



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Planning Board Minutes
October 26, 2011

Roll Call:

Ruth-Ellen Post, Chairwoman-Present	Ross McLeod, Selectman Member, Arrived 7:18 pm
Margaret Crisler, Vice-Chair-Excused	Kathleen DiFruscia, Selectman Alternate, Arrived 7:12 pm
Pam Skinner, Member-Present	Lee Maloney, Alternate-Excused
Kristi St. Laurent, Member-Arrived 7:15 pm	Sy Wrenn, Alternate-Excused
Carolyn Webber, Member-Present	Vanessa Nysten, Alternate-Present
Jonathan Sycamore, Member-Arrived 7:02 pm	Rob Folan, Alternate-Excused

Staff:

Laura Scott, Community Development Director
Elizabeth Wood, Town Planner
Tim Corwin, ZBA/Code Enforcement Officer
Mimi Kolodziej, Planning Assistant

Call to Order/Attendance/Pledge of Allegiance:

Chairwoman Post called the meeting to order at 6:36 pm followed by the attendance and the Pledge of Allegiance.

Chairwoman Post appointed Ms. Nysten to be seated for Vice-Chair Crisler.

2012 Town Meeting Workshop:

- **Setbacks (Section 200, Section 702.8, Appendix A-1)**

Mr. Corwin had worked with Ms. St. Laurent to clarify SECTION 200 – Definitions of a Front Lot Line and Yard Area Definitions as they relate to Corner Lots, Waterfront Lots, and Irregularly Configured Lots.

1. Corner lots will have 2 front lot lines and follow the minimum front yard requirements, along with 2 side lot lines following the minimum side yard requirements;
2. Waterfront Lots will have the land facing the water considered a rear lot line. The Zoning Ordinance was adjusted for these situations to make the minimum shoreline setback in non-WWPD areas for non accessory buildings 50 feet, as opposed 20 feet;
3. Irregularly Configured Lots; such as, Landlocked Lots or Lots without driveway access had their Front Yard requirements clarified.

Mr. Corwin walked through the language changes and explained that the insertion of the new definition of Front Lot Line clarified those Lots with street frontage on 3 sides.

Chairwoman Post opened the Workshop to the Public.

Mr. Pat Nysten of Edgewood Road asked if the Side Yard requirement in the Commercial District is being diminished or increased. Ms. Scott explained that if the Commercial District abuts a Residential District, the Side setback requirement is 50 feet, otherwise setbacks will be reduced for Commercial property.

Ms. Webber motioned to move the Setback changes to Public Hearing. Ms. Skinner seconded. Motion passed: 4-0.

- **Non-Residential Purpose Sections:**

Ms. Scott introduced the Professional, Business, and Technology District grammar and language changes.

The Board comments/questions included:

- There was concern expressed that the term “recreational uses” was too broad, not well defined, and opened up the category to many kinds of uses. The Board agreed to delete the words “and recreational” from 614.1.
- There was discussion about the term “low traffic.” The Board agreed to move and change the term “low traffic” to be at the end of the first sentence in 614.1 where it will read, “all of which are low traffic generating.”

Mr. Sycamore was seated at 7:02 pm.

- There was discussion about the term “attract” in the first sentence of 614.1. The Board agreed to change it to read “function as an...”

Chairwoman Post opened the Hearing to the Public. Hearing none, she closed the Public Hearing.

Ms. Scott read through the changes in the Gateway Commercial District.

The Board comments/questions included:

- The Board had concerns about missing language in the Gateway District purpose section;
- Bullet One was edited to:
 - Delete the “d” from “used;”
 - To add, after the words “professional offices,” a comma and the words “all of which;” and to remove the word “that.”
 - Correct Route 11 to read Route 111.
- Bullet Three was edited to:
 - Add an “s” after the word “reflect”;
 - Correct the spelling of the word “compliment”;
 - Mr. Ralph Valentine mentioned that the reference to the Design Regulations, which have not yet been approved, might present a problem. The Board is hopeful the Regulations will be accepted prior to Town Meeting. If they are not, the Board will have the opportunity to refine further.

