

PLANNING BOARD MINUTES
January 9, 2008

ROLL CALL:

Ruth-Ellen Post, Chairman – Present	Ross McLeod, Vice Chairman – Present
Nancy Prendergast, Secretary – Present	Walter Kolodziej, Regular Member – Excused
Phil LoChiatto, Regular Member – Present	Pam Skinner, Regular Member – Present
Neelima Gogumalla, Alternate – Not Seated	Rick Okerman, Alternate – Present
Alan Carpenter, Selectmen Member – Excused	Margaret Crisler, Selectmen Alternate – Present

STAFF:

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

- Ms. Post opened the meeting at 7:00 pm;
- The Board stood and recited the Pledge of Allegiance;
- Mrs. Crisler joined the Board. Mr. Okerman replaced Mr. Kolodziej.

OLD/NEW BUSINESS:

Mr. McLeod submitted a letter to the Board regarding “Accessory Building or Use” as defined in Windham’s Zoning Ordinance. He briefly discussed and suggested revisiting for discussion next year. *Mr. Okerman stepped down and Mr. Kolodziej joined the Board.*

PUBLIC MATTERS:

Citizen Petitions:

Mr. Turner read Citizen **Petition #2** by Douglas Yennaco and others to see if the Town will vote to rezone land off Rockingham Road (lots 8-B-6100 and 8-B-6150) from Rural to Residence B. This will enable the parcel to be zoned in a manner consistent with abutting properties.

Peter Zohdi, Herbert Associates, presented the petition. He showed the area on a map, and stated they want to change the zoning to Residence B. Board discussion regarding concern for conservation area and a local brook. Mr. Zohdi responded regarding the brook and driveway. Discussion continued regarding Villages of Windham access, it is not a Town road, consideration for Route 28 access management overlay, and not going forward at this time. No public comment. Board discussion that it needs to be looked at further, the amount of units the property could have built on it, it is different from other parcels in the area, the parcel abuts conservation land on two side, the parcels problems can be solved, and need more Residence B zoning in Town.

Mr. Kolodziej motioned to forward to town warrant with recommendation of the Planning Board. Mr. LoChiatto seconded. Failed 3-4. Mrs. Crisler, Mr. McLeod, Ms. Post and Ms. Skinner opposed.

Mrs. Crisler motioned for the Planning Board not to recommend the rezoning of lot 8-B-6150 and 8-B-6100. Mr. McLeod seconded. Passed 4-3. Ms. Prendergast, Mr. LoChiatto, and Mr. Kolodziej opposed. Board discussion that the split vote should appear on the ballot as per the consensus of the Board.

Mr. Turner read Citizen Petition #3 by Ronald Cyr and others to see if the Town will vote to rezone 140 Rockingham Road (lot 8-B-3002) from Rural to Residential B. This will enable the parcel to be zoned in a manner consistent with abutting properties.

Mr. Zohdi showed the location on the map and discussed the property included 43 acres and a brook. Board discussion that they have the same response as the petition #2.

Attorney Mason stated his concern of speculating the number of units the parcel will yield. Board discussion that there could be 100 homes, uses of the property in the area, and if it is rezoned the site plan will still come before the Planning Board. Mr. Zohdi stated the property will be developed as possibly an adult community and will get same number of bedrooms on the property. Mr. Turner discussed the federal fair housing act requirements for senior housing, and what is the highest and best use of the land.

Attorney Mason stated that the Master Plan should include this area and development is controlled by the Board. Board discussion that this change requires proper analyzing, this parcel is physically situated differently, works with petition #2, Route 28 overlay required regardless of zoning, and driveway access with Villages of Windham.

Mr. McLeod motioned to not recommend citizen petition #3. Mrs. Crisler seconded. Motion tabled.

Public comment from Jeff Yennaco, 6 Hidden Valley Road, showed his property on the map and asked if this fails will he have another chance at another time, and understands the Boards position regarding looking at the rezoning more. Ms. Post stated that it will appear on the ballot and the decision will be made by the voters.

Mr. McLeod motioned to not recommend citizen petition #3. Mrs. Crisler seconded. Passed 4-3. Ms. Prendergast, Mr. Kolodziej, and Mr. LoChiatto opposed.

Mrs. Crisler motioned to place all split votes on the ballot to identify it was not unanimous. Mr. Kolodziej seconded. Passed 7-0.

