



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Planning Board

Thursday, October 11, 2018

7:00 PM

Council Chambers

Special Meeting

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: Griffin Bourassa, Keith Elder, Bill Walker, and Kaitlyn Tuttle.

Planner, Amanda Lessard was also present.

3 [PB 18-088](#) Approval of Minutes: September 24, 2018

Attachments: [Minutes 9-24-18 - draft](#)

Bill Walker made a motion to accept the minutes of the September 24, 2018 meeting.

Seconded by Keith Elder.

Vote: Four in favor. No one opposed. Griffin Bourassa abstained.

Continuing Business

4 [PB 18-084](#) 17-11 Majestic Woods, Phase 3. Major subdivision final plan review. Shoreland Development, LLC to request review of a 22 lot residential cluster subdivision. The property in question is located on Swett Road and identified on Tax Map: 6, Lot: 63-13, Zone: Farm (F).

Attachments: [17-11 Majestic Woods Phase III Final 10-05-2018](#)

[Peer Review Majestic Woods 3 09-11-2018](#)

[Majestic Woods - Design Plans \(2018-09-04\)](#)

[Subdivision Major Final 12-2017](#)

[Correspondence Ms. Rhein 04-23-18](#)

[Correspondence Ms. Rhein 04-25-18](#)

[Planning Staff Response to Rhein 06-01-18](#)

Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- *They had not yet received the Site Location Permit from DEP.*

- During the first two phases of the subdivision there had been legitimate concerns regarding the condition of Swett Road. The developer had done about \$70,000 worth of work to rebuild Swett Road to the top of the hill. They had removed ledge and reestablished drainage courses; brought in gravel; smoothed the road; and regraded it. They understood the Town was to pave Swett Road to the top of the hill. The Town still hadn't paved the road.
- At the last meeting the Board felt the developer should do the paving.
- The developer had already made a contribution to the road improvements. They asked the Planning Board to reconsider requiring the developer to pave the road.

Amanda Lessard explained the condition from Phase Two was to improve Swett Road. It was a gravel town road and the responsibility of the developer had been to improve it to a like condition, being a gravel surface. If and when the town was prepared to pave Swett Road it would do so.

Mr. Roma said the Board's feeling had been there would be more traffic and wear and tear on the road with 22 more lots and the road would have to be repaired after construction. The requirement to pave had been a surprise, not brought up until the final meeting.

The Board commented:

- Paving was not the responsibility of the developer because it was a public road. Getting the developer to pave the road in Phase Three was because of the bonus lot; causing lots of dust and more traffic. Part of the cost to pave that section of the road would be less than the income related to the bonus lot. Had the town agreed to pave that section of the road?
- A 50/50 split was suggested. It was a high burden to put on the developer to improve public infrastructure.
- The extra cost to the developer was not their responsibility.
- \$70,000 for the total lots in all phases was \$2,000 a lot. The burden wasn't that large based on the overall project.
- If there was no previous agreement between the developer and the town then it was an unfair burden.
- How could they ask the developer to do more when improvements had already been made?

Amanda Lessard said:

- There had not been an agreement. If and when the town decided to pave a gravel road it would. The paving wasn't conditioned on the project. It was not in the public works budget now or in the foreseeable future.
- The Board had waived a traffic study. There would be 22 peak hour trips and 221 average daily trips.
- Typically the Planning Board was not requiring conditions for off-site improvements to public infrastructure unless it was inadequate to serve the subdivision.

Consensus of the Board was to obtain input from the Town's Engineer and Public Works Director.

Mr. Roma explained DEP comments:

- They should show the stabilized construction entrance for stormwater.
- Clarify the filter basins and biocells.
- They had to do a nitrate analysis and a high intensity soil survey for not only the current phase, but Phases One and Two also. Nitrate plumes all stayed inside the property. Nothing significant was getting too close to any streams or relying on streams

to dilute water. Basically soils had adequate distance from wetlands and the brook to get down to required nitrogen levels before they were intercepted. Colley Wright Brook was considered a threatened water course because of dissolved oxygen. DEP hadn't commented on anything the project would do that would negatively impact that. There was much open space between their lots and Colley Wright Brook.