Ms. DiFruscia was seated at 7:12 pm.

- Bullet Two will be replaced by the following language: “Minimize sprawl, promote pedestrian friendly design, and maintain efficient traffic circulation and safety.”

Chairwoman Post opened the Hearing to the Public.

Mr. David Riese suggested removing the word “quality” as being too subjective and not easy to define. In the third bullet, he would like to remove the slash between the words and/or.

Ms. Scott said that because the Board has Design Regulations that becomes the quality to which the word refers, and the word should be kept. The Board was polled and decided to remove the word ‘quality.’ The Board decided to keep the words “and/or.”

Chairwoman Post closed the Public Hearing.

Ms. Scott read through the changes to the Limited Industrial District.

- Debby Livingstone, a Windham Resident, expressed concern about the word “intense”. This District abuts her property, and she and her neighbors who live on Yorkshire and Hardwood Roads are concerned about the increased noise possibility.
- The word “intense” was not a word the Board recommended, and it will be removed from the text.

Ms. St. Laurent was seated at 7:15 pm.

The motions to approve these changes occurred at the end of the tonight’s meeting.

Mr. McLeod was seated at 7:18 pm.

Public Hearings:

Case 2011-41/Golden Brook School Kindergarten Addition

Per NH RSA 674:54, the Planning Board will hold a non-binding public hearing on the proposal by SAU #28 to build a kindergarten addition at Golden Brook School.

Chairwoman Post read Case #2011-41 into the record.

Ms. Scott noted that this is a non-binding Public Hearing and highlighted the documents in the Board’s packet. The Board of Selectman, Fire, and Police have no comments. The School is working with the Fire Department through the building permit process.

Mr. McLeod motioned to open Case #2011-41 for Public Hearing. Ms. Webber seconded. Motion passed: 7-0.

Mr. Adam Steele, SAU # 28 Administrator, presented an overview of the proposed kindergarten addition to the west side of the Golden Brook Elementary School on Lowell Road. The site work consists of:

- Removal of the existing ball field to allow for a new access road for improved vehicle circulation and student safety;
- The current project is scheduled to commence site work activities this fall;
- A completion date of next summer in advance of the 2012 school year is expected.

Board questions/comments included:

- Loss of the baseball field which caused safety issues for students having to cross the road; Mr. Steele explained that it is necessary for the additional septic systems to have a raised bed, and so they had to take the ball field to accomplish this. There were arrangements made to improve the Center School fields for Middle School use in the spring.
- Traffic safety concerns; Mr. Steele explained that Kindergarteners attend school half days, with parents picking them up around noon or dropping them off at that time. So the morning Kindergarteners may ride the a.m. bus in the morning and the afternoon students may ride home on the afternoon. The parents will be doing their drop-off and pick-up in non-active bus times. They do not anticipate any traffic flow issues.
- What is the status of the current modular classrooms?; The 10 moduls will remain where they are to handle the additional 154 new students for the 2012 school year. The School Board’s long range plan is to eventually have classrooms at which time the moduls will go away.
- The absence of shrubbery at the west entrance; because the voters reduced the school appropriations and the State reduced school aid, the shrubbery plan had been diminished. There will be some consideration given to softening the perimeter.
- Ms. DiFruscia complimented the School Board for this plan created under tight economic constraints.

Chairwoman Post requested a short break and reconvened the meeting at 7:44 pm..

Case#2011-37/Minor Site Plan/Change of Use

A Minor Site Plan/Change of Use Application has been submitted for 46 Lowell Road, Units 6 & 7 (Lot 20-E-260) in the Neighborhood Business District. The applicants, Diane McMullen and Lee Betts, on behalf of the owner Monomoy Development, LLC., are proposing to change the use of the units from a van and trucking company to a traditional martial arts studio, Golden Crane Traditional Martial Arts, LLC. and also to provide counseling services in an office space. No exterior changes are being proposed and a wall and freestanding sign panel are proposed.

Ms. Skinner read Case #2011-37 into the record.

Ms. Wood highlighted the applicants' requests noted in her memo to the Board and had nothing further to add.

