



*OLD VALUES - NEW HORIZONS*  
**COMMUNITY DEVELOPMENT**

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**Planning Board Minutes**  
**August 31, 2011**

**Roll Call:**

Ruth-Ellen Post, Chairwoman-Excused  
Margaret Crisler, Vice-Chair-Present  
Pam Skinner, Member-Excused  
Kristi St. Laurent, Member-Present  
Carolyn Webber, Member-Present  
Jonathan Sycamore, Member-Arrived 6:48 pm

Ross McLeod, Selectman Member-Excused  
Kathleen DiFruscia, Selectman Alternate-Present  
Lee Maloney, Alternate-Excused  
Sy Wrenn, Alternate-Present  
Rob Folan, Alternate-Excused  
Vanessa Nysten, Alternate-Present

**Staff:**

Laura Scott, Community Development Director  
Mimi Kolodziej, Planning Assistant

**6pm Call to Order/Attendance/Pledge of Allegiance**

Vice-Chair Crisler called the meeting to order at 6:10 p.m followed by the attendance and the Pledge of Allegiance.

Vice-Chair Crisler appointed Mr. Sy Wrenn to be seated for Chairwoman Post and Ms. Vanessa Nysten to be seated for Ms. Skinner.

**Design Review Regulation Workshop**

Ms. Fitzgerald introduced herself and asked for the Board's input on how these Design Regulations pertain to the PB&T and Neighborhood Business Districts.

- Ms. Scott noted that the same principals and standards in the document apply to both the Gateway and PB & T Districts as they are currently written.
- Ms. Nysten asked if the Board wanted the regulations to apply to all of the PB & T District or just that around the Gateway.
- Vice-Chair Crisler recommended that it apply to all of the PB & T District.
- Ms. Webber was under the assumption that the Design Regulations were for all the Town Districts.
- Ms. Scott explained that the contract was for three Districts: Gateway, PB & T and Neighborhood Business District.

The Board felt the best way to review the document was to go page by page with suggestions, edits and questions.

Ms. Fitzgerald drew the Board's attention to page 3, the first item. If the Board wanted to put in a policy statement, this might be the location. The Board agreed unanimously that they did want this in the document.

- Ms. Nysten, referring to page 5, Section 400, would like the following language added toward the end of the third sentence: "transition from commercial districts to neighboring districts," ...and landscape design.

- Ms. DiFruscia, referring to section 402.6, would like the language softened to, "...and may include window boxes..."
- Ms. St. Laurent, referring to 402.1, would like the language to be more specific.

Ms. Fitzgerald, referring to 402.1, explained that it would depend on the right-of-way in the District. There are different categories. She referred the Board to the sketch on page 11 and explained that situations will always be different. It will be up to the Board to make those determinations. Ms. Fitzgerald said that the road right-of-way would determine the building setback.

- Ms. Difruscia would like to add the language "where applicable" to give flexibility on where septic systems are or need to be.

Ms. Fitzgerald had gone on the assumption the Board wanted clear standards for their regulations.

- Ms. St. Laurent, referring to the place in the Draft where it states placing the building up close to the property line, would like a clearer word picture to help clarify. Ms. Nysten suggested a picture and referred to the one on page 11. Ms. Fitzgerald will add a graphic.
- Ms. Nysten, referring to 402.3, asked if the Board wants to require all buildings to be close to road. It may not always look good to have them all lined up.
- Ms. St. Laurent offered that someone may want to re-purpose an older building with a tractor out front, for example. But with a new building, the Board may want to keep parking out back.
- Ms. DiFruscia said that the caveat would be that as long as it is in the spirit and intent of the regulation, considerations would be given. This would allow for individual issues.
- Ms. Fitzgerald explained that all projects may not meet all the requirements.
- Ms. Webber, referring to 402.4, would like to see the words, "...but not necessarily connected," added to sentence 1 under 402.4.'
- Ms. Nysten said that large buildings may want to be away from the road with more green in front.
- Ms. Fitzgerald said that it may be a Board call at the time of the project.
- Vice-Chair Crisler said that the Board may not want to see this mandated.
- Ms. Scott suggested resolving this concern by saying "no parking in front."
- Mr. Wrenn asked Ms. Fitzgerald how she sees the applicant realizing these regulations.
- Ms. Fitzgerald said that: Typically Towns and Cities have another committee that pre reviews the project's Design. The Developer reads through the zoning and site plan and presents a plan.
- Then there is a pre-meeting before presenting if formally to the Board. The Board then decides whether the plan is working; does the design meet the intent of the Guidelines.
- The Design Review Committee would make recommendations to the Board. It helps with the process if this committee is composed of design minded volunteers.
- Mr. Wrenn likened it to the TRC where the effort is to how best accommodate the applicant and the regulation, but not meet every single regulation point.

