



## COMMUNITY DEVELOPMENT

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### Planning Board Minutes September 18, 2013

#### **Board Members:**

Kristi St. Laurent, Chairman – Present

Margaret Crisler, Vice Chair – Present

Pam Skinner, Member – Present

Jonathan Sycamore, Member – Arrived at 7:45

Sy Wrenn, Member – Present

Ross McLeod, Selectman – Excused

Kathleen DiFruscia, Selectman Alternate, Excused

Vanessa Nysten, Member – Present

Alan Carpenter, Alternate Member – Present

Jim Fricchione, Alternate Member – Present

#### **Highway Safety Committee**

Tom McPherson, Fire Chief

Jack McCartney, Highway Agent

Gerry Lewis, Chief of Police

Robert Coole, Resident

#### **Staff:**

Laura Scott, Community Development Director

Elizabeth Wood, Community Planner

Cathy Pinette, Planning Board Minute Taker

#### **Call to Order/Attendance/Pledge of Allegiance**

Chair St. Laurent called the meeting to order at 7:05 pm, followed by the Pledge of Allegiance, member attendance and gave a brief synopsis of the agenda. The Vice-Chair would also like to discuss the Technical Review Committee (TRC) process with the Highway Safety Committee (HSC) members because some of them are also members of the TRC. It is important that when the Board receives a plan, it is the same plant that TRC reviewed.

The Chair appointed Mr. Fricchione to sit for Mr. Sycamore.

#### **Workshop with Highway Safety Committee**

##### *Open Vs Closed Drainage Road Design Standards*

- The Chair stated that the Planning Board frequently receives requests for open drainage and they try to come to a decision based on what is best for the applicant and the Town. The Chair gave some examples of cases where open versus closed drainage had been requested. She asked for input as to when it works and when it doesn't. Mr. McCartney, the Highway Agent, asked what the benefit open drainage was to the applicant and to the Town. Mr. Carpenter stated that some applicants feel that is an environmental benefit but from a Town perspective it is not a benefit when the homeowner fills in the trenches.
- Mr. McCartney stated that it depends on the grade of the lands. If it is a short road and less than 4% grade, open drainage might be OK. The HSC has asked for covenants when it is not low

impact. The Highway Department adheres to best management practices and works with DES. They try to avoid unnecessary repairs on the road and when it is open drainage the Town has to do cleaning, maintenance, etc. The Chair asked Mr. McCartney if ditch lines are not needed if that was okay for open drainage and Mr. McCartney stated yes. He also stated that you have to have some collection points. Ms. Crisler agrees with Mr. McCartney that closed drainage is better for the Town to manage the water. She stated residents want a nice curb. Open drainage may be filled in over time, and then water may end up in the street. Mr. McCartney add that wider roads last longer than narrower roads.

- Chief Lewis stated his concern is water retention on the roads which is a safety issue. Water ponds on the roads in the winter forming icy spots. He is in favor of closed drainage.
- Mr. Fricchione asked what the cost difference was between open and closed drainage and Mr. McCartney explained the different systems and stated the cost difference is negligible. Mr. Carpenter asked if it was a financial problem for the Town to hire the catch basin company. Mr. McCartney stated no, but there will be new regulations soon that may require a vacuum be used to remove the debris from the catch basins that may double the cost and be based on how they clean the catch basins not how many they clean.
- Mr. Coole stated he personally lives in area which has open drainage and that area has turned into a swamp, which was a stream, and it has undermined the stone wall which has sunk further down into the land and the road is collapsing and stated there are problems with open drainage. This will cost the Town money for road repairs. He is not in favor of open drainage.
- Ms. Crisler stated that the opinions she has heard from the HSC is that they are in favor of closed drainage. She would like them to put more detail in their memos to the Planning Board about what kind of drainage they recommend for the application and why. Also, to please let whoever is doing the write-up to pass HSC comments and reasons to the Board.

#### *Changes You Would Like To See Made To The Current Road Design Standards*

- Ms. Crisler stated the Planning Board and applicants have been shrinking the widths of the roadways which decrease area for pedestrians, room to park, and Fire Department access. The Board would like some input from the HSC.
- Chief Lewis stated he would like at least 28 feet. Chief McPherson stated he would like 28 feet also as it becomes problematic when roads are shrunk down for response time for his Department. He stated since Windham has no municipal water, trucks have to come in and out of the area, sometimes passing each other on the roadway and this is a problem. It is a response and protection issue. Chief Lewis stated this is an active community, we are close to build out, and there is lots of traffic in and out of the developments. He stated when people park on both sides of the street it becomes a tight area. 28 feet is insurance that public safety has the capacity to manage whatever is going on on that road at the time. There could be specific exceptions to the 28 foot rule. Mr. McCartney stated wider roads stand up better over the long run and reducing the size is not good. Chief Lewis stated when the roads are plowed this also reduces the width, in the winter.

