



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

PO Box 120, Windham, New Hampshire 03087

(603) 432-3806 / Fax (603) 432-7362

www.WinndhamNewHampshire.com

Planning Board Minutes – V2

May 9, 2012

Board Members:

Margaret Crisler, Chairwoman – Present

Ruth-Ellen Post, Vice-Chair– Present

Pam Skinner, Member, Member – arrived at 7:10 pm

Kristi St. Laurent, Member – arrived at 8:20 pm

Jonathan Sycamore, Member – Excused

Lee Maloney, Alternate Member – Present

Carolyn Webber, Member - Present

Ross McLeod, Selectman Alternate – Excused

Kathleen DiFruscia, Selectman Member - Excused

Sy Wrenn, Alternate Member – Present

Vanessa Nysten, Alternate Member - Present

Staff:

Elizabeth Wood, Community Planner

Cathy Pinette – Planning Board Minute Taker

Call to Order/Attendance/Pledge of Allegiance:

Chairwoman Crisler called the meeting to order at 7:04 pm followed by the Pledge of Allegiance and attendance.

Seat Alternates

Ms. Maloney will be seated for Mr. Sycamore, Mr. Wrenn will be seated for Ms. Skinner, and Ms. Nysten will be seated for Ms. St. Laurent.

Ms. Skinner was seated at 7:10 pm.

Public Hearing (Continued from 4/18/12)

Case #2010-44 Major Open Space/Workforce Housing Subdivision/Site Plan Application &WWPD Special Permit

A Major Open Space/Workforce Housing Subdivision/Site Plan Application and WWPD Special Permit has been submitted by Karl Dubay, of The Dubay Group, Inc., on behalf of AWAC Realty Trust, for Lot 11-A-1418 (76 Meetinghouse Road), which is located in the Rural, Aquifer, and WWPD Districts. The Application is to subdivide 11.87 acres off Lot 11-A-1418, which already contains an existing home, and into a 13 lot Open Space Subdivision (12 residential lots and 1 open space lot) with a new Town-maintained road, as well as associated drainage improvements. Of the 12 residential lots, 3 lots are proposed to be Workforce Housing lots, as defined in NH RSA 674:58. The WWPD Special Permit is for drainage improvements along Meetinghouse Road.

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Ms. Post read the Hearing Notice for Case #2010-44 into the record.

- Mr. Karl Dubay, speaking on behalf of the applicant, AWAC Realty Trust, thanked Ms. Wood for doing a fantastic job and he stated that she provided him with a list of items that need to be completed.
- Regarding Ms. Wood's list; Mr. Dubay showed the Board prototype pictures of what the homes might look like. He stated that the 3 WFH lots would be designated by deed and dispersed throughout the subdivision. Ms. Wood wanted the exact setbacks on the lots; Mr. Dubay stated that the building envelopes were shown on the plan. The Board stated they would like floor plans. Mr. Dubay stated that would be difficult to provide as the floor plans could be different. He is working with the attorney for the applicant on all legal documents including the deeds and the third party oversight. They had a site walk with the abutters and spent a lot of time on the front of the property. The Board wanted options for the drainage and he will speak with the Road Agent. The abutter's concerns were addressed by Mr. Dubay and the Road Agent. The Road agent made some suggestions.
- Mr. Dubay pointed to the Maloof property on the plan. Mr. Maloof asked if they really need such a large catch basin. Mr. Dubay asked the Road Agent, who stated that it didn't have to be that large. Mr. Dubay will not cut the landscaping around that area and will note that on the plans. There will be a note on the plan that they will not take the big basin out in case there is a problem in a couple of years and they will fix that and that will also be noted on the plans. On Sheet 17 of the plans, they are putting a lot of plantings in that area which will provide visible screening. They will place them wherever the abutters want; they are putting some along the Maloof property and behind the Call property. Mr. Dubay has a memo from Keach speaking to the waivers, one is a 40 foot right of way (602.7). The memo also asks the applicant to extinguish the easement that goes through the Call property. The majority of the drainage will leach out before the end of the road into the wet areas. The attorney is working on the yard easement for the Call property for an encroachment. The Keach memo stated there are technicalities with some of the waivers (610 – 702.3) for the old regulations. Mr. Dubay is voluntarily complying with the new regulations. Ms. Wood's memo asked for a conditional use for the three WFH units. The Mr. Dubay stated the attorney would put together a CUP request. Ms. Wood asked that a note be added to the plan not to dump wood and stumps on the site. Mr. Dubay will put that on the plan.

