and add Section 614.3.5 to integrate all retail and restaurant uses through the plan.

Motion by Mr. Gosselin to open Professional, Business & Technology District (Sections 614.2 and 614.3) for public hearing

Second by Mr. Guttman

Vote 7-0-0

Motion Carries

Ms. DiFruscia would like to be sure that the language: ‘*no more than 10% of the districts projects total occupiable space*’ does not include any possible development outside of the PB&T zone.

Betty Dunn, Woodvue Road

- Ms. Dunn thanked the Planning Board for working hard and coming up with something that reflects the spirit and intent of the town.
- Ms. Dunn believes the issue of calculations has been clarified.

- Ms. Dunn remains worried about the last section speaking to integration; it does not have any measurement capabilities.

Johnathon Sycamore, Cobbett's Pond Road

- Mr. Sycamore does not understand the magic of retail; why do we need it?
- PB&T is adjacent to Gateway.
- Mr. Sycamore does not see the rush, it is a bit of overkill and not necessary.

Motion by Mr. Gosselin to move forward to warrant the PB&T district changes to for minor grammar correction: change the word 'of' to the word 'or' and include the word 'the'.

Second by Mr. Rounds

Discussion on the motion - Ms. Post is in favor in retaining an emphasis on PB&T. Ms. Post does not think there has been an aggressive pursuit of PB&T. Nothing in this proposal guarantees complementary retail to the PB&T. Ms. Post believes that instead of supporting PB&T the proposal dilutes it. Ms. Post believes that in the absence of the new master plan and, without an overall new zoning scheme, it is important to keep what we have now.

Mr. Guttman challenged the insertion of the word 'the'. Mr. Guttman is taking Mr. Sycamore's commentary very strongly. Mr. Guttman fears a PB&T of small restaurants and retail without a restriction. For these reasons Mr. Guttman will be voting against the motion.

Mr. Desilets concurs with Mr. Guttman regarding the word 'the'.

Ms. Difruscia concurs with Ms. Post, Mr. Sycamore, and Mr. Guttman. Ms. Difruscia remains in opposition to the changes. Keeping PB&T the same without additional retail provides a well needed balance for the Town. As proposed, the cart is tipped in a way not beneficial to the town by adding too much retail that is not sustainable by the town. Ms. Difruscia believes it is critical to retain a balance in the town zoning.

Mr. Toubia suggests to replace the word 'the' with the word 'any'.

Mr. Gosselin amended the motion to remove the word 'the'

Second by Mr. Guttman

Vote 5-2-0 Mr. Guttman and Ms. Post opposed

Motion carries

Mr. Desilets commented that in the past hearing the special exception for pharmacies has been removed, and there has been a restriction of 7000 square feet placed on retail which Mr. Desilets believes may not be constitutional.

Cobbetts Pond & Canobie Lake Watershed Protection Ordinance (Sections 616.4, 616.13 & 616.13.1)

To amend Section 616.4 to add the definition of Artificial Pervious Surfaces "any modified surface which can effectively absorb or allow infiltration of water into the underlying soil mass"; to add Sections 616.13 Maintenance and Section 616.13.1 to require maintenance of Artificial Pervious

Surfaces per the guidelines of the University of New Hampshire Storm water Center or best management practices of the manufacturer.

Motion by Ms. Post to open Cobbetts Pond & Canobie Lake Watershed Protection Ordinance (Sections 616.4, 616.13 & 616.13.1) for public hearing.

Second by Mr. Guttman

Vote 7-0-0

Motion carries

Mr. Guttman requested that Mr. Gregory make Attorney Campbell's opinions regarding enforcement be made available for himself and Mr. Gosselin to review.

Mr. Gosselin believes the Planning Board would want the maintenance of porous pavement ordinance to be retroactive.

Chairman Carpenter commented that the maintenance of porous pavement can be made a condition of approval for future proposals.

Mr. Guttman believes there needs to be an enforcement mechanism for the maintenance.

Ms. Difruscia cautioned the Planning Board members to keep in mind that the whole concept of maintenance is to protect the lakes. Ms. Difruscia believes it is important for the maintenance of porous pavement be applied retroactive.

Chairman Carpenter doesn't understand why the numbering wasn't changed.

Mr. Gregory replied that the Planning Board didn't ask for the numbering to be changed.