**Page 6 -**

- Ms. Difruscia likes 403.2.5 but thinks it may be costly to the taxpayer to create bike routes or connection.
- Ms. Fitzgerald will add the word "existing" in front of bike routes.

**Page 7- No comments**

**Page 8 -**

- Ms. DiFruscia, referring to 405.2.3, Building Entrances, said it was unclear where the weather protection was to be. Ms. Fitzgerald said that the Board would want the language available should sidewalks develop.

**Page 9 -**

- Ms. Scott noted a typo on the word Canobie and NHDEP should read NH DES. Under 406.2.3 the words “or residential qualities,” should be deleted.
- Ms. Fitzgerald will edit.

Mr. Sycamore was seated at 6:48 p.m.

**Page 10 -** Ms. DiFruscia said that the Stormwater Section is very good. Ms. Nysten suggested enlarging the pictures with the extra space on the page.

**Page 11 -** No comment

**Page 12 -**

- Ms. Webber would like to see the following language added to 502.5: “stonewall preservation is encouraged.”

**Page 13 -**

Ms. Fitzgerald added quite a few new items in this section. She said the Board would need to think about style of architecture as they move into different Districts.

- Ms. DiFruscia agreed and thought that an industrial area or an area set aside and not near a residential area, the Board may need to include some flexibility with design standards. She is not opposed to modern architecture and lots of glass and thought consideration may be needed to allow for more flexibility with some interesting design variations.

Ms. Fitzgerald attempted to address this in Section 600 under Goals on page 13.

- Ms. Nysten said that pictures may better explain this flexibility.

**Page 14 -**

- Ms. DiFruscia, referring to 602.9, would like more definition with positive, visual examples.
- Ms. Webber, under 602.5, would like to add, “...and archeological elements are encouraged to be preserved and/or redeveloped,” in the sentence.
- Mr. Sycamore asked if Towns ever offer incentives to developers to encourage preservation of historical elements.
- Mrs. Scott responded that they do but it is usually placed in a separate document. The Planning Board can have incentives for preserving historic structures, for example, reducing parking requirements. It would be done through the regular site plan regulations or through Zoning amendments. Ms. Scott suggested a waiver provision. The Board agreed.

**Page 15 -**

- Ms. Nysten, referring to 603.1, questioned whether the largest part of the roof should be required to be at the front and suggested that having different roof lines is more interesting.
- Ms. Fitzgerald will clarify this section with a simple line graphic here.

- Ms. Webber would like to add the language: “a building on large lots may be sited close to each other to encourage shared parking and pedestrian use.”

**Page 16 -**

- Ms. Difruscia, referring to 605.4, thinks that façade limitations may confuse the various uses the building may be put to. Town may need waivers in this area.
- Ms. Fitzgerald explained that it eliminates a huge 300 foot lawn façade presence.
- Ms. Nysten asked that Ms. Fitzgerald provide a visual example.

**Page 17 - No Comments**

**Page 18 -**

- Ms. Webber would like to add the following language to 608.4, “with transoms and full or half side lights.”

Ms. Fitzgerald will add the word, “may also” to provide a choice.

**Page 19 -**

- Ms. Nysten requested that the word “garages” be eliminated from 610.6.
- Ms. St. Laurent asked if the Town wanted to have lights on timers that relate to the hours of operation.
- Ms. Scott explained that in the Business District lights are off by 10 p.m. and in the other Districts lights are off when the business closes.
- Ms. Difruscia mentioned that hospitals and clinics may need lights on longer.
- Ms. Scott will check zoning regulations which would supersede design guidelines.

Vice-Chair Crisler opened workshop to the public.

Mr. Paul Gosselin, Windham resident and developer, understands the Town’s intent to keep the Town aesthetically pleasing with design standards, As a developer, however, he would never develop in Windham because what he was hearing is very restrictive. He explained some of the issue:

- A shared driveway or parking lot causes problems because of liability issues. Who is responsible and who will maintain and repair the property.
- He thinks the Town should consider developers and be inviting and cordial to them.
- Green space in front to hide an ocean of pavement is great; however, it doesn’t consider the terrain of the lot and wetland feature that prevent lining up buildings.
- ADA priority - If the main entrance is in front and parking is in back, a disabled person must go around the building to enter.
- Colors. At UNH they enacted the same historic color schemes. Historical colors are bright and may not be aesthetically pleasing.
- Regarding the “only vertical granite curbing” regulation. Why not sloped curbing? The price differential between sloped and vertical is significant along with other benefits.

He cautioned the Board about creating rules and regulations that create problems. The Town should create Guidelines that work with developers. The Board does not want steer off developers who would like to work with the community.

- Ms. Scott asked for an email of his comments for the Board and file.
- Ms. Betty Donovan cautioned the Town to be careful and not overdo it.

