



*OLD VALUES - NEW HORIZONS*  
**COMMUNITY DEVELOPMENT**

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

**Planning Board Minutes 11/17/10**

**Roll Call Planning Board:**

Phil LoChiatto – Chairman - Present	Bruce Breton – Selectman Member - Present
Kristi St. Laurent – Member - Present	Lee Maloney – Alternate - Excused
Pam Skinner – Member - Present	Louis Hersch – Alternate - Excused
Rick Okerman – Member – Arrived at 6:20	Sy Wrenn – Alternate - Present
Ruth-Ellen Post – Member - Present	Ross McLeod, Selectman Alternate Member - Excused
Bruce Richardson – Member - Present	

**Staff:**

Laura Scott, Community Development Director – Present  
Elizabeth Wood, Community Planner - Present  
Tracey Mulder, Planning Assistant – Excused

Sy Wrenn is seated for Ruth Ellen Post.

Chair LoChiatto opened at 6:00PM followed by the Pledge of Allegiance.

**Public Hearings for Zoning Amendments for the 2011 Town Meeting:**

**Section 906 Duration of Approval**

Mr. Richardson read the proposed zoning amendment into the record.

Amend Section 906 to allow for ZBA approvals to be renewed administratively by Community Development Department Staff for 1 year, if requested prior to expiration; allow for a second 1 year renewal to be requested and approved if evidence can be shown that progress had been made towards exercising the approval, if requested prior to its expiration; remove the requirement that it be approval be recorded with the Town Clerk; and deleted the language about prior invalidity of approvals.

Ms. Scott addressed the Board and said this was the second hearing on this proposed amendment and she noted the Board had recognized that a one-year ZBA approval is too short but three years is too long and the Board came up with a compromise. She received comments from legal counsel and the proposed amendment is on the Town website. The legal counsel's comments are as follows:

1. Change the language in the proposal from Zoning Board of Adjustment Administrator to Code Enforcement Administrator.
2. If the Board decides to strike the language referring to 'earlier invalidity...' he suggests adding "Notwithstanding the foregoing, any rights granted by a variance which have not vested under New

Hampshire law shall lapse in the event the ordinance in question has been amended or circumstances have changed which would otherwise prevent the applicant from carrying out all condition associated with the variance”.

The Board had a brief discussion regarding changing the language per the suggestion of Town counsel. Ms. Scott said to be consistent in the zoning ordinance, changing the title to Code Enforcement Administrator would be consistent.

Chair LoChiatto opened the hearing to the public.

Bob Coole, Morrison Road, wanted to why the Board wants to take power from the Zoning Board of Adjustment and giving to a Town administrator. Ms. Scott said the ZBA does not have this under their purview now because this is a new renewal provision.

Chair LoChiatto said if the applicant is granted a variance especially around the pond and it needs a Shoreland protection permit from the state and it takes up to the year, then when/if the variance lapses the applicant needs to reapply for a variance again. Nothing has changed for the applicant other than receiving the initial permit. Mr. Coole is concerned that during this time, something could change without the Board’s knowledge and the applicant would still get an automatic renewal.

The Board thought that one year was not enough, two years is more appropriate.

Mr. Coole said the Board is taking elected official’s power away and he does not agree.

Betty Dunn, Woodvue Road, thinks there is a need for some relief for the reasons mentioned, but has some concerns and wants to know what is required under this proposed wording.

Ms. Scott said the first one-year renewal is automatic if requested in writing and the second renewal the applicant must show cause.

Ms. Dunn said the Planning Board should consider granting one-year renewal using the wording for the second renewal and deleting the second year renewal because it is too much time. She also commented it was a good idea to add the language suggested by Town counsel because these types of cases have come before the ZBA.

Chair LoChiatto said his concern with the language Attorney Campbell suggested because under certain circumstances an applicant could lose their variance due to timing of zoning changes.

Chair LoChiatto closed the hearing to the public.

Mr. Wrenn said he does not mind giving the applicant the third year. It is difficult to get the state to approve applications timely and this is usually no fault of the applicant because it is an administrative issue. He is happy with the way it is proposed.

Mr. Okerman was seated at 6:20PM

Ms. St. Laurent asked what the qualifying steps would be for an applicant appearing before the ZBA for their second year renewal instead of an administrative renewal? She believes there needs to be clarity for the steps an applicant needs to take.

