



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Planning Board Minutes
December 7, 2011

Roll Call:

Ruth-Ellen Post, Chairwoman-Present
Kristi St. Laurent, Member-Present
Margaret Crisler, Vice-Chair-Present
Pam Skinner, Member-Excused
Jonathan Sycamore, Member-Arrived 7:30

Ross McLeod, Selectman Member, Present
Kathleen DiFruscia, Selectman Alternate, Excused
Lee Maloney, Alternate- Arrived at 7:07
Carolyn Webber, Member-Present
Sy Wrenn, Alternate - Present
Vanessa Nysten, Alternate-Arrived 7:13

Staff:

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 7:06 p.m. followed by attendance and the Pledge of Allegiance.

Ms. Maloney was appointed to sit for Ms. Skinner.

Public Hearing - 2012 Town Meeting Zoning Amendment:

Section 710.3.1 Fence Requirements. To amend Section 710.3.1 by deleting references to the "lot line" and providing that fences in the Residence A, B, C, Rural, Village Center District, and Historic Districts may be a maximum of four feet (4') in height for fences located within the minimum required front yard and a maximum of six feet (6') for fences located within the minimum required side and rear yards.

Chairwoman Post, in response to an 11/28 memo from Attorney Campbell, noted that there was already an exception to the height regulations of Section 710.3.4 in the current Zoning Ordinances.

Chairwoman Post read Section 710.3.1 of the proposed Fence Requirements into the record.

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

Vice-Chair Crisler motioned to move to Town Warrant the amendment to Section 710.3.1 (Fence Requirements) of the Zoning Ordinance. Seconded by Mr. McLeod. Motion passed: 6-0.

2012 Town Meeting Zoning Amendment Workshops:

Building v Structure:

Mr. Corwin reviewed the amendment changes from the previous workshop

Ms. Nysten arrived at 7:13 p.m.

Board comments/concerns included:

- Ms. Webber offered a definition of “structure.” Mr. Corwin agreed that the definition of structure needs to be looked at; but, to improve the Ordinance and move it to Public Hearing at this time; he would like the Board to consider the proposed amendments;
- Ms. Webber would like her definition included; Chairwoman Post noted that it might conflict with its uses in other places in the Ordinances and would need lengthy research;
- Ms. Nysten requested that Propane tanks be removed from being near the lot line; Propane Tanks was removed from the Ordinance;
- Ms. Nysten asked for clarification of the term “building coverage;” Mr. Corwin explained that the term applies to any roofed structure;
- Chairwoman Post asked about the placement on the lot of Generators, Propane Tanks and Basketball hoops; Mr. Corwin explained that they would have to meet setback requirements.
- In paragraph #2 of Section 702, a period will be placed after the word yards. A new sentence will follow: “Generators, propane tanks, and basketball hoops must meet setback requirements.”

The Board asked to re-schedule discussion about Building v Structure until later in the meeting, giving the Board an opportunity to read Ms. Webber’s definition of “Structure” and to alter the agenda to address Multi-zoned Parcels next.

Multi-Zone Parcels:

Ms. Wood noted that the owners and abutters of the parcels to be addressed tonight had been notified of the time and date of this workshop. She continued to present a history of the multi-zoned parcels and introduced the members of the sub-committee. Chairwoman Post said that the committee did not take this task lightly; and this was not a rezoning effort. It was an effort toward greater consistency and clarity.

Mr. Sycamore was seated at 7:30 p.m.

Lot 2-A-700 (125 N Lowell Rd)

- Chairwoman Post read a legal memo representing the wishes of the property owner, Ms. Mary Taylor, who would like to preserve the current zoning status. The property is currently on the market, and she would not like to do anything that might disrupt the sale.
- **The Board agreed to make no changes to the current zoning status.**

Chairwoman Post requested that the Public address their interested zone, if they disagree with the Board’s decision; and she opened the Workshop to Public comment as the zones were addressed.

Lots 8-B-3001 (Rockingham Rd) and 8-B-3900 (Rockingham Rd) Town owned Conservation Land

Ms. Nancy Picarelli asked for the big white spot on the map to be identified: Ms. Wood explained that it is a privately owned, landlocked parcel zoned Rural.