- DEP required the buffers to be deed restricted.

New Business

- 5 [PB 18-085](#) 18-30 Washington View Farms Second Amended Subdivision. Terry & Kathleen Saunders to request an amendment to an approved subdivision for a lot line adjustment between Lots 5 and 6 for a 48,000 square foot land swap. The properties in question are located at 76 and 80 Park Road and identified on Tax Map: 11, Lots: 43-5 and 43-6, Zone: Farm Residential (FR).

Attachments: [18-30 Washington View Farms 2nd Amend 10-05-18](#)
 [76 Park Rd 2nd Amend Sub](#)
 [Planning Board Submission_Saunders](#)

Jim Seymour, a civil engineer with Sebago Techincs, was present representing the applicants who owned both lots 5, 10.5 acres and 6, 5.61 acres. They proposed an equal land swap of 48,000 square feet between the lots. The lots were above the minimum lot size and access would not be affected.

Amanda Lessard explained:

- *There was a house on lot 5; lot 6 was undeveloped.*
- *The land swap would not cause any issue with the building setback.*
- *Lot 5 was nonconforming according to current zoning standards for minimum road frontage. The Board could consider the application because the nonconformity was not increasing and no nonconformities were being created.*

Keith Elder made a motion that the application for 18-30 Washington View Farms, 2nd Amendment on Tax Map: 11, Lots:43-5 and 43-6 was to be approved with conditions with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- *No portion of the lots impacted by this amendment are within the mapped 100 year floodplain.*
- *No buildings or other impacts are proposed within the floodplain.*

B. WATER

- *The proposed land swap will not result in additional demand for water.*

C. SOIL EROSION

- *The proposed transfer of 48,000 square feet of land between Lots 5 and 6 will have no impact on soil erosion or change the current stormwater drainage.*

D. TRAFFIC

- *The proposed transfer of land will not have an impact on traffic, as there is no additional development proposed.*

E. SEWERAGE

- *The existing home on Lot 5 is served by a private septic system.*
- *Lot 6 is undeveloped and the test pit location from the original subdivision approval is shown on the plan. No additional soil tests are required.*

F. SOLID WASTE

- *The proposed transfer of land will not have an impact on the Town's ability to collect and dispose of household waste, as no new development is proposed.*

G. AESTHETICS

- *The portion of the property to be transferred is wooded.*

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2017 Comprehensive Plan.*

- *Land Use Ordinances:*
- *Both Lot 43-5 and Lot 43-6 meet the minimum lot size for lots in the Farm Residential Zone. Lot 43-5 does not meet the current minimum requirement for road frontage. The equal area land swap is permitted in accordance with Section 204.D Alternation of Nonconforming Lots as the alteration of the lot lines does not increase or extend the degree of, or create any new, non-conformity with regard to any applicable dimensional standard.*

- *Subdivision Ordinance*
- *None.*

- *Others:*

I. FINANCIAL AND TECHNICAL CAPACITY

- *Evidence of financial capacity and technical capacity are not required for this lot line adjustment.*

J. RIVER, STREAM OR BROOK IMPACTS

- *No river, stream or brook impacts are anticipated as a result of the proposed amendment.*

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 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 do not have a lot depth to shore frontage ratio greater than 5 to 1.*
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 was dependent upon, and limited to, the proposals and plans contained in the application dated September 10, 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.

- 6 [PB 18-086](#) 18-31 Cook Road Retirement Community. Major subdivision and site plan sketch plan review. Jim Cummings to request review of a 50 unit residential subdivision in seventeen (17) duplexes and four (4) four-unit buildings. The property in question is located at Cook Road and 306 Gray Road and identified on Tax Map: 9, Lot: 5, Zone: Farm (F) and Retirement Community and Care Facility Overlay District (RCCFO).