Chair LoChiatto said that the Planning Board needs to provide the ZBA clear criteria stating progress an applicant must take in order to get a second year renewal.

Mr. Richardson said if the Code Enforcement Administrator made a decision not to allow a second extension for an applicant, the applicant could appeal. In addition, he said applicants spend a lot of time and money coming before the ZBA for a variance and he does not see any compelling reason to take a variance away if the applicant is showing due diligence.

Mr. Wrenn said he agreed with Mr. Richardson.

**Motion by Mr. Richardson to move Section 906, Duration of Approvals to Town Meeting with the changes from Zoning Board of Adjustment Administrator to Code Enforcement Administrator. Second by Mr. Breton.**

**Discussion: Ms. St. Laurent wants language added to show substantial progress has been made for exercising the approval.**

**Motion passed 6-0-1, Mr. Okerman abstained.**

#### **Section 400 Continuance of Existing Uses and Section 200 Definitions**

Mr. Okerman read the ordinance into the record.

Amend Section 400 to clarify the difference between nonconforming uses and nonconforming structures; to delete language about variances; be consistent when using the terms “structures” and “buildings”; and to be clearer in the intent of the Ordinance. Amend Section 200 to add a definition of “Abandoned/Abandonment” and “Non-conforming Structure”.

Ms. Scott said she included a letter from Barbara Aichinger from NH Property Rights.com asking the Board not to include lots or parcels under the definition of abandonment. Ms. Scott forwarded the letter to the Town’s attorney and he did not believe any revisions to the proposed ordinance were necessary.

Ms. Scott said that the NH Property Rights.com felt the Town was trying to tell people that vacant land would be considered abandoned and Ms. Scott reassured them this was not the Planning Boards intent and this is not stated anywhere in the proposed language.

Chair LoChiatto said he would like to see the years and months under Section 200 changed to months only to be consistent with the rest of the ordinance.

Chair LoChiatto opened the hearing to the public.

Mr. Charles Roberts, Cobbetts Pond Road, asked for clarification regarding the definition of abandonment and applies to conforming lots with structures, undeveloped land, also non conforming lots of record that are currently vacant.

Ms. Scott said the reason the Board is defining abandon/abandonment is because under the current zoning, Section 403, the term is used but is not clearly defined. She went on to say the Community Development Department staff or Planning Board has never to her knowledge looked at undeveloped land as a use to be abandoned.

Mr. Roberts had a question about seasonal property and if the owners did not stay in the property for a year would that property be deemed abandoned and Ms. Scott said if the property owners were showing good faith in maintaining the property, such as paying taxes, caring for the yard, doing maintenance, etc, then not it would not be considered abandoned. Ms. Scott went on to say that in order for the property to be considered abandoned, the owner must intentionally abandon the property.

Mr. Roberts asked if Windham has ever had a merger clause in the ordinance that merges non-conforming lots when held in common ownership. Ms. Scott said the Planning Board has only done mergers at the property owner's request. And, to her knowledge, there has ever been an automatic merger clause on the books.

Mr. Roberts asked the Board about seasonal conversion with regard to the proposed language in Section 406.2 and 406.4 saying currently the regulations say if an owner who wishes to make a conversion from seasonal to year round may calculate the footprint of the new structure provided there in no increase in coverage. Mr. Roberts thinks this language provides a disincentive to modernize their property by not allowing them to maintain current allowance of increased coverage of maximum percentage building coverage.

Ms. Scott said there is a difference from seasonal conversion than changing the footprint of the home and there is a separate section in the zoning ordinance that relates to seasonal conversions and building code requirements that are separate. Ms. Scott explained that 406.2 and 406.4 references seasonal structures because the lot size or frontage is nonconforming and in a conversion, the structure is not always expanded.

Mr. Richardson said he also wondered about the language in Section 406.4 and wonders why the language needs to be in there at all because you can't increase the percent building coverage. The Board agreed to remove this.

Chair LoChiatto closed he hearing to the public.