Mr. Mike Salvo, an abutter, has seen frequent zoning changes over the past 30 years. He thinks the Town should put in place a Conservation Wetlands Zone. If the Town takes away the NBD zone from this parcel, his hardship case for future rezoning of his parcel is taken away.

Vice-Chair Crisler motioned to move to Public Hearing Lots 8-B-3001 and 8-B-3900 changing them from Multi-zoned to Rural District. Mr. McLeod seconded. Motion passed: 7-0.

Lot 8-B-3002 (140 Rockingham Rd)

- The Board recommended no changes to the zoning of this parcel.

Mr. Mike Salvo was in favor of changing it to NBD to benefit the owner, who may want to build a house on it. Ms. Nysten was unsure that a house may be built in NBD.

- Ms. Webber, speaking for the abutter, noted that he/she is OK with keep it zoned as it is.
- **The Board agreed to make no changes to the current zoning status**

Lot 13-D-60 (50 Rockingham Rd)

- Ms. Webber stated that an abutter communicate with Staff and prefers to keep the multi-zone status to provide a buffer to the Commercial Zone;
- The Lot owner, Vicki Wells, communicated with Staff and would like not to change the zoning.
- **The Board agreed to make no changes to the current zoning status.**

13-D-30 (11 Harris Road)

- This parcel has no access to Rockingham Rd;
- Ms. Webber asked the Town assessor what would happen to the value of the land if it was zoned Rural: Mr. Norman noted that there is not much commercial potential for this lot and so may have no additional value.
- **The Board decided to put this parcel on hold.**

13-D-40 (5 Harris Road)

- Ninety percent of the lot owners of the lot is in Commercial A;
- Mr. Dave MacInnis, owners of the lot, and Ms. Vicki Wells stated that the Board has 3 lots in a row all zoned differently; Mr. MacInnis prefers the lot staying multi-zoned.
- Mr. Phil LoChiatto addressed the Board and said that the multi-zone parcel may seem confusing, but it is clearly defined and should be maintained as a viable district. He does not think these particular multi-zoned parcels should be changed.. The multi-zone had a very specific purpose when it was historically designated, and if the Town's technology was better, it would be very clear.
- Vice-Chair Crisler thinks Mr. LoChiatto is correct and these Parcels should be kept as Multi-zoned. Mr. Sycamore asked whether the owners wanted to maintain the residential nature of the street.
- Local resident, Paulette Clare said that this is not an entirely residential street. Some of the lots are directly across from commercially zoned lots.
- **The Board agreed to keep Lot #13-D-60, #13-D-30, #13-D-40 and Lot #13-D-41 unchanged as multi-zoned lots to avoid patchwork zoning; Commercial Business District A and Rural District.**

13-B-60 (24 Rockingham Rd)

- This parcel was not discussed at the sub-committee meeting. The Town maps have been inconsistent and this lot got missed.
- Mr. Peter Zohdi noted that last year the Board changed the zoning, and the entire parcel is in Commercial.
- **The Committee decided not to consider this parcel because it is not multi-zoned.**

Lot 13-B-101 (36 Harris Rd)

- The property owner called and would like his property to be zoned Rural; the property's frontage is in rural and only 10% of the rear of his property is in the Commercial A zone.

Lot 13-B-102 (38 Harris Rd)

- The prevailing use of the property is rural;

- With reconfiguration of route 111, this road is not heavily travelled and maintains the rural character.

Vice-Chair Crisler motioned to move to Public Hearing Lot #13-B-101 and Lot #13-B-102 changing them from Multi-zone to Rural. Mr. Sycamore seconded. Motion passed: 7-0.

Ms. Wood will confirm that Lot 13-B-60 is 100% Commercial A.

Lot #13-A-100 (13 Roulston Road)

- This lot is surrounded by roads on all sides and is currently being sold by the State;
- It is surrounded on a majority of sides by Limited Industrial;
- At a previous ZBA Hearing, several abutters requested that this lot be zoned RDA as buffer to their properties;
- Mr. Zohdi would like to see it rezoned Limited Industrial;
- It is a 1.36 acre lot.

