



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

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**Planning Board Minutes**  
**October 19, 2011**

**Roll Call:**

Ruth-Ellen Post, Chairwoman-Present	Ross McLeod, Selectman Member, arrived 8:03 pm
Margaret Crisler, Vice-Chair-Excused	Kathleen DiFruscia, Selectman Alternate, Excused
Pam Skinner, Member-Present	Lee Maloney, Alternate-Excused
Kristi St. Laurent, Member-arrived 7:20 pm	Sy Wrenn, Alternate-Excused
Carolyn Webber, Member-Present	Vanessa Nysten, Alternate-Present
Jonathan Sycamore, Member-arrived 6:55 pm	Rob Folan, Alternate-Excused

**Staff:**

Laura Scott, Community Development Director  
Mimi Kolodziej, Planning Assistant

**Call to Order/Attendance/Pledge of Allegiance:**

Chairwoman Post called the meeting to order at 6:04 pm followed by attendance and the Pledge of Allegiance.

Chairwoman Post appointed Ms. Nysten to be seated for Vice-Chair Crisler and read a correspondence from the WEDC Chairman, Bob Young, into the record.

**Design Review Regulation Workshop:**

Ms. Scott reminded the Board that this is the third meeting in this series; and after the next workshop on 11/2/11, the Guidelines will then proceed to Public Hearing on November 16. She has received questions about how the Guidelines get implemented and the process. The Guidelines will be a stand alone document that will be used in tandem with the Site Plan Regulations. There is no separate process. The Board may call another workshop if there are substantial changes made, or if they feel it is not ready for Public Hearing.

Chairwoman Post explained that the Guidelines can be adopted by the Planning Board in the same way Site Plan Regulations are adopted.

Ms. Karen Fitzgerald, of FitzDesign Inc., reviewed the changes to the Design Guideline document that the Board requested at the last workshop:

- Addition of 300.7 under the Waivers Section addressing the change-of-use step,
- Addition of 502.4 under the Parking Section which will allow for limited parking at the front of a building, and it addresses handicapped parking near the entrance.
- Deletion of 502.2 and 502.3-they will be handled through the waiver process

Board discussion/comments included:

- Typo on page 3 under Section 400; Change RSA 674.43 to 674.44
- Page 5 under Section 500, 3<sup>rd</sup> paragraph- Make sure the uses mentioned are consistent with zoning.
- Edit the page 11 graphic so it is consistent with the regulations
- 706.6 - to add language that allows for stone product that has the same look and feel of natural stone
- 707.4 - Delete the second sentence.
- 711.1- Change the word "may" to "shall"
- Reformat page 20 to be more readable.

- 711.3 – Delete the last sentence.
- References to parking will be addressed in the Site Plan Regulations.
- Send the entire document to legal.
- At the waiver process, the applicant will put forth an alternate plan for Board consideration.
- 502.2.4 – Soften the word “shall”
- 503.2.1- Change the “shalls” to “encourage” or “should”
- 711.3 - Delete the last sentence.

Mr. Sycamore was seated at 6:55 pm.

Chairwoman Post complimented Ms. Fitzgerald on her effort and opened the workshop to the Public.

Mr. Bob Young, WEDC Chairman, read his letter to the Board dated 10/17/11. He expressed concerns about the long term effects of the Design Regulations and requested a joint meeting between the Planning Board and the WEDC.

Mr. Paul Gosselin, WEDC member and involved in the development business, stated that he was impressed with the changes the Board had made to be make the Regulations more workable for developers. He expressed concerns about:

- Sections 503.2.1 and 503.2.2 - Shared curb cuts and shared parking lots
- Section 708 – The window requirements may not be suitable for light industrial buildings and may intimidate developers
- Section 502.4 – Shared parking lots – A commercial landlord may not want to share his parking lot with a competitive business, and there are liability aspects to consider

Mr. Ralph Valentine, WEDC member, likes the Guidelines better for the Village Center District and expressed the following concerns:

- Attorney Campbell should look at the entire document;
- Tie Section 504.2.1 into the site plan regulations where the parking spaces dimensions would be mentioned;
- Soften the language of Section 504.2.4 to take into consideration raw or fully developed land; make the “shall” a “should;”
- The sketch on page 11 should match the regulations or remove it;
- He thought the intent of the photos on page 15 is confusing;
- Section 704.1 – Sometimes there is a building height feature that accents the principal entrance. With parking in the rear and trees covering the street front, the front-side entrance may not provide the ease of access the Town wants.

