



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Approved Planning Board Minutes

Wednesday, April 29, 2015

7:00pm @ Community Development Department

Board

Members:

Alan Carpenter	Chairman	Arrived 7:45pm	Joel Desilets	Selectman	Excused
Paul Gosselin	Vice Chair	Present	Kathleen Difruscia	Alternate	Present seated for Ms. Post
Kristi St. Laurent	Member	Present	David Oliver	Alternate	Excused
Ruth-Ellen Post	Member	Excused	Ross McLeod	Selectman/Alternate	Seated for Mr. Desilets
Margaret Crisler	Member	Present			
Dan Guttman	Member	Present			

Staff:

Laura Scott, Director, Community Development

Suzanne Whiteford, Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Public Hearings:

School Impact Fees

Per Section 715.6 of the Zoning Ordinance, a public hearing will be held to adopt "Procedure for the Computation of Impact Fees for the Windham Public School District Revision Year 2015"

Roger Hohenberger presented changes made, since March, to '2015 School Impact Fees'.

Mr. Guttman suggested the power point presentation be posted to the Town Web Page with cross reference to the finalized "*Procedure for the Computation of Impact Fees for the Windham Public School District Revision Year 2015*"

Ms. Scott agreed to post both documents to the town web page, with cross references as suggested by Mr. Guttman.

Board Discussion:

Mr. Guttman requested to highlight the numbers used by the town and add a column to table 5, page 14; the same way slide 8 that shows the numbers.

Mr. McLeod asked if the actual number used in the calculations will be placed on table 5.

Ms. St. Laurent clarified adding another column to table 5 with the numbers used for computation will be helpful.

Ms. Scott: Will include condos which have not been in the school impact fees in the past

Public Comment:

Tom Case inquired about the calculation of children per condo and the impact fee calculation for new /future subdivisions; how was the impact of future subdivisions calculated?

Ms. Scott and Mr. Hohenberger clarified the over 55 Condos are not included in the calculations.

Mr. Hohenberger clarified the calculation for each school for new/future students.

Motion by Ms. Crisler to adopt “Procedure for the Computation of Impact Fees as presented with the amendment to page 14 table 5, and amendment for 1.4.2 found on page 7, for the Windham Public School District Revision Year 2015”

Second Ms. DiFruscia

Vote 6-0-0

Motion Carries

Elizabeth Wood replaced Ms. Scott

Site Plan Regulations

A public hearing is to be held in accordance with NH RSA 675:6 (Method of Adoption), to adopt amendments to the existing Site Plan Regulations, as allowed under NH RSA 674:43 (Power to Review Site Plans) and NH RSA 674:44 (Site Plan Review Regulations). Amendments are for the following Sections: Applicability (Section 301.6), Exempted Uses (Sections 302.4.1, 302.5, 302.6), Definitions (Section 400), Minor Site Plan Application (Sections 602.1.2.8 and 602.2.4), Major Site Plan Application (Sections 603.1.2.9, 603.2.3.6, 603.2.4.14, 603.2.4.15, 603.2.4.17, and 603.2.4.22), and Waivers (Sections 804.1, 804.2, and 804.3)

Ms. Scott’s memo dated 4/22/15 the changes made to above listed regulations.

Board discussion about impervious surface area recapped how the Board reached the definition of impervious surface area.

Public Comments:

Betty Dunn expressed concerned there are unintended consequences and the reason for amendments is unknown/not clear. Requested examples with explanation for some amendments. Concerned in particular with the impervious land definition and how it is implemented and the potential long term ramifications due to the scope of the projects that may come into the watershed districts in the near future.

Mr. Gosselin and Ms. St. Laurent remembered the PB corrected issues that had a legal bearing and fixed grammar and clarified ambiguous language.

Ms. DiFruscia recalled the PB made amendments for clarification of language and streamlining the language.

Requirement for new additions with cited example; clarification of vague language

Ms. Crisler sited amendments were made to encourage use of solar and historic preservation.