Questions/Comments From The Board

- Ms. Post questioned why Mr. Dubay is applying for a CUP waiver. Mr. Dubay quoted 619.7.3.3. Ms. Post also commended The Dubay Group for receiving the Pillar Award at the recent EDC event. Mr. Dubay thanked Ms. Post. Ms. Post stated at the site walk Mr. Dubay offered the option of having performance standards for the buffers. Mr. Dubay stated on Sheet 17 they have the plantings. He stated the various types and numbers. He would add more plantings if asked. There will also be orange fencing to section off the areas.
- Mr. Pliskin stated that he wanted a village feel to the subdivision and he found examples of the housing styles for WFH, which will be among houses in the \$400,000 range.

The Chairwoman opened the hearing to the public at 8:47 pm.

- Mr. Jim Maloof, 82 Meetinghouse Rd, would like to see something done with the large drainage bowl. He is still concerned about the buffer behind his property. He is very pessimistic that what they are proposing will be adequate. The Chairwoman asked Mr. Maloof about the number of trees Mr. Dubay was proposing. Mr. Maloof stated that he would like more of a buffer. He also stated that he would like them to do more with the drainage basin now so they don't have to come back at a later time and do construction. Mr. Maloof asked how long construction would take. Mr. Pliskin stated two to three years to complete the whole subdivision. Mr. Dubay stated that road construction would be done in 1 phase and would be completed by the Fall if they started now. Mr. Maloof stated he would like less of a cutaway of the knoll and adding a catch basin. Mr. Dubay stated that they are putting all drainage piping underground and that will be done in the initial phase. Mr. Dubay stated they would put more plantings in and note on the plan. Mr. Pliskin stated he would add 12 more trees if Mr. Maloof agreed to get rid of the satellite dish on Mr. Maloof's property. The parties shook on it. The Chairwoman suggested there is a technique to upgrade the berm. Mr. Dubay stated they would prefer not to as there is vegetation there. There will be 26 – 6 to 8 foot dark arborvitae trees where the buffer is the thinnest and 30 along the Call property. There will be a Bond in place to make sure this is done.
- Ms. Dana Call, 80 Meetinghouse Road, asked if they will be marking the trees that are coming down. Mr. Dubay stated it is noted on the plan that they are keeping most of the vegetation and it will be field staked by a licensed surveyor. Orange silt fencing will also be placed and will be noted on the plan. Mr. Dubay stated he will place the plantings where Ms. Call would like them. Ms. Call has some concerns with taking trees down and upsetting the root systems. Mr. Dubay stated he would take down any additional trees requested. Ms. Call questioned how deep the new ditch/swale will be in front of her property. Mr. Dubay stated they are putting in underground drainage in that area and the only water that would go there will come from her property as it does now. Mr. Dubay stated the swale is about 18". The Road Agent wants the shoulder shaved down and cleaned out on Meetinghouse Road. Ms. Call questioned the impact on her well. Mr. Dubay stated there is no way to determine that but there are ordinances in place and DES involvement. The Chairwoman asked about blasting. Mr. Dubay doesn't anticipate any blasting. Mr. Dubay stated Ms. Call can submit to him language for the easements if she wants.
- Ms. Nancy Maloof Winn, 82 Meetinghouse Road, stated she watched the April 18th meeting video and has some suggestions for the Board to incorporate into the plan. She stated that the smallest buffer is 10 feet and abuts their property. She would like a 30 foot buffer and would like the applicant to redo the plan to incorporate this. She would also like to know when the buffer would be put in and wants that noted on the plan. She stated the slope easement would require cutting of trees (619.6.5) and would like to know when this will be done. She stated Mr. Maloof wants less cutting. She stated according to 619.5.3.7, this project requires an impact study for potential underground, above ground and drain off water resource. She has a major concern regarding blasting (619.6.5) and would like this information in the plan. She suggested the Board require "No Blasting". She spoke regarding limitations of construction

hours. She suggested it needed to be spelled out for the applicant the limitations for earth removal and need to add “no construction on Sundays and Holidays with limited times during the week”. She asked what happens when there is a violation of specific hours for operations. She thinks the project should be shut down and stopped. She questioned who would enforce this.

