



OLD VALUES - NEW HORIZONS  
**COMMUNITY DEVELOPMENT**

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**Planning Board Minutes**  
**Monday, December 30, 2013**

**Board Members:**

Kristi St. Laurent, Chairman – Present  
Margaret Crisler, Vice Chair – Excused  
Pam Skinner, Member – Present  
Jonathan Sycamore, Member – Present  
Sy Wrenn, Member – Present  
Paul Gosselin, Alternate – Excused

Ross McLeod, Selectman – Excused  
Kathleen DiFruscia, Selectman Alternate - Excused  
Vanessa Nysten, Member – Present  
Alan Carpenter, Alternate – Present  
Jim Fricchione, Alternate – Excused  
Steve Bookless, Alternate – Excused

**Staff:**

Elizabeth Wood, Community Planner  
Laura Accaputo, Planning Board Minute Taker

Chair St. Laurent called the meeting to order at 7:10 pm, followed by the Pledge of Allegiance, member attendance and a brief synopsis of the agenda.

The Chair seated Mr. Carpenter for Ms. Crisler

Mr. Carpenter read Section 611 Open Space Residential Overlay District into the record.

**Public Hearing – 2014 Town Meeting**

Section 611 Open Space Residential Overlay District

To amend the Open Space Residential Overlay District ordinance to specifically list all residential zones that the ordinance may regulate; modification of the objectives section; modification of definition for common Facilities; modification of definition for open space to state that open space parcels are owned as appurtenant to lot ownership. The amendment also allows for an option of dedicating open space land as Conservation Land and outlines a process for doing so. Requires land to be dedicated to Open Space or Conservation Land prior to the issuance of the first certificate of occupancy. Amends development standards to set a minimum lot size of 20,000 sq. ft with a min buildable area of 8,000 sq. ft and a max lot size of 30,000 sq. ft. with a min buildable area of 8,000 sq. ft.; creates a min front yard setback of 20' and max front yard setback of 50'; requires a min frontage of 60' and a maximum frontage of 100', and; removes the language of 611.6.4.1 which regulates frontage and yard requirements for building lots on existing town roads. Requires all open space and conservation parcels to be marked by placards, the number and spacing to be determined by the Planning Board.

Chair St. Laurent asked Mr. Carpenter, as an Open Space Sub-Committee Member, to give a brief summary of the proposed amendments. Mr. Carpenter explained the sub-committee determined it would be in the Towns best interest to modify the existing Open Space Ordinance in an effort to encourage the development of cluster housing or small neighborhood type developments where the houses are closer to the road and closer together. This allows for a more classic neighborhood feel while using less land for development and keeping more for wildlife corridors and wooded space. The objective is to utilize this section of the Ordinance as intended to create neighborhoods with a different look and feel than the traditional style developments in town.

Chair St. Laurent read a letter from Tom Case into the record in which he stated reducing the lot size makes sense as it would allow for more lots but questioned the maximum set back of 50ft as he believes having the houses set

back at different distances creates a more aesthetic development. He also noted that there may not be 8000 ft of buildable area at 50 ft and it would have to be moved back. Mr. Carpenter stated he disagreed as the developer has the option of petitioning for a waiver and he believes you need to set a standard for what the objective of the ordinance is.

The Chair opened the hearing to the public at 7:17pm.

### **Questions/Comments from the Board**

- Mr. Carpenter asked the Board if they had any comments or opinions regarding a concept raised by Attorney Campbell offering developers an incentive to dedicate the open space as conservation land.
- Chair St. Laurent asked Attorney Campbell if there was a problem with offering an incentive to developers to turn the land over to conservation.
- Attorney Campbell explained he raised the concept of a possible incentive based on reducing the size of the required open space which may provide more land for development, as an alternative to mandating the conveyance of the land to the town. He does not believe there is anything inherently wrong or illegal with it. If the applicant is willing to convey the open space land to the community and the ordinance is written in a way that rewards the applicant for doing so he believes there is sufficient public purpose and sees no objections from a legal standpoint. He noted there are density bonuses built into all kinds of ordinances and gave some examples of where an ordinance provides an incentive for the conveyance of land to the town. One downside may be that the land comes off the tax roll.
- Mr. Sycamore asked Attorney Campbell if he knew of any other towns that have incentive laws in their open space plans. Attorney Campbell replied he did not examine that question.
- Chair St. Laurent stated as currently proposed there is no incentive offered other than being easier administratively for the developer. She asked if that administrative piece was enough of an incentive for the developer to dedicate the land to the town.
- Mr. Wrenn asked what the issues were with the current system of the land not being deeded to the town and what the Conservation Commission would do differently. Chair St. Laurent explained in some cases the land may be neglected and may still be owned by the developer rather than being turned over communally to the land owners. Also, if an association was set up but people move who takes over? She stated Conservation would oversee it to ensure it is not being used for purposes that it should not be used for.
- Mr. Wrenn asked if the Conservation Commission monitors the properties they own and Ms. Skinner replied they walk the boundaries of certain select parcels.

