



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

PO Box 120, Windham, New Hampshire 03087
(603) 432-3806 / Fax (603) 432-7362
www.WindhamNewHampshire.com

Planning Board Minutes
August 15, 2012

Board Members:

Margaret Crisler, Chairman – Excused	Carolyn Webber, Member – Present
Ruth-Ellen Post, Vice Chairman– Present	Ross McLeod, Selectman Alternate – Excused
Pam Skinner, Member – Excused	Kathleen DiFruscia, Selectman, Member – Present
Kristi St. Laurent, Member – Excused	Sy Wrenn, Alternate Member – Present
Jonathan Sycamore, Member – Excused	Vanessa Nysten, Alternate Member – Present
Lee Maloney, Alternate Member – arrived at 7:33 pm	

Staff:

Laura Scott, Community Development Director
Ms. Nancy Prendergast, ZBA/Code Enforcement Administrator
Cathy Pinette, Planning Board Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Vice Chairman Post called the meeting to order at 7:04 pm, followed by the Pledge of Allegiance and attendance.

- The Vice Chairman appointed Mr. Wrenn to sit for Mr. Sycamore and Ms. Nysten to sit for Ms. St. Laurent

Design Review Subcommittee Interviews and Appointment

- The Vice Chairman stated there were two letters of interest from applicants for a position on the Design Review Subcommittee. Mr. Paul Gosselin and Mr. Michael Martel.
- Mr. Michael Martel addressed the Board. Mr. Martel stated he is new to Windham and he owns his own structural engineering company. He would like to be involved using his expertise and experience. He likes the town and wants to help out. He has two children in the Windham schools and wants to stay here for a long time.
- Ms. Webber asked Ms. Scott if there was anyone on the Committee from the WEDC. Ms. Scott stated no. She stated Mr. Gosselin would not be able to attend tonight's meeting but he wrote an extensive letter to the Board about his interest in serving.

- Ms. Webber asked Mr. Martel if he volunteered anywhere else in Town. Mr. Martell stated no, he had just moved here in September. Ms. Webber asked him if he was familiar with the Design Review guidelines. Mr. Martel stated he had started to look at them. He also stated he has volunteered in other towns.
- Ms. DiFruscia thanked Mr. Martel and stated he had the credentials and he would be very helpful to the Committee.
- The Vice Chairman asked Mr. Martell if he had read the regulations and what he thought about them. Mr. Martell stated he had started to and thought they were very detailed. The Vice Chairman asked Mr. Martel if he was familiar with the conflict of interest law, stating if he has a project in town he could not participate. Mr. Martel stated he understands.
- Mr. Wrenn asked Mr. Martel what term he would like, one or two years. Mr. Martel stated either is fine with him.

The Vice Chairman entertained a motion.

Ms. DiFruscia motioned to appoint Mr. Martel to a 2 year position on the Design Review Subcommittee, seconded by Mr. Wrenn. Motion passed 5 – 0.

- Ms. Scott stated she would email Mr. Martel the necessary information.
- The Vice Chairman asked he Board to read Mr. Gosselin's letter of interest. She asked if the Board preferred to interview Mr. Gosselin in person or go through his letter. The consensus of the Board was to have Mr. Gosselin come in for an interview. Ms. Scott stated she will schedule the interview for August 29th. Ms. Scott stated she also has another applicant for that evening.

Public Hearings

Ms. Nysten read Case # 2012-24 into the record.

Case # 2012-24 WWPD Special Permit Application

A Wetland and Watershed Protection District (WWPD) Special Permit Application has been submitted for Lot 11-A-1634 (67 Blossom Road), located in the Rural District. The applicant, Edward N. Herbert Assoc. Inc. on behalf of property owners Richard & Judith Blinn, is proposing to construct a fence for a pool and pool pad partially within the WWPD, as well as for a portion of the existing driveway within the WWPD.