Ms. Skinner motioned to open Case #2011-37 for Public Hearing and was seconded by Ms. Webber. The motion passed: 7-0.

Ms Webber motioned to accept Case #2011-37 as a Minor Site Plan/Change of Use application and was seconded by Ms. Skinner. Motion passed: 7-0.

Ms. Lee Betts and Ms. Diane McMullen, the applicants, on behalf of Monomoy Development, LLC, introduced their requests to change the use of units 6 & 7 at 46 Lowell Road from a van and trucking company to a traditional martial arts studio and a 645 sqft office space providing counseling services. There are no exterior changes to the building proposed, and a wall and freestanding sign panel are proposed.

Board comments/questions included:

- Are these services a permitted use in the Neighborhood Business District; Ms. Wood answered that staff struggled with this, but considered that there is a Yoga and Pilates studio already in the same plaza. Exercise/health and Mental/physical services are currently an allowed use;
- Fire alarm issues: TRC saw no fire alarm issues, and Fire Chief Martineau check for the required number of exits and other fire concerns;
- The average number of students per class; fifteen to twenty students should be the maximum;
- Concerns about cars queuing up and traffic flow issues; the applicants replied that not all parents will queue up; they will drop their child off and leave. The lot has a drive around design with large lanes; there are no painted arrows. The business hours are when most of the other plaza businesses are closed. There is one other business open at night. The applicants expect 12 cars, at the most. The Board suggested working out a parking/drop-off system that would be suggested at sign-up time. The applicant has been at the Village Green for the past 7 years with less efficient parking and has had no problems;
- What about the counseling center; It is one small office and one waiting room. The counseling center will be open when the martial arts studio is closed: 8:30-6 pm Monday – Thursday;
- Signage; The freestanding sign exists already and wall sign is awaiting a sign permit;
- There will be no changes to the landscaping;
- Space size; It is 200 sqft which is smaller than their previous space, but better;
- Hours of operation; the Board recommended adding an hour each side of the stated hours of operation into the motion. This would prevent them from having to return to the Board to reapprove their hours.

Mr. McLeod motioned to approve the Case #2011-37, Minor Site Plan/Change of Use Application, as presented with the hours of operation to be one hour earlier and one hour later than noted on the plans and with the conditions that:

- **The Applicants' name and address be added to the Site Plan;**

- **The Site Plan will be amended to reflect the most up-to-date address which is; 5 Moeckel Road, Windham, NH 03087;**
- **When the above edits have been made to the Site Plan, the plan will be updated to state the date the plan was edited.**

Ms. St. Laurent seconded. Motion passed: 7-0.

Case#2011-22/Lot Line Adjustment/Subdivision

A Lot Line Adjustment/Subdivision Application has been submitted for 37 & 39 Flat Rock Road (Lots 3-B-270, 3-B-272) located in the Rural District and Wetland and Watershed Protection District. The agent, Matthew Hamor of Hancock Associates, on behalf the applicant Jamieson Construction Corp. and the owner Wayne Paris, is proposing to adjust the lot line between the two existing lots for the purposes of creating street frontages for both lots. The reconfigured lots would be for single-family residential homes.

Ms. Skinner read Case #2011-22 into the record.

Ms. Wood recommended that the Applicant meets all the subdivision requirements and all variances have been granted. The Fire memo will be addressed when the building permit is issued. This is a unique lot because it has a pond in the middle of one of the lots and is acceptable based on variance approval. The reason the Applicant is making this request is to give road access to each of the lots.

Ms. Skinner motioned to open Case #2011-22 for Public Hearing; seconded by Mr. McLeod. Motion passed 7-0.

Mr. Matt Hamor of Hancock Associates represented Jamieson Construction Corporation for Lot Lines #37 and #39. Prior to the Lot Line adjustment request the Lot Line was defined by a stone wall. The request is to change the orientation of the Lot Line approximately 90 degrees to create road access for both lots. Lot 3-B-270 will then be 3.2 acres and Lot 3-B-272 will be 2.86 acres.