Ms. Fitzgerald responded to the above comments:

- Section 504.2.1 – The hope is to exclude huge plots of parking on the street frontage. A 100 feet would accommodate a double loaded parking lot with landscaping. It has been successfully performed in other towns.
- Regarding the 8 foot planting island; it is not a requirement, but must be 8 feet if it is part of the design
- Section 504.2.4 – The intent is only for businesses that are interested in the idea and may have different hours; also the hope is to reduce pavement area.

Ms. St. Laurent was seated at 7:20 pm.

- Section 704.1 – Front entrance with rear parking – The intent is to avoid the back of the building facing the street; there are provisions for additional entrances in the back or at the sides of the building
- Ms. Fitzgerald will change the language in Section 503.2.1 from “shall” to “should.”

Mr. Sycamore asked if Ms. Fitzgerald was familiar with any incentives for business owners to open up their parking lots for other businesses owners to use.

Ms. Fitzgerald mentioned the most obvious one is the property tax lowers and shared maintenance cost; there are many of them.

- Ms. Scott mentioned that it would be a private agreement between the 2 business owners; a liability agreement is a private easement; such as the one between Dunkin Donuts and Howie Glynn’s. It was an incentive to do on both parties; the Town has no responsibility as part of it. It was also good for the Town.
- Ms. Webber suggested that it promotes business.
- Ms. Scott confirmed that the “shalls” will be changed to “shoulds” where there is any reference to shared parking lots, driveways, or curb cuts.
- The mullions and windows will be addressed by the waiver process.
- Ms. Fitzgerald will double check the sketch for accuracy

The Board and WEDC members discussed the possibility of additional joint workshops or the formation of a sub-committee to continue the Design Review process. The comments/suggestions included:

- The WEDC would like the opportunity to assist in producing the best product possible and has many more recommendations to make.
- The WEDC had reached out in the spring with suggestions to form a sub-committee which the Board noted at the time.
- After much discussion, the Board had decided not to use the sub-committee so that the process could be on camera, open to the public and transparent.
- This is the 6<sup>th</sup> Design Review meeting since the spring.
- Although the document may not be perfect, it is an evolving document with opportunities to improve it next year.
- The Board was polled and responded 5-1 to not have a joint workshop or form a sub-committee.
- The 7<sup>th</sup> Board workshop will be held on November 2 at 6 pm and may go to Public Hearing on November 16.
- The Board asked the WEDC to provide a detailed list of cost saving suggestions in time for these suggestions to be added to the Board packet.
- The WEDC will provide suggestions; and if there is a monetary factor, they will provide estimates.
- Ms. Fitzgerald will edit the document and have it to Ms. Scott by midnight on November 25.
- Ms. Scott will make sure the document is emailed to the WEDC, posted on-line, and made available in the Planning Department office.

Chairwoman Post called a brief recess at 8:02 pm. The meeting reconvened at 8:10 pm.

Mr. McLeod was seated at 8:10 pm.

**Workforce Housing Assessment Presentation:**

Mr. Steve Keach of Keach-Nordstrom Associates, principal, civil engineer, and land planner, introduced himself and his extensive participation in the Workforce Housing (WFH) field. He is the principal author of Meeting the Workforce Challenge – A Guidebook for New Hampshire Municipalities; published by the New Hampshire

Housing Finance Authority in June 2010. Mr. Keach was asked by Ms. Scott to provide his objective opinion as to whether the Town meets the WFH statutes. He walked through the main points of his report making the following points:

- He used sales data from the last 21 months of rental and occupied housing.
- He looked at the collective body of the Town's regulations and assessed if they made it feasible to construct WFH.
- He defined "Affordable" as meaning "housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30% of a household's gross annual income."
- He defined multi-family housing as "a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household."
- Windham is situated in the (HUD) Lawrence, Massachusetts-New Hampshire Metropolitan Fair Market Rent Area.
- HUD calculations estimate a maximum "affordable" purchase price of \$275,000 for owner occupied housing and "affordable" monthly rental cost of \$1,180.
- His assessment determined that Windham is doing well in single-family owner occupied housing – these do not include seasonal dwellings, foreclosures, and 55+ units. One in four homes recently sold at an affordable price and is presently fulfilling its obligations under the statute.
- He discovered that the number of rental opportunities is incredibly scant; there are 3 structures that contain 4 or more residences within the Town's borders.
- There are only 5 broker-listed properties, all single-family homes, which are presently available for rent at a cost of \$1600 – 2800/month, excluding utilities.
- The supply of available rental units in the Town is very limited and cost is very high.
- According to Windham's ordinances and regulations, the Town is not doing a good job with respect to available rental, multi-family WFH properties.
- The legislature did not define a quota or definition of "fair share". It is unnecessary for the communities to identify what fair share is as long as the municipality is providing reasonable and affordable opportunities for the development of WFH.
- He suggested the Town go back and take a look at its Zoning language that the voters rejected twice and simplify it.
- The "Regional Needs Assessment" through 2015 from the RPC projects that Windham will be deficient by 249 affordable homes.
- He suggests the Planning Board consider advancing an amendment to the Zoning Ordinance which would identify multi-family housing as a permitted use in one or more additional districts.
- Given continued expansion of businesses/industries in the Town, he recommended permitting multi-family housing on parcels within or immediately adjacent to those non-residential districts.
- The Town's ability to become compliant is very easy – open up opportunities to do multi-family housing which is the biggest deficit.

The Board had the following comments/opinions:

- If a property goes on the open market for sale, and it sells for a fair market value, whether it's a bank owned property or not; it should be considered an arms length transaction.
- Economic times may not matter. Sales and incomes are both moving; sales and assets respond rapidly.
- How does a Town do rental housing without a housing authority; Mr. Keach said that you don't.
- The information regarding the number of multi-family units is not likely to change legislatively.
- Mr. Keach suggested starting with the zoning map and offering the opportunity for multi-family units in districts other than VCD and Residential B. Manufactured housing is allowed in Residential C and was not mentioned in his study.
- Duplicating another Hardwood Heights, for example, could answer our obligations in one swoop.

- He discussed that the WFH sub-committee was waiting for this report and looking for Board guidance.
- How strong is the Town's fair share argument; Not very. The Town's starting point is with the data and the RPC's Regional Needs Assessment.
- The Board's wishes for the WFH sub-committee is to continue working on something for the Town Meeting taking into account the need for multi-family.
- Caution about the effect of the increased density of traffic near commercial properties; adequate public transportation and the concept of "walk to work" are useful. Utilities will determine density. Also, a traffic study is an important factor.
- The Manor Motel does not qualify as WFH because the units do not have 2 bedrooms.

Chairwoman Post opened the presentation to the Public.

Mr. Bob Pliskin who currently has a WFH project in progress asked for Mr. Keach to be more defining. The Board cautioned Mr. Keach that he could not address specifically an application in progress. Speaking in the general sense, Mr. Keach replied that in the case of an inclusionary project, for example a project with 10 homes and 2 WFH units, it is a useful idea to spread it around.

Karl Dubay of The Dubay Group suggested a smaller 8-12 residential unit building situated behind a commercial building where residents could walk to work. He said that Town zoning does not currently allow that. He asked the WFH sub-committee to look at this. Because residential units in the VCD would be market value, it is unlikely that developers would consider WFH.

Mr. Keach suggested that the sub-committee also consider housing on the second floor of commercial shops.

Chairwoman Post closed the WFH Presentation to the Public.

Ms. Scott reviewed the October 26 agenda items and start time. The Board requested a 6:30 pm start time with the Public Hearings to begin at 7 pm. There will be two new Pond applications to address.

Ms. Skinner was excused 9:38 pm.

### **Public Hearings:**

#### **A. 2012-2019 Capital Improvements Program**

Notice is hereby given that the Windham Planning Board will hold a public hearing to review and adopt the "Capital Improvements Program 2012-2019".

Ms. Scott drew the Board's attention to an addendum to their packet from Mr. McCartney, Highway Agent, to make 2 changes on his CIP request.

Mr. Rob Gustafson, CIP chairman, walked through a PowerPoint presentation of the FY 2012-2019 CIP Program for Windham. His comments included:

- He noted Mr. McCartney's changes; added the Searles' Bond; and recognized the CIP members.
- He stated the CIP purpose which is to level the capital expenditures to keep taxes level.
- He listed the items in the CIP expenditures which should be items in excess of \$50,000 and are beyond the scope of normal annual operating or maintenance expenses.
- He denoted the advantages of a CIP and the annual process.
- The total yearly budget for the municipality includes the school budget, and the town's operating budget.

