



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Planning Board

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Monday, August 13, 2018

7:00 PM

Council Chambers

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1 Call To Order

2 Roll Call and Declaration of Quorum

*The meeting was called to order by Vice Chair, Keith Elder. Other members present were: Griffin Bourassa, Drew Mayo, and Kaitlyn Tuttle.*

*Planner, Amanda Lessard was also present.*

3 [PB 18-061](#) Approval of Minutes: July 9, 2018

**Attachments:** [Minutes 7-9-18 - draft](#)

*Drew Mayo made a motion to accept the minutes of the July 9, 2018 meeting.*

*Seconded by Griffin Bourassa.*

*Vote: Three in favor. No one opposed. Kaitlyn Tuttle abstained.*

4 [PB 18-062](#) Approval of Minutes: July 23, 2018

**Attachments:** [Minutes 7-23-18 - draft](#)

*Griffin Bourassa made a motion to accept the minutes of the July 23, 2018 meeting.*

*Seconded by Kaitlyn Tuttle.*

*Vote: All in favor.*

### **Public Hearings**

*Kaitlyn Tuttle made a motion to change the order of the agenda.*

*Seconded by Drew Mayo.*

*Vote: All in favor.*

*Bill Walker joined the Board.*

5 18-18 River Road Condos. Minor subdivision final plan review. RMILLS LLC to request review of 4 unit (2 duplex) residential subdivision. The property in question is located at River Road and identified on Tax Map: 5, Lot: 1-1, Zone: Medium Density Residential (RM) and Farm Residential (FR).

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

- *They proposed a four-unit, two duplex condo project.*
- *The lot had two zones on it. The front of the property was zoned Medium Density Residential (RM); the rear was zoned Farm Residential (FR). Their intent was to move RM zone line 50 feet further back, as the ordinance allowed. This would enable them to construct two units, which would not be allowed under FR zoning.*
- *They anticipated future development at some point.*
- *Portland Water District had not yet provided an ability to serve letter.*
- *A single septic disposal filed was proposed.*
- *Stormwater management would be through two under drain soil filters.*
- *There would be less than 1,000 square feet of wetland impact.*
- *There was a moratorium on construction in River Road until 2019. Project construction would probably wait until that expired.*
- *A prior subdivision had been approved for the property. It had been vacated by a previous owner. There was some question as to whether the right-of-way easement for that old subdivision had been vacated at the same time.*

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

## **Continuing Business**

- 6 [PB 18-063](#) 18-19 Dundee Acres Amendment. Cynthia Croy to request an amendment to an approved subdivision to create two (2) additional lots. The property in question is located at 796 River Road and identified on Tax Map: 11A, Lot: 103, Zone: Farm Residential (FR).

**Attachments:** [18-09 Dundee Acres Amendment Lot 103 08-07-2018](#)  
[Dundee Acres Amendment application 07-30-2018](#)  
[Dundee Acres Lot 103 Amended Plan 07-30-2018](#)

*Wayne Wood was present representing the applicant. He explained:*

- *They proposed to divide a lot into three, one with the existing house, and two new.*
- *Public water would be available from Cedar Lane. The lot that was located off of River Road would have a well.*
- *They had requested a waiver of the water supply performance standard.*

*Amanda Lessard said:*

- *The town engineer's concerns had been addressed.*
- *Staff had no concerns with the waiver request.*

*Griffin Bourassa made a motion to accept the waiver request for the water supply standard.*

*Seconded by Drew Mayo.*

*Vote: All in favor.*

*Bill Walker made a motion that the subdivision application for 18-19 Dundee Acres Amendment on Tax Map: 11A, Lot: 103 was 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 not located over a significant sand and gravel aquifer.*

**B. WATER**

- *The new lot accessed by Cedar Lane will served by public water for domestic use. The new lot accessed from River Road will have a private drinking water well.*
- *The ordinance requires that the subdivision must be served by public water if the closest water main is within a distance equal to 100 feet multiplied by the number of lots in the subdivision. The existing public water main terminates at the intersection of River Road and Presumpscot Road. The applicant has requested a waiver from this requirement.*
- *An Ability to Serve letter from Robert Bartels, PE, at the Portland Water District dated July 30, 2018 indicates that there is adequate pressure and volume of water to serve the domestic needs of a single family home off of Cedar Lane.*
- *A fire hydrant is shown on the plan on River Road at the Presumpscot Road intersection.*
- *A revised subdivision dated August 2018 shows the water service connection details for Lot 103-2.*

