

**PLANNING BOARD MINUTES**  
**JANUARY 18, 2000**

**ROLL CALL:**

Keith Goldstein - Chairman - present  
Russell Wilder - Vice Chairman - present  
Annette Stoller - Secretary - excused  
Margaret Crisler - Selectman - present  
Galen Stearns - Selectmen's Alternate - excused  
Walter Kolodziej - Regular Member - excused  
Wayne Morris - Regular Member - present  
Bernie Rouillard - Regular Member - present  
Alan Carpenter - Alternate - present  
Fred Noyles - Alternate - excused  
Betty Dunn - Alternate - present

Mr. Carpenter and Ms. Dunn replaced Ms. Stoller and Mr. Kolodziej respectively.

**CITIZEN PETITIONS TO AMEND THE ZONING ORDINANCE:**

Petition #1. Mr. Goldstein read the first citizen petition. Mr. Turner has spoken to Attorney Bernie Campbell about this petition as requested, and all gas stations in that area would be non-conforming. Mr. Kolodziej joined the Board. Discussion ensued about non-conforming use, wording of the ordinance, Route 93 expansion effect, and interpretation of the ordinance.

Mr. Tom Case wanted to know what the benefit would be to the Town with this ordinance. We should not be making anything non-conforming. He also said that gas stations belong close to the interchange of Route 93. He stated that we should think about what effect this would have on businesses in town. Discussion then ensued regarding Route 28.

Attorney James Troisi, representing Arthur and Tom Klemm owners of Klemm's store and gas station, stated that the Town would have problems with the petition right away. Three gas stations will become non-conforming, and the purpose of non-conforming is to phase out. Also, when you single out one type of business, it could be considered discriminatory. He also stated that our own town attorney has said that this amendment would not hold up to a court challenge. We should be fair to ourselves, the community, and his client. The petition is too restrictive, has ambiguous language, will be difficult to enforce and will not stand up in a court of law. He requested that the Board not approve this petition.

Mr. Tom Case stated that the new Professional, Business, and Technology District would not allow gas stations either.

Mrs. Crisler made a motion to not recommend this petition. Seconded by Mr. Kolodziej. Passed 4-2. Mr. Morris and Ms. Dunn opposed.

Mr. Rouillard joined the Board, which made it a full board.

Petition #3. Mr. Goldstein read the petition, and Mr. Turner explained. Mr. Tom Furlong, Historic District Commission member, advocate of the 1-acre old Simpson cellar hole on Marblehead Road. Mr.

Furlong gave the history of Simpson. He is trying to preserve history, and he urged the Board to make this a historic district.

Mr. Tom Case stated that the property was owned by the Town, and the area could be protected another way; it's the wrong tool to use. He also stated that this was spot zoning and what about the allowed uses. Mr. Morris asked why he signed the petition. He stated that he signed the petition to help Mr. Furlong, but that he did not agree with it.

Ms. Carol Pynn, Chairman of the Historic District Commission, has spoken to Linda Wilson from the NH Department of Historic Resources regarding historic site signs. Signs would not protect an area, but making it a historic district would.

Ms. Carolyn Webber, Selectman, stated that it was a valuable educational tool, it is a pristine area, and that it should be made a historic district.

Mr. Morris made a motion to recommend petition #3 to the ballot. Seconded by Mrs. Crisler. Discussion ensued regarding protection of the site. Vote was taken. Passed 6-1. Ms. Dunn opposed.

### **PLANNING BOARD PROPOSALS TO AMEND THE ZONING ORDINANCE:**

Amendment #1. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Goldstein then read Attorney Campbell's comments. Mr. Turner was not clear on all the ramifications that this amendment would bring. He would have to enforce it to a higher degree. Discussion ensued regarding the interpretation of a WWPD and clarity of the amendment.

Mr. Peter Zhodi explained a scenario of a 2-lot subdivision on Faith Road, and expressed his worries about combining two wetlands with a culvert. This would make a WWPD where there wasn't one before. Discussion ensued.

Mr. James Gove, stated that what we have now is restrictive than what the state requires. He's concerned about site delineation; you can't go back can prove what happened ten years ago. He stated that the amendment needed more work.

Attorney William Mason stated that at the last public hearing, Mr. Wilder said that the intent of the amendment was not to have man-made structures change the delineation of the wetlands. He stated that this was a broad-brush approach to fix the situation. He also stated that there's no grandfathered language that would exclude closed drainage situations. This amendment will result in a lot of unintended results and problems because of it. The amendment needs additional work and minor modifications will not fix it.

Mr. Tom Case stated that this all came about because of the Mountain Homes project, and this ordinance would not have helped.

Mr. Morris made a motion to recommend amendment #1. Seconded by Mr. Rouillard. Discussion ensued regarding the amendment. Vote on the motion. Passed 4-3. Ms. Dunn, Mr. Goldstein, and Kolodziej opposed.

Amendment #3. Mr. Goldstein read the amendment and Attorney Campbell's comments. Mr. Rouillard made a motion to recommend amendment #3 to the ballot. Seconded by Mrs. Crisler. Passed 7-0.

Amendment #6. Mr. Goldstein read Attorney Campbell's comments and a letter from George and Marion Dinsmore requesting that their property not be included in the Professional, Business, and

Technology District. Discussion ensued regarding whether the amendment could be changed at this time.

Mr. Tom Case stated that eliminating a parcel is a substantial change to the amendment. It needs to stand as it is. He also said he was disappointed that the Board kept cutting pieces during the first public hearing. It also should say "may" have shared parking, not "shall."

Mr. Morris made a motion to recommend amendment #6. Seconded by Mr. Carpenter. Passed 7-0.

Amendment #7. Mr. Goldstein read the amendment. Mr. Tom Case stated that the changes were good. Discussion ensued regarding the writing of the summary. Attorney Campbell writes the summary.

Mr. Rouillard made a motion to recommend amendment #7 move forward. Seconded by Mr. Morris.

Amendment #8. Discussion ensued regarding amendment #8. Amendment #8 will go forward with the typo of "2 alternates" changed to "up to 3 alternates" so that the amendment will be consistent.

Mr. Kolodziej made a motion to adjourn. Seconded by Mr. Morris. Passed 7-0. Meeting adjourned at 9:15 pm.

These minutes are in draft form and have not been submitted for approval.

Nancy Charland