- The Vice Chairman asked Ms. Prendergast if this application was complete.
- Ms. Prendergast stated yes, ZBA variances were issued on 7/10/12 from Section 601.3 to allow the 286 sq. ft. encroachment for the installation of the pad and fence in the WWPD and denied

without prejudice relief from submittal of a special permit for the existing driveway infringement into the WWPD (Section 601.4.8)

The Vice Chairman entertained a motion to open the public hearing.

Ms. DiFruscia motioned to accept Case #2012-24 for public hearing, seconded by Ms. Webber. Motion passed 5 – 0.

- Mr. Peter Zohdi, on behalf of property owners Richard & Judith Blinn, addressed the Board. He stated the applicant would like to put a pool in the area but need to do some grading in the WWPD area. The existing driveway is also in the WWPD. He stated when they started the job they found out that the driveway was in the WWPD. He is only asking for 520 sq ft in the WWPD. The existing driveway is already there. The ZBA granted a variance for this project.
- The Vice Chairman asked Ms. Prendergast if the ZBA denied without prejudice. Ms. Prendergast stated yes.

Board Concerns/Comments

- Ms. DiFruscia questioned markers in the pictures. Mr. Zohdi stated the markers were only for the pictures. He showed the Board two photos which show the impact on the WWPD. Ms. DiFruscia asked if drainage was going towards the driveway. Mr. Zohdi stated no, it is an existing driveway and very little will go into the WWPD. Ms. DiFruscia questioned something to divert from the WWPD. Mr. Zohdi stated nothing was being put in to do that but erosion controls will be in place. He stated they are doing everything to send less water into the WWPD. There is no drainage currently, the driveway has been in since 1986 and there have been no problems to date.
- Ms. Webber questioned the 2 slopes on the property. Mr. Zohdi stated they are currently there.
- Mr. Zohdi stated the driveway has been there for 15 years and there has been no problem. Ms. Prendergast stated a driveway is a permitted use in the WWPD.
- Mr. Wrenn asked where the water goes at the end of the driveway. Mr. Zohdi stated the driveway grades backwards. It goes towards the WWPD and always has.
- Ms. DiFruscia asked if there were drains in the driveway. Mr. Zohdi stated no.

The Vice Chairman opened the hearing to the public at 7:28 pm, hearing no comment, public comment was closed.

- Ms. Nysten questioned the size of the WWPD in the driveway. Mr. Zohdi showed the Board a very small section in the WWPD in the map.

The Vice Chairman entertained a motion.

Mr. Wrenn motioned to grant a special permit for the fence, pool, pool pad, pool grading and driveway as shown on the application, seconded by Ms. Webber. Motion passed 5 – 0.

Ms. Maloney arrived at 7:33 pm.

- The Vice Chairman appointed Ms. Maloney to sit for Ms. Crisler.

Financial Guarantees – Orchard Blossom

- Ms. Scott stated the Board did a partial release on 7/11/12 and the only remaining issue was the deed. The deed has now been done. Attorney Campbell has signed off on it. Ms. Scott is recommending that the Board of Selectmen release the remaining \$2,500 and recommend to the Board of Selectmen to accept Orchard Blossom Road (Stations 0 + 00 – 14 + 30.14).

Board Questions/Comments

- Ms. Maloney asked if anyone inspects the road to make sure it is up to specifications before this is done. Ms. Scott stated yes and she explained who and how the inspection was done.
- Ms. Post mentioned there is a minor change in the deed that needs to be done. Ms. Scott stated that was complete this week.

The Vice Chairman entertained a motion

Mr. Wrenn motioned to recommend to the Board of Selectmen to accept Orchard Blossom Road (Stations 0 + 00 – 14 + 30.14) and release the \$2,500 cash financial guarantee, seconded by Ms. Maloney. Motion passed 5 – 0 – 1 with Ms. DiFruscia abstaining.