Board questions/comments included:

- Chairwoman Post verified that the drawing of the homes to be constructed on the two lots is an actual representation; yes it is, with the exception of a minor façade variance; The drawing it was signed and accepted as part of the record.
- Why does the applicant need to use a cistern or a sprinkler system? Why not use the pond; The applicant responded that using the pond was a possibility, if it was suitable with the Fire Department.
- Chairwoman Post noted that the Planning Board and the Town cannot require cisterns. The applicant has offered to install sprinklers, but will not confirm that the sprinkler system will definitely be installed. There is an old cistern down the road that may be useful. Chairwoman Post noted that something should be in place.
- Can the Board accept the Application with a conditional approval for a fire suppression system; Mr. Hamor said he would accept the Fire Chief's approval as a condition of approval.
- What is the approximate size of the pond on the property; About 20,000 sqft. It is a natural pond.
- What about the 20 ft wide driveway and the utility easement; Mr. Hamor explained that there is a 10 ft easement that will allow someone access to walk to the rear portion of the lot.
- Will the change of the Lot Line effect the stonewall; No.

Chairwoman Post opened the hearing to the Public. Hearing none, she closed the Public Hearing.

Mr. McLeod motioned to approve the Lot Line Adjustment of Case #2011-22 as requested subject to:

- **The installation of a fire suppression system approved by the Fire Department;**
- **The indication on the Plan of the location of the easement to be located over Lot 272 for passage of the future owners of Lot 270 to access the rear portion of the lot;**

- The addition of all abutting property owners' names including their mailing addresses and lot numbers to the plan;
- The addition of the Applicants', Engineer's, and Soil Scientist's names and addressed to the plan;
- The addition of the "Town of Windham" to the Title Block;
- The addition of the name of the subdivision to the Title Block;
- Include the 175 ft street frontage, which is calculated 50 ft from the front lot line, more clearly on the plan;
- Indicate this measurement on the plan for both lots; and
- The interior stonewall is to remain as presented on the plan, while the perimeter stone walls are to remain as much as is practically possible.

Ms. Webber seconded. Motion passed: 7-0.

Case#2011-40/Minor Site Plan

A Minor Site Plan Application has been submitted for Brookview and Stillwater Roads (Lot19-A-802) in the Residence District C, Rural District, and Wetland and Watershed Protection District. The applicant Peter Zohdi, of Edward N. Herbert Associates, Inc., on behalf of the owner Eighty Mammoth Road, LLC, is proposing a reduction in pavement to accommodate a revised hammerhead layout for the two roads.

Ms. Skinner read Case #2011-40 into the record.

Ms. Wood explained that the Applicant had updated his Plans to reflect the most recent property owner and address information for the two lots in question; so she has no further concerns. The application is complete.

Ms. Skinner motioned to open Case #2011-40 for Public Hearing; Mr. McLeod seconded. Motion passed: 7-0.

Mr. McLeod motioned to accept Case #2011-40 as a Minor Site Plan Application; Ms. Skinner seconded. Motion passed: 7-0.

Ms. Wood addressed the Public Safety concern of which Police Chief Lewis, in his 10/5/11 to her, stated that he was originally was not in favor; yet the Assistant Fire Chief Ed Morgan, in his 10/21/11 memo to her, stated he was in favor. Because of the nature of the application, there was no need for a TRC meeting; so Police and Fire did not know each other's opinions. After discussing the issue to resolve their disagreement, both Chief Lewis and Assistant Fire Chief Ed Morgan have both come to the agreement that that the plan is acceptable and that they have no issue with it. Both issued written statements to that effect and those statements are in the case file.

Mr. Chris Nickerson speaking on behalf of Eighty Mammoth Road, LLC, explained that the Hammerhead that was originally proposed was overbearing. The Applicant would like to do something of a smaller scale in keeping with the neighborhood.

Board comments/questions included:

- Mr. McLeod clarified that because Ms. Scott was an abutter, that she had removed herself from working on this case.
- Concern was expressed about the turn-around near Lot #6. The car making a turn would have to use Lot #6's driveway; especially, large emergency vehicles; The Applicant replied that the Fire Department would not park near a fire, but use their 1,000 ft hose. The proper radius has been complied with and presented to the Fire Department.
- The residents in the end units of Stillwater and Glenn Meadow are not happy with the large hammerhead. Mr. Nickerson has worked with Police and Fire.

