

PLANNING BOARD MINUTES

July 25, 2007

ROLL CALL:

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| Ruth-Ellen Post, Chairman – Present | Ross McLeod, Vice Chairman – Excused |
| Nancy Prendergast, Secretary – Present | Walter Kolodziej, Regular Member – Present |
| Phil LoChiatto, Regular Member – Present | Pam Skinner, Regular Member – Present |
| Neelima Gogumalla, Alternate – Present | Rick Okerman, Alternate – Excused |
| Alan Carpenter, Selectmen Member – Present | Margaret Crisler, Selectmen Alternate – Excused |

STAFF:

Al Turner, Director of Planning and Development – Present
Shaun Logue, Town Planner – Present

- *Ms. Post opened the meeting at 7:00 pm.*
- *Ms. Gogumalla replaced Mr. McLeod.*
- *The Board stood and recited the Pledge of Allegiance.*

MINTUES:

- Ms. Prendergast motioned to approve the July 11 minutes. Mr. LoChiatto seconded. Passed 7-0;
- Ms. Skinner motioned to approve the July 18 minutes. Mr. Kolodziej seconded. Passed 5-0-2. Ms. Prendergast and Ms. Gogumalla abstained.

CORRESPONDENCE:

- Information regarding seminar titled Cottages, Bungalows, and Other Small Homes;
Ms. Post summarized the following lengthy correspondence:
- Email from Michael and Lisa Piessens, 19 Squire Armour Road, regarding a pedestrian trail. Ms. Post read her response;
- Letter from Allan and Kris Putnam, 26 Bear Hill Road, regarding walking easements;
- Letter from Greg Burton, 26 Simpson Road, regarding a trail easement.

The Board discussed having a joint workshop with the Trails Committee regarding the walking pedestrian trail easements on August 22, the easements were done at the time of the subdivisions. Mr. Burton stated that the 22nd would be after the Trails Committee conducts their site walks. Board discussion continued regarding that it will be a conceptual discussion, there have been similar situations, the process may be lengthy, and Trails Committee should hold off on further development of the trials until after the meeting. Mr. Piessens stated his concern is that his situation has changed with the development of Griffin Park. Board discussion continued regarding the recorded subdivisions come under the Selectmen's jurisdiction, and Town council should be contacted regarding the process.

SIGN PERMITS:

- Granite Oaks, 127 Rockingham Road. Mr. Turner stated that it is an approved office building, and a variance has been received for a 40 sq ft sign where 20 sq ft is allowed. Joseph Maynard, Benchmark Engineering, stated that it is in the Neighborhood Business District and the sign can be up to 40 sq ft and no higher than 16 ft above the surrounding grade, and the sign is in a 4' depression. Board discussion regarding the sign will be ground lit and out by 10:00 pm, the sign ordinance is for the residential character, and the Planning Board should be notified about variances for signs. Mr. Maynard stated that none of the signs on Rt 28 are 20 sq ft. Board discussion regarding the variance vote was 3-2. Brian Harvey, H&B Homes, stated the height of the sign is 8 ft high. Discussion ensued regarding what was granted under the variance and is there a changeable copy sign? Mr.

Turner stated he will review the variance and the sign. Board discussion regarding what is allowed in the Neighborhood Business District. The sign permit request is tabled until more information is received;

- Super Suppers, 4 Cobbetts Pond Road. Mr. Logue reviewed the sign and the sign meets the requirements. Board discussion regarding uniformity of the signs, the staff has not met with the owners, there is lighting overhanging the signs, staff should talk to the developer regarding the signs, a temporary sign should be approved, dark background with light letters vs. light background with dark letters, work out signage of tenants with the owner, and sign criteria should be part of the site plan approval.

OLD/NEW BUSINESS:

- Faith Road stop signs are on the Selectmen's agenda for Monday;
- The 60 day extension has gone by for the Clarke Farm Subdivision certificate of occupancies. Ms. Post stated that she has gotten calls, and Mr. Turner suggested that she refer the calls to staff.

PUBLIC MATTERS:

Spruce Pond II Open Space Subdivision – 95 lots – Public Hearing Continued

Rt 28/ Rockingham Road, lots 3-A-565 & 1000, 3-B-600, 601, 800, 860, 890, 900 & 1001

Ms. Post set 9:30 pm as an end time for the evening's hearing. A discussion agenda was provided to the Board and the public.

