

**PLANNING BOARD MINUTES  
JANUARY 19, 1999**

**ROLL CALL:**

David Dubay-Chairman-Present  
Bernie Rouillard-Vice Chairman-Excused  
Jack Gattinella-Secretary-Present  
Wayne Morris-Regular Member-Present  
Russell Wilder-Regular Member-Present  
Annette Stoller-Regular Member-Present  
Walter Kolodziej-Alternate-Excused  
Keith Goldstein-Alternate-Present  
Margaret Crisler-Selectman-Present  
Galen Stearns-Selectmen's Alternate-Present

**CITIZEN PETITION - PUBLIC HEARING**

The Chairman opened the meeting at 7:00 P.M. and read the citizen's petition, from George Dinsmore and others, into the record. This petition would limit the number of gas stations and used car sales businesses by requiring a minimum of one mile between the businesses.

Mr. Dinsmore was unable to attend the public hearing and sent the Board a letter in support of the petition. Mr. Dinsmore offered three reasons for recommendation of the petition: 1. It would be in the best interest of the town, 2. It would provide a reasonable distance between businesses of this nature and provide orderly and attractive growth, 3. Believe this petition is not overly restrictive and other towns have put similar restraints in place.

Mr. Turner reviewed the petition and the reasons for re-advertising and re-hearing due to a typo. Mr. Ken Hughes recommended the Board not accept the petition, as it was unfair to business people in town. Karl Dubay, a resident and engineer with TF Moran, representing the owners of lot 18-L-300, located on Range Road, stated the petition would negatively affect commercial properties and urged the Board not recommend. Mr. Dubay indicated the petition would exclude the planned areas for these types of businesses. Mr. Wilder agreed this would be poor planning and far in excess of what the courts have allowed.

Mr. Morris questioned whether other towns had this type of restraint and Mr. Turner explained the current zoning ordinance restricts car sales to 1,500 feet between and Salem's ordinance addresses distance between gas stations.

Mr. Goldstein motioned to not recommend this petition and Mr. Wilder seconded. Motion passed 5-1 (M. Crisler opposed).

**AMENDMENT # 1 - PUBLIC HEARING**

Mr. Dubay read the amendment, as advertised, and Mr. Turner explained the purpose of the amendment was to tighten up the ordinance in the area of commercial antenna structures.

This amendment would require a bond to be posted for removal when the tower is obsolete. Mr. Goldstein motioned to accept, as written, and post to the ballot. Mr. Wilder seconded and the motion passed 7-0.

### **AMENDMENT # 2 - PUBLIC HEARING**

Mr. Dubay read the amendment addressing public utility structures. This amendment would allow public utility structures in any district. Mr. Turner recommended moving the words, "in size" to after the words, "500 feet." Mr. Tom Case suggested a comma be placed after the word, "buildings." Mr. Goldstein motioned to accept this amendment with the changes stated and Mrs. Crisler seconded. Passed 7-0.

### **AMENDMENT # 3 - PUBLIC HEARING**

This amendment would add a definition for public utility. Mr. Turner recommended combining amendments two and three. Discussion followed on the RSA definition and the modification to include cable companies, which are private. Mrs. Crisler motioned to accept this amendment and move to the ballot. Mr. Morris seconded and passed 7-0.

### **AMENDMENT # 5 - PUBLIC HEARING**

Atty. William Mason requested the Board hear amendment # 6 before #5. The Board chose to hear the amendments in the order they were posted. Mr. Dubay read the amendment into the record. The purpose to define what is exempt around the bodies of water listed, Cobbetts Pond, Canobie Lake, Shadow Lake, Rock Pond , and Moeckel Pond. Atty. Kathleen DiFruscia questioned whether this change was what was amended at the last public hearing. Mr. Turner indicated the wording was recommended by town counsel, Atty. Campbell. Mr. Goldstein motioned to accept as written and post to the ballot. Mrs. Crisler seconded and the motion passed 7-0.

### **AMENDMENT # 6 - PUBLIC HEARING**

Mr. Dubay read the amendment into the record and Mr. Turner explained the purpose was to clarify the definition of brook and stream. Atty. DiFruscia questioned whether this was consistent with the decision of the court. The amendment was consistent with the decision of the court. Mr. Goldstein motioned to accept the amendment and post to the ballot. Mr. Morris seconded and passed 7-0.

### **AMENDMENT # 7 - PUBLIC HEARING**

Mr. Dubay read the amendment addressing section 601.2, methodology. Mr. Turner explained the purpose was to clarify the measuring of the W.W.P.D. Discussion followed on the suggestions of town counsel. Mr. Goldstein motioned to accept, as written, and post to the ballot. Mr. Wilder seconded. Mr. Gattinella suggested not breaking the paragraph. Motion passed 7-0.

## **AMENDMENT # 8 - PUBLIC HEARING**

This amendment would clarify where to start the W.W.P.D. and amend the definitions by replacing top of the channel embankment with normal high water mark. Mr. Turner explained the definition was taken from the Shoreland Protection Act and recommended changing the words, "main stem of the river," to "ponds and lakes." Mrs. Crisler motioned to accept for posting with the change and Mr. Wilder seconded. Motion passed 7-0.