- Ms. Scott noted the next workshop is at 6 p.m. on September, 21 and will include all Ms. Fitzgerald's edits and the Neighborhood Business District regulations.
  - Ms. Scott will include the process and adoption piece
  - The hope is for adoption in October or early November.
  - Mr. Gosselin's comments can be a discussion point at the next meeting.

Vice-Chair Crisler closed the workshop discussion to the public.

- Mr. Wrenn reminded Ms. Fitzgerald that the Board would like feedback regarding the Neighborhood Business District.
- Ms. Fitzgerald is working on that and asked the Board how these apply to the PB&T District. She does not have a clear vision of what the Board wants for the NBD.
- Ms. Scott said that the NBD is all over town.
  - Their commonality is that they all about neighborhoods or areas zoned rural.
  - Their allowed uses are much more restrictive,
  - They have a smaller footprint, smaller uses
  - She suggested Ms. Fitzgerald look at what is allowed in those zones and that might help drive her design guidelines.

Vice-Chair Crisler called a 5 minute recess at 7:30 p.m. The Board reconvened at 7:37 p.m.

Vice-Chair Crisler announced that the following hearing is a non-binding public hearing. If the public wishes to comment, they should attend the Board of Selectman meeting on 9/12. The BOS is the deciding body.

### **Public Hearings**

#### **Case#2011-28/Major Site Plan/Griffin Park Parking**

Per Section 712 of the Zoning and Land Use Ordinances a Major Site Plan Application has been submitted for 111 Range Road (Lot 22-R-900) located Rural District. The applicant Peter Zohdi of Edward N. Herbert Associates, Inc., on behalf of the owner, the Town of Windham, is proposing to expand the current parking lot by approximately 115 paved parking spaces. As part of the proposal the applicant would relocate the existing parking lot lighting, fencing, and stone walls. Some tree removal would also be necessary and a bio retention area will be added to accommodate drainage.

Mr. Wrenn read Case #2011-28 into the record.

**Ms. Webber motioned to open the public hearing and was seconded by Ms. DiFruscia. The motion passed: 7-0.**

Mr. Peter Zohdi, of Herbert Associates, introduced Mr. Charlie McMahon of Windham who introduced a brief history of the creation of Griffin Park and went on to state:

- That it is now in such demand that the current parking is insufficient.
- Public safety is the driving factor behind the need for additional parking.
- Mr. McMahon displayed pictures showing cars parked on both sides of road which is now restricted.
- He personally counted between 72 and 89 additional cars outside the full parking area.
- Originally, parking was designed for 175 spots, but due to money concerns was reduced by 50 spots.
- Currently, access to the parking lot is from 3 directions which can be confusing to children who traditionally only look 1 way when crossing the lot.
- The Middle curb cut will now be gated for maintenance/service use only. Three pictures with 3 different gate selections were passed around for Board approval.
- There will be one entrance at the Johnson Farm end of the lot and one exit at other end.

- The stone wall remains, yet it may need some adjustment and improvement. The prior discussion was in error.
- He hopes to move cement squares to either side of the entrance.
- Some trees will be affected, but not all of them. Some have had major branches downed after the storm and are dying.
- The earlier and current proposals want to replace and plant 18+ foot tall maple trees in the greenway space, 13-14 feet from the road. The goal is to keep what is there, but be safe. Safety must trump trees that cannot last forever.
- Plans are to add just over 100 spaces by moving the exiting post and beams up to the walking path.
- The proposal is to move the monument to the entrance where it can be visible to everyone entering the park.
- The current 8 light stanchions will be moved back. There is room in the green area.

Vice-Chair Crisler opened discussion to the Board.

- Ms. DiFruscia, at a Board of Selectman meeting, had raised the question of the stone wall and trees.
- The current plan does not show the wall or the trees.
- She remembered from that meeting that both were to be removed and is now confused.
- As far as the plan, she thinks it is safer to have more parking; voters voted for more parking; especially now that the stone wall and large trees will remain.
- Mr. McMahan replied that he never stated the stone wall was to be moved.
- Ms. DiFruscia questioned the absence of the wall on the plan.

Mr. Zohdi said that Ms. DiFruscia is correct;

- From day 1 the wall has been shown as an existing condition on the plan.
- At 1 p.m, that day, he measured the stone wall and found that it is an average of 2 feet (between 24 and 30 inches) from the edge of the pavement.
- He offered to place a bumper block where the stone wall is closest to the pavement so it will not be hit.
- In reference to the trees, some of the trees are dying. Even if they attempt to save them now, the construction process may get at the roots.
- He has been working hard with the Cobbett's Pond Assoc. and believes they have given their blessing after reviewing the drainage solution.
- He has submitted to DES for an alteration of terrain.
- He has not submitted to DOT for the entrance.
- Existing parking is 122; proposed parking is 235.
- Ms. DiFruscia said that when she was at the BOS meeting, she saw the drainage plan. She questioned that if the wall remains, does it affect the drainage design.
- Mr. Zohdi explained the drainage plan and offered to re-design the bio-retention area to save the large willow tree on Ms. DiFruscia's property, if it can be saved.
- Mr. Zhodi explained that most of the wall is falling down onto Ms. DiFruscia's property.
- Mrs. DiFruscia noted that if the wall is to be removed, State permission must be gotten because the property line runs down the middle of the wall.
- Mr. Zohdi noted that the plan shows a narrow wall which, in reality, is now larger because of the fallen rocks. The center line of the wall is the boundary between State and Town.
- Mr. Sycamore stated that
  - if the warrant article about the parking expansion had been worded less vague, it would not have passed.
  - The picture of cars parked on both side of the street is no longer valid.
  - If expansion is completed, where will the overflow parking go then? What is plan B?