**Motion by Mr. Breton to strike Section 406.4, and change the 3-year period to 36 months in Section 200 and move the Ordinance as amended to Town Warrant. Second by Mr. Richardson.**

**Discussion: Ms. Scott clarified if the Board wanted to include exercise period of a combined 24 months in any 36-month period. The Board agreed.**

**Motion passed 7-0.**

**Motion by Mr. Breton to amend agenda to move Capital Improvement Plan presentation ahead of Section 707 Earth Removal and Section 710 Fences. Second Mr. Wrenn. Motion passed 7-0.**

The Board took a recess from 7:10-7:15.

**Public Hearing: 2011-2018 Capital Improvements Program**

Notice is hereby given that the Windham Planning Board will hold a public hearing to review and adopt the "Capital Improvements Program 2011-2018".

Jack Merchant, a citizen appointee on the CIP Committee, presented the Board an overview of the CIP 2011 appropriations and how they arrived at their calculations. He listed the current members of the CIP Committee.

Mr. Merchant explained the Capital Improvement Plan (CIP) is the financial component of the Windham Master Plan first adopted in 1985 and last updated in 2005. It is the management planning and budgeting tool for controlling capital expenditures. The Planning Board has the responsibility to review the CIP and adopt it annually. The adopted plan is then submitted to the Board of Selectman and School Board for approval.

Mr. Merchant reviewed the bylaws of the CIP and provided an overview of the program. He said the overall reason of the CIP is to stabilize the major capital expenditures for spikes and it is a good forecasting tool. They have been successful with department heads who believe in the program and realize over the years by careful planning the projects will happen if they are justifiable.

Mr. Merchant explained the process the CIP uses to establish proposed expenditures by soliciting requests from the head's of each Town department and then compile the data. After they hear presentations by the individual departments, the Committee discusses the merits of each individual request and ranks them accordingly. Expenditures are ranked from class 1-6 as follows:

- Class 1 is considered an urgent need and cannot be delayed
- Class 2 is necessary but can be spread out over the next three years
- Class 3 is desirable and spread out over four to five years
- Class 4 is deferrable
- Class 5 is premature and needs more research
- Class 6 is inconsistent and contrary to land use planning or community development.

Mr. Merchant presented his PowerPoint® presentation and said the community is down \$300M in valuation which resulted in about a \$250K reduction in what the CIP had anticipated last year when they did the 2011 budget and because of this, they are not proposing to make any changes. He went on to explain the Town valuation for 2010 is about \$1.9B and they are anticipating this number will go up 0.5% in 2011.

Mr. Merchant said part of the proposal in this plan is a highway truck for the highway department and there is a corresponding state highway grant if the truck is configured in a way to facilitate salt

management application. Once the truck expenditure is approved, then the grant will be automatic. Other items in CIP plan for 2011 consideration are:

- Roads
- Expansion at Griffin Park
- 5 ton truck
- Second phase of architect engineering fees for the School Department
- Front end loader for the Highway department
- Replacement of the 1992 Engine 3 for the Fire Department
- The first of two phases of the Police Department
- The School capital reserve
- Spruce Pond
- Proposed sewer study

Chair LoChiatto said there are 10 items that make the 2011 list and wants to know if it uses all of the funds allocated and Mr. Merchant said yes.

Mr. Merchant said that last year, after presenting to the Board of Selectman their proposal, the Board of Selectman said they were only going to spend \$720K and allocating what they wanted to spend (\$720K) into a Capital Reserve Fund to the school, which was voted down. He went on to say after going through this entire process up through categorizing the requests and organizing the CIP committee, the CIP was informed by Galen Stearns that the Board of Selectman wanted to do the same thing again for 2011. He thinks the Board of Selectman doing this, circumvents the process the CIP has been assigned to accomplish, and he does not agree with it. He went on to say in defense of the Plan and in defense of the CIP process, to see it dismissed by the Board of Selectman is going to present a problem within the community. It is going to be up to the Planning Board how they want to present this Plan to the Board of Selectman and the School Board and he thinks the voters should decide.

Chair LoChiatto said the CIP is a subcommittee of the Planning Board and being on the committee it is a lot of hard work and for the Board of Selectman to dismiss their proposal is a disservice to the public by circumventing the process. He went on to say it is the Planning Boards responsibility to adhere to the process.

Mr. Merchant said the Board of Selectman is not against spending the \$0.75/\$1,000, but he is unsure with how they came up with the \$720K.