Vice-Chair Crisler motion to move to Public Hearing Lot #13-A-100 changing it from Multi-zoned to Limited Industrial. Mr. McLeod seconded. Motion passed: 6-0-1. Chairwoman Post abstained.

The Board decided not to change the Multi-zone status of the following Lots:

- 13-A-191 (2 Salem Road)
- 13-A-325 (26 Range Road)
- 13-A-360 (6 Maple Street)
- 13-A-340 (4 Maple Street)
- 13-A-337 (2 Maple Street)
- 13-A-365 (Range Road)
- 13-A-400 (6 Range Road)

Discussion about the above lots follows.

Board comments/questions included:

- Why change Ernie's Garage to Residential A; Ernie's garage is grandfathered and exits in a trust of 14 relatives. One son called and stated he was content with the Residential A status, because he would not like a future owner expanding the Commercial business and infringing on abutting neighbors. Mr. Wrenn noted that, with the re-location of route 111, this area became isolated and the character of this area is mostly residential, with the exception of Ernie's.

Ms. St. Laurent as a direct abutter recused herself. Mr. Wrenn was appointed to be seated for Ms. St. Laurent.

- Ms. Webber, noted that an abutter to Lot #13-A-325 is fine with the zoning change to LI.

Chairwoman Post opened the Workshop to the Public.

Mr. Al Kachanian, owner of Lot #13-A360, 6 Maple Street, noted that he purchased the land in 1971 because it was Limited Industrial and has run an Internet business from his property for 7 years. He thinks the Town should zone it Limited Industrial to help invite businesses into the Town.

Ms. Paulette Claire of Lot #13-A-400, 6 Range Rd, purchased her land 35 years ago because it was zoned RDA and LI and her husband ran a business from his home. When it was on the market some years ago, there were two parties interested in the property because it was zoned LI. If it were changed to Rural, this

would negatively impact the value of her property. It is on a State highway, and she would like to keep it multi-zoned.

The Town Assessor, Mr. Rex Norman, stated that real estate is valued by the properties' highest and best use. It is not a terrific or highest priced neighborhood for residential.

Ms. Diane Shikrallah, of Lot #13-A-340 (4 Maple), stated that she purchased her property 21 years ago because it was zoned LI, and at one time thought of having a business there. There are a lot of local businesses in the area and the traffic is quite heavy being so near to route 28. She would like to keep it multi-zoned and thinks that the option of having a business there, increased the value of her property.

Mr. Joe Mosely, of 24 Range Rd, is next to Ernie's Garage and bought his property so he and his family could live in a town with a great educational system. He would like to see it zoned RDA. He does not want to see giant commercial buildings off his back yard.

Ms. Beth Whitaker of 2 Maple Street has lived there 25 years and would like to keep it zoned Mulit or change it to LI. It is not a quiet neighborhood and has lots of traffic from routes 28 and 111 with an adult zoned district right behind it. Keeping it as RD would isolate the area from the rest of Windham. Most people think we are part of Salem.

- Ms. Webber asked if the State had done a survey to determine the area's status as an Historic District; the study was done a long time ago, and the area has changed significantly.

Mr. William Horton, corner of Maple and Range Road, is an abutter. If the Town changes the zoning to LI, he would like his property changed to LI, also. Range Road is a busy, noisy street; not a quiet residential one.

Ms. Kristi St. Laurent, 32 Range Road, has lived in the 235 year old home for 12 years. Canobie Lake is in view of her home and she does not think putting lots of businesses near a water source is a good idea. She would like to see it zoned RDA.

Mr. Robert St. Laurent's biggest thing is access to the proposed industrial land. Much of the land is landlocked and needs a good plan to access it. Without this access plan, there should no plan to zone it LI. Having Commercial zoning so near a water source is not a good idea.

Mr. Al Kachanian of 20 Range Road is a 25 year owner of his son's property and cannot get out onto Range Road often. There is a constant back up of traffic. He would like to see the zoning left as is or change it to one way.

Ms. Susan Horton of 16 Range Road has lived on her property for 30 years. She would like to see the Board give consideration to the many property owners who tonight requested the zoning to be left alone.