- Mr. McMahon stated that 3-4 times a year, during special events, is when there is the greatest need for parking. Folks find other places to park. For example, at the town beach, a shuttle is called into service. The Recreation Department has shuttle service from The Common Man to the Park when needed.
- Mr. Sycamore asked why the parking is being sized for these 3 yearly events. He wanted assurance this is the best option. He asked about an easement to enter from another side.
  - Mr. McMahon said that an unofficial path off Squire Armour Road had made the residents very upset. Also, it is a vertical climb for senior and handicapped people and crossed wetlands.
  - Ms. Webber could not agree and noted that it is not a steep climb; it is flat.
  - Mr. McMahon stated, with no disrespect, that it would be an impossible climb for an elderly or handicapped person and restated that it went through a wetland and upset the local residents.
  - Ms. Nysten, referring to the 3 gate photos that Mr. McMahon had passed around, stated that she preferred the white fence.
  - Ms. Webber agreed with Ms. Nysten's choice and asked Mr. McMahon to confirm that the stone wall would be kept.
  - Mr. McMahon stated that if the wall moves at all, it will move back to accommodate the pavement.
  - Ms. DiFruscia said she was confused. She had understood that the stone wall would be staying in place and would be repaired when funds became available.
  - Mr. McMahon noted that some of the stones are falling down and sections may need to be moved during construction to maintain the property line.
  - Ms. Webber clarified that she was hearing that the wall will remain in place but some of the fallen stones will be moved. She asked if there is an effort to try to keep the large willow tree.
  - Mr. Zohdi thinks he can salvage the willow tree.
  - Ms. Webber explained that there is an existing 36 inch triple maple which is growing out of and is in the stone wall. She sees no reason why that tree needs to be removed because the stone wall is not being removed.
  - Ms. Scott explained that the tree and wall have become one.
  - Mr. McMahon said that the tree would remain.
  - Ms. Webber asked further about an ash tree which is also in the wall.
  - Mr. McMahon said that it is his view to try to keep them, but that safety is the first consideration. He does not see that these two are affecting public safety.
  - Ms. Webber confirmed that the ash tree, the 36 inch maple, and possibly the 24 inch and 18 inch oaks are all staying because they are all located in the wall.
  - Ms. DiFruscia would like to see the trees saved, but understands there are no guarantees. Paving over the root system may damage some trees beyond saving.
  - Ms. Webber clarified that the Town is adding 115 parking spaces for approximately 5% of the time the park is in use.
  - Mr. McMahon corrected the number of parking spaces; there will be 113 spaces. Parking is planned for the highest use, not the daily use. This is what the site allows without encroaching on the DMZ line.
  - Ms. Webber agrees more parking is needed. She asked about scheduling more time between games.
  - Mr. McMahon said it is not the games, it is the special days. The goal for Griffin Park was not to be exclusively a sports draw, but for everyone. And now there is a need for more parking and improved access.
  - Ms. Webber asked if the right-of-way on Squire Amour can be used for overflow.
  - Mr. McMahon said the discussion was moot because there are 8 acres of conservation land.
  - Ms. Scott explained that the DES had required the Town to set aside these 8 acres abutting the Park as a conservation easement.