- Ms. Crisler asked if the Town has a driveway regulation as water is running down driveways into the street. Ms. Scott stated the Town had one at one point, and it was a Selectmen's Ordinance. She is working with Mr. McCartney and Deputy Chief Martineau on one but it has been pushed back and is still on the list. Ms. Crisler asked if the Planning Board should be doing anything with requests for 1,000 ft long driveways and culverts. Chief McPherson stated he is concerned with the weigh limits but more concerned with the length and TRC does ask for a hammerhead to turn.
- Mr. McCartney stated that the Subdivision Regulations should be returned the better standards for roads of 14 inches or bank run gravel and 8 inches of crushed gravel. Currently, it is 12 and 8.

#### *Maximum Length Of Residential Cul-De-Sacs*

- The Chair stated the Board would like some input on the length of the cul-de-sac for applications and decision making.
- Chief McPherson stated he would like 1,200 feet and no longer. There are certain requirements for fire trucks, hose length, distance to the cistern, etc. He stated the Town has cistern requirements if the length is more than 800 feet. The cistern can be located in the middle of the roadway. The HSC looks at the length of the road where they require a cistern. Ms. Crisler stated she is concerned with people being trapped in a cul-de-sac and thinks this is a safety issue. Chief McPherson stated he believes connecting roads whenever possible. It would make it easier for all concerned as access is an issue with emergencies. Ms. Crisler asked about lollipop roads. Mr. McCartney stated in some places it is not feasible to have a connecting road or a lollipop. Chief Lewis stated he had a concern with Spruce Pond Road but now they can access it through Derry. He looks at access management if evacuation is necessary. Mr. McCartney stated if the Board considers lollipops the Regulations would need to be changed.

#### *Design/landscaping requirements for the center of cul-de-sacs*

- The Chair stated they would like some guidance on what should be in the middle of the cul-de-sac.
- Chief McPherson stated Osgood has an open center cul-de-sac and is very easy to get around. Porcupine has a center island which is problematic. An 80 foot radius is where we should stay. Mr. McCartney stated if you can move around the radius it is not a problem. He stated raised islands are a problem and are dangerous when the radius is less than 80 ft.. He stated the Regulations state 64 feet should not have a raised island, and he thinks 80 feet is good. He also stated for raised island that sloped, rounded, granite edges are good.

#### *TRC Process*

- The Chair stated the Board would like the TRC to make specific comments when they review the application so the Board has all the information necessary to make the right decision. Any information the TRC provides is good.
- Ms. Nysten stated that Ms. Scott removed the Building Inspector from the TRC and questioned if the TRC members wanted him to sit on the Committee. Chief Lewis stated yes, he thinks it

would be beneficial to the Board but from Ms. Scott's perspective she needs to determine the best use of her staff. Chief McPherson strongly feels that the building inspector should be added, this would expedite the process for the applicants to have input from the building, fire, safety at on meeting. Mr. McCartney agrees that the building inspector should be included particularly for commercial development. Mr. Coole also stated he would like the Building Inspector on the Committee. Mr. Carpenter asked why the Building Inspector would not be part of the TRC process. Mr. McCartney said that there is need for it now more than years ago. Ms. Nysten asked Ms. Scott to explain why the Building Inspector is not on the TRC. Ms. Scott stated that it was Ms. Wood's idea to ask the TRC members. Ms. Scott said that the majority felt that the present process was working; but they felt that if there were any radical changes, they would like to see it again. Ms. Scott said that as part of an audit from a private consultant, the Building Inspector's involvement on the TRC was stopped. Mike McGuire was on the TRC as he was the ZBA/Code Enforcement Administrator and he is now in the position of Building Inspector. Now Nancy Prendergast is the ZBA/Code Enforcement Administrator. Ms. Prendergast and/or Ms. Wood attend the TRC meetings now. Mr. McGuire or she will get involved if necessary. Mr. McGuire now processes building permits and does inspections. If Mr. McGuire's input is needed on an application, staff consults with him. He is also involved in pre-construction meetings. The Chair asked Ms. Scott how many members are on the TRC. Ms. Scott stated 15 but attendance is small and it depends on the application. Ms. Scott explained the process for the TRC. The Chair suggested Mr. McGuire have input on the TRC, Ms. Scott stated she would speak to Mr. McGuire.

