



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Planning Board

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Monday, June 10, 2019

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 Chair, David Douglass. Other members present were: Keith Elder, Drew Mayo, Kaitlyn Tuttle, and Michael Devoid.*

*Planning Director Amanda Lessard, and Planner Jenn Curtis were also present.*

#### 3 [PB 19-056](#) Approval of Minutes: May 29, 2019

**Attachments:** [Minutes 5-29-19 - draft.pdf](#)

*Keith Elder made a motion to approve the minutes of the May 29, 2019 meeting.*

*Seconded by Michael Devoid.*

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

### **Public Hearing and Continuing Business**

#### 4 [PB 19-057](#) Amendment to Town of Windham Land Use Ordinance, Chapter 140, Section 400 Zoning Districts. Proposed changes related to accessory building front setback in the Commercial 1 (C-1) and Commercial 2 (C-2) zoning districts.

**Attachments:** [PB packet accessory building setback 06-05-19.pdf](#)

*Amanda Lessard explained:*

- *There had been a previous ordinance amendment that was intended to bring zoning more closely in line with the requirements of the 21st Century Downtown Plan.*
- *One requirement was a range of maximum setbacks from the road for building frontages. This was making it difficult to locate accessory structures, which were traditionally located to the back of lots, outside of the allowed setback.*
- *The amendment proposed a setback for accessory structures of whatever the required setback for the principal structure was plus 20 feet.*

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

*Board comment:*

- *Could the accessory structure could ever be rented?*

*Amanda Lessard responded it would be on a case by case basis. Accessory structures*

*had to be subordinate to the use of the principal building.*

*Keith Elder made a motion to recommend approval of the proposed amendment to Section 400 of the Land Use Ordinance related to Accessory Building front setback in the C-1 and C-2 Zoning Districts.*

*Seconded by Kaitlyn Tuttle.*

*Vote: All in favor.*

## **New Business**

- 5      [PB 19-058](#)      19-11 Perkins 5th Amended Subdivision. Randy Perkins to request amendments to an approved subdivision for the creation of one (1) additional lot, the movement of the common property line between lots 87 A-3 and 87E, and adjustments to the right-of-way associated with Perks Peak Road. The properties in question are located at 23 Tower Road, 47 and 50 Perks Peak Road and identified on Tax Map: 19, Lots 87A, 87A-3, 87E, Zone: Farm (F).

**Attachments:**    [19-11 Perkins 5th Amend 06-05-19.pdf](#)  
[Perkins 5th Amended Plan.pdf](#)  
[Perkins Amended Subdivision Application.pdf](#)  
[PERKINS AMENDED 2004.pdf](#)

*Wayne Wood was present representing the applicant who proposed to:*

- *Create one additional house lot.*
- *Move a common property line to correct a setback violation for a garage.*
- *Adjust the location of the roadway on the plan to match what existed.*

*Jenn Curtis explained:*

- *Hammerheads had been located on the plan to reflect where they really were.*
- *The Fire Chief had confirmed that a dry hydrant for fire suppression was acceptable.*
- *Plans would show an easement for the town to access and maintain the dry hydrant.*
- *There would be a condition that no certificate of occupancy would be issued until the dry hydrant had been installed, tested, and was in service.*
- *The new lot would become a member of the road association and be responsible for road maintenance.*
- *No new non-conformities would be created.*

*Consensus of the Board was that a site walk and public hearing were not required.*

*Drew Mayo made a motion that the Subdivision application for 19-11 Perkins Subdivision, 5th Amended Subdivision on Tax Map: 19, Lots: 87A, 87A-3, and 87E 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.*
- *The proposed amendment will not increase air or water pollution.*

**B. WATER**

- *The new lot will be served by a private drinking water well.*
- *The closest fire hydrant is located on Route 115 at Smith Road, over half a mile from the subdivision.*
- *The applicant should demonstrate how the proposed subdivision will provide fire protection. The Fire Department typically recommends residential sprinkler systems in new subdivision homes if they are located more than 1,000 feet from a hydrant served by Portland Water District.*
- *The proposed amendment will not have an impact on water resources within the subdivision.*

**C. SOIL EROSION & STORMWATER MANAGEMENT**

- *A soil erosion and sediment control plan will be required as part of a building permit application for the new lot.*
- *The applicant should demonstrate that the development of an additional lot will not create erosion, drainage or runoff problems either in the subdivision or on adjacent properties.*

**D. TRAFFIC**

- *The amended plan proposed adjustments to the previously shown location of Perk's Peak Road and turnarounds to reflect as-built locations. This affects the portion of the road across Lot 87E and along the proposed lot 87A-7 and moves the turnarounds on Lot 87A-4 and from Lot 87A-5 to Lot 87A. The applicant should provide documentation that the turnarounds were constructed to the previously approved road section.*
- *Per Section 911.M.5.a.5.v the following note must be added to the plan: "All roads in this subdivision shall remain private roads to be maintained by the developer, lot owners or road association, and shall not be offered for acceptance, or maintained, by the Town of Windham until they meet all municipal street design and construction standards."*
- *The application submissions that all of the lot owners recently got together and created a formal road association called the Perk's Peak/Tower Road Association in order to handle the routine maintenance and plowing of these roads. The deeds provided in the submission do not reference the recorded road association. The application should provide evidence of this road association.*
- *The traffic generated by the additional dwelling unit will not create roadway congestion or unsafe conditions on Perks Peak Road.*

**E. SEWERAGE**

- *The new dwelling unit will be served by a private septic system.*
- *A subsurface Wastewater Disposal System Application dated August 13, 2018 prepared by James Mancini, LSE demonstrates that the subject parcel contains suitable soils to support a septic system. The test pit location is shown on the plan.*

**F. SOLID WASTE**

- *Residents of the new dwelling will participate in the Town's pay-per-bag garbage program.*
- *Development of a new lot 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 87A is forested.
- There are no documented rare botanical features or significant wildlife habitat documented on the site.
- Limits of tree clearing are shown on the plan and Note 13 states that the 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 Ordinances:
- The new lot meets the minimum lot size (80,000 square feet), frontage (200 feet), and setbacks for lots in the F zoning district.
- Revising the location of the right-of-way along lots 87A-3 and 87E will retain the required road frontage for each lot.
- Moving the common property line between lots 87A-3 and 87E will allow the existing garage located on the Lot 87A-3 to meet the 40-foot front yard setback required in the Farm Zoning District.
- Net residential density calculations are shown on the Plan.
- 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 plan.
- Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.
- Others:

#### I. FINANCIAL AND TECHNICAL CAPACITY

- There is no public infrastructure or improvements proposed as part of this application. Costs associated with review of this project are privately finance by the applicant.
- The professional working on the project have demonstrated technical capacity for this project.

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

- The property is located in the Pleasant River watershed.
- The proposed amendment will not have an impact on any rivers, streams, or brooks.

#### 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. (N/A)*
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 May 20, 2019, as amended June 2019, 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. *No certificate of occupancy will be issued until the Dry Hydrant has been installed, tested and is in service.*

*Seconded by Michael Devoid.*

*Vote: All in favor.*

**Other Business**

*Amanda Lessard stated that the Department of Corrections site walk would not be open to the public because of security concerns. It would be videotaped and broadcast for the public to see.*

**6 Adjournment**

*Drew Mayo made a motion to adjourn.*

*Seconded by Michael Devoid.*

*Vote: All in favor.*