- Ms. St. Laurent discussed the car count. It seems that spots are a little tight. The main access to the play area seems wide. Do ambulances need to access the pathway?
- Mr. McMahon said that over the past 10 years, an ambulance had been called 1 time onto the back fields.
- Ms. St. Laurent is concerned about widening the access so the emergency vehicles do not have to make a 90 degree turn. Do we need every parking space?
- Mr. Zohdi offered to work on that and maybe lose a space here or there. This is a consideration the BOS will look at.
- Ms. Scott confirmed that Ms. St. Laurent meant the access by the monument and referred the Board to Chief McPherson's memo where he recommends reducing the parking spaces at the Service Access.
- Mr. Zohdi will widen the access lane by a foot. He also mentioned the scale is different from one plan to another and may look smaller on one plan than another. He did this so he could get the plan on one sheet.
- Mr. McMahon had met with the Chief regarding this issue. There will be a 20 foot separation between linear parking spots. The Chief supported this design.
- Vice-Chair Crisler confirmed that there would be 20 ft in-between cars.
- Mr. Zohdi mentioned that the lot will now be a one-way lot.
- Ms. St. Laurent wanted to know how much space would be left between Range Road and the green space.
- Mr. McMahon said that he wants to plant maples there. With parking available, there will be no need to park outside.
- Ms. St. Laurent expressed concern about the residential house across from north end of the park toward Johnson Farm side across the street. She is concerned about them looking out onto pavement, parking, or lights.
- Mr. Zohdi said he could not answer her concern. He will look into it.
- Mr. Breton explained that without any changes, the house currently looks out on parked cars on both sides of street. These cars will now go to parking spaces, and the car lights that used to shine into that house as they exited the lot, will no longer. It will be an improvement. Also, cars will no longer park on Sawyer road which is a private road.
- Ms. Crisler asked about adding trees and where these trees would be positioned. Mr. Zohdi cannot answer that.
- Mr. McMahon responded that they will be getting 5-6 large maples, and they will be centered in the green space area between the end of the Range Rd pavement and the parking lot pavement.
- Ms. Scott explained that the BOS summary should include where the trees need to be planted.
- Ms. Crisler asked if an arborist had been consulted.
- Mr. McMahon said that no arborist had been consulted, but they are hoping to get one to address the trees currently in disrepair. Mr. Boidon is not an arborist, but has planted those trees and maintained them.
- Vice-Chair Crisler wants to recommend to the BOS that an arborist be consulted on selection and placement of the new trees and to evaluate the existing trees.
- Mr. Sycamore requested that the BOS request an artist's rendering.
- Mr. Zohdi said that there would no artist's rendering.
- Mr. Sycamore said that it should not be difficult to do a rendering so one can see what it looks like when you drive past.
- Mr. Zohdi needs to know what the BOS wants him to do.
- Mr. Breton explained that Mr. Zohdi was hired to do engineering and geotech. Any other requests come out of the budget.
- Mr. Sycamore said that the vote which passed by 100 was tight.
- Mr. Zohdi explained that his company does not have an artist on staff. They would have to hire one.
- Mr. Sycamore said that if you were to mark the trees and area, people might ask what is going on.



- Mr. Breton explained it is expensive and difficult to get an artist's rendering, and it might be wiser to let the arborist decide where to place the trees for safety and longevity. Mr. Jay Yennaco of Delhanty's Nurseries has volunteered 10K worth of additional trees.
- Vice-Chair Crisler said that there is room for trees on the other side of the walkway. She suggested the BOS consider placing trees there.
- Mr. McMahon said that the original plan has that and right now, it is a matter of cost. Asphalt is very expensive. The cost of the wall repair was a shocker.
- Referring to the Service Entrance fence, the Board agreed unanimously with the white wood-like option.
- Mr. Breton said that part of the tree donation is planned for the back of park where the T-ball field is.
- Ms. St. Laurent asked about the other trees near the willow. Do they have to go? It forms a buffer to business next door.
- Mr. Zohdi said he will save as many trees and rocks as can be saved. A large fallen rock will be moved somewhere else. No rocks or wall will leave the park.

Vice-Chair Crisler open the hearing to the public.

- Ms. Mary Griffin said that she and her husband Andy had discussed this. He wanted the Park to be utilized and stay as it should be. His hope was that children should have a place to go to play sports. She is all for sports. She loves the project dearly.
- Mr. Ron Hero of 115 Range Road is concerned about
  - planting trees at the front of the lot and the possibility of them going into the telephone poles/wires.
  - He is also concerned that the parking lot will now have only 1 entrance and exit where before it had 3.
  - He thinks it might create a traffic nightmare with cars from both directions using 1 entrance.
  - He asked if a traffic study had been done.
- Mr. Zohdi said there had been no traffic study. He explained that there was no choice with the additional parking. With 2-way traffic 20 foot spacing is needed.
- Mr. Hero explained that if there are no available spots, one must exit and re-circle. He also asked about the location of the light poles.
- Mr. Zohdi said the existing lights are to be moved back to the stone wall.
- Mr. Hero said that if the current lights are moved, might not people complain that it is not bright enough. He would not like to add more lights or brighter lights.
- Vice-Chair Crisler asked if it was possible to have entrance from both sides.
- Mr. McMahon explained that that option had been discussed. It was decided that the safety issue would be better served with one-way traffic flow. Regarding the lights, they were never intended for illumination, but rather to help lighten the walkway.
- Mr. Hero asked where the new lights are on new plan.
  - He did not think the plan had been well thought out and asked that it be done right the first time before someone gets hurt.
  - He does not see on the plan where the new lights are to be placed.
- Mr. Zohdi discussed the existing and planned lighting placement.
- Mr. Zohdi, reference to parking, thinks two-way traffic would be very tight with large Suburban vans. Currently, 18 foot corridors are required for 1-way traffic and 24 feet is required for 2-way traffic; the Plan shows 20 feet.