Mr. Turner read **Citizen Petition #4** by Shayne Gendron and others to see if the Town will vote to rezone 1 Indian Rock Road, 4 Hardwood Road, and 6 Hardwood Road (lots 11-A-450, 11-A-451, and 11-A-452) from Rural to Village Center District. This will enable the land located by North Lowell Road and Hardwood Road to be developed as Village Center District in accordance with the Master Plan. *Mr. LoChiatto recused himself and Mr. Okerman replaced him.*

Mr. Zohdi stated that it is the same petition as last year, the voters voted it down, he described the area, he has been working with the Town, and looking for another access in and out of the Village Center District. No public comment. Board discussion regarding in favor of the change, the Board has looked at this for three years, this helps with the area traffic, and it increases safety.

Mr. Kolodziej motioned to forward to town warrant with recommendation of the Planning Board. Mrs. Crisler seconded. Ms. Post noted that there was a lot of abutter concern in the past but not now, and hopes the historic building will be preserved. Passed 7-0.

Mr. Turner read **Citizen Petition #5** by Mary Griffin and others to see if the Town will rezone a portion of 150 Haverhill Road (lot 9-A-500) from Rural to Neighborhood Business District. The area to be rezoned would extend from the centerline of Route 111 in a Northerly direction 700 feet or to the Northerly boundary of lot 9-A-500, whichever occurs first. The remaining area of lot 9-A-500, not included in the area to be rezoned, would remain Rural. The purpose of the petition is to extend a Neighborhood business District fronting on Rt 111 in the Westerly area of the Town of Windham.

Chris Nickerson, Herbert Associates, showed two plans for the property, and stated that the change would be economically favorable because of the taxes it would generate. Mr. Zohdi stated the back of the property would remain rural.

Ms. Post read letters in opposition to the rezoning of 150 Rockingham Road from: 1) Melvyn Greenberg; and, 2) Rebecca Zachas.

The following members of the public spoke in opposition of citizen petition #5: Gary Curtis, 1 Faith Road; Joe Collins, 9 Galway Road; George Davidovich, 7 Galway Road; Melvyn Greenberg, 2 Shamrock Road; Suzanne Cormier-Liu, 119 Haverhill Road; Anita Basile, 10 Galway Road; Bruce Gordon, 3 Kendall Pond Road; Tracey Partington, 17 Galway Road; Meredith Hanson, 12 Galway Road; Daphne Kenyon, 11 Faith Road; Lewis Zachas, 22 Faith Road; Eric Hovling, 20 Kendall Pond Road; and Dan Bergstresser, 11 Galway Road.

Board discussion regarding the traffic on Rt 111, don't want to see Rt 111 become like Rt 28 in Salem, it would create extra tax revenue but it would cost the Town for services, the land owner does have the right to develop it, the requirements are different for Village Center District and Neighborhood Business District, the Galway Street connection could still occur with or without the zoning change, the zoning change is in keeping with the Master Plan, meet with the developer and neighbors to find what is best for the neighborhood, and development should be in keeping with the neighborhood.

Mrs. Crisler motioned to not recommend petition #5. Ms. Skinner seconded. Passed 7-0.

Mr. Okerman stepped down and Mr. LoChiatto rejoined the Board.

Mr. Turner **Citizen Petition #6** by Richard P. McCoy and others to request that the zoning map be amended by rezoning lots off Industrial Drive and Lampson Road (lots 13-A-120, 13-A-150, 13-A-155, 13-A-160, 13-A-161 and portions of lots 13-A-191, 13-A-196, 13-A-197, 13-A-198, and 13-A-290) to from Residential A to Limited Industrial.

Mr. Turner showed the area on the map, the Board sent the rezoning to warrant as a Planning Board amendment that duplicates this petition, there is an error in the Board's amendment, asked the Board to reconsider their Map Amendment #1 as the word "limited" was omitted. *Ms. Post recused herself and Mr. McLeod took over as Chairman. Ms. Gogumalla joined the Board.*

Board discussion regarding what happens if one passes and one fails, and if one passes the zoning goes through.

Public comment from Robert St. Laurent, Jr., 32 Range Road, discussed the previous meeting, was the previous vote valid as Ms. Post did not recuse herself until two votes had taken place, he objects to the petition and will make it well known, it will diminish the value of his property, and he was told before he bought his property the land would stay residential.

