



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Planning Board

Monday, June 25, 2018

7:00 PM

Council Chambers

1 Call To Order

2 Roll Call and Declaration of Quorum

The meeting was called to order by Chair, David Douglass. Other members present were: Bill Walker, Drew Mayo, and Kaitlyn Tibbetts.

Planner, Amanda Lessard was also present.

3 [PB 18-051](#) Approval of Minutes: June 11, 2018

Attachments: [Minutes 6-11-18 - draft](#)

Bill Walker made a motion to accept the minutes of the June 11, 2018 meeting.

Seconded by Kaitlyn Tibbetts.

Vote: All in Favor.

Public Hearing

Drew Mayo made a motion to take the applications out of order.

Seconded by Bill Walker.

Vote: All in favor.

4 18-12 Highland Woods (formerly Annie's Way). Major subdivision preliminary plan review. MTR Development, LLC to request review of a 22 lot residential cluster subdivision, to be developed as two phases: Phase 1 in 14 lots, Phase 2 in 8 lots. The property in question is located at Highland Cliff Road/Annie's Way and identified on Tax Map: 7, Lot: 36, Zone: Farm (F) and Stream Protection (SP).

Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained:

- The project name had changed from Annie's Way to Highland Woods.*
- The lots had been reconfigured to accommodate concerns about some building envelopes. They now proposed 22 lots. 13 lots in Phase 1 with approximately 2,000 feet of roadway. The remaining nine lots would be in Phase 2.*
- The stormwater permit application had been submitted to DEP.*
- Timing for development of the lots in Phase 2 as uncertain. They wanted to meet DEP permitting requirements for stormwater permits, secure them, and*

build out the first phase. Then they would reevaluate their options to continue on and get a site location permit or to wait.

- Each lot had passing test pits.*
- A 50 foot right-of-way had been provided for potential future connection to abutting properties.*
- They requested a waiver of the 50 percent open space requirement. The open space gross land area requirement had been. 48.8 percent of the net residential area was buildable open space. This didn't include the 50 foot wide right-of-way for future development because that area could become something else. They requested a waiver of the open space standard so 122,000 square feet for the right-of-way could be converted to roadway and not make the project nonconforming.*
- All of the open space was not contiguous. 19.2 acres of open space were required to meet the gross land area. The larger area was 18.8 acres. There was a small green area of buffering to an abutting property. Another area was at the intermediate hammerhead. It was comprised of a stormwater filter basin.*
- They requested a waiver of the traffic impact analysis submission requirement. They had looked at what information would be gained from it and what mitigation efforts could be implemented. There was great site distance at the driveway. The road was recently paved. There were no high crash locations or intersections close to the road. Information obtained from the survey would probably not influence any design decisions.*
- They proposed a 24 foot wide paved road with two foot gravel shoulders on each side. A sidewalk was not required based on the project not being in the proximity to public spaces. Sidewalks would also interfere with the drainage intent and design of the project.*

Public Comment

John Parenteau, Highland Cliff Road – One of his major concerns was the visual buffer between his house lot and the new house lots designated 6 and 7. There was a significant line of pines. He couldn't emphasize enough what it meant to them to have it remain in some form. He hoped to work with Mr. Roma to reach some resolution. Where there was a deficit he advocated taking it out of lot 7 near the wetland. He was wondering if the field pine buffer was to remain and would there be any guarantee that it stayed there? He appreciated the addition of public land to the rear of their land.

Mr. Roma replied a lot had been proposed where open space 3 was located but they had decided to preserve the area as a view corridor. Lots 6 and 7 were located because they had found wetlands that were different than had been assumed. Putting lots on the outside of the curve allowed reconfiguration of the lots. One remedy was to try to tighten up the large radius curve. There was some upland tree buffer that could be included with open space 3. They could provide a two tree width to try and maintain a buffer between the lots. They would try to mitigate Mr. Parenteau's concerns in a way that is beneficial to both he and lot 7.

Steve Fenno, Highland Cliff Road – He was concerned about the buffer. He understood there was a two acre minimum. He would be able to see everyone behind his house. Beyond his property line were little trees, not really buffer trees. Did the buildings have to be a certain distance from the buffer zone? Would the developer sell house lots or building packages? Mr. Fenno expressed concern that he would have a neighbor in his back yard that he would see and

hear all the time.

Mr. Roma said the required building setback was ten feet. The proposed limit of clearing for the lots was a 30 foot tree buffer. Based on the stormwater calculations they would be held to that. Lots had other restrictions too. The lots had adequate space to put a building and still maintain an adequate back yard and 30 foot tree buffer.