- Ms. Carolyn Pynn had written a letter to the Board and some of her concerns had been addressed already in the meeting.
  - She would like to see money raised for more trees within the Park to lessen pavement heat and provide much needed shade.
  - She recommended using a computer program to create an artist's rendering.
  - She does not see how a third row of parking can exist without moving the wall.
  
- Mr. Zohdi offered to meet with anyone at the Park to examine the parking plan. He reviewed the plan and clarified the parking solution. The Path will not be impacted; but parking will be closer to it.
  
- Ms. Pynn complained that the Park has turned into a sports complex when it was supposed to be for everyone. She thinks games should be scheduled better. Why can't big functions be held at the High School?
- Vice-Chair Crisler explained that some functions had been moved, but the question before the board tonight was is this plan going to be acceptable.
- Mr. Michael Spide asked if this is a park or a playing field. He felt the Town's vision is mixed and the Town cannot have both. The Park draws many guests from Massachusetts.
- Mr. Pat Nysten thinks that safety is the major concern and the fact that it is a one-way, without crossing the road, is an improved design. He suggested taking the stones from the wall, which would cost a lot of money to reconstruct, and build large square pillars at the entrances.
- Ms. Pynn asked if the Town is leaving the wall where it is or re-building.
- Mr. Zohdi explained that some of the stones on the ground are not part of the wall. They will be moved to the closest area on the other side of the walkway near the Johnson Farm. They will be stockpiled for future construction or continuation.
- Ms. Pynn confirmed that the current stone wall will not be moved.
- Ms. Webber requested that the fallen stones be placed back on wall.
  
- Ms. Scott listed the items to be brought in front of the Board of Selectman:
  - Acceptance of the White bar fence for the Service Entrance
  - Placement of trees on the interior existing walkways
  - Hiring an arborist to evaluate the existing trees and appropriate placement of new trees
  - Locate the proposed trees on the plan
  - Preservation of the existing wall in place; and, if necessary, movement of fallen stones to an on-site stockpile or back on the stone wall, if feasible
  - Trying to save trees; The large willow and nearby trees, the 36 inch maple, the ash tree, and the 24 inch and 18 inch oaks located in or along the stone wall
  - Confirming the location of the relocated lights
  
- Ms. Scott will follow up with Chief McPherson.

Vice-Chair Crisler reminded the Board of Selectman that this is on their 9/12 meeting agenda and they are the decision making body on this item.

Vice-Chair Crisler closed the public hearing.

Vice-Chair Crisler called a brief recess. The meeting reconvened at 9:24 p.m.

### **Case #2011-25/Minor Site Plan**

A Minor Site Plan Application has been submitted for Lot 18-L-400 (49 Range Road) in the Professional, Business & Technology District, Residence A District, and Cobbetts Pond Watershed Protection District. The applicant, Edward N. Herbert Associates, Inc. on behalf of Mashop Development LLC, is proposing a Minor Site Plan, which includes a Change of Use Application, Cobbetts Pond Watershed Application, and a freestanding sign application. The application is to add 7 new parking spaces, reconfigure the driveway off Delahunty Drive, add access ways/sidewalks, relocate the propane tanks, add a freestanding sign and allow for the change of use for Suite 105. Waivers have been requested from the Cobbetts Pond Watershed Ordinance.

Mr. Wrenn read the minor site plan for Case #2011-25 into the record.

Ms. Scott drew the Board's attention to the memo in their packet from Chief McPherson in which he expressed no concerns and one from Chairwoman Post who raised several questions and concerns. Ms. Scott informed the Board that they must decide whether this is a minor site plan application before opening the hearing. Their justification for its minor site plan status is in the Board's packet. If they do not accept it, then they should go no further because it would need to be re-noticed as a major site plan. There are also two separate waiver requests from the Cobbett's Pond Ordinance dated August 9. Included in their packet, is a memo from Mike McGuire, the building inspector, and one from Attorney John Cronin regarding change of use. This is a multi-pronged application asking for consideration on:

- A free-standing sign
- Change of use
- Site reconfiguration

Ms. Scott reviewed the application's time line.