Joseph Maynard, Benchmark Engineering, distributed Special Permit and Waiver requests from the plan set. Mr. Maynard stated that the 1st Special Permit requested, (A), impact is to allow emergency access at the end of Northland Road to remain, a portion of the access is within the WWPD, there will be no additional improvements, it has gates and is keyed for the State, (B) is to allow a portion of the driveway on lot 3-B-811 to clip the edge of the 200' WWPD, and the (C) impact is for construction of treatment swale #6. Board discussion of whether or not it is a good idea to put a treatment swale in a WWPD, it is 30' in the WWPD, and it is an allowed use in the WWPD. Mr. Maynard continued that special permit request (D) has the largest impact to the WWPD area to allow a drainage system, treatment swale and detention pond; and no increase can be sent to the abutter. Board discussion as to the location for the swale and detention pond and can it be moved? and construction work will come to the edge of the wetland. Mr. Maynard explained why it needs to be in the current location and that the encroachment will be 1 acre. He continued regarding the Special Permit Request (E) to allow a portion of treatment swale #9 to be constructed within the 200' WWPD for lot 3-B-844, the swale is outside the WWPD but the grading is within 15' of the WWPD. Board discussion regarding a lot of trees will be cut. Mr. Maynard stated that the Harvey Brothers do try to preserve the trees. Discussion continued regarding location of swales and treatment, and water treatment using open drainage vs. closed drainage. The 6th Special Permit requested, (F), is to allow treatment swale #12 to be constructed in the WWPD. Mr. Maynard explained the need for the swale in this area. Board discussion regarding the entire swale is in the 100' setback in the WWPD and a portion of the water system is in the WWPD. Mr. Maynard continued that Special Permit Request (G) is to allow treatment swale #13 to be constructed within the WWPD, and there are so many swales in this area to control the CFS (cubic feet per second), and the entire swale is in the WWPD. Special Permit Request (H) is for treatment swale #15, he explained the need for the swale in this area, and he showed it in conjunction with #16, Special Permit Request (I). Board discussed that these are just swales not holding ponds. Mr. Maynard continued that Special Permit Request (J) is to allow a portion of the well access road to remain along the old trail within the WWPD, the wells were drilled along the trail, and it will remain an access to the water system and will remain as is. Board discussion that there are no pump houses along this access, the trail will not be improved, pipes will be run to the pump house outside of the WWPD and along the existing trail, Mr.

Maynard will check with Pennichuck Water Works to make sure the path is not required to be paved, and he showed the location of the wells on the map. Special Permit Request (K) is to allow a portion of Taninger Road to be constructed within the WWPD along with some side slopes which extend into the edge of the WWPD. Board discussion included the pavement is outside the WWPD, and the slopes of Taninger Road is from 4% to 7.7%. Mr. Turner explained the road is 28' wide and the impact will be about 100'. Mr. Maynard continued that Special Permit Request (L) is for the construction of Mallard Road. He showed the location of the road which will be in the WWPD on the map, the length of each of WWPD impact is 710' and 250' for Mallard Road, 440' for Taniger Road, the trees will be cut to the toe of the slope. Special Permit Request (M) is to allow a wetland to be created for a detention area and mitigation at Mallard Road adjacent to the railroad bed. Board discussion regarding mitigation, the detention area is for the amount of runoff from the paving, the grade change is 22-24' with the trail being above, drainage areas will be constructed first as required, the railroad's right-of-way varies but is approximately 100', and there is more excavating than filling. Mr. Maynard continued Special Permit Request (N) is to allow portion of Middleridge Road to be constructed within the WWPD. He showed the location in the map and a small portion of the roundabout will be in the WWPD. Board discussion with Mr. Maynard regarding item M needs state approvals, which have been applied for. Mr. Maynard continued that Special Permit Request (O) is to allow a portion of the driveway to 3-B-846 to be constructed within the WWPD with the slopes associated with it. He showed the location on the map. Board discussion regarding it is a 290' impact. Special Permit Request (P) is to allow a portion of the driveway to lot 3-A-565 to be constructed in the WWPD, it is the lot that will have the house removed, and the area for disturbance is part of the road. Mr. Turner further described that the area is already disturbed as part of the road construction. Board discussion ensued regarding the driveway will service the house that is being moved. Mr. Maynard continued that Special Permit Requests (Q) & (R) are for the beginning portions of driveways for lots 3-B-854 and 855, they are not shared driveways, and they are shown on sheet 34 of the plan set. Board discussion whether it should be a shared driveway to minimize the impact, and it has been a condition of approval in the past. Mr. Maynard continued that Special Permit Request (S) is to allow the pump house and water system to be constructed within the WWPD. Board discussion with Mr. Maynard included the location was chosen for the purpose of access, the tanks will be in the ground rather than in a warehouse type building, the system also acts as a cistern, there are hydrants within 800' of any dwelling in the subdivision, the pump house building will be 24' x 24' which will be visible from the street, the 200,000 gallon underground tank will be 100' x 40', the water system is still in the approval process with the State, the area was chosen because it is a level area, the area above it will be restored, the pump house does not need to be fenced, the Board would like to comment on the final design of the pump house, and a landscape plan should be provided for the area to be revegetated. Mr. Maynard continued that Special Permit Request (T) is to allow for a well line to be constructed along the old horse track within the WWPD, he showed the area on the map, it is an existing well, the home cannot be added to the Phase I water system because of the covenants, no trees will be cut for it, the line is approximately 540', the lot serviced is 3-B-600 and the well is on 3-B-601. Mr. Turner asked about the option of tying into the existing water line, and it would be the only lot to have its' own well. Board discussion regarding there should be another option. Mr. Maynard continued that Special Permit Request (U) is to allow for maintenance of the stone box culvert at the railroad crossing, debris has clogged about half of the outlet, and the work will be completed by hand. Board discussion that this will help with the drainage, and the Conservation Commission should be contact regarding this as this could change the water table and therefore the wildlife. Mr. Turner stated that a Special Permit is not required to maintain the culvert, but an access to maintain it would. Board discussed water level concerns and effect and maintenance of beaver dams on water level. Mr. Maynard responded regarding the stone dam above the culvert and he has walked it with the Conservation Commission and they asked for it to be done by hand. Board discussion regarding that it does not require a Special Permit if done by hand. Mr. Maynard stated that the culvert was originally sized to