- The Capital projects are classified according to urgency.
- The sub-committee believes that in order to continue to fund needed town-wide capital improvement projects, the high school bond costs should be removed from the core CIP plan.
- If it is not, the bond costs would exceed the annual allocated funding and preclude any funding for other needed projects.
- The total available CIP funding for 2012 is \$1,900,177; Fixed CIP obligations for 2012 is \$201,278; Remaining CIP funds available for requested projects is \$1,698,899.
- The CIP committee placed asterisks on 3 items that are contingent upon receipt of their grants.
- The Town's CIP process has been in existence since 1988 and encourages department heads to get into the Capital planning cycle.

The Board's questions/comments included:

- Can money move between different CIP line items; can money left over in one line item be shifted to another line item? What binds the money to the specific projects is what gets voted on at Town Meeting.
- This process encourages department heads to provide projects for the CIP which then ranks them. It quickly shows what is really important. It is a great long term planning tool and helps to mitigate impact on the tax rate.

Chairwoman Post opened the hearing to the Public.

**Ms. Webber motioned to open the 2012-2019 Capital Improvements Program to the Public and Ms. St. Laurent seconded. Motion passed: 6-0.**

Chairwoman Post opened the hearing to the Public.

Mr. Roger Hohenberger emphasized that the CIP is a forward looking program and it increased the school's capital reserve fund. The school level master plan will eventually have needs for a school plan and bond. The CIP committee thought it made sense to take the unspent money and put it into the Capital reserve fund that will ultimately off set a tax increase 2-3 years down the road.

The Board's comments/questions included:

- \$50,000 was decided on as an amount because smaller departments may not have enough money in their annual budgets for expensive items. Some members support a lower threshold for another year.

**Ms. Webber motioned to adopt the Capital Improvements Program as presented with amendments as provided. Ms. St. Laurent seconded. Motion passed: 5-0-1. Mr. McLeod abstained as a Selectman member.**

Chairwoman Post and Mr. McLeod thanked the CIP Committee for the great service to the Town, and for its early presentation.

Chairwoman Post was excused at 10:15 pm and turned the meeting over to Ms. St. Laurent as acting Chair in the Vice-Chair's absence.

**Case#2011-38/Minor Site Plan/Change of Use**

A Minor Site Plan/Change of Use Application has been submitted for 5 Ledge Road/50 Haverhill Road (Lot 11-A-150) in the Limited Industrial District. The applicant, David Jordan of MHF Design Consultants, on behalf of R. L. Bellia Properties, is proposing to change the use of 600 sq. ft. of the lower level of the existing building from office to a retail use for police supplies. The applicant is also

proposing to install a free-standing complex sign sized 7' X 8' and standing 9' high to advertise his business, Granite State Police Supply and 2 other businesses. No exterior changes are being proposed.

Ms. St. Laurent read Case #2011-38 into the record.

Ms. Scott outlined the items presented in the Board's packet:

- Ms. Wood recommended a few editing notes,
- The applicant did receive a variance for the retail sales component,
- The applicant is proposing a free-standing, multi-tenant, up-lit sign,
- There are no other exterior changes to the plan.

**Mr. McLeod motioned to accept Case #2011-38 as a minor change-of-use site plan application. Ms. Webber seconded. Motion passed 5-0.**

**Mr. McLeod motioned to open Case #2011-38 for Public Hearing. Ms. Webber seconded. Motion passed 5-0.**

Mr. David Jordan of MHF Design spoke on behalf of the applicant, Mr. RL Bellia Properties, for the site at 50 Haverhill and 5 Ledge Roads.

- The change-of-use application is for a 600 sq.ft. retail component that will be placed within the portion of building facing Haverhill Road on the lower level with access off the Haverhill Rd. side of the building; the rest of the building will be office space which has a Ledge Road access. A Zoning Board variance has already been received.
- The proposed sign is on the Haverhill Road sign; it is a multi tenant sign and complies with area, height, and location on the property requirements.

The Board's questions/comments included:

- Concern about the size of the sign and size regulations; The top address portion of the sign is not included into the size dimensions according to changes made at last year's Town Meeting.
- It looks as though the sign is more that 12 feet above the grade; The photo in front of the Board, is a picture of sign from another property in Town with the applicant's information superimposed on it.
- The applicant is currently working with Staff for approval of the sign.
- Is the retail store for the Public; Not really. Body armour has laws that prohibit it for sale to the general public.
- Is there any added building security; Added separate zone security along with window and door security is being added.