- The Board discussed the application's status as a major or minor site plan.
- Ms. St. Laurent cited several reasons why she thinks it should be a major site plan application:
  - referring to 306.1, she stated that the site plan before the Board was for a change of use for the parking lot, not the building.
  - 306.2 – the change of use will create a traffic impact
  - 306.4 – there was installation of a sprinkler/irrigation system, lot grading inside and outside of the work limit line, and paving removed. This does not seem minimum.
  - 306.5 – supporting documentation for realignment of the driveway and additional parking spaces has not been provided by the applicant. These were outside the work limit line and would require another look at the drainage system.
  - 306.8 – The original site plan was to re-locate some parking spaces; now these changes are driven by changes to the building. That is an unusual and special request.
  - Another unusual situation is that it has already been built. It puts the Planning Board in a difficult situation; because if there were changes they may have wanted to make, they cannot be made.
  - The accessibility of the sidewalks do not meet ADA compliance.
  - These plans do not include any grades or elevations to determine ADA compliance
  - Lots of additional lighting. If it were a site application, lighting would have been reviewed.
  - 306.11 - Information not in our packet, the Board has no information about the water supply and septic which would be important for a salon business.
- Ms. DiFruscia noted that the application was missing interior floor plans to scale and thought that the change of use might constitute a change to a major site plan request.

- 306.2 concerning the impact of traffic. The original business had people arrive in the morning and leaving later in the day. The business no being presented, a spa, restaurant, etc. would have customers arriving and leaving all day long, impacting traffic.
- Mr. DiFruscia is very concerned that the applicant has not come before the Board sooner.
- Ms. Nysten is pleased with the improvements and thinks that the use of spa might be allowed by right. A salon/spa might be a professional service. Spa customers often stay for hours; whereas, a barber shops customers are in and out.
- Vice-Chair Crisler reminded the Board that the question before the Board tonight is whether this is a major or minor site plan.
- Vice-Chair Crisler stated that the applicant had made the requested changes before coming to the Board for approval.
- Ms. DiFruscia noted that the improved look of the building does not play into whether it is a major or minor site plan application. Making the changes without coming before the Board is unacceptable and sets a bad precedent.
- Ms. Webber stated that this is the second time this builder has made changes before coming before the Board and it is not right.
- Mr. Wrenn thought what had been done was quite minor and thought the applicant deserved the opportunity to explain his actions.
- Vice-Chair Crisler thought that any one of the requests would have been minor, but together they comprise a major site plan request. She polled the Board to see if they wanted to hear from the Applicant before voting.
- Ms. St. Laurent, Ms. DiFruscia, and Ms. Webber wanted to proceed with the vote. The rest of the Board wanted to listen to the applicant's explanation.

Mr. Zohdi asked that Attorney Cronin be allowed 5 minutes to speak.

Attorney Cronin, representing the applicant, stated that

- The plans and changes are substantial; and, yes, the applicant should have come to the Board.
- The changes do represent a substantial improvement.
- Some of the non-compliant issues, the applicant said they had done to attract tenants.
- The building sat empty for the winter.
- The Applicant came to the Town and informed them of the changes to the façade.
- There was effort on the part of the applicant to bring the application to the attention of the appropriate parties. The changes did not need Planning Board approval as it was an existing building.
- Then there was a request to change the parking lot configuration. It was a good idea to increase handicap accessibility and sidewalks.
- Some other changes were done wrong in the meantime such as, parking relocation and increase.
- There were other small segments changed. For example, lot coverage went from 17.7% to 17.8 %. This represents a very small percentage change.
- Attorney Cronin has talked with the applicant about not seeking approval.
- The sprinkler system was news to him tonight.
- He is sympathetic with the Board's concerns about setting a precedent.
- He does not think it warrants a major application. The number of requests seems like a lot. But individually, they are not.
- The change-of-use for the salon caused some debate at the BOS. Mr. Tierniey felt it was a business use as a matter or right. This is a professional business.
- Sign issues might only be a lighting issue.
- Mr. Zhodi,

- Regarding traffic - the original building was designed for 125 people over 3 shifts, coming and going. This building will never house 125 people.
- Regarding the septic use concern - The applicant has submitted all paperwork to the building inspector. The water system was inspected by the State.

Mr. Chris Nickerson described the changes he had made to the property:

- New awnings, More glass,
  - New doors, More means of egress,
  - EFIS (synthetic stucco) exterior,
  - Changed the exterior color.
  - Relocated some parking places
  - Access to Delahunty Rd
  - ADA accessibility
  - Relocated the existing above ground propane tank to below ground
  - and added an access for emergency vehicles
  - Adding patio area in rear,
  - More and improved landscaping
- Ms. DiFruscia asked Mr. Nickerson why, with all these changes that were not on approved plans, did he not come back to the Board for approval.
  - Mr. Nickerson said that there was correspondence between him and staff, and he assumed the approvals would be handled administratively.
  - Mr. Zohdi acknowledged that these changes should have come before the Board. He asked that if the Board's decision is that it is not a minor application, he would ask the Board to come and take a look at the site.

Vice-Chair Crisler requested a motion from the Board.

Ms. Scott noted that if the Board decides this to be a major site plan application,

- They still need to consider the two waiver requests.
- The drainage study still needs to be reviewed by the Town engineer.
- If the Board decides that it is a major site plan application then it must be re-noticed.
- If the Board is not inclined to grant the waivers, then the application cannot return until the drainage study is reviewed.

