



Planning Board Approved Minutes

June 7, 2023

7:00 pm at Community Development Meeting Room
3 North Lowell Road

Attendance:

Chair Tom Earley, Present
Vice Chair Derek Monson, Present
Jennean Mason, Excused
Jacob Cross, Present
Matt Rounds, Present
Alan Carpenter, Present
Pam McCarthy (alternate), Present seated for Jennean Mason
Roger Hohenberger, Board of Selectmen ex Officio, Present
Bruce Breton, Board of Selectmen ex Officio (alternate), Excused

Also present were: Alexander Mello, AICP - Community Development Director
Bernard Campbell, Esq. – Town Counsel
Christopher Danforth, Keach Nordstrom Associates – Town Certified Wetland Scientist

Draft minutes provided by Alan Carpenter.

The meeting opened at 7:00pm with the pledge of allegiance and the introduction of members.

Request to Extend Deadline to Complete Conditions - Case 2023-04 – 47 North Lowell Rd (Parcel 11-A-885); Final Major Site Plan and WWPD Special Permit; Zone – Residential District B and WWPD.

Shayne Gendron, Edward N. Herbert Associates, provided an overview of the request to extend the deadline to meet precedent conditions while an Alteration of Terrain permit is being sought from the New Hampshire Department of Environmental Services.

Mr. Carpenter made a motion to approve the extension of time to satisfy conditions to 12 months. Seconded by Derek Monson. The motion passed with the following roll-call vote:

Chair Earley, aye
Vice Chair Monson, aye
Ms. McCarthy, aye
Mr. Rounds, aye
Mr. Carpenter, aye
Mr. Cross, aye
Mr. Hohenberger, aye

Case 2023-11 – 180 Rockingham Road & 5 Goodhue Road (Parcel 8-B-4550 and 8-B-4601); Zone – Rural District and Commercial District A; Final Subdivision.

Mr. Rounds made a motion to open the public hearing. Seconded by Derek Monson. The motion passed with the following roll-call vote:

Chair Earley, aye
Vice Chair Monson, aye



47 Ms. McCarthy, aye

48 Mr. Rounds, aye

49 Mr. Carpenter, aye

50 Mr. Cross, aye

51 Mr. Hohenberger, aye

52 Discussion centered on the Board creating a spilt zoned property. The Board discussed taking action on
53 the 2024 ballot to make it a single zoned parcel.

54

55 **Mr. Monson made a motion to approve the final subdivision with the condition that all KNA**
56 **comments in the memo dated May 25, 2023 are met to Staff's satisfaction. Seconded by Pam**
57 **McCarthy. The motion passed with the following roll-call vote:**

58 Chair Earley, aye

59 Vice Chair Monson, aye

60 Ms. McCarthy, aye

61 Mr. Rounds, aye

62 Mr. Carpenter, aye

63 Mr. Cross, aye

64 Mr. Hohenberger, aye

65

66

67 **Public Hearing re: Case 2019-19F – 64 Mammoth Road (Parcel 19-A-200); Application for**
68 **Workforce Housing-Final; Zone - Rural District.**

69 Jake Cross voluntarily recused himself.

70 The Applicant, Joe Maynard of Benchmark LLC, discussed about why he is appealing the most recent
71 approval of six WFH units.

72 Jeff Donahoe, Financial Consultant, presented new analysis on behalf of the applicant.

73 Board discussed market pricing and analysis as provided by Biran Underwood and the Applicants
74 financial experts.

75 **Ms. McCarthy made a motion to reaffirm the Board's previous decision from April 12, 2023**
76 **approving the project with 6 out of 17 units being workforce housing. Seconded by Derek Monson.**

77 **The motion passed with the following roll-call vote:**

78 Chair Earley, aye

79 Vice Chair Monson, aye

80 Ms. McCarthy, aye

81 Mr. Rounds, aye

82 Mr. Carpenter, aye

83 Mr. Hohenberger, aye

84

85

86 Mr. Cross rejoined the Board.

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88

89 **Case 2022-37 – 72 Range Road (Parcels 17-H-30); Major Final Site Plan, WWPD Special**
90 **Permit, WPOD Site Plan / Subdivision Land Development Application, and Final**
91 **Subdivision; Zone – Gateway Commercial District, WWPD, and WPOD**

92 Karl Dubay, Applicant; Luke Hurley, CWS; and Attorney Patricia Panciocco each presented the
93 application touching upon a revised dumpster location, the site visit from May 22, 2023, and updated
94 memorandums addressing the WPOD requirements.



95 The Planning Board discussed the “intermittent stream” that was observed during the site walk. The
96 Board also discussed the ZBA variance from WWPD requirements for this plan. However, the Board
97 discussed the WPOD ramifications.

98
99 **Public Comments:**

100 Atty Reimers - presented DOT letter regarding ownership.

101 CWS Patrick Seekamp, of Seekamp Environmental Consulting presented an opinion regarding the
102 tributary stream.

103 David Reise, 2 Lakewood Road, Windham - raised a concern about porous pavement being used on a
104 driveway versus parking area.

105 Patrick Nysten - Edgewood Road, Windham. Raised concerns about DOT letters, parking calculations are
106 questionable, well is still within the WPOD, dumpster siting is inappropriate.