## **AMENDMENT # 12 - PUBLIC HEARING**

This amendment would rezone the area generally located behind Town Hall and across Route 111 in the vicinity of the new Town Complex from Rural to the Village Center District. The new section will be designated as 612 of the zoning ordinance. The amendment lists the purpose, the uses permitted and development standards.

Mr. Turner reviewed the purpose to preserve the area around the Town Hall, the Fire Station, the Armstrong Building, the Bartlett Buildings and the Historic District as an actual town center. Special conditions would allow mixed uses in this district. Mr. Turner showed a conceptual plan of the area. Mrs. Crisler questioned whether all the owners of the affected properties were notified. Mr. Turner explained the owners were notified for the first meeting and the date was announced for this second meeting at the first meeting.

Mrs. Stoller questioned whether we should eliminate the word existing from section 612.3.1. Mr. Turner recommended removing both references to existing from 612.3.1.

A resident of Eastwood Road spoke in opposition to the proposed amendment and expressed concern with future development near the residential area. Her concerns were traffic, light and noise pollution. Mr. Tom Case expressed concern with the implementation of a planned development with 19 different owners, the separating of bakeries from retail shops, the 50' buffer being a land taking and the occupiable percentage.

Another concern was the access to the area. Mr. Turner clarified the buffer area, shared driveways and parking and the limiting of access to Route 111. The owner of 19 Indian Rock Road addressed the current problems with noise and traffic and questioned where the idea came from the re-zone the area. Mr. Turner indicated no developers have approached the town but recently assisted living was granted a variance next to the church parcel. Also, the post office is favoring a location on Route 111 for their new facility. Originally Turner Associates had done a study for the town years ago and proposed a town center.

Discussion followed on the homes located on Route 111 and how much influence the Heritage Commission would have on the properties. The Board requests comments from various agencies. It was reported, by Paul Harmon, that in 1978 the town wanted to include these homes along Route 111 in the Historic District but the town voted the amendment down. Mr. Dubay stated the comments received from various agencies on plans before the Board were non-binding recommendations.

Mr. Turner reported on the test pits and the wells at the new town complex site. The new Library well yields 100 gallons per minute and the new Police Station well yields 60 gallons per minute. The amount of development would be limited by septic designs and would be scattered and spread out. The soils would not support dense development.

Mr. Harmon was concerned with the type of uses, the impact on abutters and how traffic would be controlled on narrow roadways. Of particular concern was the movement of fire apparatus on the narrow roadways and the plowing. Mr. Lynch was concerned with the setbacks and questioned the percentages in section 612.3.10. Mr. Wilder established the percentages were tied to the total build out of the area and the need to create the district to create the opportunity.

The owners were concerned with the coordination of the development and the need to explain in more detail how the ordinance would be administered. Mary Kivikoski questioned the need to put this ordinance forward so fast.

Mr. Gattinella voiced his opposition to the amendment and felt more time was needed to work on the details. Mr. Gattinella made the audience aware of the option to put in a protest petition, RSA 675:5, which would require a 2/3 vote to pass. Mr. Wilder indicated the ordinance was flexible enough to allow the Board to create a town center and restrict strip development along Route 111.

Mr. Kivikoski felt this did not preserve the character of the town but changed the character of the town. Mr. Fred Noyles suggested planning changes should be orderly and felt liberties were taken with people's land and the ordinance needed more work.

Mr. Goldstein motioned to not accept amendment 12, as it needed more work and Mr. Gattinella seconded. Mrs. Crisler and Mr. Morris spoke in favor of the amendment. Mr. Dubay felt the ordinance had merit with more work needed. Mr. Lynch spoke in favor of the concept but the need to work on the details. Mr. Goldstein motioned to move the questions and Mr. Gattinella seconded. Vote 5-1-1 (D. Dubay opposed, A. Stoller abstained). Vote on the main motion to not accept the amendment 3-3-1 (AS abstained, M. Crisler, R. Wilder, W. Morris opposed). Mrs. Crisler motioned to move the amendment to the ballot amending the word existing in section 612.3.1 and Mr. Wilder seconded. Vote 3-3-1 (A. Stoller abstained, K. Goldstein, J. Gattinella, D. Dubay opposed). Mrs. Stoller abstained to ask a question. Mrs. Stoller questioned the number of residential homes in the area. Mr. Turner reported there are 9 homes on Route 111 in the area. Discussion followed on uses grandfathered. Mrs. Stoller also questioned the percentages. Discussion followed on flexibility in the ordinance.

Mr. Wilder motioned to approve this amendment amending existing from section 612.3.1 and Mrs. Crisler seconded. Motion passed 4-3 (J. Gattinella, D. Dubay, K. Goldstein opposed).

Mr. Wilder motioned to reconsider amendment 8 and replace the word ordinary high water mark to normal high water mark in two places and Mr. Morris seconded. Voted 7-0 to

reconsider and vote on the main motion 7-0.

Mr. Case questioned the amendment proposed to change zoning on Roulston Road. Atty. Campbell recommended putting the amendment forth without further hearings.

Meeting adjourned 9:50 P.M.

Mona Feciuch