Mr. Breton said he agreed with Mr. Merchant said and said the Board of Selectman did discuss level funding of the CIP expenditures but does not know exactly where the \$720K came from and assumed the Board of Selectman voted on it at some point.

Chair LoChiatto asked about the funds for the library and Mr. Merchant said the Library Director, Carl Heidenblad, did not present this year.

Chair LoChiatto's concern is that if a request is made for exterior work is deferred how does the Town ensure there is enough money when the time comes to complete the work and there should be a process in place.

Chair LoChiatto opened the CIP discussion to the public.

Ralph Valentine, Chairman of Windham Economic Development Committee read a letter of support for the 2011 CIP request for using \$65K for the funding of the third phase of the sewer study. He said this money could be better utilized now because there is a window of opportunity due to the I-93 expansion for installing the pipes now rather than later. In addition, this study will support and protect certain watersheds in Windham and Salem and protect one of Salem's water supplies. Mr. Valentine said the WEDC would offer their services to the department to assist with public education and the outreach program. Mr. Valentine said if the Planning Board sends a letter to the Board of Selectman to requesting a \$720K cap on the CIP money, he would like this sewer study to be a priority.

Mr. Bruce Anderson, Chairman of School Board, commented the line item for the School Bond is high and he wants to ensure the Board understands this number is before the 30% reimbursement for state. He said last year the School Board asked for architectural fees to evaluate the facilities and citizens didn't understand the capital reserve would be used for building a new middle school or repair to the schools in Town. Mr. Anderson went on to say that this year, the School Board asked the CIP to appropriate funds for roof repair to provide a concrete idea of where the money is to be spent.

Mr. Rob Gustafson, Chairman of CIP, said the CIP has been reduced by about 15% because of revaluation. He said if we benefit from the fact that the CIP levels these expenditures over the years then we need to stay with the process and since this process has been effective, he thinks we need to stay keep the process the same. He would like to thank members on the CIP committee and Mr. Merchant, specifically because he has brought knowledge to the Town and his experience has been insightful and invaluable.

Chair LoChiatto closed the CIP to the public.

Chair LoChiatto asked the Board if they would like to address Mr. Merchant's concern about the \$720K level funding to the Board of Selectman. Chair LoChiatto said he would write a letter to the Board of Selectman if the Board thought it necessary. The Board had no questions and felt that by approving the CIP as presented it send a message to the Board of Selectmen on how the Board feels about the funding level.

**Motion by Mr. Wren to approve the CIP as presented by the CIP subcommittee and forward to the Board of Selectman and the School Board. Second by Ms. St. Laurent. Motion passed 6-0-1, Mr. Breton abstained.**

Chair LoChiatto gave a personal thank you to Mr. Merchant for all his work on the CIP.

**Motion by Mr. Breton to move the public hearings next on the agenda. Second by Mr. Richardson. Motion passed 7-0.**

#### **Public Hearings:**

##### **Case #2010-33 Subdivision Application/55 and 65 London Bridge Rd (14-B-2300 & 14-B-2400)**

An application for a subdivision has been submitted for 55 and 65 London Bridge Road (Lots 14-B-2300 & 14-B-2400), zoned Rural. The applicant, Peter Zohdi of Edward N. Herbert Assoc., on behalf of the

property owners Richard & Joan Tate, and David and Catherine Chiasson, is proposing to subdivide the existing two (2) lots into seven (7) lots for residential development.

Ms. Wood addressed the Board noting that she has reviewed the application and had the following comments:

- Add a note to the plan stating the NH DES Subdivision Approval number and date
- The final plans need to have original stamps, seals and signatures.

Ms. Wood said there is an agreement with the Town and the owners of lot 14-B-2300, owned by Richard and Joan Tate, indicating the property owners would pay the Town \$15K to defer the cost of road construction. In addition, a note needs to be added to the Plan reflecting this agreement.

Ms. Wood said that the applicant is requesting a waiver from the Windham Subdivision Regulations Section 701.1.2 not to submit a drainage plan and from Section 701.1.4 not to submit a copy of the drainage design calculations.

Mr. Zohdi addressed the Board explaining that subdivision lots 14-B-2300 and 14-B-2400. He went on to explain the agreements is only for parcel 14-B-2300 and is based on the first building on any of the lots subdivided from parcel 14-B-2300.