**Ms. Nysten motioned for the Planning Board to write a letter to the BOS recommending that the BOS consider appointing the Building Inspector to the TRC. There was no second and the motion failed.**

- Chair St. Laurent noted that there was Board interest in this, and Ms. Scott said that she would speak to the Building Inspector.
- Ms. Crisler stated it is very important that the TRC see the same plan that the Planning Board does. The Chair stated the Board had made a motion to have the TRC also see the plan after the Planning Board application is made. Ms. Scott stated that Ms. Wood had asked the TRC members and Ms. Scott said the majority felt that the present process was working but they felt that if there were any radical changes they would like to see it again. Chief Lewis spoke about the TRC process and the formation of the Committee and stated it was a better process now than the way it was previously done.
- Mr. Carpenter noted that if the Building Inspector was part of the TRC process, he could attend the meetings that he believed needed his comments, and he suggested the Board have a meeting regarding TRC and everyone seeing the same plans and suggested the same plan be signed by the different departments.

The Board took a recess at 8:20 pm and was back in session at 8:30 pm.

Mr. Sycamore was seated on the Board.

## **Public Hearings**

Ms. Crisler read Case#2013-23 into the record.

### **Case#2013-23/Lot Line Adjustment**

A Lot Line Adjustment proposal has been submitted for 48 and 76 Meeting House Road (11-A-1400, 11-A-1418) also fronting Pilgrim Road. The two parcels total approximately 124.6 acres (5,427,576 sq. ft.) and are located in the Rural District, the Aquifer Protection District, and Wetland and Watershed Protection District. The applicant, Karl Dubay of The Dubay Group, Inc., on behalf of the property owner, AWAC Realty Trust, is proposing to adjust the lot line between Parcels 11-A-1418 and 11-A-1400, changing their areas from approximately 26.81 acres (1,167,826 sq. ft.) and 97.8 acres (4,260,168 sq. ft.) respectively to 2.43 acres (105,841 sq. ft.) and 122.2 acres (5,323,903.2 sq. ft.) respectively. No new parcels or Town roads are proposed with this application. The two adjusted lots will be re-assigned new parcel numbers and street addresses by the Assessor. The resultant 2.4 acre lot will be assigned 1 Pilgrim Road which remains a buildable lot for one single family dwelling. The resultant 122.2 acre lot contains an existing residence.

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

**Ms. Crisler motioned to open the public hearing for Case #2013-23, seconded by Ms. Skinner. Motion passed 6 – 0.**

- Ms. Wood stated from the Board's point of view there hasn't been any changes since her memo to the Board of 9/10, the applicant has requested 2 waivers, TRC and Engineering reviews are in her memo and noted that Mr. Keach's review indicate that the soild more than meet the requirements.. An abutter of 3 Pilgrim Rd approached staff and was under the impression that a road was proposed next to his lot and not a single family lot. She has also received an email from Don Clark, an abutter and that was provided to the Board this evening. The Chair stated that in Ms. Wood's review of the case, the small lot that is being created has frontage on two roads and asked her if this was a double side lot. Ms. Wood stated all buildable lots must have 175 feet contiguous frontage for a non-open space lot measured 50 ft back from the lot line. She stated the applicant does meet the requirements.
- Mr. Karl Dubay of the Dubay Group on behalf of the applicant addressed the Board. He stated that he now has State subdivision approval, he is not asking for any wetland waivers, and he does have the frontage and has a letter from Mr. Keach stating the application meets the criteria. He is just proposing a lot line adjustment and is not creating any new lots. All the details are on the plan. He stated page 7 of 8 shows what a proposed house would look like on the lot. He has changed the address numbers for the Assessor's Office. Mr. Dubay showed the Board the lots on his plan which were colored pink, blue and green.
- Mr. Wrenn asked why Mr. Dubay could not just create the pink lot instead of doing a lot line adjustment and Ms. Dubay stated there would not be frontage for the pink lot. Mr. Carpenter asked why the pink lot was cut the way it was. Mr. Dubay stated that when they created the lot line they needed to make the pink lot 100 feet perpendicular to Meetinghouse Rd. He stated the lot in the back is wet. The Chair asked Mr. Dubay about the narrow part of the blue lot. Mr. Dubay stated it was about 11 feet. The Board asked if Mr. Dubay could do anything with that and Mr. Dubay stated no, it was wetlands and very wet.
- Mr. Wrenn asked about the old plan the Board had in their packet that showed a future street. Mr. Dubay stated that was an old plan that is registered and the proposed street had been put on there

as a pre-plan. The Board stated Mr. Clark, 3 Pilgrim Rd is concerned about a street going in there. Mr. Dubay explained the difference between dedicated right of ways and pre-plan streets. He stated the old plan is a pre-plan. He stated there were numerous pre-plans and ROW's on the plan when it was recorded. The pre-plans that are shown go off into no where. Ms. Wood stated these pre-plans are not on the tax map. Mr. Dubay stated there is no road being constructed, just a single lot which is less intrusive to the abutter.