**C. SOIL EROSION**

- *The application narrative states that the area cleared for development will naturally flow to the wetlands that already exist on site and no surface drainage will flow onto abutting lands.*
- *Note 14 on the final plans states that all development on these lots shall follow the guidelines for soil erosion and sedimentation control as set forth in the Maine DEP manual "Best Management Practices for Soil Erosion & Sediment Control" current edition.*
- *The final plan shows building envelopes and note 12 listed the total area of wetland impacts necessary to develop the two new lots at 2,426 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 project development will be less than one (1).*

**D. TRAFFIC**

- *The traffic generated by the development of these dwelling units will not create roadway congestion or unsafe conditions on either River Road or Cedar Lane/Dirigo Road/Presumpscot Road.*
- *An access easement over the existing Lot 103 driveway onto River Road will be provided to Lot 103-1 as shown on the plan. The application narrative states that language for the use and maintenance of the shared portion of the existing driveway will be incorporated in the deeds for Lot 103 and Lot 103-1.*

- *Access to Lot 105 will be provided via Cedar Lane.*
- *Sight distances at the intersection of Murray Way are shown on the final plan to be in excess of 1,000 feet in each direction on River Road.*

#### **E. SEWERAGE**

- *The dwelling units will be served by a private septic system.*
- *Soil test pit analysis prepared by Mark Cenci, LSE of Mark Cenci Geologic, Inc dated April 25, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan.*

#### **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 single family home is currently located on the property. The remainder of the lot is forested.*
- *There are no documented rare botanical features or significant wildlife habitat documented on the site.*
- *Limits of tree clearing is shown on the plan and a Note 13 states that the clearing of tress 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 (60,000 square feet), frontage (150 feet), and setbacks for lots in the FR zoning district.*
- *Net residential density calculations are shown on the Plan.*
- *Subdivision Ordinance*
- *Standard notes and the standard condition of approval are shown on the plans.*
- *The Tax Map and Lot numbers provided by the Tax Assessor are shown the Final Plan.*
- *Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.*
- *Others:*
- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area.*
- *Street Naming and Addressing: Chapter 221 Street Naming and Addressing: The street name for the shared driveway, Murray Way, approved by the Town Addressing Officer is shown on the final plan.*

#### **I. FINANCIAL AND TECHNICAL CAPACITY**

- *The applicant is not proposing any public improvements that would require evidence of financial or technical capacity*

**J. RIVER, STREAM OR BROOK IMPACTS**

- *The property is located in the Presumpscot River watershed.*
- *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 not 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/do not 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 June 18, 2018, as amended August 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.

Seconded by Griffin Bourassa.

Vote: All in favor.

- 7      [PB 18-064](#)      18-12 Highland Woods. 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:    [18-12 Highland Woods Prelim 08-09-2018](#)  
                          [Peer Review Highland Woods 07-31-2018](#)  
                          [Highland Woods - Response to Review Comments](#)  
                          [Highland Woods SUB PLAN 07232018](#)

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

- They had originally proposed a two phase development but were now combining both phases into one in order to simplify the DEP process. Subsequent filings would remove the phasing of the project and the final plan would seek approval for all 22 lots.
- A nitrate analysis had been completed for each lot to show nitrate plumes and to designate setbacks for the anticipated septic field locations.
- They would apply for site location permits.
- A high intensity soil survey would be done as part of the final plan.
- They continued to discuss options for buffering with the abutter.
- Their additional waiver requests were for:
  - o Contiguous open space – The open space was not all contiguous, although the largest area nearly met the total requirement.
  - o The town engineer had recommended a waiver request to address a minor increase in the peak run off from storms.
  - o They were no longer requesting a waiver of the requirement for a high intensity soil survey. Instead, they requested that a condition of preliminary approval be to provide it for the final plan.
- There was a sketch plan application for significant development on an abutting lot, located on Land of Nod Road. Some interest had been expressed in a connection between the two properties.

Amanda Lessard explained:

- There was an issue of the moratorium on mineral extraction operations. The

applicant wanted to remove material from the site and had been asked to quantify the amount. The quantity that was submitted far exceeded the amount that would be subordinate to a subdivision development.

- The Code Enforcement Officer had requested an opinion from the town's attorney as to whether it would come under the moratorium and/or require review of the mineral extraction itself.
- Relocation of a future right-of-way may have some impact on net density calculations for which the Board had already granted a waiver.

Bill Walker made a motion to grant a waiver of the cluster subdivision contiguous open space requirement.

Seconded by Drew Mayo.

Vote: Four in favor. Bill Walker opposed.

Bill Walker made a motion to grant a waiver of the stormwater flooding standard.

Seconded by Drew Mayo.

Vote: All in favor.