- What about major snow pile up; The Applicant explained that the smaller hammerhead provided more room to push snow on these Private roads.
- Has there been any consideration to striping the hammerhead or placing a no-parking sign; Yes, the Applicant will add a “No Parking” sign to the Plan.

Chairwoman Post opened the Hearing to the Public. Hearing none, she closed the Public Hearing.

Mr. McLeod motioned to approve Case #2011-40 as presented with the addition of a No Parking sign to be erected at the hammerhead of Stillwater and Glenn Meadow Roads. Ms. Webber seconded. Motion passed: 7-0.

Chairwoman Post called a short recess and reconvened the meeting at 8:55 p.m.

Case 2011-39/Major Site Plan Application

An Major Site Plan Application has submitted for Lot 18-L-400 (49 Range Road), which is in the Professional, Business & Technology District, Residence A District, and the Cobbett’s Pond Watershed Protection District. The applicant, Peter Zhodi, of Herbert and Associates, on behalf of Mashop Development, is proposing the following: (1) Change of Use of Suite 105 from vacant office to “Soleil Salon, Spa, Health and Wellness Center”; (2) Change of use of Suites 101-103 from vacant office to medical office space; (3) Add 7 new parking spaces; (4) Realign the site entrance/driveway off Delahunty Drive; (5) Removing existing and adding new areas of pavement; (6) Removing, replacing, and adding sidewalks and access ways around the building; (7) Adding landscaping; (8) Add a freestanding multi-tenant sign; and (9) Relocating propane tanks and the dumpster. The applicant is asking for waivers from the Site Plan Regulations and the Cobbetts Pond Watershed Protection Overlay District.

Ms. Skinner read the Hearing Notice into the record.

Ms. Scott presented an overview of her 10/18/11 memo to the Board and reviewed the requests for waivers from the Site Plan Regulations and the CPWPD. The Applicant is looking to combine their Preliminary and Final Site Plan Application into one step, as they have been before the Board previously with everything submitted. Ms. Scott recommended addressing the Site Plan Regulation Waivers first. The Board packet included:

- A traffic review by the Town Engineer;
- An analysis by the Town Building Inspector of the well/septic capacity;
- Architect, Mr. Stephen W. Burnell, confirmed that the site meets State of NH Accessibility Code. Mr. Burnell is to provide his Architect’s license number.

Ms. Webber motioned to open for Public Hearing Case #2011-39 as a combined Preliminary/Final Site Plan Application. Mr. Sycamore seconded. Motion passed: 7-0.

Mr. Chris Nickerson, of Mashop Development, addressed the Waiver requests:

- Mr. Steve Keach of Keach-Nordstom Associates supports the Applicant’s request of a waiver from Section 813 of the Site Plan Regulations for a Drainage Study. The proposed improvements include a net 417 sqft increase in the amount of impervious area within the lot.
- To combine the Preliminary and Final Site Plan Application process. One month ago, the Applicant came before the Board and was asked to return as a Major Site Plan Application. All the documents have been provided.

Chairwoman Post would like to deal with the second waiver request first.

Mr. McLeod motioned to grant a waiver to Section 401 of the Site Plan Regulations to combine the Preliminary and Final Site Plan Application because the case was discussed at length at the 8/31/11 Planning Board meeting where the Preliminary Site Plan information was provided. Ms. St. Laurent seconded. Motion passed: 7-0.

Mr. Nickerson highlighted some changes made on the site at 49 Range Road:

- Removal of existing asphalt walkway at the front of the building along Route 111; replaced it with a concrete sidewalk on the south side of the building;
- Handicapped facilities were inspected and meet State code;
- Parking lot in the front of the building will be striped;
- Above ground propane tanks in the rear area were buried on the north side and an emergency access was added;
- Landscaping and a fence will be added to the dumpster pad

Mr. Nickerson would like to the Board to consider the change-of-use request that has been submitted.