Motion by Ross McLeod to adopt amendments to the existing Site Plan Regulations, as amended, as allowed under NH RSA 674:43 (Power to Review Site Plans) and NH RSA 674:44 (Site Plan Review Regulations). Amendments are for the following Sections: Applicability (Section 301.6), Exempted Uses (Sections 302.4.1, 302.5, 302.6), Definitions (Section 400), Minor Site Plan Application (Sections 602.1.2.8 and 602.2.4), Major Site Plan Application (Sections 603.1.2.9, 603.2.3.6, 603.2.4.14, 603.2.4.15, 603.2.4.17, and 603.2.4.22), and Waivers (Sections 804.1, 804.2, and 804.3)
Second Ms. Crisler
Vote 7-0-0
Motion Carries

Rules of Procedure

Per NH RSA 676:1, notice is hereby given that the Windham Planning Board will hold a public hearing to adopt amendments to “Windham Planning Board Rules of Procedure” Specifically Sections 2.7, 3.3, 4.2, 5.2, 6.5, 7.3 and 7.6.

Board Discussion:

Mr. McLeod suggested edits:

- Place the word ‘Board’ in parenthesis and strike the work ‘Planning’ throughout the document. Board agrees with edit.
- 2.7: site to the wrong statute; 673.6 refers to 673.5 II, III, actually 673.6 is not correct, but rather add in 673.5 II and III and that will cover the RSA that governs what is put in place (in terms of alternates).
- 3.3: Suggest striking paragraph 3 in its entirety. Ms. Crisler recalled the history behind adding paragraph 3. Ms. St. Laurent concurred with Ms. Crisler and elaborated on the usefulness of the guidance provided in paragraph 3. Mr. McLeod suggested adding “after having provided a two week notice of the hearing and having contemporaneously sent a notice to the alternate.” Ms. Crisler read from RSA 673.13: “the Board of Selectman may for any cause as enumerated in paragraph 1 remove an elected member or alternate member after public hearing.” Ms. Difruscia suggested add language to RSA 673.13: that any action taken would go to the alternate in question.” Mr. Gosselin suggested adding a coma after ‘13’, followed by language that an alternate will be notified in writing of any action taken.
- Betty Dunn commented that this is a thing that should not be legislated. If an alternated is missing more than 50% of the meetings why doesn’t the Chair just call the alternate and ask if they are still interested in participating. Ms. Dunn cautioned that once a formal hearing is started under RSA 673.13 informal means should first be exhausted.
- Ms. St. Laurent suggests it would be helpful for an alternate to understand what their requirement for attendance is; and it will be helpful for the Chairman to have a yardstick to go by for communication with an alternate whose attendance is not as expected. Ms. Crisler agrees with Ms. St. Laurent. Mr. McLeod read the RSA 613.13: “after public hearing appointed members and appointed alternate members of a local land use board...” The PB does not have to rely on the selectman, the PB can remove an alternate.

Motion made by Mr. McLeod to Adopt NH RSA 676:1 amendments to “Windham Planning Board Rules of Procedure” Specifically Sections 2.7, 3.3, 4.2, 5.2, 6.5, 7.3 and 7.6. as presented.

Ms. Crisler seconds the motion

Ms. Betty Dunn objected to the Board's motion to adopt the rules of procedures without reviewing all of the rules of procedures posted for public hearing.

Motion withdrawn per Mr. McLeod

Chairman Carpenter polled the PB regarding adoption of Mr. McLeod's suggestion. 4 PB members agreed to add language: "to notify the alternate in writing" as an edit to section 3.3

Mr. McLeod's suggested edits/changes:

