



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Planning Board Minutes Wednesday, March 19, 2014 6pm

Board Members:

Kristi St. Laurent, Chairman – Present
Margaret Crisler, Vice Chair – Present
Pam Skinner, Member – Present
Alan Carpenter, Alternate – Present
Vanessa Nysten, Member – Present

Ross McLeod, Selectman – Present
Jim Fricchione, Alternate - Excused
Steve Bookless, Alternate – Arrived at 6:15pm
Paul Gosselin, Member – Present

Staff:

Laura Scott, Community Development Director
Elizabeth Wood, Community Planner
Laura Accaputo, Planning Board Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Chair St. Laurent called the meeting to order at 6:05 pm, followed by the Pledge of Allegiance, member attendance and a brief synopsis of the agenda.

The Chair congratulated Ms. Crisler and Ms. Nysten for their re-election to the Planning Board and Mr. Gosselin for his newly elected position as a Member of the Planning Board.

Ms. Crisler suggested the Board re-order the agenda and appoint to fill the vacancy before electing the Chair and Vice Chair and the Board agreed.

Appointments

-Appointment to fill Vacancy (1-year)

Ms. Crisler made a motion to appoint Alan Carpenter to fill the vacant seat of Sy Wrenn until the next election, seconded by Ms. Skinner. Motion passed: 6-0.

Election of Chairman and Vice Chairman

Ms. Crisler made a motion to nominate Kristi St. Laurent to the position of Chairman of the Planning Board, seconded by Ms. Nysten. Motion passed: 6-0-1, with Chair St. Laurent abstaining.

Ms. Crisler made a motion to nominate Alan Carpenter to the position of Vice Chairman of the Planning Board, seconded by Ms. Skinner. Motion passed: 7-0.

Appointments

-Appointment of WEDC Rep

Ms. Nysten made a motion to nominate Paul Gosselin as the Windham Economic Development Committee Representative, seconded by Mr. McLeod. Motion passed: 6-0-1, with Mr. Gosselin abstaining.

Mr. Bookless arrived at 6:15pm

Mr. Carpenter suggested the Board appoint only one of the vacant Alternate Positions for a term of up to 3 years, to allow for more participation among the alternates which will better prepare them if a member seat opens up. The Chair noted the Board can have up to four alternates and therefore three alternates would be acceptable. The Board also discussed the term for a newly appointed alternate and asked staff to investigate if an alternate position has a term.

Subdivision Regulations- Condominiums & Land Use Controls

The Board discussed whether or not to include provisions for Condominium Conversion/Conveyance to the newly revised Subdivision Regulations and agreed to discuss the issue with Attorney Campbell for additional advice.

The Meeting went into recess at 6:45pm for a Non-meeting w/Attorney Bernie Campbell

The Meeting was reopened at 7:35pm

The Chair stated the Board has decided to hold another Workshop regarding the Subdivision Regulations and condominium discussion in two weeks.

7:00 Public Hearing-Applications

Mr. Carpenter read Case #2014-7 into the record

Case#2014-7/Forty Acres Subdivision

A Subdivision Application has been submitted for Lot 8-B-3002 (Rockingham Road), a multizoned parcel located in the Business Commercial A, Residence District B zones. Portions of this parcel are also located within the 100-year flood plain and Wetland and Watershed Protection District. The applicant, Peter Zohdi of Edward N. Herbert Assoc, Inc., on behalf of the property owner, Forty Acres, LLC, is proposing to subdivide the property into two (2) lots; one vacant lot, zoned Business Commercial A and sized 13.49 acres (587,624 sq. ft), and a second non-buildable vacant lot, zoned Business Commercial A and Residence District B, to be sized 30 acres (1,306,800 sq. ft. sq. ft.), is proposed to be created and then transferred to the Town for Conservation purposes and merged with Lot 8-B-3001.

Ms. Crisler asked if the application meets Zoning and Ms. Wood answered yes, the application is complete.

Ms. Carpenter made a motion to accept and open Case #2014-7 for Public Hearing, seconded by Ms. Skinner. Motion passed: 7-0.

- Peter Zohdi addressed the Board on behalf of the property owner. He stated this is a 43 acre parcel and Conservation has shown interest in purchasing the land in back of the property. They are requesting to subdivide the property into two lots and keep the front lot; 13 acres zoned Business Commercial A, for future use. He stated whatever future use is decided upon will have to come back to the Board for approval. He also noted they have obtained a Highway Entrance Permit from DOT at staff's request which they have in their file. They are asking for two waivers, to allow the scale of the plan to be 1" = 100' and to provide soil based lot sizing calculations for the proposed lot only since the other lot will be added to Town owned land and be non-buildable.