Chairwoman Post closed the Workshop to the Public.

- Mr. McLeod summarized, noting that south of Range Road is watershed and will never be zoned LI. The rezoning of this triangular portion of land is beyond the scope of what the Board is looking to do at this point in time. This may involve major zoning policy.
- Chairwoman Post commented that the Board had a better and clearer picture of this area of Town and will not tackle any broad changes this year.

- Ms. Nysten clarified that the Residential C Zone does not allow multi-family home construction; it does allow manufactured homes. In light of this, Ms. Nysten asked whether the Board would like to reconsider previous determinations regarding Residence C multi-zoned parcels.

Chairwoman Post recessed the meeting and reconvened it at 9:45 p.m.

Building v Structure –Part 2

Mr. Corwin suggested clarifying the language which refers to Rear, Front, Side yard by adding the word Rear, Front Side yard “setbacks” which refers to the 30 ft minimum requirement; Chairwoman Post agreed that was clearer.

Board comments/questions included:

- The Board questioned the definition of “structure;” Mr. Corwin referred back to Section 702.1.2 of the building code where it is defined. He further stated that the term “temporary structure” is a separate definition and is not used outside that section.
- Mr. Corwin noted that although the definition of “structure does need to be addressed; his hope was to address some perennial issues at this time and to make the Ordinance more reasonable.

Mr. McLeod motioned to move to Public Hearing paragraph 1 of Section 702.1.1 as amended. Seconded by Vice-Chair Crisler. Motion passed: 7-0.

Vice-Chair Crisler motion to move to Public Hearing footnote 15 as amended to read “detached and detached accessory structures.” Seconded by Mr. Sycamore. Motion passed: 7-0.

Workforce Housing:

Ms. Crisler read through the various points and recommendations from the WFH Subcommittee’s report and asked the Board for guidance on how to increase multi-family opportunities.

- Ms. Nysten recommended adding multi-family as an allowed use in Residential C to encourage the development for rental property.

Chairwoman Post opened the Workshop to the Public.

Mr. Phil LoChiatto, 5 Faith Road, asked the Board to clarify the schedule for the WFH Ordinance.

- The Board stated that the next workshop will be held on 12/14; drafting of the Ordinance would have to be done by Friday for the packet to be ready for 12/28.

Mr. LoChiatto offered a handout of his comments for the Board. He had several concerns:

- The proposed ordinance does not provide reasonable opportunities for WFH due to affordability;
- There is no developable land in Residential C;
- The ordinance seems to discriminate against eligible and qualified individuals; Vice-Chair Crisler noted that that was not the intent. It needs to be worded differently; Ms. Nysten handed out an example from Amherst, NH;
- The ordinance appears to limit WFH rather than encourage it;
- Lot sizing is about septic disposal, not water production; Vice-Chair Crisler disagreed.
- The ordinance should allow for density because of the cost of land in Windham;
- Rental property needs to have a higher density and a lot more space to allow for septic.

Chairwoman Post asked Mr. LoChiatto to recommend the 3 main ideas, in his opinion, that should be part of a good ordinance. Mr. LoChiatto responded:

- Density-you must allow for more than one building on a lot;
- WFH must be integrated; market rate and WFH rate buildings together; Mr. McLeod took issue with that point
- Density, again.

Vice-Chair Crisler asked Mr. LoChiatto how to encourage rental housing. He stated that for rental you need even more density. He could offer no further suggestions.

Mr. Peter Zohdi of Herbert Engineering recalls that last year the WFH statute was based on State soil testing which is softer. State lot sizing is based on loading. Soil testing allows for so many bedrooms. Mr. Zohdi again underscored the need for density

Mr. Pat Nysten recommended that the Town needs a clear, crisp, concise bonus density explanation/definition so the Town voters can be well informed. He recalls that last year the density was tied into soils and many do not understand what that means. He noted that if sewer comes to Windham, it would change the density.

- Ms. Nysten recommended using both a soil based and density percentage so that people know exactly what they're going to get..