107 Vanessa Nysten, same, spoke regarding alteration of terrain permit. Also, she feels the application is not
108 fully complete.

109 Jacques Lopez, 2 Edgewood Road, Windham - opined that the plans have changed materially and thus, no
110 longer meets zoning. He also discussed hardship, the vet building, and other related issues.

111 Wayne Morris, Jordan Road, Windham - wanted to caution the Board when deliberating that they should
112 take the input of their own hired experts into consideration.

113 All three CWS's (Luke Hurley, Chris Danforth, and Patrick Seekamp) confirmed that they could not
114 guarantee the quality of the water flowing into Canobie Lake.

115
116 **Jake Cross made a motion to Deny the applicants request for a waiver of the WPOD buffer**
117 **reduction and WPOD Site Plan / Subdivision Land Development Application, Case 2022-37. Jake**
118 **Cross read the following:**

119 *The tributary stream and associated wetlands that run through the property will certainly be*
120 *impacted by the proposed development. It might be mitigated somewhat or even a lot as*
121 *explained by some of the wetlands scientists but the requirement in section 616.8.1 of the*
122 *WPOD is clear:*

123 *"The buffer zone shall be maintained in its natural state to the maximum extent*
124 *possible. The required setback distance shall be measured from the centerline of such*
125 *tributary stream and from the delineated edge of a wetland. Streams shall be delineated*
126 *from their mean high water mark. "*

127 *The site could be developed with natural state vegetation in the buffer zone. It would just have*
128 *to be smaller, but it is possible. The proposed parking lot being in the buffer zone certainly isn't*
129 *maintaining a natural state to the maximum extent possible.*

130 *An exception requires proof, per section 616.8.2 that:*

131 *"the same or a greater degree of water quality protection would be afforded as would*
132 *be with the full-width buffer zone"*

133 *We have heard repeated statements from wetlands scientists tonight that this is not the case.*

134 *Even the most optimistic wetlands scientists about the project are simply saying the impacts are*
135 *adequately mitigated not that they don't exist.*

136 *For that reason I think we should deny the WPOD buffer reduction and WPOD Site Plan /*
137 *Subdivision Land Development Application.*

138 **Seconded by Roger Hohenberger. The motion passed with the following roll-call vote:**

139 **Chair Earley, aye**

140 **Vice Chair Monson, aye**

141 **Ms. McCarthy, opposed**

142 **Mr. Rounds, aye**



143 Mr. Carpenter, aye

144 Mr. Cross, aye

145 Mr. Hohenberger, aye

146 Ms. McCarthy stated she was opposed based on information in the memo of Chris Danforth regarding
147 water impact. Also, given the current state of how the old Range Road impacts the stream, the proposed
148 plan would be an improvement.

149

150 **Derek Monson made a motion to deny the Major Final Site Plan for 2022-37. He cited that the**
151 **proposal did not meet Section 504 of the Site Plan Regulations because the proposal would have a**
152 **detrimental effect on the community in the areas of danger or injury to health, safety, or general**
153 **wellbeing by reason of impacts to water quality (noting that the property was within the drainage**
154 **basin to Canobie Lake, a public water supply) for the reasons previously stated and the plans as**
155 **presented fail to comply with the WPOD buffer requirements of Section 616 of the WZO because**
156 **the Applicant's request to reduce the buffer zone required under Section 616.8.1 of the WZO was**
157 **not granted. Seconded by Mr. Rounds. The motion passed with the following roll-call vote:**

158 Chair Earley, aye

159 Vice Chair Monson, aye

160 Ms. McCarthy, opposed

161 Mr. Rounds, aye

162 Mr. Carpenter, aye

163 Mr. Cross, aye

164 Mr. Hohenberger, aye

165 Ms. McCarthy stated she was opposed based on the same reasons she previously stated and because the
166 plan meets the spirit of the Gateway Commercial zoning district guidelines.

167

168 **Derek Monson made a motion to grant a waiver from Section 605.5 (perpendicular lot lines) of the**
169 **Subdivision Regulations and to approve the subdivision. Seconded by Mr. Rounds. The motion**
170 **passed with the following roll-call vote:**

171 Chair Earley, aye

172 Vice Chair Monson, aye

173 Ms. McCarthy, aye

174 Mr. Rounds, aye

175 Mr. Carpenter, opposed

176 Mr. Cross, opposed

177 Mr. Hohenberger, opposed

178 Those in opposition cited their reason was due to a lack of justification for the non-perpendicular lot lines.

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181 **Alan Motion to take new business after 10:00pm**

182 Made by Alan

183 Seconded by Matt.

184 Motion Passes 7-0.

185

186 **Case 2023-10 – 11 Indian Rock Road (Parcel 11-A-520 and 11-A-545); Zone – Village**
187 **Center and WWPd; Preliminary Site Plan and Design Review Subdivision.**

188 Karl presented a preliminary plan for 48 townhouses in the VCD

189



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- 190 Board discussed pros and cons of the plans. The Board, generally, spoke favorably of the proposal.
191 Traffic, public access and a single access point were the main concerns of the Board.
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193 **Motion to adjourn - carries 7-0**

APPROVED