Mr. Desilets concurs with previous comments made by Planning Board Members. Mr. Desilets is concerned about the language: *guidelines not available by the University of New Hampshire Storm water Center, best management practices, as recommended by the manufacturer, will be followed.*

Mr. Gosselin commented that the language was crafted to provide guidelines for maintenance when none are available from UNHS.

Ms. Post supports the intent of the Porous Pavement Ordinance. Ms. Post questions if the Planning Board has the legal right to enforce maintenance on retroactive porous pavement.

Chairman Carpenter believes it is the Planning Board's primary concern to look ahead on the use of porous pavement and suggested to delete the maintenance paragraph and work on it during the year.

Mr. Toubia commented on the language regarding the methods used by the storm center could make the manufacturers recommendations void.

Mr. Rounds asked how the Town intends to track the data to enforce the maintenance.

Mr. Gregory commented staff will develop a tracking mechanism for tracking if the ordinance is passed.

Mr. Desilets was provided, as requested, a copy of Attorney Campbell's letter dated October 15 and asked that the letter be made public.

Betty Dunn asked why the definition is contained in the 600 section and not in the definition section of ordinances.

Motion by Mr. Rounds to release Attorney Campbell's letter addressed to Chairman Carpenter, dated October 15, 2015, to the public.

Second by Mr. Gosselin

Vote 7-0-0

Motion carried

Motion by Mr. Guttman to move to warrant Cobbetts Pond & Canobie Lake Watershed Protection Ordinance (Sections 616.4, 616.13 & 616.13.1) to amend Section 616.4 to add the definition of Artificial Pervious Surfaces "any modified surface which can effectively absorb or allow infiltration of water into the underlying soil mass"; to add Sections 616.13 Maintenance and Section 616.13.1 to require maintenance of Artificial Pervious Surfaces per the guidelines of the University of New Hampshire Storm water Center or best management practices of the manufacturer

Second by Mr. Gosselin

Mr. Desilets fully supports working on maintenance further next year.

Mr. Rounds believes the definition and maintenance section need more work.

Ms. Post suggested changing adding the word 'all' to the Section 616.13.1 before the word 'Artificial'.

Vote 2-4-1 Mr. Rounds abstained, Mr. Gosselin, Ms. St. Laurent, Ms. Post and Mr. Desilets opposed

Motion fails

Motion by Post to move forward to amend Section 616.4 to add the definition of Artificial Pervious Surfaces "any modified surface which can effectively absorb or allow infiltration of water into the underlying soil mass"

Second by Mr. Desilets

Vote 7-0-0

Motion carries

Mr. Desilets excused at 8pm.

Vernal Pool Habitat Protection (Sections 716.1, 716.2, 716.3, 716.4, 716.5)

Amend the purpose section; amend the definition of vernal pool, and; add a definition for vernal pool habitat. Add a new section titled Vernal Pool Determination that details how to determine the edge of the protective buffer. Amend marking requirements to state that each marker shall be easily visible when approaching the vernal pool buffer.

Motion by Mr. Guttman to open Vernal Pool Habitat Protection (Sections 716.1, 716.2, 716.3, 716.4, 716.5) for public hearing

Second by Mr. Gosselin

Vote 6-0-0

Motion carries

Karl Dubay

- Mr. Dubay asked if there is a new paragraph being added to the vernal pool habitat protection definition.
- The way it was notified, the vernal pool habitat is being added.
- There was not a vernal pool habitat in the original language.
- The way it is worded now there is to be 100 foot buffer around the vernal pool.
- Mr. Dubay believes that it is not fair for to propose new subjective performance criteria.
- The army corps already has guidance.

Mr. Guttman commented that the vernal pool buffer criteria is not being changed. The Army corp. does not have directional buffers.

Ms. St. Laurent commented that adding the newly established Vernal Pool Habitat Protection allows for an applicant to propose a directional buffer.

Ms. Post commented that she understands what Mr. Dubay is saying. The buffer has to be 25 feet from the edge of the pool not the habitat.

Chairman Carpenter confirmed what Ms. Post said.

Motion by Mr. Guttman to move changes as amended by Attorney Campbell and the renumbering to public warrant

Second by Mr. Rounds

Vote 6-0-0

Motion carries

October 7, 2015 draft minutes reviewed.

Motion by Mr. Guttman to approve minutes of October 7 as amended.

Second by Ms. Post

Vote 5-0-1 Ms. St. Laurent abstained

October 14, 2015 draft minutes reviewed.

Motion by Mr. Gosselin to approve minutes of October 14 as amended

Second by Mr. Guttman

Vote 4-0-2 Mr. Rounds and Ms. Post abstained.

