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COMMUNITY DEVELOPMENT

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Planning Board Minutes 8/4/10

Roll Call Planning Board:

Phil LoChiatto, Chairman - Present	Rick Okerman, Member - Present
Nancy Prendergast - Vice Chair- Present	Ruth-Ellen Post, Member - Present
Kristi St. Laurent, Member -Arrived at 8:00	Sy Wrenn, Alternate - Present
Pam Skinner, Member - Present	Bruce Breton, Selectman Member - Present
Louis Hersch, Alternate - Excused	Lee Maloney - Alternate - Excused
Bruce Richardson - Alternate -Present	Ross McLeod, Selectmen Alternate Member - Excused

Roll Call Zoning Board:

Mark Samsel - Chairman - Present	Elizabeth Dunn - Member - Present
Tom Murray - Vice-Chairman - Present	Heath Partington - Member - Present
Dianna Fallon - Secretary - Present	Mike Scholz- Alternate - Present

Staff:

Laura Scott, Community Development Director - Present
Elizabeth Wood, Community Planner - Present
Tracey Mulder, Planning Assistant - Present

Call to Order/Attendance/Pledge of Allegiance

Chair LoChiatto opened up the joint meeting at 7:00 followed by the Pledge of Allegiance.

Mr. Bruce Richardson is seated for Christi St. Laurent.

Planning Board & Zoning Board of Adjustment Joint Hearing

Location: Lot 19-A-801 (70-85 Brookview Road, Buildings #6 & #7)
Zoning: Residence C & WWPD Zoning Districts
Applicant: Peter Zohdi, Edward N. Herbert Assoc, Inc. on behalf of Windham Meadows I Condo Assoc, Barbara Danais, President

Nancy Prendergast read the hearing into the record:

ZBA Case #39-2010. A Variance Application has been submitted requesting relief from Section 601.4.6 of the Zoning Ordinance to allow a proposed leach bed to be 115' +/- from Beaver Brook and the edge of fill to be 100' from Beaver Brook within the WWPD.

Mr. Peter Zohdi, of Herbert and Associates addressed the Board and noted

Mr. Samsel noted the procedures for the Zoning Board of Adjustment hearing.

Ms. Fallon read the abutters notices into the record.

Mr. Peter Zohdi thanked the Boards for joining together to speed up the process. Mr. Zohdi provided a brief overview of the condo unit and noted that the leach beds are in failure and identified on the site plan the proposed location of the new leach beds.

The proposed leach bed and associated grading for this site will have the necessary erosion control measures installed prior to the start of construction and will not contribute to surface or groundwater contamination nor reduce surface or groundwater supplies. In addition, the leach bed and associated grading is on dry land, and will not interfere with the preservation of wetland areas and will not prevent nutrient absorption or augmentation of any stream flow during dry periods. Further, the proposed leach bed and associated grading are appropriate and safe uses within the WWPD and this has been determined to be the best possible location.

Mr. Zohdi said the proposed septic systems are not in compliance with the WWPD because they will be closer than 150' to Beaver Brook and the edge of fill will be 100' from Beaver Brook which is why he is requesting a variance from section 601.1.1. Mr. Zohdi read the five criteria for the variance request into the record and believes that he meets all 5.

The following material has been provided for the Boards review and consideration:

1. The variance application
2. A Copy of the applicable sections of the WWPD Zoning Ordinance
3. Plans showing site plan, new septic design, and pictures of the property

Ms. Dunn asked if other leach beds on the property were in failure and what would happen if this occurred. Mr. Zohdi said that there are various reasons why a system fails and an Elgin system often fails after seven or eight years.

Ms. Dunn wanted to know if the ZBA grants this variance, and other systems fail is there room on the property to replace other septic systems without impacting the WWPD. Mr. Zohdi explained where the current septic systems are located and if they needed to be replaced in the future, where they could possibly be located without impacting the WWPD. In addition, Mr. Zohdi indicated they will be leaving the saturated septic system alone.