handle the water, if the State should clean the culverts upstream it would create a problem if this one were not clean, and it would be just a general maintenance and would not need to be done for another 20-30 years. Mr. Turner stated that the culverts are maintained by the State of NH to the best of their ability. Board discussion regarding the Conservation Commission has walked the property twice and their comments should be given to the Planning Board.

Ms. Post asked for public comment regarding the Special Permit requests. Public comment from Mike Savastano, 20 Mitchell Pond Road, asked how much clearing will be done on lot 656 as it is currently thickly wooded. Mr. Maynard explained by showing the area on the map. Mr. Savastano asked about the large 1000' WWPD impact on Mallard Road and 2/3 of the road is impacted, and whether the house that is being moved will be part of Spruce Pond or the existing Mitchell Pond subdivision, and he asked about lot 600 having their own well and does it have to go back to the original covenants? The response was that there will be additional covenants.

Chris Rossetti, 3 Mitchell Pond Road, spoke in regards to Special Permit Requests L, M, and P. He has researched the dredge and fill permits as part of the Mitchell Pond subdivision and they have conditions which have not been met with the Spruce Pond II subdivision. The Conservation Commission should have the information, he will share it with them, and information needs to be brought forth regarding the conditions. Mr. Rossetti read the conditions to the Board. Mr. Maynard submitted for the record a copy of the dredge and fill permit being discussed. He responded by reading condition #4 of the dredge and fill permit and showing the wetlands on the map. He continued that some of the restrictions stated are standard on every permit. He will disclose this information to Conservation Commission and DES, and there are no additional permits required. Mr. Turner asked why the deed does not reflect the dredge and fill. Mr. Maynard stated he checked the deeds, and it was not in the deed. Mr. Turner stated that the Town does not monitor the deeds, it was the lawyer and title search mistake, and the information was in the Mitchell Pond file in the office.

Travis Blais, 47 Mitchell Pond Road, in regards to the conditions of the dredge and fill permit, the conditions can't be evaded because "the condition no longer exists", the permit gives a limitation on use, and condition #4 is a limitation. Approval of the special permits is the Planning Boards decision, the Mallard Road requests make a mockery of the WWPD system, and the purpose of the ordinance is to protect the WWPD.

Board discussion regarding roadways are allowed in the WWPD. Mr. Turner stated the Conservation Commission wrote the ordinance based on the State's WWPD, roads are allowed, the Town of Windham has the most amount of open space required in any town in the state of NH, it is not a waiver it is an allowed used with a Special Permit. Board discussion continued regarding the Conservation Commission comments, they have walked the site and Mr. Maynard has met with them several times, Mr. Maynard stated that the Conservation Commission wrote a letter to the state about a month and half ago saying they were okay with the application as presented, the Board consensus was to get the comments from the Conservation Commission regarding the Special Permits. Discussion continued that usually a wetland crossing is granted for a road but not sure about a whole road, serious concern with many of the permits requested, it is a wet and hilly area, if 70 lots were requested instead of 95 then there would be plenty of room outside the WWPD for the drainage and pump houses, it is stuffing too many houses in a buildable area, there would be even more encroachments if this were a conventional subdivision, too many encroachments and what is the appropriate number of lots, and it's better to address this early in the process. Mr. Turner stated this was discussed at the preliminary discussion and now is the time to look at it, and this goes back to the understanding of the intent and purpose of the wetlands ordinance and open space ordinance. Board discussion continued regarding a workshop

regarding the number of lots and drainage, it needs to be held as part of the public hearing process, the Board should not be redesigning, the plan has been conceptually discussed for two years, the Board should scrutinize plans, it is one of the largest subdivisions Windham has ever had with lots of impact to the Town, the Conservation Commission does not meet again until the 10th of August, and there are plenty of other topics to be discussed. Mr. Carpenter motioned to continue to the August 1 meeting. Mr. LoChiatto seconded. Passed 7-0.