Attachments: [18-31 Cook Road Retirement Community Sketch 10-05-2018](#)
[Cook Road Retirement Community - Sketch Plan Submission](#)

Adrienne Fine, a civil engineer with Terradyne Consultants, was present representing the applicant. She explained:

- *This would be a 55 plus community.*
- *The site was 12.88 acres, located on the southwest corner of Gray and Cook Roads. It was mostly forested with some wetlands and was located in the Pleasant River watershed.*
- *Net residential calculations would support up to 88 units. They were proposing 46 units in 19 duplexes and two four-unit buildings.*
- *They proposed three roadways. One would connect through from Gray Road to Cook Road. The other two would create a four-way intersection.*
- *There would be a club house with games and a fire pit.*
- *Roadways would be paved and have with four foot shoulders.*
- *Public water was available from Gray Road.*
- *There would be shared septic systems.*
- *Underground utilities would be located in the roadway.*
- *A traffic study was required.*
- *Stormwater would be treated in three small filter areas.*
- *Outdoor lighting would be located at the club house and road intersections.*
- *A small area of wetland crossing would require DEP permitting.*
- *They would request a waiver of the requirement for a high intensity soil survey because there would be test pits for all septic and stormwater locations and they would use the medium intensity soil survey. The high intensity soil survey would not add value to the design of the project.*

The Board commented:

- *50 feet should be added at the end of the roads.*
- *The forested buffer to Route 202 should be shown on the plan.*
- *The duplexes should be sprinklered.*
- *The road connectivity was great.*
- *Consensus of the Board was favorable to the waiver request.*
- *It would be better to have a hydrant located within the project.*

Bill Walker made a motion to schedule a public hearing.

Seconded by Kaitlyn Tuttle.

Vote: All in favor.

Bill Walker made a motion to schedule a site walk.

Seconded by Griffin Bourassa.

Vote: All in favor.

- 7 [PB 18-087](#) Amendment to Town of Windham Land Use Ordinance, Chapter 140, Sections 300, 400 and 900. Proposed changes to cluster subdivision standards include changes to ownership of open space, factors for reviewing lot arrangement, and removing density bonuses in the Farm and Farm Residential District.

Attachments: [PB packet Cluster Subdivision 10-03-18](#)

Amanda Lessard explained:

- *The Long Range Planning Committee (LRPC) had worked on the cluster subdivision standards in response to acceptance of the Comprehensive Plan. There was a desire to keep rural Windham rural. Requiring cluster subdivisions would allow open space to be preserved from development.*
- *The amendments would allow flexibility for a subdivider to retain open space for agriculture or forestry and more clearly establish factors for the Planning Board to review the layout of lots in cluster subdivisions in order to create better open space.*
- *The amendments had been presented to Town Council which had requested the removal of density bonuses for allowing public use of open space.*

The Board Commented:

- *Where were cluster subdivisions and how was the open space utilized?*
- *Cluster subdivisions tended to be located on dead end roads off of public roads, with no connectivity, and had small clumps of open space in different areas.*
- *An impact fee would allow the town to purchase large tracts of land?*
- *How much of the development had occurred in a growth area as designated by the Comp Plan and how much was outside growth areas?*
- *It was less expensive to develop in rural areas and that caused a loss of rural character.*
- *The amendment seemed to encourage more cluster subdivision. It didn't seem rural to see houses.*
- *The most important thing was not to lose the character of why people moved to Windham.*
- *Satellite open space wasn't utilized. It would be better to attribute a cost to develop some open space where it would be used.*

Amanda Lessard explained:

- *There was an impact fee that could be used to purchase land. It was not specifically to offset development.*
- *Another workplan task for the LRPC was to look at the ordinances for the Farm (F) and Farm-Residential (FR) districts and to report back to Town Council.*
- *The majority of development had not been in growth areas.*
- *The amendments were meant to be a targeted approach to give the Planning Board more flexibility in working with developers.*

Other Business

8 Planning Board Appointment to Retail Adult-Use and Medical Marijuana Establishments Task Force

The Town Council had created a committee to look at recent legislation regarding recreational marijuana use and recent revisions to medical marijuana rules. The Committee membership would include one Planning Board member.

Kaitlyn Tuttle volunteered to serve on the committee.

9 Adjournment

Keith Elder made a motion to adjourn.

Seconded by Bill Walker.

Vote: All in favor.