



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Planning Board

Monday, June 14, 2021

6:30 PM

Remote via Zoom

To join the meeting remotely, use this link: <https://us02web.zoom.us/j/143936937>. You may also call

1-646-558-8656 and enter meeting ID: 143 936 937.

1 Call To Order

2 Roll Call and Declaration of Quorum

The meeting was called to order by Chair, Keith Elder. Other members present were: Marge Govoni, Colin Swan, and Rick Yost.

Planning Director, Amanda Lessard, and Town Planner, Steve Puleo, were also present.

3 [PB 21-031](#) Approval of Minutes: May 10, 2021

Attachments: [Minutes 5-10-2021 - draft](#)

Marge Govoni made a motion to approve the minutes from May 10, 2021.

Seconded by Colin Swan.

Roll Call

Keith Elder- In favor Colin Swan – In favor

Marge Govoni – In favor Rick Yost – In favor

Vote: All in favor.

New Business

4 [PB 21-028](#) Amendments to Town of Windham Shoreland Zoning Ordinance Chapter 199, and the Official Land Use Map related to freshwater wetlands.

Attachments: [PB Memo Shoreland Zoning_06-09-2021.pdf](#)
[TC Memo ShorelandMap_05-07-21.pdf](#)
[TC memo NRAC Shoreland Surface Water_04-06-21.pdf](#)
[Shoreland Zoning - Chapter 199 revised 04-05-21.pdf](#)
[shorelandzoningmap_wetlands_05-19-2021.pdf](#)

Amanda Lessard explained that the changes to the ordinances and Land Use Map had been proposed to Town Council by the Natural Resources Advisory Committee (NRAC). The changes were components that were needed for compliance with the State's minimum shoreland zoning requirements or were optional recommendations.

The proposal for freshwater wetlands was to achieve compliance by:

- *Changing the Land Use Map by including 10-acre freshwater wetlands as a Limited Residential (LR) District.*
- *Rezoning inland wading bird and wading bird habitat as Resource Protection (RP) District.*
- *Changing references to the Shoreland Zoning Map to be references to the Land Use Map, because the Land Use Map showed all the districts.*
- *Changing descriptions of districts to reference the boundaries as depicted on the map.*
- *Clarifying performance standards regarding the setback from the highwater line of a water body for animals in the shoreland zone.*
- *Expanding the Shoreland District definitions to reference each district shown on the map.*

Areas to be included on the map were:

- *The ten acre wetland along Route 202, off Dutton Hill Road.*
- *Around the river, south of Presumpscot Road.*
- *Around Black Brook, south of Windham Center and Swett Roads.*
- *Inland wading bird habitat off Albion Road, near Highland Lake.*

The amendments would not be in effect until they were approved by the Commissioner of DEP.

The Board commented:

- *Why the 100/250 feet?*
- *Do you have a choice of 250 feet in the LR and RP zones?*
- *This would be quite a bit of property. If they became nonconforming would the owners of those properties have to go the Zoning Board of Appeals for expansions?*
- *There was concern what this did to the property. A 30% expansion was not really much; it restricted people. If there was any choice it would be good to talk about it.*
- *How did this affect gifting and building a house?*
- *Would it make properties so they couldn't be used?*
- *There were three proposed changes for public hearing. Could they be done at different times?*
- *Did it affect a different audience?*

5 [PB 21-029](#)

Amendment to Town of Windham Official Land Use Map, Pleasant River Resource Protection District.

Attachments: [PB Memo Pleasant Map Amend 06-09-2021.pdf](#)
[TC Memo ShorelandMap 05-07-21.pdf](#)
[TC memo NRAC Shoreland Surface Water 04-06-21.pdf](#)
[shorelandzoningmap Pleasant 05-19-2021.pdf](#)

Amanda explained the Pleasant River Resource Protection District was a recommendation from the NRAC which was intended to provide greater protections to the impaired water bodies by expanding the shoreland zoning.

The areas in question were:

- *Ditch Brook, North of Route 302 to the Gray town line would be changed to a 250 foot setback. It was currently 100 feet in Resource Protection (RP) and 100 feet in Stream Protection (SP). This would be consistent with the zone south of Ditch Brook as it flowed to the Presumpscot.*
- *There were concerns regarding impairment of water quality and threatened species located within the river.*
- *Using grant funds from DEP, the project would implement a portion of the watershed management plan for the Pleasant River. This was the focus of much work from the Committee.*
- *Zoning had the purpose of protecting water quality. It should be the same throughout Windham.*
- *This was not required as part of the minimum shoreland zoning guidelines; it was more restrictive.*
- *The properties impacted had been identified. Similar rules would apply if there were existing structures and ongoing uses. Otherwise, the setback would be 250 feet.*

The Board commented:

- *What would the new restrictions for the additional 150 feet be, no building, no tree cutting, no farming?*
- *Was there a difference the zoning on one side of Route 302 was different from the other?*

6 [PB 21-030](#) Amendment to Town of Windham Official Land Use Map, Stream Protection District.

Attachments: [PB Memo Stream Map Amend 06-09-2021.pdf](#)
[TC Memo ShorelandMap 05-07-21.pdf](#)
[TC memo NRAC Shoreland Surface Water 04-06-21.pdf](#)
[shorelandzoningmap streams 05-19-2021.pdf](#)

Amanda explained the intent of the expanded Stream Protection District was to protect the most impaired water bodies: streams, lakes most at risk and a lot of tributary streams that flowed into waterbodies but did not meet the definition under the SP ordinance.

- *The recommendation was to rezone all tributaries as 100 foot SP if they were shown on the USGS maps a significant.*
- *This was more restrictive than the minimum shoreland zoning standards.*
- *The extent of the changes would impact a large number of properties in all parts of town.*

- *The current setback from a stream was 75 feet. There were allowed uses which would require DEP permits.*

Dennis Brown, Chair of the NRAC, spoke regarding the set of water bodies in the town and the rate of impairment or risk from new development. Historically, the town hadn't paid attention to that and little had been done. How bad did it have to get? Some resources may never recover. Ongoing testing showed there was significant water degradation on some water bodies.

The Board commented:

- *Why upset so many people for an additional 25 feet?*
- *How could they monitor what was going on?*
- *If farms were a big contributor, could people no longer farm? What improvement could there be if the problem was not playgrounds, houses and gardens but people continued to farm?*
- *Were they only considering north of Route 302, not south of it?*
- *It would be good to hear the results of sampling done in different locations and at different times.*
- *Had sampling been done where Pope Road crossed the Pleasant River? The school had an overflow permit into the river and the town had built its Public Works facility next to it.*

Other Business

7 Adjournment

Marge Govoni made a motion to adjourn.

Seconded by Colin Swan.

Vote: All in favor.