



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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**Approved Planning Board Minutes
February 1, 2012**

Board Members:

Chairwoman Ruth-Ellen Post – Present
Vice-Chair Margaret Crisler – Present
Pam Skinner, Member - Present
Kristi St. Laurent, Member – Seated at 9:47
Carolyn Webber, Member – Present
Jonathan Sycamore, Member – Present

Ross McLeod, Selectman Member - Present
Kathleen DiFruscia, Selectman Alternate, Excused
Sy Wrenn, Alternate Member - Present
Lee Maloney, Alternate - Excused
Vanessa Nysten, Alternate Member – Arrived 7:03

Staff:

Elizabeth Wood – Town Planner
Mimi Kolodziej – Planning Assistant

Mr. Wrenn was appointed to sit for Ms. St. Laurent.

Call to Order/Attendance/Pledge of Allegiance:

Chairwoman Post called the meeting to order at 7:02 pm followed by attendance and the Pledge of Allegiance.

Vice-Chair Crisler motioned and was seconded by Mr. Sycamore to express this Board's appreciation for all the work the Town Planner, Elizabeth Wood, has done to assist the Board in preparing this year's zoning amendments. She not only worked hard, she went above and beyond in diligence and creativity, showing both competence and ingenuity. She is an asset to our Town. Motion Passed: 7-0.

This motion will be placed in Ms. Wood's personnel file. Ms. Nysten arrived at 7:03 pm.

Public Hearings:

Case#2011-24/Minor Site Plan

A Minor Site Plan Application has been submitted for 68 Rockingham Road (Lot 8-B-1) zoned Commercial A and located in the Wetland and Watershed Protection District (WWPD). Greg Peters, of Greg's Auto Village of Windham, on behalf of the owner ADRS Realty, LLC is proposing to reconfigure the parking area on the site to include a total of 34 parking spaces for cars for sale, 2 parking spaces for customers, 1 handicapped customer parking space, 5 outdoor parking spaces for employees, and 7 employee parking spaces in the two garages. The proposal is also to convert the 2-way driveway into a 1-way driveway. No paving, grading, or drainage improvements are being proposed.

Vice-Chair Crisler read the notice into the record.

Vice-Chair Crisler motioned to open Case #2011-24 for Public Hearing. Seconded by Ms. Skinner. Chairwoman Post expressed concern about the completeness of the application. There are ten (10) outstanding items with the absence of a driveway permit being seminal to two of the other items. Vice-

Chair Crisler said that the driveway permit, although it may not have been approved, is usually already applied for. The Chairwoman put it before the Board to determine if they should move forward.

Motion passed: 6-1. Chairwoman Post opposed.

Ms. Wood, addressing the driveway permit, explained that the current building was constructed at a time when driveway permits may not have been required. The plan received approval in 1989 as a car dealership. When Mr. Peters later bought it, he assumed all approvals for a dealership had been granted. Mr. Peters and Ms. Wood have been working with the 1989 plan as a template to prepare for tonight's application. It came to staff's attention as a code enforcement issue. As Mr. Peter's business grew, he began using more space for displaying cars. Setbacks meet regulations. Mr. Peters is making no changes to the structure of the building, paving or grading. Although his plan is not an engineered plan and looks incomplete, Ms. Wood argued that it is complete. The abutters' information is available to be added to the plan, a standard procedure, along with several other required plan conditions. Ms. Wood will work with Mr. Peters to add these items to the plan after the meeting. The applicant has been in front of the ZBA and has had the number of handicapped parking spaces reduced to one space. This meets federal requirements. The Board will need to decide whether or not to accept this as a minor site application.

Vice-Chair Crisler motioned and Ms. Skinner seconded to accept Case #2011-24 as a Minor Site Plan application. The motion passed: 7-0.

Mr. Greg Peters, the applicant/owner, displayed his plan and explained how he is trying to use the existing parking. He was not aware he was in violation. He indicated where the lighting is; Three pole lights across the street shedding flood light onto his property and two large lights on the sides of the building itself.