Ms. Dunn asked if Mr. Zohdi had supplied the homeowners with information on how to care for their septic systems to alleviate failures. The state does have pamphlets on how to care for septic systems and he will provide these pamphlets to the residence of the condo.

No more questions from the Board.

Mr. Samsel asked if anyone in the public would like to speak in favor or opposition of the Special Permit application.

Alan White, 26 Sullivan Road, Hudson, an abutter to the property addressed the Board and outlined his objections for the new septic system location:

1. The new septic system will be in the WWPD.

2. This was not part of the 2004 originally approved site plan.
3. May set a precedent for future failed systems to be in the WWPD.

Mr. White went on to say he believes the location is a poor choice for the septic system because Beaver Brook floods often and this has him concerned. He also doesn't believe that the plan would have been originally approved if this had been proposed then.

In response to Mr. White's points, Ms. Dunn said it is the Boards responsibility to review the case in view of today's circumstances and not as it was when the site was originally built. And, granting one variance does not mean that all other variances will be granted should they be brought before the Board.

Gary Carney , 22 Sullivan Road, Hudson concurred with Mr. White's comments noting this past spring there have been three floods in this area. In response, Mr. Zohdi said that Beaver Brook will not have the level of flooding the abutters are concerned about due to the elevation of the proposed system, which is approximately 22 feet above the brook.

Mr. Bill Evans, of Bill Evans Engineering, addressed the Board saying in the past he has seen problems with systems becoming saturated and they have a difficult time drying out which is why this particular septic systems needs to be replaced and relocated. He went on to explain how the new system will be properly graded and the likelihood of a system failure is improbable.

Motion by Ms. Dunn for the ZBA to go into deliberative session. Second by Mr. Partington. Motion passed 5-0.

Mr. Tom Murray indicated he does not have an issue due to the soil types, and because this type of work is his livelihood, he understands this new sytem will not impact the WWPD.

Mr. Partington said the critera provided provides substantial justice and hardship and beleives this is the best place for the leach bed.

Ms. Fallon said she was having difficulty with the hardship criteria with the issue being buildings six and seven are not unique in comparison to the other buildings on the site, other than their proximity to Beaver Brook.

Ms. Dunn noted that she understands the abutters concerns and thinks their concerns need to be taken into consideration. However, she does not think that flooding will be a concern, and the situation does prove a hardship and it is in the spirit of the ordinance. In addition, she does not think property values will be diminished and is in favor of the variance.

Mr. Samsel thinks this is a hardship and is in favor of allowing the variance.

Mr. Murray motioned to approve case 39-2010 as requested from variance 601.4.6 per the plan submitted. Second by Ms. Dunn. Motion passed 5-0 with a 30 day appeal period.

Ms. Dunn motioned to adjourn the Board of Adjustment portion of the joint meeting at 7:45. Second by Ms. Fallon. Motion passed 5-0.

The Board took a 5 minute recess at 7:45.

Planning Board Case #2010-19. A WWPDP Special Permit Application has been submitted to construct a leach bed partially within the WWPDP.

Ms. Laura Scott addressed the Board noting the memo in their packet dated July 13, 2010, outlining the special permit request, copies of the site plan, and pictures of the site.

Mr. Breton said that the Board has heard enough of the case based on the ZBA discussions.

Mr. Breton made a motion to hear the WWPDP Special Permit Application. Second by Okerman. Motion carries 7-0.

Mr. Peter Zohdi of Edward Herbert and Associate explained the septic system failure to the Board again and that he is in front of the Board for a special permit.

Ms Post asked if the application had been submitted to the Conservation Commission and Ms. Scott responded that the information had been provided to them but that the Commission had cancelled the meeting.

Chair LoChiatto opened the WWPDP Special Permit Application to the public and hearing no public comment, closed the hearing.

Ms. Post clarified with Mr. Zohdi that the new septic system will not be Elgin but rather Enviro and will not be located underneath asphalt but in the grassed area. Mr. Zohdi confirmed.