They had included a proposed tree line around the entire property. The idea was that everything inside of that would be cut. They were saving some trees in Phase 1; privacy buffering would be replanted, mostly in phase 2.

Amanda Lessard clarified the applicant would plant a street tree every 50 feet as part of Phase 1.

Terry Swain, Highland Cliff Road – She was concerned with well water. Hers had uranium and arsenic and she had a system in place to fix it. There was run-off under the road and beside her property. In the early spring it flooded. On the other side of Mr. Fenno's property there was a brook. She had seen it come up so you couldn't get through it. If the houses were built with pavement where would the water run to? Would it be safe and not do harm to her property? On the other side of her property, in a rainy June, the road run-off was so heavy she couldn't go on that side of the property.

Mr. Bentley, Highland Cliff Road – His primary concerns where in regard to the properties behind his house. Where was the expected run off to go? Would it come over the hill or down and around the right side? With all properties being put on a wetland he realized they would probably have hydrology done. If they kept approving those types of subdivisions where would the nitrates go? Would they go in his water? He didn't want his water table to be impacted by all the houses.

Mr. Roma explained the lots behind Mr. Bentley were essentially is a spot where the road was being built on the ridge. A swale ran through the middle of lots 1, 2, and 3. They were capturing the run-off in an underdrain soil filter. It would be discharged to the corner. They were required to analyze water release from the site today. Based on alterations to the land cover they calculated new rates of runoff. It was part of the approval process to implement measures so water was treated and excess water did not go off the property.

Mr. Bentley said it they were doing that filtering in the bottom corner and all that water was going to then run in a diagonal fashion, it would go across the Valente property and then across his driveway. Had there been discussion about what type of houses would be built?

Mr. Roma explained they would collect the water in the location where it was going, treat it and send it on its way. The water was already heading in that direction. They would build a soil filter to hold water and let it go over time rather than just sending it out. They were studying pre and post development levels at that location.

In his opinion, the market for that part of town was a mixture, retirement and family. In all likelihood it would be build packages and some build to suit. They hadn't decided on a price point.

Amanda Lessard stated duplexes were not permitted in that zoning district. A two bedroom trailer would be allowed, unless the developer had covenants and restrictions on the development. That was not something the Board dictated.

Tom Dodd, Highland Cliff Road – He was concerned with traffic. It was a major cut-through from Route 302 to River Road. Pope Road backed up. It was ridiculous. He had thought there was a two acre minimum.

Lita Dodd, Highland Cliff Road – Her concern was young families moving in and trying to walk babies along the side of the road. Highland Cliff Road did not have sidewalks; there wasn't enough roadway. 204 extra cars during the day with kids walking was a big concern. She would like sidewalks.

There was no more public comment. The public hearing was closed.

Continuing Business

- 5 [PB 18-049](#) 18-09 Mayberry Two Duplexes. Minor subdivision final plan review. Mayberry Associates, LLC to request review of two (2) duplexes on two (2) lots. The subject property is located at 29 Smith Road and identified on Tax Map: 19, Lot: 94, Zone: Medium Density Residential (RM).

Attachments: [18-09 Mayberry Duplexes Final 06-21-18](#)
[Mayberry Final Plans Revised 06-20-2018](#)
[Mayberry supplemental 06-20-2018](#)
[Peer Review Mayberry 06-13-2018](#)
[Mayberry Two Units Final Plans](#)
[Mayberry Two Units Final Application](#)

Owens McCullough, of Sebago Technics, was present representing the applicant.

- *One duplex existed on the 2.43 acre property.*
- *The property was served by public water.*
- *There would be an on-site septic system.*
- *A triangular .35 acre piece of the property would be conveyed to an abutter.*
- *There would be 3,000 square feet of wetland impact.*
- *The applicant requested a waiver of the hydrogeological assessment because the project was small and would be served by public water. Additionally, the soils had been reviewed and found to be very good.*
- *Stormwater would go to a 50 foot wooded buffer along the back property line.*

Bill Walker made a motion to accept the waiver request of the submission requirement for a hydrogeological study.

Seconded by Drew Mayo.

Vote: All in Favor.

Bill Walker made a motion that the minor subdivision application for project 18-09 Mayberry Duplexes was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.

Seconded by Kaitlyn Tibbets.

Vote: All in favor.

Bill Walker made a motion that the Minor Subdivision application for 18-09 Mayberry Duplexes on Tax Map: 19, Lot: 94 is to be approved with conditions with the following findings of fact and conclusions:

FINDINGS OF FACT

A. POLLUTION

- No portion of this subdivision is within the mapped 100 year floodplain.
- This subdivision is located over a significant sand and gravel aquifer.

