

**PLANNING BOARD MINUTES  
JANUARY 4, 2000**

**ROLL CALL:**

Keith Goldstein - Chairman - present  
Russell Wilder - Vice Chairman - present  
Annette Stoller - Secretary - present  
Margaret Crisler - Selectman - present  
Galen Stearns - Selectmen's Alternate - present  
Walter Kolodziej - Regular Member - present  
Wayne Morris - Regular Member - present  
Bernie Rouillard - Regular Member - excused  
Alan Carpenter - Alternate - present  
Fred Noyles - Alternate - excused  
Betty Dunn - Alternate - present

Ms. Dunn replaced Mr. Rouillard on the Board.

**MINUTE APPROVALS:**

Mr. Goldstein read a letter from Ms. Annette Stoller regarding the Board minutes of October 27 and November 3. Ms. Stoller noted that she did not get the audio and video tapes in the time frame requested in the December 15 motion. Discussion ensued. Mrs. Crisler distributed and read a letter to the Board. Discussion ensued regarding the minutes. Ms. Dunn made a motion to accept the October 27 minutes as written by Nancy Charland. Seconded by Mr. Wilder. Discussion ensued. Ms. Dunn made a motion to move the question. Seconded by Mrs. Crisler. Passed 5-2. Mr. Goldstein and Ms. Stoller opposed. Vote on original motion. Passed 5-2. Mr. Goldstein and Ms. Stoller opposed. Ms. Dunn made a motion to adopt the November 3 minutes as written by Nancy Charland. Seconded by Mrs. Crisler. Discussion ensued. Mr. Galen Stearns, Planning Board Selectmen's Alternate, who helped write the original minutes, stated that he did not have a problem accepting Mrs. Charland's minutes. Passed 4-2-1. Mr. Goldstein and Ms. Stoller opposed. Mr. Wilder abstained. **CITIZEN PETITIONS TO AMEND THE ZONING ORDINANCE:**

Petition #1. Mr. Goldstein read the first citizen petition. Attorney Steven Shadallah and Mr. Gardner Dinsmore, representing the Dinsmore family, explained the ordinance, stated that other towns have the ordinance, and why the ordinance was being requested.

Public discussion began with Mr. Arthur Klemm, 25 Emerson Road, asked if the petition passed would it pertain to existing gas stations if remodeled. Mr. Turner explained. Mr. Dinsmore thought the current gas stations would be grandfathered in. Discussion ensued regarding non-conforming use. Mr. Klemm has plans for his gas station to bring before the Board; he stated that he was up in the air as to what the people are voting for. Mr. Goldstein read comments from Bernie Campbell, the town attorney. Attorney Campbell recommended not accepting this petition. Tom Case spoke and said that he thought that 1 mile is excessive. Mr. Dinsmore stated that he thought Amherst and Bedford had a 2-mile ordinance. Attorney Shadallah disagreed with Attorney Campbell's opinion, and it was not the intent of the ordinance to effect existing gas stations.

Mr. Kevin Waterhouse, 175 Haverhill Road, wanted to know why Route 28 was not included in the

ordinance. Mr. Dinsmore responded that he was most concerned with the Route 111 corridor. Tom Case stated he thought it was important to include Route 28. Discussion ensued regarding changing the wording, but wording can not be changed.

Ms. Dunn made a motion to continue citizen petition #1 to the January 18 meeting so we can get the opinion of town counsel of what can be done in preexisting gas stations. Seconded by Ms. Stoller. Passed 7-0.

Petition #2. Mr. Goldstein read the second citizen petition. Elmer Peaves, Real Estate Consultant with PD Associates, represented the owner of the property, explained petition #2.

Public discussion began with Ellen Whynot, 12 Braemar Woods, wanted to know what type of business was proposed. Mr. Peaves stated that no use had been decided as yet. Discussion ensued regarding uses in the area.

Mr. Kevin Waterhouse, 175 Haverhill Road, wanted to know if abutters were notified of this petition. Abutters are not notified of citizen's petitions.