The Board decided to address the Drainage Study Waiver request first.

Board discussion/questions included:

- Base-line information regarding the percentage of impervious surface affected would be helpful in the memo;
- The outlying areas that are having asphalt removed will be loamed and seeded.

Mr. McLeod moved to grant the waiver request to Section 813 given the Applicant's presentation, citing Sheet 5 of 10, noting that the pavement work result is going to be less than the area of the existing pavement. Seconded by Ms. Skinner. Motion passed: 7-0.

Mr. Nickerson suggested continuing with the waiver requests of the CPWPD. He reminded the Board that at the previous meeting, the Board had taken a non-binding poll and thought they might consider granting waivers to 616.6.1 and 616.10.3 of the CPWPD. Within the CPWPD there is a 300 sq ft decrease in pavement resulting in less impact on Cobbetts Pond.

Mr. Zohdi drew the Board's attention to their packet where all the documents supporting the EPA studies are located. Ms. Scott reminded the Board that the Applicant had withdrawn their application for 616.10.3, and the Stormwater Pollution Prevention Plan was given to Keach-Nordstrom for review. All the documents have been provided. The only waiver remaining from the CPWPD is the one from the Hydrological study.

The Board discussed who had authority to grant the waiver in this situation; The Planning Board or the Zoning Board. Ms. Scott recalled that the Board had changed that provision at the last Town Meeting to add: "in a manner acceptable to the Planning Board" in the Zoning Ordinance. Consequently, if what an Applicant has provided has already been provided or is acceptable to the Board, the Board may move forward. Ms. DiFruscia, who worked on this language, clarified that the intent of the language was so that every application did not have to go to the Zoning Board for a variance if the applicant could demonstrate to the PB that the criteria has been met.

Board question/discussion included:

- Does the applicant have sufficient documentation to show that they have met 616.16.1; Mr. Zohdi explained that all construction sites must comply with the EPA and the CPWPD regulations. Mr. Zohdi presented Chairwoman Post with this lengthy Stormwater document.

- Mr. McLeod asked the Applicant to summarize the EPA's report for the Board's benefit. Mr. Nickerson walked through the report; Chairwoman Post referred to the KNA report in support of the Applicant's request.
- Ms. Scott mentioned the free-standing sign lighting which regulations require to be downlit. The Applicant provided reasoning for "uplit" lighting for the free-standing sign. Mr. Nickerson explained that the 8.5 ft sign with a 5 ft high light arm near the front on the property may prove dangerous to pedestrians and a lighting issue to drivers. There was a suggestion to rotate the angle of the gooseneck light so there will be fewer spills off the street. This will be part of the sign permit application. The Applicant will comply with this request and provide an as built later.
- The current exterior light fixtures are all placed under the awnings and this prevents light spillage.
- Note 1 on the plan needs to include the parking lot lights.
- There has been a net increase of 1 parking space after pavement removal.
- The mechanical access way allows for emergency and maintenance vehicle access; The door allows for a second egress.
- Concern was expressed about difficulty accessing the rear of the building if the propane trucks were there. It could be hazardous. Mr. Nickerson explained this has never been a problem.
- There is a 6 inch elevation change where there are HC access ramps. This is not allowed. Final paving may alleviate this somewhat. Mr. Nickerson referred to a 10/4/11 correspondence in which Mr. Stephen Burnell, NH licensed architect, stated that the ramps, sidewalks, and entrance pads are in conformance with the State of NH's accessibility code. Ms. St. Laurent offered the Applicant the NH Accessibility Checklist and the Guidance Document from the US Department of Justice regarding parking. There are also other issues. The slope on access ramps is to be no greater than 2%. Mr. Zohdi offered that the 6 inch grade spread out over 18 inches of expanse will become a slope of 2.5-2.6%. The Board asked for Stephen W. Burnell to provide his license number.
- Concern was expressed about the cross slope of the curb cut area and the suitability of the handrails.
- The sprinkler plan is not noted on the plan; Mr. Nickerson said that on sheet 8 of 10 there is a hashed area indicating grassed area that would be watered with an irrigation system noted. This is consistent to what they have submitted in the past. Ms. St. Laurent asked how that would satisfy the location and construction details of the water and irrigation systems as required by the Town's site plan regulations. Mr. Nickerson offered to provide touch sheets from the system currently installed. Ms. St. Laurent reminded Mr. Nickerson that she had mentioned that at the last meeting. This information would have to be added to Note 1.
- The Well data in the file is recent. The septic design in the file is 20 years old. It was originally designed for 125 employees. The system is in good working condition.
- The well/septic capabilities need to receive approval and get updated with each new tenant.