Meeting Minutes Review and Approve

June 6, 2012 (reconsideration)

- Ms. Scott stated the changes are in the Board's packet, they are highlighted and bolded. Ms. Nysten has suggested other language via email. Ms. Nysten discussed her changes to Ms. Scott's email of 8/7/12 attachment.

The Vice Chairman entertained a motion

Ms. Webber motioned to accept the amendments of the June 6th minutes by Ms. Nysten, seconded by Ms. Maloney. Motion passed 5 – 0 – 1 with Mr. Wrenn abstaining.

August 1, 2012

August 15, 2012 Approved Planning Board Minutes

- Minor edits, changes and/or corrections were provided by the Board.

The Vice Chairman entertained a motion

Ms. DiFruscia motioned to accept the minutes of August 1st with amendments, seconded by Ms. Maloney. Motion passed 5 – 0 – 1 with Ms. Webber abstaining.

2013 Town Meeting Workshop

- The Vice Chairman stated that the Agenda did not appear on the website until very late. Ms. Scott stated it was posted where it should have been. The Vice Chairman was concerned that people would not know the Board was working on these items tonight. Ms. Scott stated the HDC & EDC were made aware of the items on the agenda. She stated if the Board decided not to work on them tonight that they would be on the 9/19 agenda.
- The Vice Chairman polled the Board to see if they wanted to move forward.

Ms. DiFruscia was concerned that there was no one from the public for the hearing.

- The Vice Chairman stated she thinks when talking about long term impacts on the Town it is disconcerting that there is no one from the public or Committees in attendance. Ms. Scott stated that 3 of the items were on the last agenda and no was here for public comment last time.
- Ms. DiFruscia suggested regarding the Demolition Ordinance that Ms. Scott email the HDC. Ms. Scott stated an email was sent, she met with the HDC regarding this and there were edits made which are in the version before the Board. She followed up and there were no additional comments or edits. She stated if the Board made any changes she would send it back to the HDC.
- Mr. Wrenn agrees that it is always disturbing when no one from the public is present but the Board has done a lot of work and he thinks they should discuss it.
- Ms. Nysten stated in the Site Plan Regulations, Section 1104 seems to be missing. Ms. Scott stated it has been moved and was not able to immediately find it and will look into it.
- Ms. Nysten would like more public input.
- Ms. Webber stated the Board should do the first round and if people are interested they will come in.
- Ms. DiFruscia concurs going forward with the Rules of Procedure and the Demolition Delay Ordinance since Ms. Scott has met with the HDC. She is not sure about the Site Plan Regulations. Ms. Scott stated they only contained minor edits.

- Ms. Maloney would like to move forward with the Rules of Procedure and the Demolition Delay Ordinance but delay Appendix 1 regarding soil.
- The Vice Chairman stated the Board would work on the Rules of Procedure and the Demolition Delay Ordinance

Demolition Delay Ordinance

- Ms. Scot stated that she and Ms. DiFruscia worked on this Ordinance. This is a total re-write. They tried to streamline and simplify. Ms. DiFruscia met with the HDC. Ms. Webber stated there were issues with the original ordinance. Ms. Scott stated the Building Inspector looked at it and Ms. Scott herself looked at it. This is also for substantive renovations. Ms. DiFruscia states the Ordinance now states what the process and time lines are.

Comments/Questions from the Board

- There is a new section for buildings or structures that needed to be captured. There is no provision for cellar holes. A permit is not required for cellar holes. Ms. Scot stated it is part of the application for site plans. It was asked if under “purpose and authority” language could be added in to protect the environment. Ms. Scott stated that language is under the Building Code. Question regarding the Searles wall being part of this. Ms. DiFruscia stated the NH RSA concerning stone walls takes precedence. Ms. Webber was very concerned about the historic resource list and the fact that this Ordinance did not cover all historical and archeological sites in Town, she would like them included. Ms. DiFruscia states there was a question if you could include items that were not a shelter for people or animals. Ms. Scott and Ms. DiFruscia will check the RSA’s. Ms. Scott also stated that the Department would not be involved since there are no permits for these items. Ms. DiFruscia stated unless it was a site plan no one would know. Items on the historic resource list are flagged in the Community Development office in the MUNIX System and in the paper files for properties. An updated list of the historic resource list is necessary with a date for reference.
- Ms. Scott will fix the typos, look at architectural items, get an updated list from the HDC with the date for references purposes and work with the HDC.