Public Hearings

Case 2015-32 Minor Site Plan/Change of Use 26 Haverhill Road (Lot 11-A-315)

A Minor Site Plan Application has been submitted for 26 Haverhill Road (11-A-315), located in the Limited Industrial District. The applicant, Joseph Maynard of Benchmark Engineering, Inc., on behalf of the property owner Macmulkin Chevrolet, is proposing to amend the previously approved Site Plans (from 1977, 1988, 1993, and 2000) to allow a contractor's yard, manufacturing enterprises, storage yard, minor repair shop office, and commercial service establishment. In addition, a paved driveway is proposed to connect 22 Haverhill Road (11-A-317). 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 & the application will be heard as a Preliminary Major Site Plan Application

Ms. Post asked what is being manufactured.

Mr. Maynard replied that cord wood is being manufactured.

Ms. Post asked what volume of cord wood is being produced.

Mr. Maynard replied that 30 cords were produced last year.

Ms. Post asked for clarification of what constitutes minor repairs.

Mr. Maynard clarified that the owner makes repairs to his own equipment. The owner does not make repairs to customers, leased vehicles, or rental vehicles.

Ms. Post asked what commercial services are currently being provided.

Mr. Maynard replied that he is looking to continue the existing use of leasing of the cars.

Ms. Post asked for clarification on the term contractor's yard.

Mr. Maynard replied that the owner has empty roll out dumpsters parked on the property.

Chairman Carpenter inquired about the size of the yard.

Mr. Maynard referred to what is shown on the plan; the size is approximately 10,000 square feet.

Motion by Mr. Gosselin to open Case 2015-32 Minor Site Plan/Change of Use 26 Haverhill Road (Lot 11-A-315) as a minor site plan.

Second by Mr. Guttman

Vote 6-0-0

Motion carries

Case # 2015-32 Minor Site Plan/Change of Use 26 Haverhill Road (Lot 11-A-315) presented to the Planning Board by applicant Mr. Joseph Maynard.

Ms. Post asked what is the square footage and percentage of lot grading

Mr. Maynard replied the driveway is 350 square feet on one lot and 350 square feet on the other lot.

Ms. Difruscia inquired about the minor repair on vehicles. Ms. Difruscia asked if there is a separate building for repairs.

Jeff Thompson replied the maintenance and repairs involve changing a tire, changing the oil, etc. No major repairs.

Carla Dukas, 7 Hardwood Road

- Ms. Dukas has lived there for 20 years and has not been exposed to the property until recently; which now she can see all the industrial equipment and work on the property and it is very noisy.
- This has become a significant visual impact and it is very noisy.
- There is no screening along the rock wall and I can see everything on the property clearly.
- Would like some type of buffer effort to screen the industrial property from the residential.

- It's not supposed to be noisy or unsightly.
- Additional buffering would help reduce the noise and industrial sight.

Mr. Maynard replied the property is approximately 300 feet away, not directly abutting.

Ms. Baldrige, 9 Hardwood Road

- Complained about the loud music from the deck of Red's Tavern

Ms. Difruscia asked what the hours of operation are.

Mr. Macmulkin replied the security lights around the building are on 24 hours per the fire department.

**Chairman Carpenter requested to continue this case to March 2, 2015 after a site walk February 3, 2015. The site walk will begin at Red's Tavern at the conclusion of the Planning Board meeting.
Second by Ms. Post**

Mr. Toubia asked to consider a dual site walk between the property and the homes on Harwood Road.

Vote 6-0-0

Motion carries

Case 2015-33 Minor Site Plan/Change of Use 22 Haverhill Road (Lot 11-A-317)

A Minor Site Plan has been submitted for 22 Haverhill Road (11-A-317) located in the Limited Industrial District. The applicant Joseph Maynard, of Benchmark Engineering, Inc., on behalf of the property owner, MacMulkin Chevrolet, is proposing to amend the previously approved Site Plan to add a paved driveway to connect to 26 Haverhill Road (11-A-315). 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 & the application will be heard as a Preliminary Major Site Plan Application.

Motion to open Case 2015-33 Minor Site Plan/Change of Use 22 Haverhill Road (Lot 11-A-317) for public hearing

Second by Mr. Rounds

Vote 6-0-0

Motion carries

Ms. St. Laurent noted her displeasure of being asked to approve something that has already been done.

Chairman Carpenter agrees with Ms. St. Laurent.