Questions/Comments from the Board

- Mr. Carpenter asked why they were transferring some of the frontage along Route 28 to Conservation and Mr. Zohdi replied Conservation is purchasing 30 acres and to make those acres he had to include the frontage, which is not usable frontage.

- The Chair asked if the Note regarding Impact Fees has been corrected. Ms. Wood explained it has not been corrected and the applicant included a statement that they aren't building anything at this time. Ms. Crisler asked if the Impact Fee would be vested if the application was approved tonight and Mr. Carpenter stated it will happen at the time they start building. Ms. Nysten asked what would happen if the Public Safety Impact Fee methodology was changed and the Chair answered the Impact Fee is assessed at the time of approval of the Site Plan.

The Chair opened the hearing to the public at 7:45pm and hearing none the public portion was closed.

Mr. McLeod made a motion to approve the two waivers from Section 601.16 and Section 701.1.3.1 considering the portion of Lot 8-B-3002 to be merged with Lot 8-B-3001 for the Towns Conservation purposes is not a buildable lot and the Plan Scale of 1" = 100" since it is a Subdivision and not a Site Plan and all of the information will be on three sheets (Final Plan, Existing Conditions, Soil Plan), seconded by Mr. Carpenter. Motion passed: 7-0.

Mr. Gosselin made a motion to approve the Plan dated February 13, 2014 as submitted for subdivision

Ms. Crisler asked if Mr. Keach's recommended language on the cover sheet of the plan was reflected in the plan and Ms. Wood answered yes.

Ms. Wood asked if they wanted to add the permit number for the driveway to the plan and the Board agreed.

The Chair went back to the motion.

The motion was amended to include adding the permit number for the driveway to the plan, seconded by Ms. Crisler. Motion passed: 7-0.

Mr. Carpenter read Case #2013-8 into the record

Case#2014-8/Lot Line Adjustment 163 & 165 Range Road

A Lot Line Adjustment proposal has been submitted for 163 & 165 Range Road (21-F-42, 43), located in the Rural District Zone and Cobbetts Pond and Canobie Lake Watershed Overlay Protection District. The applicant Meridian Land Services, Inc. on behalf of the property owner Hy-Rize Holdings, LLC., is proposing to adjust the lot line between the two parcels, thus resulting in a lot containing the existing dwelling sized 1.802 acres (79,493 sq. ft), and a vacant lot, sized 1.155 acres, 50,291 sq. ft. The existing cellar hole is proposed to be removed and the area graded for drainage purposes. The property is not listed on the Cultural Resource List or the Historic Resource List. Waivers are being requested from Sections 601.16, 701.1.7, and 606 .5 of the *Subdivision Regulations*

The Chair asked if the application was complete and Ms. Wood answered yes.

Ms. Skinner made a motion to accept and open Case #2014-8 for Public Hearing, seconded by Mr. McLeod. Motion passed: 7-0.

Ms. Wood explained variances were granted for the application and the applicant is also requesting several waivers. She noted her memo packet to the Board dated 3/14/14 provides a list of the waivers as well as outstanding comments from TRC, initial Engineering Review, and comments from the Historic District/Heritage Commission. She also stated the updated plans were not yet reviewed by Mr. Keach and therefore if approved should be conditioned upon his concerns being addressed. The packet also includes abutter comments.

- Mr. Maynard of Benchmark Engineering addressed the Board. He explained this property is part of a subdivision approved by the Planning Board in 1960 for three lots. Somehow the lots were merged into one and the owner petitioned the Board of Selectman for a restoration of these lots. Since there is a driveway that bisects the lot with a house that was considered one lot and they granted restoration for one additional lot. The restored lot has a steep slope down to Range Rd which makes it impractical to clear cut and construct a driveway in from Range Road so they are requesting a lot line adjustment to make the second lot more buildable. The lots were created prior to zoning and do not meet the town's lot size by soils so they obtained a variance and are requesting a waiver of Sections 601.16 and 701.1.7 requiring a high intensity soil survey. They are also requesting relief from Section 605.5 by allowing the boundary line between lots to be 50ft where a minimum of 100ft is required. He also stated this property is located in the Cobbetts Pond Watershed District and must maintain the Ordinance requirements. He explained there are 2 lines shown on the plan, the higher one is the geographical representation of the Cobbetts Pond Map established by a broad based map, the other represents an analysis done by Meridian Land Services based on onsite topography which identifies where the break in the Watershed is on the property and also identifies water draining into a swamp that is not part of the Cobbetts Pond Watershed District. He noted even with the adjustment they are still going to include drainage for the proposed project. He also explained the water and run-off from the proposed lot will drain toward Langdon Road and they are creating an infiltration pond to drain away from the abutting property. He stated both lots have ample building area. He also noted in regards to the old cellar hole found on the site they will adhere to the Towns demolition policy even though it is not on the Historic or Cultural Resource List.