Mr. Zohdi said the applicant conducted a site walk with the Conservation Commission on October 23<sup>rd</sup> and presented this proposal to the Conservation Commission at their October 28<sup>th</sup> meeting. The Commission requested the applicant write them a letter regarding the wetlands delineation. Mr. Zohdi explained it was proposed to have a new driveway for lot 14-B-2303 constructed from London Bridge Road along the southern edge of the wetland into the WWPD to the building site. However, it was discovered the plans for the driveway that would run between the two wetlands, call for a new 18" diameter culvert, that will link the two wetlands thus, creating a WWPD. Because of this, Mr. Zohdi is cancelling the cross culvert idea. The Conservation Commission requested Mr. Zohdi send them a letter saying the contributory drainage area is less than 10 acres and Mr. Zohdi indicated that he sent the letter to the Conservation Commission stating the contributory drainage area is less than 5 acres. The Plan was sent to the state of NH and did not need subdivision approval for the lots over 5 acres, only for lots less than 5 acres on the plan (14-B-2400, 14-B-2401, and 14-B-2402).

Mr. Zohdi said he is asking for subdivision approval and approving WWPD crossing for the driveway on lot 14-B-2303.

**Motion by Mr. Breton to accept 2010-33/Subdivision Application for 55 and 65 London Bridge Road, Lots 14-B-2300 & 14-B-2400 for public hearing. Second by Okerman. Motion passed 7-0.**

The Board and a discussion with Mr. Zohdi regarding slope easements. Mr. Zohdi said the slope easements are only during construction.

Chair LoChiatto opened the hearing to the public and hearing no comment closed the hearing.

**Motion by Mr. Breton to grant the waiver from Subdivision Regulations section 701.1.2 and 701.1.4 based on the applicants letter dated November 8, 2010, stating this is an existing Town approved**

road and there is no proposed new drainage or utility. Second by Mr. Richardson. Motion passed 7-0.

Mr. Richardson motion to allow a driveway in the WWPD based on the applicants letter dated Oct. 19, 2010, from Edward Herbert and Associates, outlining Zoning Sections 601.1.1-5 and Section 601.4.8. Second by Mr. Breton.

Discussion: Chair LoChiatto said this plan supported by the Conservation Commission.

Motion passed 7-0.

Mr. Breton motioned to conditionally approve the Subdivision Application for lots 14-B-2300 and 14-B-2400 and to add:

1. A note be added to the plan stating the NH DES Subdivision Approval number and date
2. The final plans have original stamps, seals, and signatures
3. A note be added to the plan stating that a one-time fee of \$15,000 will be paid to the town for the purposes of deferring the costs of construction of the London Bridge Road Extension:
  - a. When a building permit is issued to construct one or more buildings on any of the lots created from the original Lot 14-B-2300 (this includes newly created Lots 14-B-2402, 14-B-2300, 14-B-2301, 14-B-2302, and 14-B-2303), or
  - b. When any of the lots created from the original Lot 14-B-2300 (this includes newly created Lots 14-B-2402), 14-B-2300, 14-B-2301, 14-B-2302, and 14-B-2303) are transferred to a third party (except as a result of the death of an owner).

Second by Okerman. Motion passed 7-0.

#### **Case#2010-44 Design Review Workforce Housing Open Space Subdivision**

A Design Review Application for a 12-lot Workforce Housing Open Space Subdivision has been submitted for Lot 11-A-1418 on Meeting House Road in the Rural, Aquifer, and WWPD Districts. The applicant, Karl Dubay, of The Dubay Group, on behalf of AWAC Realty Trust, is proposing a mixed-use Workforce Housing (WFH) Open Space Development with 3 WFH homes and 9 market-rate homes on individual lots (fee simple) and a new Town Road. A WWPD Special Permit is required for drainage ways, wells, and open space.

Ms. Scott added the Board has plans and this is a design review and a non-binding discussion between the Board and the applicant. Ms. Scott said as part of the formal application, the applicant would have to ensure that three Workforce Housing homes would remind affordable and that would be part of their formal application as part of the approval process. In addition, as part of the process the applicant will be seeking relief from the following:

- 22' wide Town road where 24' wide road is required
- Reduction to open space requirements
- Waiver of School and public safety Impact Fees

In addition, Ms. Scott noted that a WWPD Special Permit would be necessary for the placement of drainage ways, wells and open space areas.