Ms. Post discussed her recusal, she did not have a legal obligation to recuse herself, as a practical matter she recused herself as she lives nearby, and would prefer a Neighborhood Business District rather than an Industrial District. Board discussion that it was the right thing for Ms. Post to do, not in favor of rezoning the "sliver", are there other ways to get to the property, and Maple Street would not be a practical access. Mr. Turner showed the area on the map and the properties to be rezoned. Board

discussion regarding the Maple Street right-of-way width is 40', there is a buffer requirement for different abutting zones, a road could go in no matter the zoning, consider rezoning the area to rural or residential in the future, and residential may not be practical as the property has frontage on Route 28.

Mr. LoChiatto motioned to recommend citizen petition #6. Mr. Kolodziej seconded. Passed 5-2. Mrs. Crisler and Ms. Skinner opposed.

Mr. LoChiatto motioned to reconsider prior motion regarding zoning map amendment #1. Mr. Kolodziej seconded. Passed 7-0.

Mr. LoChiatto motioned to amend the prior motion regarding zoning map amendment #1 by adding the word "Limited" in 2 places in front of the word "Industrial." Mr. Kolodziej seconded. Passed 5-2. Mrs. Crisler and Ms. Skinner opposed.

Ms. Post rejoined the Board. Ms. Skinner stepped down and was replaced by Ms. Gogumalla.

Mr. Turner read **Citizen Petition #7** by Robert Cookson and others to request the rezoning of 157 Rockingham Road, 159 Rockingham Road, and 151 Rockingham Road (lots 3-B-603, 3-B-605, and 3-B-401) from Rural to Neighborhood Business.

Mr. Turner stated it looks like spot zoning. The Board looked at the area on a map, discussion of the abutting zoning, and not being used as the highest and best use as homes.

Mr. Kolodziej motioned to move citizen petition #7 to warrant with recommendation of the Planning Board. Mr. LoChiatto seconded. Board discussion that the Board hasn't looked at this enough, the applicant is not present, and highest and best use of the land. Failed 2-5. Mrs. Crisler, Mr. McLeod, Ms. Prendergast, Ms. Post, and Ms. Skinner opposed.

Mrs. Crisler motioned to not recommend citizen petition #7. Mr. McLeod seconded. Passed 5-2. Mr. LoChiatto and Mr. Kolodziej opposed. Board discussion that staff should talk to the owners about bringing this to the Board next year.

Zoning Ordinance Amendments

Mr. Turner read **Amendment #1: Amend Section 200: Definitions:**

Amend Section 200: Definitions: *Change in Use of Structure* by adding the following definition "An extension, enlargement, and/or alteration of pattern of utilization of the structure or change in purpose for which the structure is used and which increases the total intensity use of the structure which results in one (1) of the following (i) a change in the nature and purpose of the prior use, (ii) constitutes a use different in character, nature or kind, (iii) results in a substantially different effect on the surrounding neighborhood."

Mrs. Crisler motioned to move amendment #1 to warrant. Mr. McLeod seconded. Board discussion that no public comment was asked for as there is no public present, and the word "intensity" is vague. Mr. Turner stated all the words are subject to interpretation. Passed 5-2. Mr. LoChiatto and Mr. Kolodziej opposed.

Board discussion regarding should the votes be printed, need to ask Attorney Campbell, and get the information for next year.

Mr. Turner asked the Board to reconsider **amendment #3** as there was a word omitted.
Mr. McLeod motioned to reconsider the Planning Board vote on amendment #3. Mr. LoChiatto seconded. Passed 7-0.

Mr. McLeod motioned to include the word “overlay” as noted (after the words “Route 28 Access Management”). Mr. LoChiatto seconded. Passed 7-0.

Mr. Logue explained the change to **amendment #7**, and he read the definition of watershed as “Watershed: A geographical area in which all water drains to a given stream, lake, wetland, estuary or pond. Within every watershed, water runs to the lowest point on that landscape – a stream, lake, wetland, estuary or pond.” (NH DES).

He then read the remainder of the amendment.

Amend Section 601.3.8 by deleting the current language thereof, and replacing it with the following:

“601.3.8 Driveway, streets and roads (hereinafter access ways) subject to the following:

The only buildable uplands available on the lot have no reasonable alternative means of access from any road, whether publicly or privately owned; and

The access way crossing is designed to minimize to the greatest extent possible any disruption of the W.W.P.D.; and

The length and design of the access way is the minimum length and width necessary to provide access to the proposed use through the W.W.P.D.”

Amend Section 601.3.9 by deleting the existing language and replacing it with the following: “601.3.9 Utility systems, including water, gas, sewer, electricity, telephone, cable and communication lines.”