B. WATER

- The new duplex will be served by public water for domestic use.
- There are two fire hydrants shown on the Sketch Plan submission. One is located on Route 115, approximately 45 feet from the Smith Road intersection, and the other is on Smith Road, approximately 150 feet from the proposed site entrance.

C. SOIL EROSION

- A stormwater management plan prepared by Sebago Technics, Inc. was submitted as Exhibit 7 in the final plan submission.
- An erosion and sedimentation plan, prepared by Sebago Technics, dated June 4, 2018, has been submitted as part of the Final Plan. Notes and details are shown on Sheet 5 of 10.
- The sketch plan shows that the total wetland impact is 2,130 square feet.
- The final plan (Sheet 4 of 10) shows the total wetland area disturbed as 3,193 square feet.
- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance if the area of development is greater than one (1) acre. The final plan submission should specify the amount of developed area in the subdivision.
- The stormwater management plan states that the proposed duplex and associated driveway and parking area will create a development area of 15,000 square feet and 7,000 square feet of new impervious area. The applicant proposes a 50-foot undisturbed forested buffer along the easterly property line and will also utilize the wetland area for treatment and attenuation of flows.
- In an email dated April 10, 2018 Town Engineer Jon Earle, PE asked for sizing information for the wetland crossing culvert.
- The Grading & Utility Plan shown on Sheet 4 of 10 dated June 4, 2018 shows a 15 inch culvert at the wetland crossing.

D. TRAFFIC

- The traffic generated by the development of these dwelling units will not create roadway congestion or unsafe conditions on either Route 115 or Smith Road.
- Driveway locations are shown on the sketch plan.
- Sight distances are shown on Sheet 4 of the Final Plan set.
- In an email dated April 10, 2018 Town Engineer Jon Earle, PE asked if a driveway

culvert was proposed within Smith Road. If one is proposed, sizing calculation should be submitted. He also commented that the proposed driveway location meets the ordinance requirements for corner clearance from the Route 115 Smith Road intersection.

- A driveway location permit will need to be obtained from the Public Works Department prior to the start of construction.*

E. SEWERAGE

- The dwelling units will be served by a private septic system.*
- Soil test pit analysis prepared by Richard A Sweet, LSE of Sweet Associates dated August 13, 2012 show that the site has soils to support a private septic system. Test pit locations are shown on the plan.*
- In an email dated June 13, 2018 Town Engineer Jon Earle, PE noted that the two locations are labeled TP-1 and the plan shows that TB-4 is the location of the proposed disposal field and is beyond the tree clearing limit.*
- On June 20, 2018 the applicant submitted revised plans correcting test pit labels and revising the tree line on Lot 2.*

F. SOLID WASTE

- Residents of the dwellings will participate in the Town's pay-per-bag garbage program.*
- Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste.*

G. AESTHETICS

- A duplex is currently located on the property.*
- There are no documented rare botanical features or significant wildlife habitat documented on the site.*
- Limits of tree clearing are shown on the sketch plan. Note 13 states that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.*

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:*
- The plan does meet the goals of the 2017 Comprehensive Plan.*
- Land Use Ordinance:*
- Both lots meet the minimum lot size (20,000 square feet), frontage (100 feet), and setbacks for lots in the RM zoning district that have public water.*
- Net residential density calculations are shown on the Plan.*
- A piece of land 15,307 square feet is shown on the plan to be transferred to the abutter. This transfer to the abutter should be completed prior to the final plan submission as this land area is not large enough to be a confirming lot. If this real estate is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot subject to subdivision review. See proposed Condition of Approval #2.*
- Subdivision Ordinance*
- Standard notes and the standard condition of approval must be shown on the plans.*
- The Tax Map and Lot numbers provided by the Tax Assessor are shown on the Final*

Plan.

- *Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.*

- *Others:*
- *None*

I. FINANCIAL AND TECHNICAL CAPACITY

- *A letter dated May 24, 2018 from Roger C. Levesque, Executive Vice President at Gorham Savings Bank was submitted as evidence of financial capacity.*
- *The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity*

J. RIVER, STREAM OR BROOK IMPACTS

- *The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.*

CONCLUSIONS

- 1. The proposed subdivision will not result in undue water or air pollution.*
- 2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
- 3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
- 4. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*
- 5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
- 6. The proposed subdivision will provide for adequate sewage waste disposal.*
- 7. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
- 8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
- 9. The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
- 10. The developer has adequate financial and technical capacity to meet the standards of this section.*
- 11. The proposed subdivision is situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
- 12. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
- 13. The proposed subdivision is not situated entirely or partially within a floodplain.*
- 14. All freshwater wetlands within the proposed subdivision have been identified on the plan.*
- 15. Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
- 16. The proposed subdivision will provide for adequate storm water management.*

17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1. N/A

18. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will/will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. (N/A)

20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated April 2, 2018, as amended June 20, 2018, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.