Richardson Site Plan – Public Hearing
Rt 28 / 105 Rockingham Road, lot 8-C-1

Staff recommended the plan be opened for public hearing. Mr. LoChiatto motioned to open the Richardson Site Plan Used Car Lot for public hearing. Mr. Kolodziej seconded. Passed 7-0. Mr. Turner stated that it is a currently developed site for storage buildings and an office building, he showed the parking on the site which is hardly used, the applicant wants to have 23 spaces for selling used cars, a use variance was granted to allow the sales of used cars, a variance to have less parking for the current use, variances were also granted to not supply handicapped spaces or ramp, the ZBA cannot grant variances for the handicapped spaces and ramps because of the federal and state ADA requirements, there will be no further development of the site, the applicant has blocked the green areas so there can be no encroachment on the green areas, the wattage of the existing pole light is unknown, there will be a one-way in and one-way out traffic system, the cars for sale will be parked at an angle, and they can sell new or used cars. Waivers requested include: 1) Section 203 to allow less than the required adequate off-street parking; 2) Section 203 to allow less than the required amount of off-street loading; 3) Section 704.1 to not require the required certified soil study; 4) Sections 1305 and 906 Landscaping; 5) Section 908 Lighting; and 6) Section 911 and 913 Storm Drainage System and Drainage Calculations. Mr. Turner continued regarding the Master Plan Goals 4 and 6 are being met. He then read the staff's recommended conditions of approval. The Board discussed the ADA requirements are a federal issue, the Town is required to comply with federal rules, and the ZBA cannot grant a variance to federal regulations.

Peter Zohdi, Herbert Associates, stated that the owner, Mr. Richardson, received the first variance before he was involved with the project, had to go back to the ZBA because the one-year time frame expired, and Mr. Richardson has been in business since 1998. Board discussion regarding parking for customers include 1 space and 2 handicapped spaces.

Bruce Richardson, owner, discussed the handicapped access, the 12,000sq ft garage is ADA compliant, only one person is working at the site at one time, and there will be cars displayed inside the building also. Board discussion ensued with Mr. Richardson regarding the smaller building is an office, the existing office is not ADA compliant, a small area can be cut out in the garage for an office, the existing display area is for rental equipment, there will not be cars parked in that area, all buildings should be ADA compliant, no more lighting will be added, hours of operation will be 10:00 am-5:00 pm, the sign is not changing, there will be no repairs or oil changes, the existing office space is not ADA compliant, the office should be ADA approved, the cars will arrive by driver with dealer plates, there is adequate space on site to maneuver a larger vehicle dropping off cars if necessary, the traffic will be one-way on site, and there are arrows on the original plan. There was no public input.

Mr. LoChiatto motioned to grant a waiver of Section 203 to allow less than the required adequate off-street parking as a variance was granted; to grant a waiver of Section 203 to allow less than the required amount of off-street loading as a variance was granted; to grant the waiver of Section 704.1 to not supply the required certified soil study by a soil scientist because it is an already developed lot; grant the waiver of Section 1305 and 906 as this is an existing approved site with existing landscaping; to grant

the waiver of Section 908 as the existing pole lighting is shown on the plan with the hours of operation from 10:00 am-5:00 pm with no intent of adding lighting to the site; and grant the waiver of Sections 911 and 913 as this is an existing sheet drainage area and are not proposing any change to the drainage system. Mr. Kolodziej seconded. Passed 7-0.

Mr. LoChiatto motioned to approve the Richards Use Car Lot site plan on lot 8-C-1 with the following conditions: 1) All state and federal approvals shall be received prior to the signing of the plans; 2) Access to/from the automobile display area shall meet all ADA accessibility requirements including walkways and ramps; 3) No vehicles shall be displayed for sale prior to all conditions of approval are satisfied and inspected by staff; 4) Traffic pavement markings to be added to direct the flow of traffic; 5) The existing grass areas may not be encroached upon for the purpose of selling vehicles. Mr. Kolodziej seconded. Passed 7-0.

Mr. Kolodziej motioned to adjourn. Mr. LoChiatto seconded. Passed 7-0. Meeting adjourned at 10:42 pm.

These minutes are in draft form and have not yet been reviewed and approved.
Respectfully submitted, Nancy Charland