Ms. St. Laurent arrived at 8:20 pm.

- Ms. Maloof Winn (continued) Ms. Maloof Winn also wanted a limitation on the future building on these properties, no expansions. There should be a restriction she stated. There should be a limitation on the square footage of the houses, the driveways and other structures. She also suggested a restriction of sales in the future as the language speaks to affordable housing and not WFH and that is insufficient. She stated that at the April 18th meeting, the Board clearly stated this is a new application. She suggested the Board look at the need for WFH in Windham as she thinks Windham has enough. She asked what numbers the Board is using for as a standard. The Chairwoman stated that the State does not give a number and Windham currently has approximately 25%. Ms. Maloof Winn stated she had a list of other legal issues she would like to speak about.
- Mr. Dubay addressed Ms. Maloof Winn’s concerns and stated that this is not a 40B project, but a WFH proposal. Keach has sent a letter to the Town regarding Ms. Maloof Winn’s concerns with WFH. Mr. Dubay stated there has to be an opportunity to allow WFH. He stated that there is no buffer requirement and the applicant is putting some in. Drainage will not go onto their property. Mr. Dubay stated they have done all the studies the Board has asked for. Windham does have a blasting ordinance, he doesn’t anticipate any, there is an ordinance in place if necessary and believes the Board cannot put her suggestion on the plan. There is also a Noise Ordinance in place and it speaks to hours of operation and enforcement. There are limits on the deeds and they will be reviewed by the town attorney. They are not undersized lots. Mr. Dubay will not agree to her suggestion of restrictions on improvements to the property. There will be some limits on the WFH. Deed restrictions will be enforced in future sales. Section 619.6.5 speaks to reasonable restrictions and how they will take place.

The Chairwoman stated Ms. Maloof could speak about the project only.

- Ms. Maloof Winn stated that this is not a hardship and takes away her quiet enjoyment of her property and the area will be like an amphitheater. She suggests to be notified more often with legal notices regarding meetings. She has other issues with the legalities. The Chairwoman stated that Mr. Dubay has addressed the noise ordinance and that there are no abutters letters sent out when an application is continued to time and date certain and the proper notice was given for each meeting. The agenda is also public and posted in two places and the internet.
- Ms. Post stated regarding the CUP waiver, that is a suggestion and not an approval.
- Ms. Maloof Winn questioned the cut away for the slope easement be on the plan. The Chairwoman stated that should be on the plan.

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- Ms. Maloof Winn asked how much time there would be there be for the CUP. The Chairwoman stated that they have 65 days to either deny or accept, so by June 22nd. The Chairwoman stated they are trying to resolve the CUP issue. Ms. Wood stated there is a file in the office. The Chairwoman suggested as a general rule that speakers offer written testimony as well as verbal.
- Ms. Wood told Ms. Maloof Winn that she can come into the Community Development office and review the file during normal business hours.

The Chairwoman closed the hearing to the public at 8:50 pm.

- The Chairwoman asked Mr. Dubay if he would like a continuance. Mr. Dubay stated yes. The Chairwoman continued the hearing until June 6th. Ms. Wood stated Mr. Dubay needed to have everything to her by May 25th at 4:00 pm.
- Mr. Dubay stated that they do have a variance in place and they promised the Board they would work with them and the regulations. They are working in good faith and the plan meets the criteria. He will provide the cut away dimensions. They could have cut in all the easements on the Maloof property but did not.

Ms. Post motioned to continue Case #2010-44 to June 6, 2012 at 7:00 pm, seconded by Ms. Webber. Approved 5 – 0.

Ms. St. Laurent was seated at 9:00 pm.