Ms. Scott said this has gone before the TRC and all the items from that meeting have been addressed with the exception of the Conservation Commission and the Fire Department, but those are in process.

Bob Pliskin, property owner, provided the Board with background on what this project has meant to him and his neighborhood. He said realized that there are people in the world who cannot afford housing and looked at the possibility to develop some of the land he owns for workforce housing. Mr. Pliskin said his original idea was to build a village of workforce housing and after the site plan, soil tests and surveying this land, it was determine it could support 29 homes but he decided 12 homes would be best in order to provide relief to the school system. Rather than doing a site plan of condominiums and he thought he should do half at 12 with separate lots, separate houses on a Town road for less impact. Mr. Pliskin met with potential builders and they were not interested, he then spoke with Mr. Karl Dubay, of the Dubay Group, to come up with an idea of what would work best. He went on to say each home would be 2,200 to 2,400 square feet and look like a colonial village.

Mr. Pliskin said he would sell the property as a single package to one builder with specific instructions that a portion would need to be workforce housing in the purchase and sale agreement.

Mr. Karl Dubay presented to the Board the Design Review Proposal for Workforce Housing. He said that each house is to have its own well and septic system and the road proposed is to be a Town maintained road. The open space lots will be owned in common by all 12 lots in the development.

He also indicated the access road into the new subdivision is part of the master plan. The new subdivision, called Meetinghouse Village consists of nine market rate homes and three Workforce Housing homes. All lots meet open space criteria for the Town.

Mr. Richardson asked how much more open space would the applicant have to deed if he was a straight by the book subdivision and not have workforce housing component and Mr. Dubay answered it would be 35/65% split which means about 20 acres of open space land.

Chair LoChiatto said based on nine market rate homes and three WFH homes, assuming they are at least two bedrooms, he wondered if 42 bedrooms in a traditional subdivision would be doable. Mr. Dubay said workforce housing goes to the state criteria for the calculation of density. What they are trying to accomplish is a subdivision that meets not only state criteria but also the Town's open space requirements.

Mr. Richardson said it seemed inconsistent that the applicant is asking to have impact fees waived since he indicated that this subdivision would not impact the school system.

The Board discussed whether this was truly Workforce Housing when there are only three Workforce Housing homes in the entire subdivision.

The public hearing was opened to the public.

Mr. Jim Maloof, 82 Meetinghouse Rd, he feels this project has a direct impact on his quality of life. He said he has lived in his home for 26 years and hopes to live and maintain the rural feel and community and this subdivision will change his lifestyle. There is not a buffer between his property and the

proposed homes. He is also concerned about drainage with the new homes on to his property but overall he opposes this new subdivision.

Mr. Robert Bennet, 6 Hawthorn Road, asked about the right of way and Mr. Dubay explained that the right of way would not be extended and would be deeded as such.

Mr. Joe Antista, Meetinghouse Road, asked about the aquifer, wetlands, and watershed protection area and wants to know how the lot sizes are determined. Chair LoChiatto said it is based on the soil and explained the aquifer protection does not prohibit residential building. Mr. Antista does not think this subdivision is a good idea because it will change the nature of the land and impact his privacy.

Stan Yost, 84 Meetinghouse Road addressed the Board and asked about the soil testing. Mr. Dubay said that yes, they did the soil testing and Chair LoChiatto said he saw eight test pits on the plans. Mr. Dubay noted that he does very detail soil tests.

Mr. Yosts said this subdivision does not provide a buffer against future development and detracts from the existing homes due to the density, traffic and noise and workforce housing should not be used to justify lowering open space.

Lorrie Yost, 84 Meetinghouse Road, addressed the Board stating she is a horse owner and believes in conserving the land and Town of Windham. She would not be able to enjoy her property as much if she could not have her horses and she thinks this proposed subdivision would limit her horse ownership. She would like Mr. Pliskin to see if he can sell the land to the conservation commission. She also noted that there are several homes in Windham in this price range already and she does not see the point in building more. She was wondering, if she can't stop development, maybe the subdivision could be smaller and not so close to Mr. Maloof's home.