Motion by Mr. Gosselin to continue Case 2015-33 to March 2, 2015 after a site walk February 3, 2015.

Second by Ms. Post

Vote 6-0-0

Motion carries

Motion by Mr. Rounds to appoint Ms. St. Laurent, Mr. Guttman, and Mr. Gosselin to design review subcommittee for Market Square

Second by Ms. Post

Vote 6-0-0

Motion carries

Planning Board recess
9:27pm meeting resumed

Chairman Carpenter announced that Mr. David Oliver is no longer able to fulfill his obligation to the Planning Board as an alternate and has resigned his position. Chairman Carpenter suggested leaving the seat vacant and waiting for the March election. Planning Board agreed to wait until March.

Case#2015-34/Preliminary Major Site Plan/Design Review Major Subdivision/Simpson's Crossing

A Preliminary Minor Site Plan Application and Design Review Application for a Major Subdivision has been submitted 36 Marblehead Road (25-G-30, 40), located in the Residence District A zone and Wetland and Watershed Protection District (WWPD) Zone. The applicant, Joseph Maynard, of Benchmark Engineering, Inc., on behalf of the property owners, South Fork Properties, LLC and Windham Marblehead Properties, LLC, is proposing a 55+ housing community consisting of 37 single-family units including related parking, drainage, and snow storage areas. New roads are proposed to access the development. A WWPD Special Permit will be required at the time a final application is submitted due to proposed disturbance for the installation of roads, parking, and drainage features.

Applicant, Mr. Joseph Maynard reviewed Case #2015-34/Preliminary Major Site Plan/Design Review Major Subdivision/Simpson's Crossing.

Motion by Mr. Gosselin to open Case#2015-34/Preliminary Major Site Plan/Design Review Major Subdivision/Simpson's Crossing for public hearing.

Second by Mr. Guttman

Vote 6-0-0

Motion carries

Ms. Post inquired about the location of the rain gardens
Mr. Maynard pointed out the rain gardens on the map.

Mr. Rounds is concerned about individual wells and asked how many wells he can fit in one space.
Mr. Maynard believes that to be a hypothetical question and can't speak to it at this time.

Mr. Gosselin asked about the parking area, from an overflow parking standpoint and asked if that is a big part of the WWPD

Mr. Maynard replied it is not impacting the WWPD.

Mr. Gosselin asked about road width, and clarified that Mr. Maynard is looking to reduce the driveway and, and asked what is the calculation of reduction on the pond.

Mr. Maynard replied there will not be any significant change to the pond.

Mr. Guttman is asking questions on behalf of himself and Ms. Crisler regarding the yield plan.

Mr. Maynard replied it has been sent to the Mr. Keach and a response is pending.

Mr. Guttman asked the intended price range of the homes and the length of the cul de sac.

Mr. Maynard replied the cul de sac length is under 2400 feet.

Mr. Guttman has the following concerns and questions:

- Concerned there are no facilities or services to entice someone to move into a 55 and over community.
- Concern that there are some legality concerns with enforcing 55+ ordinances.
- Why is it a lot line adjustment and not a subdivision?
- Disturbed by not having community wells.
- Do you intend to use any porous pavement.
- Are the ponds and rain gardens are designed for a 100 year storm

Mr. Maynard replied the application can be made as a lot line adjustment or a subdivision.

Mr. Maynard explained that is too expensive to install community wells and the association has to pay for the well when it fails.

Mr. Maynard does not intend to use porous pavement. He is using oversized culverts and burying the bottom 1/3 of the culvert.

Maynard confirmed the ponds and rain gardens are designed for a 100 year storm.

Ms. St. Laurent asked Mr. Maynard to point out the septic systems on the plan.

Mr. Maynard pointed out the septic systems on the map.

Ms. Difruscia has the following concerns and questions:

- How many acres are the WWPD.
- Concern about the slope downwards towards the retention pond.
- How much of the retention pond is in the WWPD.
- What is the proximity of the road to the pond.
- There a lot of roadway and driveways which means a lot of salt, how will that be addressed.
- How big is the retention pond.
- What designates this as age restricted

Mr. Maynard's responses to Ms. Difruscia's concerns and questions.

- The wetlands have been flagged.
- Don't know how much of the acreage are wetlands.
- There is about an acre between the retention pond and the rain garden is in the WWPD.
- The road is designed to be 28 feet wide; He is asking the Planning Board for guidance.
- There is 250 feet from shore line to rock pond.
- The drainage is a closed drainage system.
- Mr. Maynard does not know the size of the pond.
- 2 acres of WWPD impact includes Grading associated with the road and the retention pond
- The Windham ordinance designates the proposal as age restricted.