Mr. Wilder made a motion to recommend approval of this petition and move it forward. Seconded by Mr. Kolodziej. Passed 6-1. Mrs. Crisler opposed.

Petition #3. Mr. Goldstein read Attorney Campbell's comments. Ms. Carol Pynn, Chair of the Historic District Commission, and Mr. Tom Furlong, Historic District Commission member, spoke to the importance of preserving this 1-acre land. Discussion ensued regarding district vs. site. Mr. Wilder made a motion to readvertise the petition with it presented by Tom Furlong and others. Seconded by Mr. Morris. Motion tabled. Mr. Tom Case stated that the purpose of a historic district protects for building permits. He thought it should be made a historical site. Ms. Pynn disagreed and would like it readvertised. The motion was brought off the table and voted on. Passed 5-2. Mr. Goldstein and Ms. Stoller opposed.

## **PLANNING BOARD PROPOSALS TO AMEND THE ZONING ORDINANCE:**

Amendment #1. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Goldstein then read Attorney Campbell's comments. Discussion ensued. Public discussion began with Mr. Tom Case wanting to add the word "amend".

Mr. James Gove, from Gove Environmental, had several concerns. 1) delineation of wetlands with this amendment; 2) we will have WWPD's where there weren't before; 3) there will be gray areas of what's a WWPD; 4) if connecting wetlands that are less than 1 acre in size, where does it break off; 5) there are too many difficulties with this amendment. Discussion ensued regarding the WWPD.

Attorney William Mason agrees with Attorney Campbell that we do not want to weaken the ordinance. The ordinance works well and doesn't see a reason to redefine it.

Mr. Jack Semplinski, Benchmark Engineering, stated that he thought the ordinance is subject to interpretation, the amendment is not clear, it is a dangerous addition, and it confuses the current regulation. Discussion ensued regarding WWPD and the amendment's vagueness.

Attorney Al Lynch thought that attorneys would have a field day with this amendment, and we should be pragmatic.

Discussion ensued regarding changing the definition of brook or stream instead. Mr. James Gove

thought the amendment was heading in the right direction, but it needs more thought.

Mr. Jack Semplinski described a 20-lot subdivision scenario, and if interpretation of this amendment wouldn't in fact make a WWPD where there wasn't one before.

Mr. Wilder made a motion to amend and readvertise for the January 18 meeting the amendment as "Amend 601.2 Definitions: Brook or Stream by adding the following sentence at the end of the current definition: Roads, drainage culverts, or other man-made features do not constitute an interruption in the delineation of a brook or stream." Seconded by Mrs. Crisler. Passed 7-0.

Amendment #2. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Goldstein then read Attorney Campbell's comments. Mr. Tom Case said an "s" needed to be added to the word "word". He also said that open area recreation covers pedestrian trail.

Ms. Dunn made a motion to recommend the amendment to move forward with the word "word" changed to "words". Seconded by Mr. Morris. Passed 7-0.

Amendment #3. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Goldstein then read Attorney Campbell's comments. Mr. Tom Case did not understand the expansion of the limitations with the exception of the frontage on Route 111 and asked for clarification.

Mr. Eric Nickerson wanted clarification of 100% of the footprint or square footage. Mr. Turner also expressed his concern about setback not square footage.

Mr. Tom Case asked for a rationale as to why is it twice as large than where before; why not three or four times? Mr. Turner explained that this was only within the setback. Discussion ensued regarding setbacks and additions to existing buildings.

Mr. Wilder made a motion to amend 612.3.3 by inserting at the end "except that there shall be a 50 foot setback from Route 111 right-of-way." Seconded by Ms. Stoller. Passed 7-0.

Amendment #4. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Tom Case doesn't have a problem parking, but if we're going to get more parking he doesn't see a problem.

Ms. Stoller made a motion to recommend amendment #4 as written. Seconded by Mr. Wilder. Passed 7-0.