Other Business

- Ms. Wood stated that a resident who was in the audience had some questions for the Board in regards to development in the Cobbett's Pond area. The ordinance was proposed by citizen's petition and adopted by Town vote. The Ordinance is 616. The Planning Board has the authority to create processes and procedures to administer provisions of the watershed protection ordinance per 616.3.1. He is questioning the difference between impervious and pervious materials. This information is in the site plan regulations. Section 1300 discusses acceptable paving materials and the Board determines what that is.
- Mr. Dexter Cluff, 93 West Shore Rd, addressed the Board. He stated he is trying to get a permit to remove a wooden rail wall and replace with a stone wall. The problem is not with the wall, but with the driveway. It is a hard packed driveway. If you measure it with his small lot it is over 20% of impervious. His idea was to make it all crushed rock. He does not want to install a new driveway but because he is moving earth he needs to fix the driveway. Ms. Wood stated that if the amount of impervious surface is less than 20% he would need a minor application. Mr. Cluff asked Ms. Wood if he would count that area in the "impervious". Ms. Wood stated they would look at the whole lot. He stated he just wanted to replace the wall. Ms. Wood stated that any land disturbance in the watershed requires a permit and is

considered development. Ms. Skinner stated she replaced her steps and did not have to get a permit as it wasn't the intent.

- Mr. Wrenn stated that may not be the intent but that is what the ordinance states.
- Ms. Webber asked Mr. Cluff what the height of the proposed wall would be. He replied that it is currently 2 feet and would be going to 3 feet.
- The Chairwoman asked Mr. Cluff if the wall was holding up the driveway, and he stated yes.
- Ms. Post stated she didn't know if he needed a permit or a major application. Ms. Wood stated he does need a permit, the question is does he need a minor or major application. If it is over 20% he needs a major.
- Mr. Wrenn stated that the work he is planning on doing does not change the pervious or impervious area and he believes it would be a minor application. Mr. Cluff stated Ms. Prendergast stated crushed stone is impervious while gravel is not.
- The Chairwoman asked what Mr. Cluff wants to do. Mr. Cluff stated he just wants to repair his wall. The Chairwoman asked Mr. Cluff to come back after staff reviews this.
- Mr. Wrenn asked if there are any provisions for repairs. Ms. Wood stated you could do small repairs but replacing something is different.
- Ms. Post would like a memo from staff on what application is required and what the reasons for it are.
- Ms. Maloney requested pictures of the area and suggested Ms. DiFruscia look at them.
- The Chairwoman would like information and a memo on this situation for the Board.
- Mr. Cluff stated he had a landscaper look at the front driveway which is four to five feet from the road to see if he would be able to bring the wall back and extend parking. Chairwoman Crisler, Ms. Post and Ms. Webber stated this would be a major application.
- The Chairwoman stated to Mr. Cluff that the Board would have the correct information for him in at the next meeting on May 23rd.
- Ms. Webber questioned that if this is a Community Development decision, why is Mr. Cluff coming before the Board.
- Ms. Post thinks it should be addressed by staff.
- The Chairwoman stated if staff cannot take care of this Mr. Cluff can come to the next meeting and speak at the beginning.

Meeting Minutes Review and Approval

- Ms. Webber made a motion to accept the minutes of April 4, 2012 as amended, seconded by Ms. St. Laurent. Motioned passed 4 – 0 with 2 abstentions.
- Ms. Webber made a motion to accept the minutes of April 18, 2012 as amended, seconded by Ms. Post. Motioned passed 6-0.
- Ms. Skinner made a motion to accept the minutes of April 25, 2012 as amended, seconded by Ms. St. Laurent. Motioned passed 4 – 0 with 2 abstentions.
- Ms. St. Laurent made a motion to accept the 4/28/12 Site Walk Minutes as amended, seconded by Ms. Post. Motion passed 3 – 0 with 3 abstentions.

Member Binder Updates

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Old/New Business

- The Chairwoman stated that Mr. Thorndike has decided to resign as the Board's soil based scientist. Mr. Keach will be requested to come to the May 30th meeting.
- Ms. Webber stated that Morrison Road was mentioned in the minutes of a meeting that she hadn't been present at and asked if it could be reclassified. The Chairwoman stated she would check on that.
- Ms. St. Laurent spoke regarding timber harvesting. Ms. Scott sent Ms. St. Laurent a memo regarding this. Ms. St. Laurent would like Ms. Scott to send the information she received from the State to the Board.

Adjournment

Ms. Skinner motioned to adjourn the meeting. Seconded by Ms. Webber. Motioned passed 6 – 0.
Meeting adjourned at 10:25 pm

These minutes were amended and approved by the Board at the June 27, 2012 meeting and respectfully submitted for your approval by Cathy Pinette, Planning Board Minute Taker.