Questions/Comments from the Board

- Ms. Crisler asked if the applicant was granted relief from Zoning for the Cobbetts Pond Watershed Overlay Protection District with their proposal to change the line of designation and Mr. Maynard answered they do not need relief because they are complying with the Ordinance. Mike Hammer of Meridian Land Services also noted the Ordinance identifies the map is imprecise and requires a hydrologic study to identify the actual location. They have done this study and Mr. Keach has reviewed it. Ms. Wood added Mr. Keach did have comments on the study and they are included in the packet. Mr. Maynard clarified Mr. Keach's comments were in reference to the initial study being done for a 10 year storm event when a 25 year storm event was required and stated they have since redone their calculations and submitted them to Mr. Keach.
- The Chair asked if the infiltration pond will go into existing storm water management for Range Road and Mr. Maynard replied it is going into a catch basin.
- Ms. Nysten asked if well requirements would be met relative to a neighbors concern for their new well and Mr. Maynard replied their protection stops at the lot line, however, the septic will be tucked into the slope and will not interfere with their well. She asked if they could ensure that the new septic maintains the required distance from the neighbors well and Mr. Maynard stated by State Law he doesn't have to meet the 75ft requirement but he does think in this case it will be met.
- Ms. Crisler asked how far the septic would be from the neighbors well and Mr. Maynard replied the leach field would be about 80ft away.
- The Chair asked if they anticipated doing any blasting and Mr. Maynard replied he can't say until they start digging. They will bring in a hammer if possible as blasting will be costly.
- Mr. Carpenter read a letter of opposition from the Halloran Family, received on February 14, 2014 into the record.

The Chair opened the hearing to the public at 8:17pm

- Carol Pynn, 19 Cobbetts Pond Road, speaking as a member of the Heritage Commission and as a resident stated the cellar foundation was mentioned at TRC and she has not heard any of those comments

addressed. She asked Mr. Maynard what he meant when he said he didn't think the neighbors well would be infringed upon.

- Ms. Nysten stated she didn't think TRC took minutes but they did have a copy of their report in the packet.
- Mr. Carpenter asked Ms. Pynn to describe the cellar hole. Ms. Pynn explained the property was owned by a prominent family and even though it is not on the Historical Resource List is should be marked as historic. It is a foundation made from stones. She asked if the owners could make an adjustment so the driveway does not run through it.
- Fred Halloran, 4 Langdon Road, stated he has copies of deeds showing another foundation behind 173 Range Road as part of the Copps Family Estate.