The Chair opened the hearing to the public

- Mr. Paul Mello, 70 Meetinghouse Rd addressed the Board. He stated he abuts the proposed lot and he has privacy now. He stated the lot will be 30 feet from his yard and it currently is all trees. All his kids play in the woods. This will destroy his property value. He is very opposed to this application.
- Ms. Sharon Mello, 70 Meetinghouse Rd asked Ms. Wood why this application was defined as a subdivision. Ms. Wood stated it is a lot line adjustment which falls under State and Windham Regulations and explained why that is. Ms. Mello asked Mr. Dubay what the frontage was at 76 Meetinghouse Rd. Mr. Dubay stated 175 feet. Ms. Mello asked Mr. Dubay what the frontage was on Pilgrim. Mr. Dubay state 100 feet. Ms. Mello asked about the 30 feet distance to the lot line and voiced her concerns about having a house right next to hers. The Chair stated the applicant was able to demonstrate that they could put a house there. Ms. Mello asked if this would affect her well. Mr. Dubay stated the well would have to be at least 75 feet to the property line. Mr. Carpenter suggested that the applicant consider a row of evergreens along the back lot line. Mr. Dubay stated there are woods there now and the wood line is will be 20 – 30 feet, 15 feet on the abutter's side and 15 feet on the applicant's side. Mr. Dubay stated he placed the driveway, the well, the pool and the pool shed on the other side away from the Mello's property.
- Mr. Chad Blackwood, 68 Meetinghouse Rd addressed the Board. He asked about the theoretical house and proposed site and how far it was from the entry on Pilgrim. Mr. Dubay stated it was probably 140 to 150 feet away from Pilgrim. Mr. Blackwood stated one buildable lot is better that another subdivision. He would like the applicant to make that legal so that a subdivision does not go in and just a single lot for a single family home . He is concerned that if nothing is built a road might be put in.
- Mr. Bob Pliskin on behalf of AWAC RT addressed the Board. He stated there is no plan to put a road in. The area is very wet. The land is only good for open space. Mr. Pliskin stated he has had conversations with Mr. Clark who does not want to see a house when he looks out his windows. Mr. Pliskin stated there are lots of woods in between the properties. He will do everything he can to make sure the lot is not clear cut if or when he sells the lot. Ms. Nysten stated she was concerned about putting in more that 1 house on the lot. Mr. Pliskin stated only 1 single family would be on the lot.
- Mr. Erik Bjerke, 39 Hawthorne Rd. stated he doesn't understand the combination of lots and how the applicant does not have access to the property. Mr. Dubay stated that the applicant does have access but Regulations say you have to have 175 feet on a Town road. Mr. Bjerke is concerned that the back lot will be developed.

The Chair closed the hearing to the public at 9:35 pm.

- Chair St. Laurent read the letter from Mr. Don Clark, 3 Pilgrim Rd, into the record and Mr. Clark is in opposition of the application.

Mr. Carpenter was excused from the meeting at 9:35 pm.

- Mr. Dubay stated he is asking for 2 waivers for the portion of the lot that is 124.6 acres. Ms. Nysten commented that Section 601 is two pages of information and so is Section 701.. Mr. Dubay stated he did do the boundaries for the 124.6 acre lot and has a complete boundary survey, as required by DES and the Registry. Plans have been stamped and signed with the same benchmark on the sheets. Typically, if we are just doing a lot line adjustment, the back area is usually waived.
- Ms. Crisler stated she wanted the citizens to know that if the Board has a plan in front of them and the Board's experts agree it meets all the requirements the Board is bound by what the Town voted for them to do. This is a very clear application. Mr. Keach the Town's Engineer says that this application complies with Town Regulations. Her only concern is the road and we have Mr. Dubay's word that a road will not be built but the Board might want to get a legal opinion. Ms. Wood agreed that a legal opinion would be a good idea.
- Mr. Pliskin stated that he hears concerns that a new owner would put a road in and he gives his oath that that would never happen.