Board comments/concerns included:

- Ms. Maloney asked if there would be additional signage; Mr. Peters said he would be adding a directional sign;
- Mr. Wrenn asked about employee parking; Mr. Peters said there would be 7 employee spots and there is a large empty garage, if more is needed;
- Vice-Chair Crisler asked why a State driveway permit is needed when the property has 2 curb cuts already; Ms. Wood explained that if a property is applying for a site plan and they're on a State road, the State requires a Driveway Permit; Mr. Peters has not yet applied for the permit;
- Mr. McLeod clarified that the applicant is taking existing pavement and gravel and re-arranging the parking of vehicles without adding or subtracting anything;
- Mr. Wrenn asked if Mr. Peters had installed a Knox Box that had been suggested by the Fire Department; Mr. Peters said he had not – it had been recommended, not mandatory;
- The Vice-Chair commented that this site is very close to an existing stream. If it were a new application, she would be very concerned about the impact on the body of water and its quality;
- The Chairwoman questioned the number of spots for cars; Mr. Peters explained that it varies according to the size of the cars being displayed;
- Snow disposal seems to be on a slope and may run-off gravel and salt into the stream; Mr. Peters said it is placed on a flat area and often removes the snow when it is heavy;
- Vice-chair Crisler asked if there would be any fluid repairs done on site; Mr. Peters said any work would be done in the garage; there would be no fluid replacement; just brake work;
- The other business on site is an industrial repair business which has been on site for 35 years.

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

Vice-Chair Crisler moved to grant approval to this minor site plan with the following conditions:

- **The abutters' information be added to the plan which would include the mailing address and lot number;**
- **A five foot high sign be placed to mark the designated handicapped space;**
- **All required parking spaces must be marked;**
- **All parking spaces must be 20 feet from the property line along the Public Way and be shown on the plan;**
- **The lighting specifications are conditions that staff confirm are accurate with lighting that exists today and is adequate to light all designated required parking spaces;**
- **Show the edge of pavement, grass, gravel, and other surface materials on the plan;**
- **List all current zoning districts of the parcel on the plan; It is in Commercial A;**
- **Add the following notes to the plan:**
 1. **No structure may be erected, nor shall any alteration of the surface configuration of the land be permitted, in the WWPD;**
 2. **A Knox Box be installed and the location be shown on the plan; and that a final inspection be done be the Fire Department before a final certificate of occupancy be issued;**
 3. **The applicant apply and receive a Driveway Permit from the State;**
 4. **Any repairs or other work on the vehicles be done in the garage.**

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

Case#2011-36/Major Site Plan:

A Major Site Plan Application has been submitted for 128 North Lowell Road (Lot 2-A-1100) in the Neighborhood Business District. The applicant, Joseph Maynard, of Benchmark Engineering, Inc., on behalf of the owners Jonathan and Katherine Normington, is proposing the following changes to the approved site plan: to expand the existing business from take-out only to both take-out and eat-in (22 seats) with seasonal outdoor seating (an additional 22 seats) for a total of 44 new seats; to have seasonal outdoor retail products on display and for sale (1,000 total sq. ft. total retail space); to add a 600 sq. ft. addition for a walk-in refrigerator and additional kitchen area; to utilize 1,506 sq. ft of existing space for warehouse space, and; to add an additional 23 paved parking spaces to the existing amount of 12 parking spaces to accommodate the expansion of use. The proposed parking area would be accessed by a new 15' wide driveway off of North Lowell Road.

Vice-Chair Crisler read the Hearing notice into the record.

Mr. McLeod motioned and Ms. Webber seconded to open Case #2011-36 for Public Hearing. Motion passed: 7-0.