The Chair closed the public portion at 8:30pm

- Ms. Skinner asked if there was any way to reconfigure the driveway to preserve the cellar hole and Mr. Maynard replied he can't say what a buyer might do but they will abide by the Town's Demolition Ordinance. She also noted the water issues in this area and Mr. Maynard stated they have 2 existing lots and are drilling a well regardless of the outcome; they will have to meet water quantity to get the permit.
- Ms. Nysten asked what the minimum water quantity is and Mr. Maynard replied 2 ½ gallons per minute.
- Mr. Carpenter stated the well quantity is not the purview of the Planning Board and they cannot base their decision on it.
- Ms. Crisler asked if the existing lot was buildable and Mr. Maynard replied yes, it doesn't meet the Towns zoning but it is a lot of record. There is 150ft of frontage and you could fit a 90ft wide home on the lot with the setbacks. The driveway would be steep and you'd have to clear cut down to the street.
- The Chair stated there are requirements for stone walls that they be retained on site and asked if they could do that and Mr. Maynard replied there is a note on the plan that they will stay on site. She asked if it would be possible to retain some rocks from the cellar hole on site and Mr. Maynard replied they can amend the note to say they will also be retained on site.
- The Chair stated a condition of another subdivision in the area was to notify abutters of when the well testing will be done and asked if they would consider doing that and Mr. Maynard replied if that is a condition to please specify which neighbors they should notify.
- Mr. Carpenter asked staff is there was a precedent of allowing the applicants engineer to redefine the border of the Cobbetts Pond and Canobie Lake Watershed and Ms. Wood replied no. He also suggested the Board tread cautiously because deviations they make today to the Ordinance will make it harder to deny in the future. His biggest concern is allowing the 50ft length off of Range Road resulting in a convoluted shaped lot. He is concerned that they are stuffing a house lot in here.
- Mr. Maynard replied this is a waiver he has asked for and been granted several times in the past.
- Mr. Carpenter asked about the 175ft frontage requirement and Mr. Maynard stated Ms. Prendergast reviewed it and agreed it was properly established. He then demonstrated on the plan how he measured it.
- Ms. Crisler asked if Mr. Keach has reviewed the Final Plan and Ms. Wood replied he has not. She asked if he had any comments regarding the drainage and Ms. Wood replied no. Ms. Crisler stated she believes the Board should have their engineer verify the information.
- Mr. Carpenter agreed and also would add a condition preserving the cellar hole; and asked the applicant for permission for to access the property to look at it before the next hearing.
- Mr. McLeod stated he is concerned with the measurement of the 175ft frontage.
- Ms. Crisler asked if Mr. Keach could review the Final Plan before the next meeting and Ms. Wood answered she would check with him.

Ms. Crisler made a motion to continue the Public Hearing for Case #2014-8 to April 2, 2014 at 7pm, seconded by Mr. McLeod. Motion passed: 7-0.

Ms. Wood asked the Board if they would like to offer guidance to the applicant as to the issues they would like resolved prior to the next meeting and they agreed they would like him to consult with the property owner to save the cellar hole; they would like individual access to the site to view the cellar hole; and to update any notes on the plan.

Mr. Carpenter read Case #2014-10 into the record.

Case #2014-10 Minor Site Plan/Change of Use Application

A Minor Site Plan/Change of Use Application has been submitted for 41 Range Road (Lot 18-L-480) in the Professional, Business and Technology District. The applicant, Stayci Fast of Interior Advisory Group, LLC., on behalf of Camber Management, LLC, is proposing to use approx. 800 sqft space within the existing building for an interior design and staging business, as well as accessory uses to the business. There would also be retail sales, in accordance with Section 614.2.10, which included floral and centerpiece arrangements. No site or exterior modifications are proposed with the exception of a directional sign.

The Chair asked if the application was complete and Ms. Scott answered yes.

Ms. Crisler made a motion to accept and open Case#2014-10 for Public Hearing, seconded by Mr. McLeod. Motion passed: 7-0.

- Ms. Fast described her business and the proposed accessory uses at this location, such as drapery, fabric, and tile samples. She stated there will be no sales of these items off the floor.

The Chair opened the hearing to the public at 9pm and hearing none the public portion was closed.

Mr. Carpenter made a motion to approve the proposed addition of the retail business to Delahunty's as presented, seconded by Ms. Skinner. Motion passed: 7-0.

Medicus Phase II Administrative Review

Ms. Scott explained a Final Major Site Plan Application was approved on September 21, 2011 for Lot 13-A-90 (22 Roulston Rd) in the Limited Industrial Zoning District. The application was for a two phased commercial office development consisting of a 2 story and a 3 story building. Phase I was constructed and the applicant is looking to start construction on Phase II. As part of the previous approval, the applicant was required to return to the Board for Administrative Review of the facade and signage prior to applying for construction permits. The applicant is not prepared to provide the Board with the signage package for Phase II and is aware they will have to come back to the Board for that review prior to applying for sign permits. There are no changes from the original approval and no proposed changes.

- Ms. Nysten asked if the square footage of 29,000 included all three stories and was told yes. She asked if there was a basement and Rob Martel, of Berard Martel Architecture, answered there is no basement. The 29,000 sq ft is for the new building and brings the entire site up to the 54,000 sq ft it was approved for.
- Ms. Crisler asked what walk up means on the plans since there is an elevator and Mr. Martel replied he is not sure why that is on there.
- Mr. Carpenter asked when they will start construction and Mr. Martel replied as soon as possible, weather permitting.
- Ms. Nysten asked about interconnection to the Rail Trail and Ms. Scott stated it wasn't a condition of approval.