**Ms. St. Laurent motioned to deny the request to consider Case #2011-25 as a minor site plan application because of the sum total of changes requested, as well as that there is additional information that was needed to consider the site plan. The main reason for denying it as a minor site plan application would be in regards to 306.2 in terms of that there would be a not inconsiderable traffic impact; 306.4 about minimum lot grading given the extensive landscaping done around the site in and out of the approved work limit line as well as the irrigation system that was installed. 306.5 about the existing drainage system to accommodate additional drainage needs due to the reconfiguration of the parking area, the unusual and special condition which would be the open building permit on this site that is driving the changes requested for this minor site plan review. Seconded by Ms. DiFruscia with a friendly amendment added that there is no plan to scale for the interior building. Ms. St. Laurent accepted the amendment to her motion.**

- Mr. Wrenn stated that, of course, there will be traffic impact as the building is going from a 27,000 sq ft empty building to an occupied building. He thinks the Board should try to let someone get revenue from their building.
- Vice-Chair Crisler said that

- The Board is not trying to stop the applicant from getting revenue.
- The Board has a responsibility to the Town to see that it is properly designed and conforms to the Town's regulations
- The Board has great interest in design having just spent time on Design Review.
- The Board needs to have that review and to make it part of that decision making process.
  
- Ms. Nysten agreed that the applicant should have come before the Board,
  - but agrees with Mr. Wrenn about the traffic.
  - She does not think there will be too much traffic exiting. It will be a lot less than a fast food restaurant which is not an allowed use.
  - The number of issues makes it a major site plan application in her opinion.

**Motion passed: 5-1-1. Mr. Wrenn opposed. Ms. Nysten abstained.**

Vice-Chair Crisler asked the Board's pleasure on the two waivers.

Ms. Scott reviewed the two August 9 waivers from the Cobbetts Pond Ordinance in which there is a request from a hydrological study because there has been a decrease in the amount of impervious surface in the watershed. The next waiver is to not submit a stormwater management and water control plan because of the same reason.

An informal vote to approve the waiver requests: 7-0.

#### **Site Plan Amendment Request – Spruce Pond II**

Ms. Scott said that this is not a hearing, but a request. The Board has an August 22 memo from her and a memo from Mr. David Sullivan, Town Administrator.

- The applicant has requested not to install street lights in Spruce Pond Phase II that are on the plans.
- The Planning Board had never talked about street lights
- They are not present in the record of any minutes or any meetings
- They appear to be a staff request and staff had them put on the plans.
- Board of Selectman supported the request 5-0.
- Highway Safety committee agreed
- Miss Scott supported the Site Plan Amendment Request,
  - Streetlights are not in the rest of the Town
  - Spruce Pond Phase I does not have them
  - The Town would have to take over maintenance and repair of them
  - They were never mentioned in the Planning Board meeting or any other correspondence.
  - It has been sent to the BOS and Highway Safety.

**Ms. Webber motioned to concur with the Board of Selectman, Highway Safety, and Ms. Scott's decision to make the administrative decision to eliminate lighting on Spruce Pond Phase II. Mr. Wrenn seconded. Motion passed: 7-0.**

#### **Meeting Minutes – Review & Approve**

- July 6, 2011 - Ms. Post requested the minutes be held to the next meeting.
- August 17, 2011

**Ms. St. Laurent motioned to accept the August 17, 2011 minutes as amended. Ms. DiFruscia seconded. Motion passed: 6-0-1. Ms. Nysten abstained.**

### Miscellaneous

Ms. Scott updated the Board on:

- The RPC Planning Assistance Grant Application for work for the Village Center District. It involves taking plans that have been visions, drafts, and renderings and changing zoning for the 2013 Town Meeting. There is \$7500 for 14 communities. The Department has matching money. Staff is not asking for anything before February.
- The WFH Compliance Assessment- BOS voted to support the request for a Workforce housing assessment request. Tentative date for the result's presentation is 10/5. Ms. DiFruscia addressed the Board to express concern. She understood that the Board wanted to understand all issues and get as much information as possible. She is concerned that there was a subcommittee that recommended this audit and proposal to be done. She thought that a request of this nature would come before the Board and be voted on and supported.
- Ms. Scott explained that based on discussion which had happened at the Planning Board and the BOS and confusion about do we have enough WFH, she made the decision to bring it to the BOS because of those discussion. Even if the Planning Board did not want it, she would have gone forward with it.
- Ms. DiFruscia was concerned only because of the protocol. Ms. Webber thought it would have been a courtesy to keep the Board informed.
  
- **Member Binder Update (Tab #16)**

Law lecture: Not addressed

### Adjournment

**Mr. Wrenn motioned to adjourn and Ms Webber seconded. Motion passed: 7-0.**

The meeting adjourned at 10:50 p.m.

These minutes are respectfully submitted by Mimi Kolodziej.