Bill Walker made a motion that the preliminary plan application for project 18-13 Highland Woods Subdivision was found complete with the understanding that the high intensity soil survey will be submitted as part of the final application and that the rest of the requirements based on the application checklist have been met. The Planning Board retained the right to request more information where review criteria were not fully addressed.

Seconded by Griffin Bourassa.

Vote: All in favor.

- 9      [PB 18-065](#)      18-18 River Road Condos. Minor subdivision final plan review. RMILLS LLC to request review of 4 unit (2 duplex) residential subdivision. The property in question is located at River Road and identified on Tax Map: 5, Lot: 1-1, Zone: Medium Density Residential (RM) and Farm Residential (FR).

**Attachments:**    [18-18 River Road Condos Final 08-08-2018](#)  
[Peer Review River Road Condos 07-30-2018](#)  
[River Road Condominium - Minor Subdivision Application 2018 7 23](#)  
[River Road Condominium - Plan Set 2018 7 23](#)

Amanda Lessard explained there were some outstanding items before the application could be considered complete:

- The street name had to be approved and shown on the plan.
- The ordinance required condominium documents.
- Existing easements had to be shown on plan. An abutter had contacted the town and expressed concern about the right-of-way easement to an abutting property. Typically rights-of-way and easements were presented by an applicant's surveyor who had signed off on the survey while doing their due diligence. The boundary survey in the packet didn't show the easement.

Consensus of the Board was to wait for a title opinion regarding the right-of-way easement.

## **New Business**

- 10      [PB 18-066](#)      Amendment to Town of Windham Land Use Ordinance, Chapter 140, Sections 500 and 900. Proposed changes include removing residential sprinkler requirements from the Dead End Street Standards, clarifying when additional water storage capacity for firefighting purposes is required in subdivisions.

**Attachments:**    [PB Memo Residential Sprinklers 08-06-18](#)  
[Residential Sprinkler Discussion](#)

*Amanda Lessard explained:*

- Town Council had referred the amendment to the Planning Board for review and an opinion regarding removal of the requirement for a house to have residential sprinklers if it was on a road that was over 1,000 feet in length.
- There was also subdivision ordinance language related to when additional water supply was needed for fire protection purposes in subdivisions. In practice, the Fire Chief made recommendations for additional water storage capacity when further than 1,000 linear feet from a fire hydrant served by public water.
- For a major preliminary subdivision plan, the amendment added a submission requirement that a written statement from the Fire Chief would be submitted regarding the fire protection measures deemed necessary.

*Chief Libby explained:*

- The majority of the information had been brought up by a resident based on the cost of residential sprinklers.
- There were some advantages to a dry hydrant or cistern. They had a water supply that was there. The struggle was maintenance. Currently, there were 11 dry hydrants in town; many were not functional. They were working on them.
- By ordinance, maintenance was a burden of the town so if a developer chose to install those the area and easements were an issue.
- Cisterns were more reliable than a dry hydrant or a pond because the water was more protected from silt/sediment. Leaks were a challenge.
- There was a cost attached to residential sprinklers but it was with the homeowner, as was the responsibility for maintenance. They would activate and contain, if not put out, a fire. The only time Chief Libby was aware they may not function was when they were without power. From a life safety standpoint residential sprinklers were the top of the bar. They were also top of the bar for cost.
- When they responded to an area without public water they must bring it and may need help from outside communities. They would need a source to fill trucks and a way to shuttle water. It added a fair amount of time and another operation aside from trying to put the fire out.
- The first priority was life safety. The second priority was property conservation and to stop the fire from spreading. There was a challenge with lightweight construction and subsequent failure of walls, floors, ceilings.
- The town had two cisterns. One at the end of Sabbady Point Road and one on the dead-end section of Windham Center Road. Each held 10,000 gallons, the equivalent of four tanker trucks.
- There were between 60 and 66 residential sprinklers in town. Chief Libby was not aware that any had been activated.



- *When he had come to Windham the preference had been sprinklers. He felt that was a reasonable standard and had carried it forward. The way the ordinance was written, as long as measures for water supply were sufficient he would review them. His preference was sprinklers.*

*The Board commented:*

- *What was the cost vs. preservation of life or getting a fire under control?*
- *It could take 10 minutes to arrive at a fire. In 10 minutes a sprinkler could buy time to get out of structure and be safe. In 10 minutes a fire could be out of the roof. It was terrible to lose a home, it was more important to escape a structure.*
- *Information regarding the impact on other communities with sprinkler requirements would be helpful to have at the next meeting.*
- *There should be more guidance provided regarding ponds and cisterns.*
- *Information regarding the different costs to have a sprinkler installed was requested.*

## **Other Business**

### 11 Adjournment

*Bill Walker made a motion to adjourn.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*