Rules of Procedure of Workshop

- The Vice Chairman suggested the Board look at the changes that are before them and the suggested edits in Ms. Scott’s memo of 7/31/2012. Ms. Scott and Ms. Webber worked on these and they have not been updated since 2009. The edits have been a correlation of comments over the past three years Ms. Scott said.

Questions/Comments from the Board

- The Vice Chairman was pleased that section 5.7 was added regarding written material submission and the section on Alternative Planning Board Member Log was updated.

- Ms. DiFruscia and Ms. Maloney questioned alternates sitting as members and not participating in deliberative and motions. The Vice Chairman suggested a simpler statement. “When a member is appointed to sit for anyone who is excused, they have the full power of being a member. When they are not seated for an absent member, they can participate in all discussions but not motion or second the motion and will not discuss after a motion is made”.
- There was a consensus of the Board approving the suggested language.
- Ms. Scott stated Section 3.5 was changed to reflect the RSA.
- Ms. Nysten questioned the statement “an effort will be made to post to the Town’s website”. There was a discussion of the Board about the RSA and the website. Ms. Scott explained the State law regarding postings which does not include “website”. The Vice Chairman suggested draft minutes will be posted until the approved minutes are done. It was decided to add to Section 3.5 “an effort will be made to post the draft minutes on the Town’s website in the same time frame as referenced above as well as posting approved minutes when they become available”. Ms. Maloney suggested including “reconsidered minutes” and the Board agreed and would like the date approved on the minutes.

Section 3.6

- Ms. DiFruscia stated this reflects how records are to be stored. Ms. Scott stated at one point the Community Development office received a CD of the meeting, this no longer happens. The new language in this section reflects what is done now. Ms. Maloney asked if we could indicate Cable keeps them. Ms. Scott stated that is not a Planning Board Rule of Procedure.

Section 4.1

- Ms. Scott will make changes to the minute language. Ms. Nysten doesn’t believe the RSA says the agenda needs to be posted, just a meeting. An effort will be made to post the hearing notice and agenda on the Town’s website and the RSA reference will be removed.

Section 4.7

- Ms. Nysten would like to take a class in Non Public meetings. Ms. Scott and the Board stated 91:A.3 stated how non public is conducted.

Section 5.3

- Ms. Webber questioned the language about the vote being evenly divided and if an applicant can come back to the next meeting. Ms. Scott and Ms. DiFruscia stated yes.

Section 5.4

- Ms. Scott explained the language in this section. The Vice Chairman questioned why it only appears to apply to applicants. Ms. Scott stated it was statutory requirements. She stated if the Board wants to reconsider other items there could be another section added. Ms. DiFruscia stated other matters that come before the Planning Board other than applications shall be handled in the

same manner. Ms. Nysten questioned if someone who hadn't voted asking for reconsideration. Ms. DiFruscia stated that is what the law states. Ms. Scott will check into that.

Section 5.7

- Ms. Nysten stated it said "residents" but could be someone else. The Board agreed to drop the word "resident".