2. A deed transferring ownership of the 15,307 square feet area of land to the abutter must be recorded in the Cumberland County Registry of Deeds prior to the issuance of building permits.

Seconded by Drew Mayo.

Vote: All in Favor.

6 [PB 18-050](#)

18-12 Highland Woods (formerly Annie's Way). Major subdivision preliminary plan review. MTR Development, LLC to request review of a 22 lot residential cluster subdivision, to be developed as two phases: Phase 1 in 14 lots, Phase 2 in 8 lots. The property in question is located at Highland Cliff Road/Annie's Way and identified on Tax Map: 7, Lot: 36, Zone: Farm (F) and Stream Protection (SP).

Attachments: [18-13 Highland Woods Prelim 06-21-2018](#)
[Peer Review Highland Woods 06-14-2018](#)
[Highland Woods Subdivision Preliminary Major Application 2018 6_4](#)
[Highland Woods Subdivision Preliminary Plan Set 2018 6_4](#)
[Stormwater Management Report_complete](#)
[SWP1 - PRE STORMWATER MAP](#)
[SWP2 - POST STORMWATER MAP](#)
[Parenteau letter 20180604](#)

The Board Commented:

- What about sidewalks?
- The road should meet town standards and the requirement for wider shoulders.
- What concerns should the town have about stormwater infrastructure that is on land

to be deeded to the town?

- What percent of stormwater is currently captured through the design?
- Had phosphorous calculations been done?
- Did the watershed go into Colley Wright Brook? Was it something DEP would look at because the brook was impaired?
- As they looked at nitrates the location of wells should be included.
- There would be a significant amount of wetland alteration.
- Should there be deeded buffer restrictions? Would the project go to Tier 1 review with the Army Corp of Engineers?
- Should there be deeded buffer restrictions to help with site lines.
- Could they put a fence up to protect one property from turning vehicles?
- Because the road was a cut-through between two major arterials there shouldn't be a waiver for the traffic study.
- Families would be walking on the new road. At the very least a wider shoulder was needed.
- There was some concern expressed about the amount of run-off onto Swain property.
- Not cutting the buffer should be noted as a deed restriction.
- Were there any wetlands of special significance?
- Some of the open space was not really usable.

Mr. Roma replied:

- He felt sidewalks were warranted on higher speed roads where you wanted clear space off the road for pedestrians. There were downsides. They presented difficulty with on street parking. Where people park on the side of the road with sidewalks the cars end up blocking most of the travel lane. Eliminating them allows parking off the side of the road. There were also implications with drainage and design of the road. An open ditch required much less maintenance than infrastructure.
- They were meeting the 95% impervious area capture and 80% development area. It would go in to Presumpscot. Generally they didn't do phosphorous controls in non-lake watersheds.
- The Army Corp of Engineers would do a Tier 1 review.
- Site lines were over 500 feet in each direction.
- Proximity to wells was always part of a nitrate study.
- There was space to add a fence.
- There were no vernal pools. Nothing had been specifically classified as a wetland of special significance. That would be looked at under Tier 1 review.

Amanda Lessard explained:

- It had been staff's opinion that new projects which were meeting the town and state stormwater and erosion control standards were not contributing to degrading the water quality of that particular watershed.
- The town engineer had noted some minor increase in stormwater peak flows that would require a waiver request.
- It was appropriate for the Planning Board to discuss road standards in rural areas vs. other areas if there was no sidewalk. Some consideration should be given to extra pavement, the amount of traffic generated, the location, and what it meant to stormwater run-off and rural character.

Consensus of the Board was to require a traffic study.

Bill Walker made a motion to accept the waiver request to ordinance standards 911.K.4.b.2 for cluster subdivision open space requirement performance standard. The standard requires at least 50 percent of the land suitable for development to be included in the common open space. The preliminary plan showed 48.88 percent of the net area

provided in the common open space. That was found to be suitable.

Seconded by Drew Mayo.

Vote: All in favor.

Bill Walker made a motion to accept the waiver request to standard 911. M.5.b.6.ii that the applicant was proposing a 26 foot wide paved area with one foot gravel shoulders.

Seconded by Drew Mayo.

Vote: Three in favor. Bill Walker opposed.

Amanda Lessard discussed two outstanding items:

- Topography for existing grades was not accurate in forested areas. Field topography was required.*
- Extraction of material on site for personal use had been proposed. The amount of material to leave the site had to be quantified.*

Other Business

7 Adjournment

Bill Walker made a motion to adjourn.

Seconded by Kaitlyn Tibbetts.

Vote: All in favor.