**Ms. Nysten motion to grant Waivers from Sections 601 & 701 as it relates to showing the data as required on area detailed on the plan. Northeast of existing lot 11-A-1414, exempting the detailed boundary of the existing parcel 11-A-1418, with the findings that the area is not being disturbed, seconded by Ms. Crisler. Motion passed 6-0.**

**Ms. Crisler motioned to Conditionally Approve the Lot Line Adjustment with the following conditions: Legal Review: The Plan must be reviewed by Town Council and verified that previous designation of a future road on new lot 11-A-1443 is not an impediment to this Lot Line Adjustment, the Final Plans must contain the original stamps and signatures of the surveyor and engineer and signatures of the property owners, add the State Subdivision Permit# to the Plan, indicate the lot frontage of proposed Lot 11-A-1443, as measured 50' from each front lot line, and label the appropriate measurements on Meeting House Road as "ROW". Since ROW varies, indicate width at widest and narrowest points, per Section 601.25 At least one benchmark shall be shown on all plans except the final plan, update the Abutter List on Sheet 2 to reflect the most recent address for the property owners of Lot 5-A-1013 (Should be 109 Treilingwood Drive, Morrisville, NC 27560) and add a note to the plan stating that only a single-family home may be placed on 11-A-144, seconded by Ms. Nysten. Motion passed 6 – 0.**

Mr. Sycamore, Ms. Crisler and Mr. Fricchione were excused from the meeting at 10:05 pm.

**Case # 2013-24 / WWPD Special Permit/25 Indian Rock Rd (Lot 11-C-1100)–WITHDRAWN**

**2014 Town Meeting Workshop**

*Public Ideas*

- Ms. Ruth Ellen Posted addressed the Board. She stated she had some information from the SNHPC that she had received regarding the Biggert Waters Flood Reform Act of 2012. She gave an overview of the Act. She stated there has been a major change in the flood insurance rules. She stated this would affect new construction. She would like the Board to ask Mr. Keach for more information. She has looked at Windham's Ordinance and thinks the Board should review that also. She suggested that as part of the Site Plan Regulations and Subdivision Regulations that flood insurance must be delineated on the plans. Mr. Wrenn stated he is not sure this is a Planning Board issue as the Board does not discuss homeowners insurance, profit, etc. with the applicant.

**Ms. Skinner motion to waive the Planning Board's rule of no new business after 10:00 pm, seconded by Ms. Nysten. Motion passed 4 – 0.**

*Variance Duration (Section 906)*

- Mr. Health Partington, speaking as the Chair of the ZBA stated that every year the Planning Board sends a request to the Zoning Board to meet if there are any zoning ordinance discussions. He stated the Zoning Board acts in a quasi-judicial capacity when interpreting the Ordinance and the Board typically has a hands off approach to the proposal of any new language so as not to show bias toward the review of any application. He spoke about meetings where half of the ZBA is for the application and half is against. The only discussion that fell along those lines this year has been the Excavation Ordinance. He provided the Board with the minutes from that meeting. The Chair stated she had read the minutes and can see how this Ordinance can be confusing and questioned if the Planning Board should look at it. Mr. Wrenn stated the Planning Board tries to write descriptions of the sections to clarify for the applicant and the ZBA. They try to word their intent. Mr. Partington stated the ZBA has to look at the plain language of the ordinance even though they know the intent of the ordinance they are bound by the way it is written. Ms. Nysten asked about the excavation process and Ms. Wood explained the Ordinance was for commercial. The Board discussed fill, clean fill, free fill, etc. The consensus of the Board was to look at the Excavation Regulations. They also stated they would speak to Mr. Keach about it.

*Section 906*

- Ms. Wood stated the Board has discussed this before and she has provided the Board with the proposed language suggested. The Board made amendments to the language in Ms. Wood's amendments.
- Mr. Partington, speaking as a resident, stated he agreed with the proposed amendments.

**Mr. Wrenn motioned to accept the revised language as amended this evening, seconded by Ms. Skinner. Motion passed 4 – 0.**

*Boarding & Rooming Houses Definition (Section 400)* – postponed to a future date.

**Meeting Minutes – Review and Approve:** September 4, 2013– postponed to a future date.



## **August Staff Update**

### **Member Binder Updates**

- Design Review Regulations Application
- Major Preliminary Site Plan Application
- Major Final Site Plan Application

### **Adjournment**

**Mr. Wrenn motioned to adjourn at 11:05 pm, seconded by Ms. Skinner. Motion passed 4 – 0.**

These minutes are in draft form and respectfully submitted for your approval by Cathy Pinette,  
Planning Board Minute Taker