Mr. Zohdi explained that Salem, NH's lot sizing is very different than Windham's, and they have sewer. In their rural areas it is very close the State requirements. If the Town goes with the State's based lot sizing and determine how many bedrooms you can have, it is easier than a density bonus.

- Mr. Sycamore said that the Board hears what the developers are saying, but would like some help from them to try and sell it to the voters.

Mr. Nysten asked Mr. Zohdi what is the maximum density under standard lot loading and is a 500% density increase possible over the underlying District? Mr. Zohdi replied that it depends on the type of soil. Mr. Nysten stated that there are many variables in determining density based on soils resulting in a lot of ambiguity. The Town would have a much better chance of getting the ordinance passed if there was a crisp concise definition of density.

Mr. Zohdi suggested that the Board and subcommittee look at the Residence B regulation. It is very good. It almost meets the State regulations. Maybe the Board would want to look at the condominium ordinance for the WFH ordinance.

Board comments/concerns included:

- The ordinance should define a maximum density percentage; other town's range from 15% to 50% and higher; WFH should allow 100% maximum density;
- Voters do not know what lot loading is;
- The Board discussed various options for considering density and referred to Amherst, NH's ordinance, particularly a limitation on square footage of homes;
- The WFH units need to be monitored and regulated for affordability for 30 years by an oversight authority;
- Ms. Nysten was asked to attend a WFH subcommittee meeting;
- The Board discussed what Districts WFH should be encouraged in; They should be planned along busy roads in Town with heavy transportation corridors; Possibly near a zone abutting an

Industrial area for employment opportunities; Take into consideration proximity to transportation, schools, and employment;

- Ms. St. Laurent was asked to attend a WFH subcommittee meeting;
- Multi-use parcels would be useful for Commercial ventures toward the street front with multi-family units in the rear;
- Does the Board want to open up the Rural District for WFH; the response was Yes, but with some conditions;
- Vice-Chair Crisler walked through her 8-point memo again making notes of additional suggestions.

Mr. Bruce Breton noted that the small footprint of the home would make it affordable. The Town should create a model of small homes with a neighborhood feel for the downsizer and the first time buyer that might be easier to sell to the voters. The statute says that WFH should be available in a majority of Residential zones.

- Vice-Chair Crisler liked the density bonus with a maximum where WFH is above the normal yield; rather than looking at lot sizing;
- Vice-Chair Crisler will rework the 8 points for the next meeting;
- There is a need for larger projects-4 units here and there does not make a significant impact;
- By putting in a maximum potential density bonus would be speaking to the voters who may be concerned about how many units are involved. The will not be end up with 100 units in their backyard;
- Mr. Zohdi suggested adding another member of the public to the subcommittee; Ms. Pendergast is a public member on the WFH Subcommittee.
-

Kennels:

Ms. Wood addressed the 4 bulleted amendment changes from the last workshop after meeting with the animal control officer and the owners of the Woof Woof dog kennel.

Board concerns/considerations included:

- Two members of the Board will not support kennels in the Rural District;
- State laws and the Town noise ordinance will regulate barking dogs;
- Because the Rural District is 70% of the town, it would be putting this fairly benign business out of business if we did not allow it in the Rural District; If the Board takes Rural out of the available Districts and allow, an applicant could go through the variance process;

Mr. McLeod motioned to move to Public Hearing Section 720 Commercial Kennels with the following two amendments:

- **Strike the Rural zone as an allowed District;**
 - **Add the Town's noise ordinance, RSA 466, to coordinate with the State's noise ordinance.**
- Seconded by Mr. Sycamore. Motion Passed: 7-0.**

Meeting Minutes Review and Approve: Minute approval was moved to the next meeting.

- November 9, 2011
- November 16, 2011

Liaison Reports: Not addressed.

- Board of Selectmen (Ross/Kathleen)
- Rockingham Planning Commission (Lee)

- Conservation Commission (Pam)
- Windham Economic Development Committee (Sy)

Old/New Business

No new applicants.

Adjournment

Vice-Chair Crisler motioned to adjourn the meeting. Mr. McLeod seconded. Motion passed 7-0

The meeting adjourned at 11:57 p.m.

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