- NH RSA 676:1, section 5.2: The language should not be to 'adopt a question like adopt a spot', actually trying to pass a motion. Ms. St. Laurent and Chairman Carpenter clarified the question is 'who is in favor of the motion'. Mr. McLeod reviewed the language in the second sentence and the third sentence of NH RSA 676:1 section 5.2. Mr. Gosselin clarified the meaning of the language specific to the words 'quorum' and its relation to members 'recusing' themselves. The language is to assure there are enough members to vote on an issue. Mr. Gosselin spoke to the specificity of the language used for the words 'recusal' and 'abstaining'. A member that recuses themselves is not counted towards the number of votes required to pass a motion. A member that abstains still counts towards the number of votes required to pass a motion. Ms. Crisler reviewed language to better define 'quorum' and 'recusal'. Mr. McLeod cautioned the language needs to be careful how to define what a 'quorum' is. Chairman Carpenter asked the Board if a quorum is defined in the RSA. Mr. McLeod clarified if a member recuses him/herself the member is not part of the Board. Mr. Guttman stated the language is redundant; if you recuse yourself you're not part of the quorum. Ms. Crisler suggested to leave 5.2 as written without change. Board agreed to move the second sentence up to the end of 5.1. and change the language from 'may be' to 'are'.
- 6.5: strike the word 'planning'; suggest removing the gratuitous comment regarding 'inappropriate conduct'. Ms. Crisler clarified the Board agreed earlier to strike the work 'planning' before Board. The Board agrees to strike the language 'inappropriate conduct' from the rule of procedure.
- Ms. Betty Dunn asked the Board, with regards to section NH RSA 676 section 6.5, what circumstances would a Board member visit an applicant's property. Ms. Crisler gave an example of a Board member that is not able to attend a scheduled site walk but wants to see the property and asks the Board's permission to visit the property with the applicant. Mr. McLeod concurred with Ms. Crisler and further clarified the Board member puts on public record the visit was made to the property with the applicant. Ms. Dunn verbalized concern about a Board member visiting a property with an applicant and potentially having knowledge from the applicant concerning the property that may not be known to the general public or other Board members. Mr. Guttman referred to RSA 676, section 6.6 which addresses what is to be disclosed to the Board when a visit to an applicant's property occurs. Chairman Carpenter discussed that the Board can't prohibit a Board member from visiting an applicant's property. Mr. McLeod referred to the burned down country store site that became the McDonald's; there isn't anything preventing a Board member from seeing a property in passing through town. Ms. Dunn remained concerned about information a Board member learns from a property visit with an applicant separate from a scheduled site walk. Mr. Guttman is not concerned about one Board members opinion. Suggested changing the language to 'should not' and strike the last sentence. Chairman Carpenter clarified the Board is trying to give guidelines to the Board members. Ms. Difruscia is concerned about a member of the Board visiting an applicant's property at the applicant's

invitation; this should not occur under any circumstance. If an applicant calls an applicant with an invitation to view the applicant's property the Board should not accept any such call and/or invitation. Ms. Difruscia suggested the language to say: 'a member may not visit an applicant's property at the applicant's invitation'. Mr. Gosselin agrees the language regarding a Board member 'should not' visit an applicant's property at an applicant's invitation. The Board agrees the only change to 6.5 will be: "an individual member should not visit an applicant's property at the applicant's invitation".

Mr. McLeod suggests edit to section 7.2. to change the word 'board' to 'body'.

Mr. McLeod suggests edit to section 7.3 to keep the word 'Planning' before 'Board' to differentiate from other Boards participating in a joint meeting. Mr. McLeod suggests striking the last sentence from section 7.3. Ms. Crisler suggests keeping the last sentence in section 7.3. Ms. Difruscia agrees to strike the last sentence from section 7.3. Mr. Gosselin pointed out that separate minutes are kept, and agrees to strike the last sentence from section 7.3. Chairman Carpenter polled the Board and all members were in agreement to strike the last sentence from section 7.3.

Mr. McLeod suggested striking section 7.6 in its entirety as it is not a rule of procedure and is redundant with regards to the clerk's job description. Ms. Crisler is hesitant to strike the section in its entirety. Mr. Guttman asked if the staff have guidelines regarding an applicant's request for a joint meeting. Ms. Wood is not aware of any formalized written guidelines for staff for granting a joint meeting at an applicant's request. Mr. Guttman and Chairman Carpenter agree they would like to keep section 7.6 and change 'suggested' to 'communicated' and 'Chairman' to 'Chairmen'. Ms. Difruscia and Mr. McLeod want the entire paragraph changed or removed. Board agrees to keep section 7.6 as amended with the following changes: 'suggested' to 'communicated' and 'Chairman' to 'Chairmen'.