Chairman Carpenter has the following concerns and questions:

- What features of the plan are unique that creates a community feel of living in an age restricted project.
- What percentage is not being developed.
- There is no language in the ordinance that requires a yield plan, but it is the precursor for how many units can fit here. This plan looks aggressive.

- Requested Mr. Maynard to designate on the plan what forest will be left undisturbed. There are some beautiful rock walls and would like to see them designated on the plan and retained if possible.
- What is the road width?
- Support a 22 foot road as suggested by safety officers.
- With regards to community wells, the elevation lines are significant, the separation requirements between wells and septic can be a challenge.
- Concern about 37 wells around existing properties.
- Where are you coming out on Marblehead road?
- Will not support any planning coming out of the top of the hump on Marblehead Rd.
- It is the Planning Board's responsibility to minimize a dangerous situation; it is a completely blind as to what is on the other side of lavender road. This creates a very dangerous situation if not planning to take down the hump. Will be reviewed on a site walk.
- Is there a better, safer access point?

Mr. Maynard's responses to Chairman Carpenter's concerns and questions:

- Mr. Maynard's experience is the community doesn't want to pay for the community amenities in such a small development. (less than 75 units)
- 65% undisturbed, including the buffers
- The development has been cut back from 49 units.
- The forest, and the watershed it sits in, intend to preserve as much as possible of the forest
- No intention to clear cut.
- Choosing not to do a community well system.
- Choosing to drill individual wells.
- Pointed out on the plan where he is planning to come out from the development.
- There is not an alternate access road.

Amy Manzelli, BCM Environmental & Land Law, PLLC, Rock pond representative

- The association has some serious concerns with the project as proposed.
- Working with Mr. Maynard to come to agreement with the concerns.
- Wants to make sure the pond is protected.

Edward Crean, 5 Canterbury road, abutter

- The hump would have to come down to be able to see when exiting the development.
- Concern about the wells, what I do if I have a problem after 37 wells are drilled.
- Will the project impact me or my neighbors?
- Neighbors have had issues when drilling a second well after the first one has gone dry.
- The project is out of place.
- Concerned about blasting and the amount of the cutting needed for the development.
- Would be interested in participating in a site walk.

Lisa Riel, 34 Marblehead road

- Concerned about the safety issues, and heavy existing traffic.
- Concerned about additional traffic.
- The land waste system across the street from his home has very crowded traffic.

Ms. Difruscia asked the applicant if a traffic study has been done. Maynard, has not done a traffic study. Mr. Maynard would like to do a site walk sooner than later due to anticipated poor weather.

Mr. Guttman is concerned about the turn from Range RD. onto Marblehead RD. For an age restricted community, has the entry and exit point been considered?

Mr. Maynard does not see this as a concern, there are other ways out of there. People travels those intersections every day.

Mr. Rounds concerned that the den can be turned into a third bedroom.

Mr. Maynard the town is responsible for checking on the deed restrictions.

Mr. Rounds a deed restriction won't necessarily keep people from making the third den a bedroom.

Mr. Maynard believes the residents are self-policing in the development.

Chairman Carpenter read from 610.9.1 ordinance. The Planning Board adopted the ordinance as a way of providing homes for couples looking to downsize.

Mr. Maynard commented that the proposed homes are 2400 square foot with a two care garage.

Ms. Wood advised the Planning Board they need to decide if the plan is going to be a minor or major subdivision/lot line adjustment.

Motion by Ms. Post to schedule a site walk on January 30, 2016 at 9am at 50 Marblehead Road and car pool to Emerson.

Second by Mr. Rounds

Vote 6-0-0

Motion carries

Motion by Mr. Gosselin to continue Case#2015-34/Preliminary Major Site Plan/Design Review Major Subdivision/Simpson's Crossing to February 3, 2015

Second by Mr. Rounds

Vote 6-0-0

Motion carries

Motion by Mr. Gosselin to adjourn

Second by Ms. Post

Meeting adjourned at 10:43pm

Chairman Carpenter was invited by the Windham School Superintendent to attend the Windham School Board meeting, invited by talk to demographics at the meeting. Carpenter attended the meeting and invited the school board to attend a joint meeting with the Planning Board. School Board agreed to a joint meeting, date to be determined. Ms. Scott will coordinate meeting date with the school superintendent.