Mr. Pliskin said the comments he heard tonight were reasonable and he said Butterfield Rock Road, which is a discontinued Town Road, has remained open and he has maintained it as a private road and he invites Ms. Yost to use the road for her horses anytime.

Ms. Dana Call, 80 Meetinghouse Road, addressed the Board, and agrees Mr. Pliskin should be able to develop his land if he wants to; however, her request is to maintain as much buffer as possible between the new homes and her home. There is a drainage easement in her front yard and they have maintained it, and would like to be involved with drainage construction to assist in considering alternatives.

Chair LoChiatto closed the hearing to the public.

Ms. Scott asked if they wanted to schedule a site walk and this can be done in conjunction with the Conservation Commission. Ms. Scott will work with the applicant to ensure that the proposed road right of way and centerline, the right of way of Meetinghouse, driveways, and corners of each proposed lot staked.

**Motion by Mr. Breton to schedule a site walk for December 4<sup>th</sup> @ 9:00AM and stake centerline of road and right of way in front of lot 11- A- 1402. Second by Mr. Wrenn. Motion passed 6-0-1, Ms. St. Laurent abstaining.**

**Motion to continue design review application to Dec 8, 2010 as first agenda item. Second by Mr. Wrenn. Motion passed 7-0.**

**The Board took a recess from 10:35 – 10:40.**

**Motion to hear new business after 10:00PM by Mr. Richardson. Second by Mr. Breton. Motion passed 7-0.**

**2011 Town Meeting Public Hearings  
Section 707 Earth Removal & 200 Definitions.**

Mr. Okerman read the ordinance into the record.

Delete the existing Section 707 Earth Removal and replace it with a new section entitled Excavation of Earth Materials, which clarifies that unless exempted by the provisions of NH RSA 155-E:2, all excavation of earth requires an excavation permit from the Planning Board pursuant to the requirements of the Excavation Regulations. Amend Section 200 to define “Excavation” and “Earth”.

Ms. Scott addressed the Board stating this has gone to Town Counsel, Mr. Campbell had no comments.

Chair LoChiatto open to public and hearing no comments closed to the public.

**Mr. Breton motioned to move Section 707 Earth Removal & 200 Definitions to Town Meeting Warrant. Second by Ms. Skinner. Motion passed 7-0**

**Section 710 Fences**

Mr. Okerman read the ordinance into the record.

Delete the existing Section 710 Fences and replace it in its entirety. Outlines fence height requirements for both residential and commercial properties; added definition section; includes regulations relating to public safety and aesthetics; references fence requirements for in-ground and aboveground swimming pools.

Ms. Wood said there have been two workshops and this is the first public hearing. She said there is one change from the last meeting regarding fence height and front lot lines. In addition, Town legal Counsel reviewed the proposed ordinance changes and his comments are as follows:

1. Definition of fence a statement should be added that a fence is ‘manmade’ because hedges could be construed as a barrier as well.
2. Create separate subsection for the last sentence in Section 710.3.1
3. Adding a phrase to Section 710.3.2 “and any other location where a commercial activity has been allowed by variance “ after the words “Limited Industrial District”.
4. Recommend the Planning Board sports fences over 8’

Ms. St. Laurent thought it would be difficult to regulate the aesthetics of a sports fence as mentioned in Section 710.3.2 and thought the language could be reworded because sports fences tend to impact

aesthetics. Ms. Wood said taking out this language would be fine because it is addressed elsewhere in the language. Mr. Richardson agreed with Ms. St. Laurent's proposal.

The Board agreed to leave in the language as proposed and have it come before the Board for review.

Chair LoChiatto open the hearing to the public and receiving no comment closed the hearing.

The Board decided to change:

1. The definition of fence to include the wording 'manmade barrier that prohibits through passage'
2. Creating new subsection for the last sentence in Section 710.3.1
3. Adding language to Section 710.3.2 adding the language 'legally exists as the primary use shall be a maximum of 8' in height'.

**Motion by Mr. Wrenn to move the Fence Ordinance Section 710 to a 2<sup>nd</sup> public hearing. Second by Mr. Breton. Motion passed 7-0.**

**Motion to adjourn at 11:10PM by Ms. Skinner. Second by Mr. Richardson. Motion passed 7-0.**

**These minutes are respectfully submitted by Tracey Mulder.**