Motion by Mr. Breton to grant a Special Permit to Windham Meadows Condo Association for Lot 19-A-801 for building 6 and 7 meeting the following zoning criteria in sections 601.1.1, 601.1.2, 601.1.3, 601.1.4, 601.1.5, 601.4.6 and 601.4.8 in the letter dated July 13, 2010. In addition, it should be noted that other alternatives have been explored and the proposed location for the new septic system is the best available option. Second by Mr. Richardson. Motion passed 7-0.

Planning Board Public Hearings Case #2010-18, Minor Site Plan/Change of Use

Ms. Prendergast read the hearing into the record.

A proposal for a Minor Site Plan/Change of Use Application has been submitted for Lot 17-L-15 (112 Range Road), which is located in the Rural District and Cobbetts Pond Watershed Protection Overlay District. The applicant, Karl Dubay of The Dubay Group, Inc., on behalf of the owner, T & K Range Road, LLC, is proposing to convert a single-family residence into a professional office. The proposal is to restore the structure, demolish an existing enclosed porch and construct a covered porch for proposed handicapped access ramp, install 2 pervious brick parking spaces, a pervious brick walkway, and reduce the lawn area to comply with Cobbetts Pond Watershed Protection Overlay District requirements. There will be no increase to building size or impervious area.

Kristi St. Laurent was seated at 8:00PM and Mr. Richardson stepped down.

Mr. Karl Dubay, of The Dubay Group, addressed the Board noting he has received the required variances to convert this building from residence to business district. There will be a historic restoration of the property and all permits have been approved.

Robin Young, North Star Financial Planning, provided the Board with an overview of her business and her intent to restore the building while preserving the architecture.

Mr. Dubay explained to the Board that the application conforms to the Cobbetts Pond Overlay District Ordinance.

Ms. Post asked Ms. Young if the building would also become her residence and Ms. Young responded that she has another residence in Windham, and this is for business purposes only and she currently has three employees who will be working at this location.

Ms. Prendergast made a motion to hear case 2010-18 as a Minor Site Plan/Change of Use. Second by Mr. Breton. Motion passed 7-0.

Mr. Dubay noted the variances granted by the ZBA from sections 401, 501, 602.1 and 704.2.7, 602.2 and 702.5. In addition, a NHDOT Driveway permit has been issued.

Ms. St. Laurent asked if Mr. Dubay was adhering to the 10% lawn criteria of the Cobbetts Pond Overlay Protection. Mr. Dubay indicated that they were at 10% lawn coverage.

Mr. Dubay explained to the Board the type of landscaping design he intends to create on the property keeping it in line with the architecture and aesthetic of the existing building. Chair LoChiatto noted he wants to ensure that the property will continue to be maintained and to ensure that the 10% lawn coverage of the Cobbetts Pond Watershed Protection Ordinance is adhered to.

The Board asked if all the parking spaces delineated on the plans were necessary. Mr. Dubay responded the number of parking spaces is necessary for the employees and their clients and in addition, the two ADA parking spaces are a requirement.

Chair LoChiatto opened the Change of Use/Site Plan to the public.

Mr. Dick Juszczak, Castle Hill Road, addressed the Board asking what the definition of what makes a home historic and Mr. LoChiatto responded that the Planning Board does not have a specific definition but the Heritage Commission has the definition as any properties designated by the State of NH prior to 1946. Ms. Skinner said the house on 112 Range Road was built in 1780 and would qualify as historic.

Chair LoChiatto closed the Minor Site Plan/Change of Use to the public.

Mr. Breton made motion to approve the Minor Site Plan/Change of Use Application with the conditions that the parking lot lights proposed and public safety impact fee will be added to the plans. Second by Ms. Post. Motion passed 7-0.

Case #2010-15, Woodside North Development (14-B-2800)

Ms. Prendergast read the application into the record.

A Final Subdivision Application has been submitted for Lot 14-B-2800 on London Bridge Road, which is located in the Rural District. The applicant, Peter N. Zohdi of Edward N. Herbert Associates, Inc., on behalf of the owner, Kerry McKenna Revocable Trust, is proposing to subdivide the lot in to 10 building lots for single-family residential homes.