Chairwoman Post opened the Hearing to the Public. Hearing none, she closed the Public Hearing.

Ms. Scott listed the concerns:

- Note needs to be revised to include changes to the irrigations system and lighting design;
- The irrigation system needs to be shown on the plans;
- The 2 granted site plan waivers need to be added to the plans;
- The Architect's license number;
- The Free-standing "uplit" sign needs to be angled and positioned so not to negatively impact traffic on Route 111;
- Make sure the owner and applicant sign everything- see KNA memo #2, bullet 2
- Add note about water supply and sewage; see KNA memo #2, bullet 3
- The typo in the parking;
- Curbing details to be added; see KNA memo #6

The Board mentioned enclosing the dumpster and gas tanks. The gas tanks are buried and the dumpster has not been addressed yet.

Mr. McLeod motioned to approve the Site plan for Case #2011-39 with the following conditions:

- **The owner/applicant shall sign each of the three statements provided at the lower left corner of Sheet 1 of 10 of the final project plans;**
- **All final drawings shall be stamped by a Licensed Land Surveyor and/or a Licensed Professional Engineer as applicable;**
- **A note be added to the final plan identifying the means by which water supply and sewage disposal accommodations are currently and shall continue to be satisfied;**
- **The note on the plan regarding parking shall be corrected (#143);**
- **Sheet 6 of 10 - The final project plan shall be expanded to include appropriate details of the dumpster enclosure construction;**
- **Amend note 1 to include the irrigation system and additional site lighting details;**
- **Granted waivers to be listed on the plan;**
- **Applicant to provide Stephen Burnell's State License number and that he is currently in good standing;**
- **Obtain all necessary water and septic permits for proposed uses;**
- **Applicant to work with staff to angle and position free-standing sign lights so as to minimize spill over onto route 111 traffic.**

Ms. Skinner seconded.

Ms. St. Laurent expressed disappointment that this significant major site plan is already constructed and still missing the fence around the dumpster. This is the second, and maybe the third, time that the Board has seen a project done in this incomplete manner.

Motion passed: 6-1. Ms. St. Laurent opposed.

Change of Use Application

Attorney Cronin, of Cronin and Bisson, addressed the two change of use requests.

- Under the PBT zoning uses, professional and medical uses are allowed.
- The Board has the power, right, and obligation to consider a change of use.
- Originally, the Salon use was previously considered under the category of "bar shop."
- After further consideration, the Salon is more accurately defined as a Wellness Center with 14 licensed professional on staff;
- Under NH RSA 313 A-9 the licensing provision is clear, while the Town's ordinances have no definition;
- Previously, the Applicant did not emphasize the two licensed Medical Doctors on staff needed for laser and injection therapy;
- The Applicant would like to have a second rental space approved for change of use to a medical office;

Board comments/questions include:

- Mr. McLeod, referring to Section .614.2.1, noted that the common thread running through the ordinance is that Professional Business implies a high degree of individual service;
- Mr. Sycamore asked Attorney Cronin to describe the course of this application through the Town's Boards; There was a denial of the variance request from the ZBA; A reconsideration motion was also denied. The ZBA thought it was not a "professional" service.
- Ms. Scott acknowledged that she was not aware of the medical professionals on staff. If that fact had been known, she thinks it would have been accepted as an allowed use the first time.