Ms. Wood explained that in 2004 there was a previous site plan approval as a retail & take-out business; it has now expanded to indoor and outdoor seating and is in need of additional parking. The applicant previously received a 2004 unconventional conditional approval for the seasonal sale of Christmas trees. Ms. Wood walked through her memo to the Board. The Board must decide what an approved paved surface is to meet the Zoning and Land Use requirements for parking surfaces. Other than that, the application is complete and meets all requirements.

The Chairwoman addressed the 2004 unconventional approval for the sale of Christmas trees. She thought that the request before the Board for approval for seasonal outdoor retail sales would cover the Christmas tree sales, should it receive Board approval. She suggested putting off discussion on that issue, until the final Board approvals are decided.

Board comments/concerns included:

- Mr. Sycamore asked Ms. Wood for a breakdown of the need for the 35 parking spots; Ms. Wood directed his attention to the Town's Zoning Ordinances which have the formula of seats to parking spots;
- Ms. Webber noted that many people walk or ride bikes to the Junction; Ms. Wood has taken that into consideration when determining the number of parking spots. The Junction really should have more spots than is represented on the plan. But because some people will walk/bike, the Town has, instead, agreed to fewer required spots with space for reserve parking out back;

Ms. St. Laurent arrived at 8:43 pm.

Mr. Joe Maynard, Benchmark Engineering, representing the applicant, stated that the applicant put that into the request to clean things up; seasonal sales have been operating on the property for 25 years.

Mr. Maynard, representing the applicants, stated that this business is in the NBD and is a 3-bedroom residence, with retail space, warehouse space, and indoor seating for 22. It became clear for conversation with the Zoning Department that the property was in violation having developed an outdoor seasonal seating/eating area. There are no wetlands on the site and prior letters and plans are on file, as well as the 2004 & 2006 Planning Board approvals. This is an existing business with urban soils and it is all well documented. Mr. Maynard walked the Board through the various aspects of the application and noted how he had been working with the abutters to resolve drainage and privacy issues. He suggested placing a hard-packed gravel parking surface down this year and follow it within 2 years with binder surface to phase the cost to the Normingtons. Mr. Maynard then walked through the various waiver requests.

Vice-Chair Crisler motioned to grant a waiver request to Sections 400 and 401 because this is an existing business that the Board is very familiar with. Seconded by Mr. McLeod. Motion passed: 7-0.

Vice-Chair Crisler motioned to grant the waiver to Sections 503 and 603 because the Board has the required information already in the file. Seconded by Ms. Skinner. Motion 7-0. passed:

Vice-Chair Crisler motioned to grant the waiver to Sections 604 because it is not an undeveloped site, but is an existing site with urban soils. Seconded by Ms. Webber. Motion passed: 7-0.

Vice-Chair Crisler motioned to grant the waiver to Sections 607 and 702 because this information has been previously submitted and is on file. Seconded by Ms. Webber. Motion passed: 7-0.

Vice-Chair Crisler motioned to grant the waiver to Section 704.1 because this is urban land and there is a letter on file confirming that there are no wetlands on the property. Seconded by Ms. Webber. Motion passed: 7-0.

Vice-Chair Crisler motioned to grant the waiver to Sections 808 and 1206.4 for seasonal lighting because the necessary information is already on file. Seconded by Ms. Webber.

Ms. Nysten inquired about walkway lighting. Mr. Maynard explained that there is already existing walkway lighting and directed her attention to the lighting plan. There will be two new light poles that will also illuminate the walkway.

Motion passed: 7-0.

The Board directed their attention to the merits and characteristics of the application.