Acting Chairwoman Ms. St. Laurent opened the hearing to the Public. Hearing none, she closed the Public Hearing.

The Board's questions/comments included:

- Concern about the up-lighting; Due to the topography the up-lit sign may be less a distraction to drivers' eyes.
- Another local, recently approved up-lit sign along route 111 is very distracting. The applicant's sign is 30 ft. to the right-of-way and 10 ft. to the sign.
- Maybe the applicant could angle the lights to be away from route 111.
- Note #4 on the Plan to be changed to read: "Limited Industrial"
- Edit Note #6 by changing the date to 9/13/11.
- Add a note to the plan to indicate the hours of operation: Retail – M-Th 9:30-6:30; F 9:30-4; S 10-4;

Office – M, T, Th 9:30-7; W 9:30– 9; F 9:30-4.

- The applicant will work with the Planning Department to have a fully compliant sign.

**Mr. McLeod motioned to accept Case #2011-38 contingent on amending Note #4 to read “Limited Industrial”; amending Note #6 to read September 13, 2011; to add the hours of operations to the Plan; to ensure that the up-lit lighting does not distract drivers, and to work with the Planning Department to have a fully compliant sign. Ms. Webber seconded. Motion passed: 5-0.**

**Mr. McLeod motioned to waive the by-laws to hear new business after 10:30 pm. Ms. Webber seconded. Motion passed: 5-0.**

**Case#2011-35/CWPD-Major Application:**

A Major Cobbetts Pond Development Application has been submitted for 30 First Street (Lot 16-Q-172) in the Residence A District and Cobbetts Pond Watershed Protection District. The applicant, Joseph Maynard, of Benchmark Engineering, on behalf of Julia Boghosian Sister Trust, is proposing to raze the existing 1120 sq. ft. residence and construct a new 1200 sq. ft. residence; pave the existing gravel, sized 2500 sq. ft., and; install a new well and septic tank. On 9/2/11 the Zoning Board of Adjustment granted Variances from Section 405.2, 405.3, 616.10.1, Section 702/Appendix A-1 of the Zoning and Land Use Ordinance.

Ms. Scott explained that this is not a Public Hearing; Pond applications are administrative for the Board. This went to the Zoning Board and is approved for Shore land; it went to Keach-Nordstrom and is approved for compliance with CPWS.

Mr. Joe Maynard addressed this property:

- It is an old, small camp that is falling down; it has been in the family for 80 years.
- It has a new State approved septic and a new well and wall.
- A permit to the State has been applied for to tear it down and construct a new, single story building with the same footprint.
- The 2 abutters on each side have signed letters to allow work within 20 feet of their property line.

The Board’s questions/comments included:

- The impervious quality of gravel and pavement is the same under the Shoreline Protection.
- Concern was expressed that the applicant will control/contain construction run-off; the lot is flat and there should be very little run-off. When the house is raised, a slush pit will be created and will collect some run-off.
- KNA’s concern about the silt fence has been addressed.
- The location of the propane tank and the well

**Mr. McLeod motioned to approve the Plan of Case #2011-35 as presented including the Keach-Nordstrom recommendation as delineated in his memo of October 4. Ms. Webber seconded. Motion passed: 5-0.**

**Meeting Minutes – Review & Approve**

Minutes of September 21, 2011.

**Ms. Webber motioned to approve the minutes of September 21 as amended. Mr. Sycamore seconded. Motion passed: 4-0-1. Mr. McLeod abstained.**

Minutes of October 5, 2011.

**Ms. Webber motioned to approve the minutes of September 21 as amended. Mr. Sycamore seconded. Motion passed: 4-0-1. Mr. McLeod abstained.**



**Old/New Business:**

Mr. McLeod, as liaison to the Board of Selectman, noted that:

- The court ruled in the Town's favor regarding the Cricket Ridge Workforce Housing case.
- That the lowest bidder for the Griffin Park parking lot came in \$22,000 over budget. This amount will come out of the Road budget.

Ms. Scott reminded the Board about the Harvest Festival on 9/22 and the Business Education Seminar on 9/20.

**Adjournment:**

**Ms Webber motioned to adjourn the meeting and was seconded by Mr. McLeod. Vote passed: 5-0.**

Meeting adjourned at 10:59 pm.

These minutes are respectfully submitted for your approval by Mimi Kolodziej.