Section 5.14

- Ms. Webber discussed town employees being appointed to sub committees. The new language states "no Town employee may be appointed to sit on a Planning Board Subcommittee". Ms. DiFruscia stated it is a good idea. The Vice Chairman asked to include "Non Board members". Ms. Nysten reminded the Board that if there are 2 members on a subcommittee you need to keep minutes. Mr. Wrenn thinks that if you are a town resident and a town employee you should be allowed to be on a subcommittee. If there is a conflict of interest that could be decided in the selection process.
- The Vice Chairman polled the Board on whether or not to include the language that town employees can not be appointed to subcommittees.
 - Ms. Webber, Ms. DiFruscia, and Ms. Maloney want the restriction in there
 - Ms. Nysten and Mr. Wrenn would like the restriction taken out
- Ms. Scott suggested it remain in there and the Board can discuss again. Ms. DiFruscia and Ms. Maloney stated that other towns have that in their bylaws.

Article 9 – Standards of Conduct

- Ms. Nysten would like to add that employees of the Community Development office be included. Ms. Scott stated that employees are covered under the Town Policies and the Board of Selectmen.
- Ms. Scott references the draft Changes to the Rules of Procedure in her July 31, 2012 memo.
 1. Should language be added to deal with applications that have outstanding zoning compliance issues beyond what is listed in Section 5.8. The Board's consensus was this will be added to the By-Laws.
 - The Board decided to include this in a separate section after 5.9.
 2. Should language be added to specify a timeframe in which to submit evidence about the economic effect of the conditions of approval for the WFH application or should this be on a case by case basis for each application (RSA 674:60 (III)? Ms. Scott stated Attorney Campbell's suggestion was 30 days for submittal.
 - The Vice Chairman stated she liked the idea but thinks it does not belong in the Bylaws but in the WFH Regulations.

3. Should the new minute process of reviewing draft minutes and approving minutes be included in the By-Laws.
 - The Vice Chairman polled the Board if they wanted to make it permanent.
 - Ms. Nysten, Ms. DiFruscia, Ms. Webber and Mr. Wrenn agreed it should be permanent.
- This information will be added to the Bylaws.

Code/ZBA Administrator Suggestions – Watershed Protection and Signs

- Ms. DiFruscia stated that has already been discussed at length and the Board did not want to discuss. The Vice Chairman stated regarding Canobie/Cobbett's Pond, when repairs are made, she would like to see more information in the Ordinance. Ms. DiFruscia stated that the issue with the resident who came before the Board for guidance was misdirected and the ordinance is fine. She also stated that there is language in the Watershed Ordinance that the ZBA should be looking at. She will work with Ms. Prendergast on the intent.
- Ms. Scott asked if anyone wanted to work on the sign ordinance. Ms. Webber volunteered.

WFH Ordinance

- Ms. Scott stated Chairman Crisler said there were some tweaks that needed to be done to the ordinance. Not a big rewrite. Ms. Scott asked for volunteers. There were no volunteers.

Appendix A – 1 and Multi-family

- Will be rescheduled until September 19th. Ms. Scott and Ms. Maloney will work on them.
- Rules of Procedure will also be before the Board again on September 19th.

Liaison Reports

Board of Selectmen

- Ms. DiFruscia stated that Al Barlow is retiring at the end of the month.

CIP Committee

- Vice Chairman Post and Ms. Webber stated the CIP Committee was going well.

Village Center

- Mr. Wrenn stated they are working on definitions and next will be working on the Village Center committee boundaries if they decide to present a change to the Planning Board. They want to come up with ideas of what kind of development should be encouraged. Ms. Nysten asked if she could look at the minutes from the meetings. Ms. Scott directed her to the Town website, under Village Center Subcommittee. The Vice Chairman stated that the Zoning Use Subcommittee needs to touch base with the Village Center Committee. Mr. Wrenn agreed since they are both addressing similar questions. Ms. Scott stated that after the definitions are done and the other subcommittee definitions are done, since they are both addressing similar questions will be brought to the Planning Board.

Adjournment

- The Vice Chairman entertained a motion to adjourn.

Ms. DiFruscia motioned to adjourn, seconded by Ms. Webber. Motion passed 6 – 0.

- Meeting adjourned at 10:00 pm

These minutes were approved August 29, 2012 and respectfully submitted by Cathy Pinette, Planning Board Minute Taker.