Board comments/concerns included:

- The Vice-Chair asked about the lighting; Mr. Maynard stated there would be 2 new LED, dark-sky friendly pole lights that would illuminate the driveway and 2 corners of the house.
- The Vice-Chair asked about removal of trees and landscaping; Mr. Maynard said yes. They would be removing trees where the parking lot will be and also removing less than 12 inch scrub up to the swale. The mature front trees will be untouched. The vegetative buffer will remain; they are trying not to take trees where the fence is to be.
- Exhibit A – Photographs of the driveway
- Ms. Webber commented that she did not see a need to pave the reserve parking area; The size of the parking lot below is about 64 ft X 50 ft.
- Ms. Webber thought that too much black top would compromise the rural, antique look of the property; Mr. Maynard recommended recycled asphalt;
- Ms. Nysten confirmed that the reserve parking area is over an existing septic system; Mr. Maynard does not think the reserve parking will be used; but if it is, the applicant will have the septic redesigned to be able to be parked over;
- Ms. Nysten asked about lighting; Mr. Maynard confirmed the 2 new pole lights which are cast downward across the parking lot and does not illuminate back to neighbors and the existing lighting;
- Mr. McLeod would like the paving surface to be readily plowed and provide good drainage; Mr. Maynard will work with the Board's choice;
- The Chairwoman asked how long the applicant would have the gravel; two years;
- Mr. Sycamore asked if the need for the 10 parking spots was redundant; The client thinks 10 spots is enough and the reserve parking meets zoning requirements; Mr. Wrenn said that zoning requires 32 spots; the Plan is offering 13;
- The Chairwoman asked about the nature of the outdoor retail sales; Ms. Wood said that the approval for outdoor, seasonal sales is considered a change of use; The Chairwoman said that 2004 approval process reflected how things were done at that time and was considered valid at that time;
- The Chairwoman noted that in 2004, at that time the minor changes to the site plan were not always brought back to the Board nor were abutters notified;

The Chairwoman opened the Hearing to the Public.

Mr. Russ Perkins, a 10-year town resident, has an affinity for the Junction. He thinks the town should not count the parking needs of the retail shop – it is an overlap; traffic mitigation - it is the only eatery on that part of town, and the Board should not penalize the Junction by making conditions cost prohibitive; the tree sales would be a minor change – it would be just another location to transact business. He thinks the Junction brings the community together.

Ms. Carol Pynn, Cobbetts Pond Rd, feels strongly about trying to encourage small business in Town. It is an owner operated business at a beautiful historical Victorian house in a nearby Historic District, and she encourages the Board to grant any waiver.

John Mangan, 1 Depot Rd, never received a notification. He has no objections to anything tonight. He found that parking on the street tended to slow down traffic. The new parking lot will correct one of the swale situations. He prefers paving because it will address run-off and can be caught and controlled. As an abutter, he has requested a privacy fence. He would like to the fence to be high enough to conceal visibility of the cars and their headlights. He would like it to be known that he will sign nothing; a gentleman's handshake is sufficient. Mr. Mangan will work with Mr. Maynard to plan the swale and would like the fence to be up when the new parking lot usage is allowed. Ms. Webber stated that the entire Board is witness to the gentlemen's handshake. She then asked if he would prefer arborvitae. No.

Ms. Wood encouraged Mr. Mangan to contact the Assessor who has his address incorrectly on file as 1 Frost Rd. The abutter notification was returned and is on file with the Department.

Mr. Robert Jacob-Ellis, 130 Lowell Rd, is working with Mr. Maynard and is in agreement with everything. He thinks pavement is better in the long run. He prefers a 6 ft barn board fence that follows the grade of the parking lot. Mr. Maynard thinks it would be better if the fence follows the property line while Mr. Jacob-Ellis thinks the fence should follow the berm where it will not interfere with the vegetation. Everyone is trying to work together.

Mr. John Normington, the applicant, expressed appreciation for the cooperativeness of his neighbors. He would like the fence in a location where it will not interfere with snow plowing. He will increase the height of the fence to accommodate his neighbors and build it himself. He plans to landscape it beautifully and, in time, paving will be done; he prefers blacktop. In response to a question from Mr. Sycamore, Mr. Normington said he will improve the signage on Depot Rd. Ms. St. Laurent asked about employee parking signage on Depot Rd. Mr. Normington hires young 15-15 year old employees who get dropped off. He seldom has more than 2 employees at one time. Ms. Nysten asked if there would be any dumpster screening. Mr. Normington said he has no garbage dumpsters – he recycles everything. He does have a recycling dumpster and will have a storage area that will be screened by a vine trellis that he will build.