Mr. Peter Zohdi of Edward Herbert Associates addressed the Board and explained the proposed subdivision. Mr. Zohdi explained to the Board that he has addressed the previous concerns raised by the Assessing Department, Fire Department, Police Department and Planning Staff.

Motion to accept case 2010-15 Subdivision Plan lot 14-B-2800 for public hearing by Mr. Breton. Second by Mr. Okerman. Motion passed 7-0.

Chair LoChiatto read the waiver request into the record.

Mr. Zohdi explained that he is requesting a waiver from the Windham Subdivision Regulations Section 701.2 to not submit a drainage plan and Section 701.1.4 to not submit a copy of drainage design calculations due to the fact there are no new roads proposed at this time.

Mr. Breton made motion to approve waiver request from the Windham Subdivision Regulations sections 701.2 and 701.1.4. Second by Mr. Okerman.

Discussion: The Board requested that the motion reflect Mr. Zohdi's testimony that London Bridge is an existing road and no additional drainage will be added. Motion passed 7-0.

Mr. LoChiatto opened case 2010-15 Subdivision Plan to the public and hearing no public comment closed to the public.

Motion to approve case 2010-15 Subdivision Plan for lot 14-B-2800 as presented by Mr. Breton. Second Mr. Okerman. Discussion: The Board clarified with Mr. Zohdi that the stonewalls on the property will not be removed from the site. Motion passed 7-0.

Case #2010-16, Woodside South Development (20-D-2300)

Ms. Prendergast read the hearing into the record.

A Final Subdivision Application has been submitted for Lot 20-D-2300 on London Bridge Road, which is located in the Rural District and in the WWPDP. The applicant, Peter N. Zohdi of Edward N. Herbert Associates, Inc., on behalf of the owner, McKenna Revocable Trust, is proposing to subdivide the lot into 6 building lots for single-family residential homes.

Mr. Peter Zohdi of Edward Herbert and Associates addressed the Board and explained that all the zoning and subdivision requirements have been met along with NHDES, Assessing Department, Fire Department, Police Department and Planning Staff.

Motion by Mr. Breton to accept Case 2010-16 Subdivision Plan lot 20-D-2300 for public hearing. Second Mr. Okerman. Motion passed 7-0.

Mr. Zohdi explained that he is requesting a waiver from the Windham Subdivision Regulations Section 701.2 to not submit a drainage plan and Section 701.1.4 to not submit a copy of drainage design calculations due to the fact there are no new roads proposed at this time.

Ms. Post made a motion to approve the waiver request from the Windham Subdivision Regulations sections 701.2 and 701.1.4. Second by Mr. Breton.

Discussion: The Board requested that the motion reflect Mr. Zohdi's testimony that London Bridge is an existing road and no additional drainage will be added. Motion passed 7-0.

Chair LoChiatto opened the hearing to the public and hearing no public comment he closed the hearing to the public.

The Board had a brief discussion on the proposed and existing slope easements on the site.

A motion by Ms. Prendergast to approve Woodside South Subdivision lot 20-D-2300 per plan submitted. Second by Mr. Breton. Motion passed 7-0.

Meeting Minutes Review and Approve

Motion to approve the June 30, 2010 minutes as written by Ms. Prendergast. Second by Okerman. Motion passed 6-0-1. Ms. Post abstained.

Motion by Ms. Skinner to approve the July 21, 2010 Site Walk minutes as amended. Second by Ms. Post. Motion passed 5-0-2. Ms. Prendergast and Mr. Okerman abstained.

Motion to approve the July 21 minutes as amended by Ms. Post. Second by Ms. Skinner. Motion passed 5-0-2. Ms. Prendergast and Mr. Okerman abstained.

Community Planners Report

Ms. Wood provided the Board with her weekly work report.

Community Development Director's report.

Ms. Scott provided an update on the Bachman case.

Motion to adjourn at 9:15PM by Mr. Breton. Second by Mr. Okerman. Motion passed 7-0.

These minutes are respectfully submitted by Tracey Mulder.