Motion by Mr. McLeod to adopt amendments to "Windham Planning Board Rules of Procedure" Specifically Sections 2.7, 3.3, 4.2, 5.2, 6.5, 7.3 and 7.6. with edits as outlined above.

Second by Ms. Crisler

Vote 7-0-0

Motion carries

Mr. McLeod suggested including 'email' to Section 4.2. Board discussion resulted in maintaining section 4.2 as presented.

Subdivision Regulations

A public hearing is to be held in accordance with NH RSA 675:6 (Method of Adoption), to adopt Amendments to the existing Subdivision Regulations, as allowed under NH RSA 674:35 (Power to Regulate Subdivisions). The amendments include: Revising the definition of cul de sac (Section 300); approval process for commercial condominium conversions (Sections 204, 405.2); add provision regarding Wetland and Watershed Protection District and Vernal Pool Buffer Area marking requirements (Section 601.39); closed drainage and open drainage standards (Section 602.1.6, 610); design requirements of cul de sacs (Section 602.2.4); and a provision regarding cleaning of drainage structures (Section 901.24).

Public Discussion:

Tom Case: 405.2: subdivision of commercial condominiums into what?

Cul-De-Sac definition omits the measurement of the length of the cul-de-sac.

405 is not included in the Table of Contents.

Board explained 405.2 subdivision of commercial condominiums refers to change of use.

Board explained the measurement of the length of the cul-de-sac will be discussed later in the hearing Board agrees with Mr. Case, the table of contents needs to be included in the Public Hearing, Board in agreement to add 405 in the Table of Contents. Able to move forward as the public was on notice for section 405.2

Board decided to leave 405.2 as written

Betty Dunn: Do not understand section 405 as it is put together; don't understand .2, does the board mean subdivision or further conversion

Board confirmed they mean subdivision, as long as the use isn't changing it can be subdivided

Ms. Crisler asked why this is in Subdivision Regulations as opposed to Site Plan

Ms. Woods explained Subdivision is defined by State law, condominiums fall under Subdivision Regulations per State Law.

Conservation Commission suggested Box Culverts should be bottomless whenever possible

Ask staff to work with Con Com to adopt the language under 610.3.7, have it reviewed by Mr. Keech, then bring back for a formal hearing

602.2.4 Cul-De-Sacs

After Board discussion Chairman Carpenter suggests to leave the language as written for 602.2.4 and adding after iii: at no point shall the distance from the center line of the existing street to the most distant point of the proposed road be greater than 1200 feet or 2400 feet as determined from above and repost for public hearing. Chairman polled the Board and members unanimously agreed to adopt the above language and repost for a hearing.

602.2.7 Board discussion resulted in no action

Ms. Crisler brought up as issue related to the submission of applications and hearing schedule. There should not be any changes to the submitted application once it is submitted to TRC and the clock for the hearing is started. Once the application is submitted it is locked. Any changes made to the application after submission requires a new posting. The clock does not start until after TRC. The clock resets every time there is a change made to the application submission. The public has 15 days to look at a submitted plan and no changes should be made after a completed application is submitted

Chairman Carpenter: any change made to a previously submitted plan will be considered as a new plan submission, and how do we achieve version control?

Mr. Guttman suggested that information governance is achieved by placing information electronically in one location that can be accessed by various Board members. This way everyone is looking at the same plans.

Chair asked Ms. Woods to present to staff (Ms. Scott) if there are changes to a previously submitted plan it becomes a new submission and the clock is reset for 15 days.

State surplus land for sale read into the minutes by Chair Carpenter

Motion to recommend to the board of the selectman that the PB sees no reason to intervene into this action

Second Ms. Crisler

Vote 6-0-0 Mr. McLeod recused

Motion carries

Motion made by Mr. Gosselin to adjourn

Second Ms. Crisler

Vote 7-0-0

Meeting adjourned 10:37pm