- The open endedness of the word “professional” is the ordinance, makes it very difficult to decide exactly what profession is acceptable.
- Parking should not be a problem. The building can handle 125 cars, with this business having no more than 15 at any time;
- The nature of the business may result in chemical waste and waste water flow; Mr. Zohdi explained that this particular business has to get approval from the building inspector and the State of NH. Their industry is strongly regulated. Every tenant has their own water usage meter.

Chairwoman Post opened the hearing to the Public.

Ms. Emery Grossi, The Applicant, has been a Town resident since 1992; she is a professionally licensed, nationally certified therapeutic massage therapist, licensed EMT, licensed phlebotomist, and an LPN. For the past four years she has volunteered her services to the Town teachers during Teacher Appreciation Week. Her State license used the legal term and condition of “Professionally Licensed” on her license. In the State of NH to be a “Professionally License” Massage Therapist, one has to do 250 hours more than any other state and have to be nationally certified. Additionally, the therapist must yearly perform 50 hours of continuing education.

Mr. McLeod motioned to approve the Change-of-Use application of Suite 105 from vacant to “Soleil Salon, Spa, Health and Wellness Center.” Ms. Webber seconded. Motion passed: 7-0.

The Board decided to wait on approving the Change-of-Use of Suites 101-103 from vacant to medical offices until an applicant presents themselves before the Board.

Mr. Sycamore was excused at 10:45 pm.

Financial Guarantee Release-Terra Bella Subdivision:

Financial Guarantee Release – Terra Bella:

Project Name:	Terra Bella Subdivision (Map 20 Lot D 4000)
Location:	Burnham Road (Formerly Jamestown Road) From Station 0+0 to Station 24+00

Engineer: Edward N Herbert Associates, Inc.
 Owner: Dean Smith – Jo-Jo Development Inc.
 Cash: \$51, 117.99

Release Amount Requested: Full Amount: \$51,117.99(+/-) interest

Ms. Scott summarized:

- In 2006 the initial guarantee was put in place.
- Over the years they have been asking for and being granted partial releases.
- Currently, there is \$51,117.99 (+/-) interest in cash remaining.
- They have asked the Town to release all the cash, plus interest, to them once we receive the Letter of Credit.
- They have finished the road and would like to maintain a one-year maintenance bond of \$24,150 to cover any costs that may occur with the new road.
- After which, the Town will take-over responsibility of the road.
- Fire Inspector (Bill Martineau), Highway Superintendent (Jack McCartney), and Town Engineer (Steve Chabot) have signed off on this request.

- Ms. Scott has all documents she needs.

Board questions/comments included:

- Is the \$24,150 sufficient to cover the Town's interest in finishing this road; Ms. Scott responded , "Yes."
- How long has the road been finished; the final coat has just been put down.

Ms. Skinner motioned to recommend to the Board of Selectman that the current cash financial guarantee be refunded (\$51,117.99 plus any additional interest) and a 1-year Letter of Credit of (\$24,150) be secured for maintenance purposes. Seconded by Ms. Webber. Motion passed: 5-0-1. Mr. McLeod abstained.

Old/New Business:

The Board returned to the edits they made at the beginning of the meeting to the following districts: Limited Industrial, Gateway, and Professional, Business, and Technology.

Ms. Webber motioned to move Limited Industrial, Gateway, and Professional, Business, and Technology purpose sections to Public Hearing as they were amended. Ms. Skinner seconded. Motion passed: 5-0-1. Ms. St. Laurent abstained.

Mr. Bill Shroeder of the Cobbetts Pond Watershed Protection Association is proposing a Watershed ordinance similar to the one Windham has. They are looking for some assistance from the Planning Board. The Board decided to ask Bill Shroeder and his committee to come before the Board and present their findings before the Board decides how they can assist them. Citizens' petitions have a window from November 14 to December 14.

The WEDC will be submitting written comments for their packet regarding the Design Review Guidelines.

Next weeks' meeting will begin at 6 pm with the Design Review Guidelines running from 6-8 pm.

Adjournment:

Ms. Nysten motioned to adjourn and was seconded by Ms. St. Laurent. Motion passed: 6-0.

The meeting adjourned at 11:15 pm.

These minutes are respectfully submitted by Mimi Kolodziej.