Hearing none, the Chair closed the public portion at 7:30pm.

- Ms. Nysten asked about numbering issues and Ms. Wood explained due to time constraint it was not reflected in the copy the Board was given.
- Mr. Sycamore asked if the sub-committee looked at how the open space was aggregated and if possible to have one large piece of open space land rather than several small pieces. Mr. Carpenter replied no, it was discussed briefly but with ledge, slope, and wetlands it would handcuff the developers to ask for that.
- The Board then discussed the renumbering and Attorney Campbell recommended they adopt with the two numbering changes, deemed to be non-substantive, and move forward to Town Warrant.
- Ms. Nysten asked about Attorney Campbell's comments regarding 611.6.4 and Attorney Campbell explained he was asking if the Planning Board considered the consequences of mandatory maximum setbacks and whether that would discourage developers from building this type of development. He explained this was only an observation not a legal issue.
- Chair St. Laurent asked if mathematically you could have an 8k buildable area with 100ft frontage and Mr. Carpenter answered yes.

**Ms. Nysten motioned to move the Open Space Residential District Overlay changes as presented with the two numbering changes suggested by Attorney Campbell to Town Warrant, seconded by Mr. Wrenn**

- Mr. Sycamore asked if the Board could solicit an opinion from one or two of the more active developers in town before moving to Town Warrant. Mr. Carpenter stated the best candidates to comment on it would be the engineers and they are well aware of this and haven't come forward to speak.
- Mr. Sycamore asked what the incentives were for changing from 30000 to 20000 and from 10000 to 8000. Mr. Carpenter answered lower development costs and to create diversity in what's offered in housing in Windham.

**The Chair went back to the motion. Motion passed 6-0-0.**

Ms. Nysten informed the Chair she had a question for Attorney Campbell regarding the definition of public way; The Chair noted they had to keep it to that particular question then asked Attorney Campbell to comment on public way vs. street.

Attorney Campbell explained public way is essentially an accepted highway. RSA Chapter 229 defines highways; of which there are several types and classes. Town roads are considered Class V and consist of traveled highways which towns have the duty to maintain. He stated a public way is a road that has been accepted or dedicated and maintained by the town or state.

Ms. Nysten asked if Class VI qualifies as a public way and Attorney Campbell answered yes. Ms. Nysten asked if a Class VI road could be a dirt road and Attorney Campbell answered yes. Ms. Nysten then asked if public way is a good phrase to use and Attorney Campbell replied it is fine for this definition and is a clear and defined term in the law.

The Board then discussed with Attorney Campbell Warrant numbering and clustering and whether the Board handles construction and order of the Warrant Articles. Attorney Campbell advised that each proposal moved to Warrant is independent and they are to be voted on as separate Articles. If the Board felt that two Warrant Articles should be linked they would have to reopen the proceeding as that would be a substantial change.

### **Meeting Minutes Review & Approve**

**Mr. Carpenter motioned to approve the minutes of November 13, 2013 as amended by Ms. Nysten and at tonight's meeting, seconded by Mr. Wrenn. Motion passed: 5-0-1 with Ms. Skinner abstaining.**

**Mr. Wrenn motioned to approve the minutes of November 20, 2013 as amended by Ms. Nysten and Mr. Sycamore, seconded by Ms. Skinner. Motion passed: 5-0-1 with Mr. Carpenter abstaining.**

### **Old/New Business**

Chair St. Laurent informed the Board she received a copy of the 2013 Report of the Southern New Hampshire Planning Commission in regards to Windham. The Board asked Ms. Wood to inquire about the Developed Projections for Population and Dwelling Units from 2010-2050 in 5yr increments based on the 2010 census data for Windham.

**Ms. Skinner motioned and Mr. Wrenn seconded to adjourn the December 30, 2013 Planning Board Meeting. Motion passed: 6-0-0. Meeting adjourned at 8:23pm.**

These minute are respectfully submitted by Laura Accaputo, Planning Board Minute Taker.