Amendment #5. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Tom Case stated that the current two 12' parking space and two 8' parking spaces with 8' in the middle didn't make sense. He also didn't like the title of the amendment. Discussion ensued regarding this amendment.

Mr. Wilder made a motion to move amendment #5 forward. Seconded by Mr. Kolodziej. Passed 7-0.

Amendment #6. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Tom Case said that he was confused as to whether it was meant to be electronic changing copy or print signs. Who determines unsafe, nuisance, or level of partial blindness? The amendment is too subjective. He stated it does not effect the new Professional district.

Mr. George Michaud, Barlow Signs, was concerned with the banning of electronic message centers. He stated that government studies have shown that signage is important for business effectiveness and safety. He though there should be design regulations rather than banning the signs. Discussion ensued regarding the enforceability of the sign regulations. Mr. Goldstein read Attorney Campbell's comments.

Mr. Michaud addressed the comments. He said that people do abuse the sign regulations and that it could be handled through code enforcement not through banning the signs. He said it was advisable to defer action till government studies could be reviewed.

Mr. Kevin Waterhouse asked if his gas price signs would be included as illuminated. Discussion ensued regarding signs.

Mr. Tom Case said we should address the intensity of the sign.

Mr. Kolodziej made a motion to recommend amendment #6 as written and give approval. Seconded by Ms. Dunn. Failed 1-6. Mr. Goldstein, Mr. Wilder, Ms. Stoller, Mrs. Crisler, Mr. Morris, and Ms. Dunn opposed.

Mr. Wilder made a motion not to move this amendment forward. Seconded by Ms. Stoller. Passed 6-1. Mr. Kolodziej opposed.

Amendment #7. Mr. Goldstein read, and Mr. Turner explained the amendment. Mr. Tom Case said the wording "Table of Use Regulations" should be "Table of Requirements", and the word "column" should be "row".

Discussion ensued regarding the affect of amendment #3 on amendment #7. Mr. Wilder made a motion to move forward and incorporate it with amendment #3 by changing it to read "And amend the Table of Requirements by adding a new row called Village Center District, Minimum lot frontage in feet 50 \* 13 , Minimum front, side, and rear yards in feet 0, \* 14 Maximum building coverage of lot 100%, Minimum floor area in square feet 0, Minimum lot area 0. \*13 measured at the front lot line. \* 14 except 50 foot front setback on Route 111 Right of Way." Seconded by Mr. Morris. Passed 7-0.

Amendment #8. Mr. Goldstein read part of this amendment, and Mr. Turner explained the amendment. Mr. Tom Case had several issues with amendment #8. 1) a comma was missing in the Professional, Business and Technology District wording; 2) "sewage and refuse" should be "sewage or refuse"; 3) who determines what offensive; 4) why 33% storage for a warehouse; 5) smoke emissions measuring enforcement; 6) how to do discern nuclear radiation without instruments; 7) Table of Use Regulations should be Table of Requirements.

Mr. Goldstein read Attorney Campbell's comments.

Mr. Case stated that the area is zoned commercial now. Would mechanical/electronic amusement devices include a gun range or sexual paraphernalia? What about signs for this area? This is creating spot zoning. Mr. Goldstein stated that Mr. Case's issues were addressed in Attorney Campbell's comments.

Mr. Goldstein read a letter from Attorney William Mason. His clients are opposed to the rezoning. Attorney Mason was present and stated that his clients, David and Anthony Masetti owners of 11-C-425, do not want their property rezoned.

Attorney Al Lynch wanted clarification of the zones. He owns much of the property in this area. He would like to review Attorney Campbell's comments. He was concerned with pedestrian walkways. He thought the amendment needed cleaning up. He hopes that something happens with this area. He stated that no water and sewage is the biggest problem.

Mr. Scott Zepp, Indian Rock Trust/lot 11-C-13, requested that his property be removed from this amendment.

Attorney Mason requested that lot 11-C-425 also be removed from the amendment.