Mr. McLeod made a motion to approve the plan as presented with the Administrative Review, seconded by Ms. Crisler.

Mr. Carpenter stated it was not really an approval and Mr. Gosselin suggested amending the motion to favorable review of the plan as presented and the Board agreed.

Mr. McLeod made a motion for the favorable review of the plan as presented, seconded by Ms. Crisler. Motion passed: 7-0.

54 Haverhill Road/Site Plan Phasing Request

Ms. Scott explained the Board approved the Major Site Plan for 54 Haverhill Road on August 21, 2013. Prior to opening, a site inspection was conducted to ensure compliancy for a certificate of occupancy. Due to the nature of the outstanding items, the applicant is requesting permission to phase the site plan, which would allow the business to open with a temporary CO with the site improvements to be completed by a specific date. If this request is approved she recommends that a \$20,000 financial guarantee be required to be held by the town to ensure the work is completed in a timely manner.

- Mr. Gosselin stated the significant issues are finished and the remaining issues can't be done until May or June due to the weather and he feels the bond should reflect that and \$20,000 is excessive. Ms. Scott replied that is the amount the bank is holding for paving and landscaping.
- Doug Desautels, owner, stated his banker sent a letter to Ms. Scott stating this money is approved and being held. It is a guaranteed amount of money to finish the job.
- Ms. Scott stated she is recommending the Town hold the money.
- Mr. Carpenter asked if they issue a temporary CO and the work is not complete what the recourse is if the Town is not holding any money and Ms. Scott stated they would rescind the temporary CO and make them close.

Mr. Carpenter made a motion to instruct staff to issue a temporary Certificate of Occupancy to the applicant with the conditions as outlined on the memo by June 30, 2014, with the understanding that if all items aren't complete the temporary Certificate of Occupancy will be revoked and the business could be temporarily or permanently closed, seconded by Ms. Crisler.

The Board discussed some of the outstanding issues such as drainage structures, stop signs, and lighting and Ms. Scott suggested the motion be amended from instructing staff to issue a temporary CO to accepting the phasing plan as outlined in Mr. Dubay's memo. She also asked for a plan showing the existing doors and lights for the record. The Chair went back to the motion.

Mr. Carpenter made a motion to approve the temporary Certificate of Occupancy and Completion Plan as outlined by Dubay Associates and presented tonight with the exception that all work must be completed by June 30, 2014 and the owner provides Community Development with written acknowledgement that he understands they retain the right to rescind any temporary Certificate of Occupancy should he fail to complete all deferred site improvements to their satisfaction on or before June 30, 2014, seconded by Ms. Crisler. Motion passed: 7-0.

Minutes Review/Approve

-February 12, 2014

Ms. Skinner made a motion to approve as amended, seconded by Ms. Crisler. Motion passed: 6-0-1 with Mr. McLeod abstaining.

-February 17, 2014

Ms. Crisler made a motion to approve as written, seconded by Ms. Skinner. Motion passed: 5-0-2 with Mr. Carpenter and Mr. McLeod abstaining.

-February 19, 2014 (Public)

Ms. Crisler made a motion to approve as written, seconded by Mr. Carpenter. Motion passed 5-0-2 with Mr. Gosselin and Ms. Skinner abstaining.

-February 19, 2014 (Nonpublic)

Ms. Crisler made a motion to approve as amended, seconded by Mr. Gosselin. Motion passed: 5-0-2 with Mr. Carpenter and Mr. McLeod abstaining.

Old/New Business (Not to include discussion of pending applications or decisions on matters requiring public notice)

The Board discussed adding Impact Fee for recreation to the work list for 2014. They also discussed prioritizing their time and adding an additional meeting on the 2nd Wednesday of each month to hold workshops. Mr. Carpenter suggested holding workshops for Service Roads for 111 and I93; discontinuance of Libby Rd; and Municipal Services with WEDC prior to discussing the Master Plan.

Member Binder Tabs

-State Preemption of Local Regulation (Tab 16)

-Attaching "Conditions" to Approvals in Land Use Boards (Tab 16)

Mr. Carpenter made a motion to adjourn the March 19, 2014 Planning Board Meeting at 10:00pm, seconded by Mr. Gosselin. Motion passed: 7-0.

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