Mr. Turner stated that the remainder of amendment #7 gives guidelines for Special Permits, and it is the same language from the site plan and subdivision regulations.

Mr. McLeod motioned to move amendment #7 to warrant. Mrs. Crisler seconded. Passed 7-0.

Mr. Logue read **Amendment #10: Amend Section 607: Flood Plain District**

Amend Section 607 by amending various subsections of Section 607 per the request of the National Flood Insurance Program (NFIP) and the Federal Emergency Management Agency (FEMA).

Amendments are required in order for Windham property owners to be eligible for FEMA’s flood insurance policy.

Mr. Turner stated that FEMA audits our ordinances and recommended these changes so the citizens of Windham could buy flood insurance.

Mr. LoChiatto motioned to move amendment #7 to warrant. Mr. Kolodziej seconded. Passed 7-0.

Mr. Logue read **Amendment #14: Amend Section 704.4: Limitations on Parking**

Amend Section 704.4.1 by inserting the following sentence “There shall be no parking of unregistered or uninspected vehicles in the required side yard, front or rear setbacks.” Amend by inserting the word “outdoor” before the word “parking”.

Board discussion of the where the word “outdoor” should be, and should the word “outdoor” be added to the title.

Mr. McLeod motioned to move amendment #14 to warrant including the word “outdoor” before the word “parking”. Mr. LoChiatto seconded. Passed 7-0.

Amendment #15: Amend Section 706.5.14: General Sign Regulations for Multi-Tenant Commercial Buildings

Amend Section 706.5.14 by deleting the current language thereof, and replacing it with the following:

706.5.14 Business Commercial A and B, and Gateway Commercial Limited Industrial, Neighborhood Business, Professional Business and Technology, and Village Center District; one unlighted on-premise temporary sign shall be displayed at a time, provided: 1) The temporary sign shall comply with the area, height, and setback requirements for a freestanding sign for the district in which it is located; 2) The temporary sign shall be securely anchored at a stationary location; non-motorized and non-moving; and shall not be lit or illuminated in any way; 3) Such sign shall not be displayed for more than 30 days in any calendar year; 4) Each temporary sign shall require a temporary sign permit, issued by the Code Enforcement Administrator; 5) The nature of allowed temporary signs shall be event related; and 6) One (1) sign per tenant per year.

No temporary signs shall be installed on any type of complex, except where defined elsewhere in this document, with two (2) or more tenant spaces or divisions. In case of a Unit, the temporary sign shall not be allowed if there exists a sign as described in Section 706.4.5 where changeable copy or print has been employed.

Mr. Turner stated that the titles of the zoning need to be fixed (as written above). Board discussion that it was readvertised because of a change at the last meeting, and the word “only” was removed.

Mr. McLeod motioned to move to ballot as amended to correct proper terms for districts. Mrs. Crisler seconded. Passed 7-0.

Mr. Logue read Amendment #17: Impact Fee Ordinance

Consolidating and replacing existing sections 715 and 718 of the Windham Zoning Ordinance. Under the authority of the ordinance, impact fee schedules and supporting documentation could be adopted or amended by the Board after a public hearing. The ordinance would enable the full range of impact fees authorized under RSA 674:21, V, and would serve to update existing ordinance provisions to reflect amendments made to that statute in 2004.

Amend Sections 715 and 718 of the Zoning Ordinance by the repeal and deletion of said articles, and to insert new Section “715 Impact Fee Ordinance”.

Mr. Turner stated this was recommended by our consultant, Attorney Campbell has reviewed, it merges the two existing ordinances, and he will be bringing a draft of a police and fire impact fee ordinance to the Board.

Board discussion regarding the appeals process comes before the Planning Board, there are no members of the public present to give public comment, the police and fire impact fee can be approved at a public hearing, and it doesn’t change the current legislation. Mr. Turner read the recommendations from the consultant and Attorney Campbell’s comments. Board discussion regarding Section 715.7.2, and impact fees for existing homes.

Mr. McLeod motioned to move amendment #17 to warrant. Mrs. Crisler seconded. Board discussion regarding methodology. Passed 5-2. Mr. Kolodziej and Mr. LoChiatto opposed.

Mr. McLeod motioned to readopt current methodology. Board discussion that the motion is not needed, and would like to discuss the appeals process at another time.

Mr. McLeod motioned to adjourn. Mrs. Crisler seconded. Passed 7-0. Meeting adjourned at 10:00 pm.

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