Shawn Foster, Range Rd and 12 year resident, finds the Junction amazing. The sale of Christmas trees supports the family tradition and makes the Town festive.

Mr. Bob Coole, Morrisson Rd, hopes the Board approves the application. It is an example of good growth and is a tourist attraction. The Junction cannot really grow any larger. How quaint an example of New England.

Ms. Maloney travels by there eight times a day and finds it a unique location. The Normingtons have done an awesome job. She loves the well-designed, rural quality of the property.

Vice-Chair Crisler motioned to approve the application with the following conditions:

- **The seasonal, outdoor sales are allowed but limited to Christmas trees and related greenery;**
- **That the applicant continues to work with staff and the abutters to improve drainage on the northeast corner of the property;**
- **To work with staff and abutters to determine appropriate privacy fencing to be placed so as to shield abutters from the parking lots;**
- **Vegetative buffers along the property line be preserved whenever possible;**
- **That the applicant receive a NH State driveway permit for the proposed entrance to the new parking lot on North Lowell Road and the number be added to the plan when available;**
- **That the new parking lot may be hard-packed and/or gravel for a period of two (2) years and then paved.**

Mr. Wrenn seconded.

Ms. Webber asked if the applicant could come back and ask to not pave the lot. The Chairwoman said yes, they could ask for a modification. Mr. Sycamore asked that if after 2 years, the applicant determines they only need 8 additional spots, could they make the lot smaller. Mr. Wrenn said that he is assuming that he will be approving the indicated number of spaces. Ms. Webber confirmed that the employee/personal parking lot does not have to be paved. Ms. Wood said it does not have to be paved.

Mr. McLeod sees some unenforceable items; the privacy fence and the drainage are dependent on working with abutters. He would like to see the property paved, but he does like what they are doing with the property. But he is concerned with the gravel in the parking lot over a winter season. He prefers the motion to say gravel or pave if they prefer. Ms. Wood clarified that it is up to the Board to deem the appropriate surface. Mr. Maynard said the run-off co-efficient for gravel is very similar to pavement, but does deteriorate somewhat making it necessary to maintain the pond. In reference to the placement of the swale area, Ms. Webber said that we are a small town, and a gentlemen's agreement between neighbors is very acceptable and enforceable.

Mr. McLeod offered discussion clarifying the motion. The concerns he would like to see integrated into the intent of the motion are:

- **The placement of the fence next to the parking lot so there is room to move snow out of the way;**
- **A variable height in the fence, depending on what portion of the fence you are at so as to factor in the various neighbors' properties;**

- **Where Mr. Mangons' remarks addressed the swale and drainage near his property line to the detention pond.**

Motion passed: 7-0.

Chairwoman Post said that the validity of the 2004 approval process of seasonal Christmas trees is moot at this point.

The Chairwoman would like to see one or two breaks in the fence as a safety feature. Mr. Maynard will work with the neighbors and applicant to make everyone satisfied.

The Chairwoman called a recess and reconvened the meeting at 9:47 pm.

Ms. St. Laurent was seated at 9:47 pm.

Case#2012-3/Minor Site Plan:

A Minor Site Plan has been submitted for Lakeview Farm, a housing community for older persons located on Harvest Road (Lot 17-I-201), located in the Rural District, Wetlands and Watershed Protection District (WWPD), and 100-year flood plain. The applicant, Joseph Maynard of Benchmark Engineering, on behalf of the owner, Lakeview Farm, LLC, is proposing to amend the existing approved Site Plan which restricts the age of all residents living in community to being aged 55 years of age or older to restricting the age of one (1) person being 55 years of age or older and the remaining occupant to be 21 years of age or older. No physical modifications are proposed for the structures or other areas of the site.