Ms. Dunn made a motion to amend 614.2.9 to read "Manufacturing." Seconded by Mr. Wilder. Passed 7-0.

Ms. Dunn made a motion to change the word "column" to "row". Seconded by Mr. Wilder. Passed 7-0.

Mr. Morris made a motion to eliminate 11-C-13 from the rezoning. Seconded by Mr. Wilder. Passed 7-0.

Ms. Stoller made a motion to eliminate 11-C-425 from rezoning. Seconded by Mr. Morris. Discussion ensued regarding the owners' request to not be included. Passed 4-3. Mr. Kolodziej, Ms. Dunn, and Mrs. Crisler opposed.

Mr. Wilder stated the following for the record. 1) there is no available transportation network, but it is readily accessible to Route 93 and Route 111; 2) there is no available municipal utilities, but this is not a limiting factor; 3) the uses of abutting properties are similar, and Mr. Wilder believes this preserves and enhances the value; 4) the proximity of other non-related uses - this area blends and flows into the Village Center District and is an advantage; 5) there is a demand for this area. Mr. Turner has had developers looking for this type of zone; 6) there is a need for this zone, and it is consistent with the Master Plan.

Ms. Dunn made a motion to continue this public hearing to tomorrow night at 7:30 pm. Discussion regarding time limits ensued. Motion withdrawn.

Mr. Wilder made a motion to go forward with amendment #8 with changes to the January 18 meeting. Seconded by Mr. Morris. Discussion ensued. Motion tabled.

Mr. Kolodziej made a motion to change 614.2.11 from 33% to 66%. Seconded by Mrs. Crisler. Passed 6-1. Mr. Morris opposed.

The original motion was untabled and voted on. Passed 7-0.

Amendment #9. The Board decided to vote on each paragraph separately. Mr. Goldstein read paragraph 1. Discussion ensued. Mr. Wilder made a motion to recommend this paragraph #1 of section 610.1 of this amendment to the ballot. Seconded by Mr. Kolodziej. Passed 7-0.

Mr. Goldstein read paragraph #2, and Mr. Turner explained. Mr. Tom Case wanted to by adding the Village Center District would not use the restrictive elderly housing. Mr. Wilder made a motion to recommend this paragraph for ballot. Seconded by Mr. Morris. Passed 7-0.

Mr. Goldstein read paragraph #3. Mr. Tom Case stated that you can't define "affordable" housing for the elderly. Ms. Stoller made a motion to recommend this amendment 610.2.1 by adding the words "and shall remain affordable" to the end of the sentence, to the ballot. Seconded by Mr. Morris. Passed 6-1. Ms. Dunn opposed.

Mr. Goldstein read paragraph #4. Ms. Stoller made a motion to recommend to the ballot. Seconded by Mr. Wilder. Passed 7-0

Mr. Goldstein read paragraph #5. Mr. Tom Case wondered why the words "for the elderly" were left out. Ms. Stoller made a motion to recommend to the ballot. Seconded by Mr. Kolodziej. Passed 7-0.

Mr. Goldstein read paragraph #6. Mr. Tom Case wanted an "s" removed. He also thought 20% was too high. Discussion ensued regarding the percentage. Mrs. Crisler made a motion to change the 20% to 6%. Discussion continued regarding the percentage. Passed 5-2. Ms. Stoller and Mr. Morris opposed.

Mr. Goldstein read paragraph #7. Mr. Wilder made a motion to move to the ballot. Seconded by Ms. Stoller. Passed 7-0.

Amendment #10. Mr. Goldstein read the amendment. Mr. Tom Case stated that if this passed, the Union Hall uses would not be allowed in the zoning ordinance. Mrs. Crisler made a motion to move forward to the ballot. Seconded by Ms. Dunn. Passed 7-0.

Mr. Wilder made a motion to adjourn. Seconded by Mr. Kolodziej. Passed 7-0. Meeting adjourned at 12:45 am.

These minutes are in draft form and have not been submitted for approval.

Nancy Charland