Vice-Chair Crisler read Case #2012-3 into the record.

Ms. Wood explained there are no construction changes; this is simply a change of condition of approval from a previous change. The TRC has no outstanding issues and Ms. Wood read a concern from the Historic District Commission.

Mr. Maynard explained that Federal Guidelines allows down to 18 years of age.

Mr. Maynard, Benchmark Engineering, representing Lakeview Farms explained that when the senior housing project was constructed in 2004, the guidelines were exactly the same that the applicant is asking for now. In 2008, several condo units were changed and to receive approval, the applicant had to abide by the changed guidelines. The economic slump, has prompted the applicant to request approval to abide by the 2004 guidelines which the ZBA has stated is fine. It is now a minor site plan. Residents have been polled and will need to sign off on the new conditions once the Board has approved it.

Board comments/concerns included:

- Vice-Chair Crisler would like to seek legal advice and support for Attorney Campbell; Mr. Maynard said that in 2008, Attorney Campbell said the applicant could ask for a variance from the Ordinance; Mr. Maynard asked for a conditional approval from the Board subject to getting Attorney Campbell's review

- Ms. Nysten confirmed that a person living on the property who is not a spouse has to be a caretaker; Mr. Maynard confirmed that fact reading from the Guidelines;
- The Chairwoman is concerned about legal counsel's cautioning advice; Mr. Maynard has done considerable research, and one person aged 55 or older is a common restriction;

The Chairwoman opened the Hearing to the Public.

Mr. Dave Tokanel, the applicant, stated that changing two units to condexes caused him to be here. At that time, he was just about to the plan signed, when he got caught in the Guideline change. He explained the history of his dilemma. He claimed the residents are all in support.

The Chairwoman closed the Public Hearing.

Vice-Chair Crisler motioned and Mr. Sycamore seconded the approve the application of Case #2013-3 with the following conditions:

- **That no appeals are filed by February 9, 2012;**
- **The revised Condominium agreements are reviewed and approved by Town Counsel.**

Mr. McLeod asked for review by Town Counsel so it does not fly in the face of Federal or current law.

Motion passed: 7-0.

January Planner's Report: Reviewed and accepted.

Meeting Minutes-Review and Approve:

December 28, 2011

Vice-Chair Crisler motioned and Ms. Skinner seconded to approve the minutes of December 28, 2011 as amended, including edits made at a previous meeting. Motion passed: 6-0-1. Mr. McLeod abstained.

January 4, 2012

Mr. McLeod motioned and Ms. Skinner seconded to approve the minutes of January 1, 2012 as amended. Motion passed: 5-0-2. Ms. Skinner and Vice-Chair Crisler abstained.

Prioritizing workshop topics:

The Board recapped the master list and is looking for a master list of all possible workshop topics. Ms. Maloney and Ms. Nysten are compiling a list which they will show the Board for any additions/deletions.

Member Binder Update:

2005 Master Plan Goals to work on in 2012 (Tab 12)

Old/New Business:

The Board reviewed the time, date and attendees of the ZBA/Planning Board meeting.

Ms. Wood said there are no new applications in the pipe line.

Mr. McLeod would like to have an e-mail reminder at some point in the week announcing new applications. This may prevent them from not getting announced as they are late on the agenda.

Mr. McLeod motioned and Vice-Chair Crisler approved that the Board be given notices of new applications on a weekly basis by e-mail. Motion passed: 7-0.

Ms. Nysten asked if Ms. Scott would check to see if the Parking and Loading regulations (704.2.3 and 704.2.4) have been moved. And do Sections 704.4.4 and 704.4.3 need to be in the Parking regulations?

The Chairwoman sent an e-mail concerning a directive from the BOS regarding the Planning Board having input on staffing changes. Outcome: One person from the Planning Board (Chair) and ZBA will participate in replacing the minute taker. There was Board consensus approving the Chairwoman's participation in that.

Adjournment:

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

The meeting adjourned at 11:15 pm.

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