

WINDHAM PLANNING & ZONING COMMISSION
October 23, 2014 MINUTES

The Windham Planning & Zoning Commission held its meeting on October 23, 2014 in the Auditorium of Town Hall. Chair Paula Stahl called the meeting to order at 7:00 P.M. Members present were Ed Pelletier, Jean Chaine, Scott Lambeck, Michael Graf, Dan Lein, Claire Lary and Paula Stahl. Also present were Town Planner James Finger and Code Enforcement Officer Matthew Vertefeuille.

I) Approval of Minutes

- a) The minutes of September 25, 2014 were approved on a motion made by Jean Chaine and seconded by Dan Lein. Voting in favor of the motion were Jean Chaine, Dan Lein, Ed Pelletier, Claire Lary and Paula Stahl. Scott Lambeck and Michael Graf abstained. The motion carried.
- b) The minutes of October 9, 2014 were approved on a motion made by Dan Lein and seconded by Jean Chaine. Voting in favor of the motion were Dan Lein, Jean Chaine, Ed Pelletier, Claire Lary, Scott Lambeck and Paula Stahl. Michael Graf abstained. The motion carried.

II) Public Hearings

1) David Evans, 606 & 618 Windham Back Road, North Windham (Assessors Map 8-3/248/15&150) – Application for a six lot Subdivision Plan.

Commissioner Ed Pelletier recused himself from the public hearing.

Wes Wentworth of Wentworth Civil Engineers, LLC, representing the applicant, spoke to the application. He said all appropriate property owners were notified and a sign was posted on the site. He submitted the Certificate of Mailing receipts.

He referred to the revised maps and said there have been some modifications based on comments received. He then identified Back Road and Parish Hill Road on the map. He said the property is approximately 31 acres in size and is mostly wooded. Mr. Wentworth said we are proposing 2 lots that are front lots in this location, three interior lots as well as one large rear lot. He said there was a house on the property until last year, but the house burned and was razed. There is an existing garage on site which will be incorporated into lot 6. There will be a 14-foot wide gravel road which will serve as a common driveway. He said there will be a 30' easement so we will have 8 foot load bearing shoulders on either side which is part of the Flexible Design Subdivision. There are some wetlands on the property, but they will have little impact on the development. And, as part of that we have incorporated LID's (low impact development) as part of storm water control. He reviewed how the water will drain off the property. For clarification, Chair Stahl said when designing stormwater systems, the water flowing off the property should be no greater after development than it is before.

Mr. Wentworth said we have on site septic systems and on site wells to service the proposed homes. He added that the Health Department has reviewed the plan and has approved the project for the use of on-site septic systems and wells. We have also gone before the Inland Wetlands

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Commission and received their approval. He said there will be no activity within a wetlands area or the water course. All activity will take place in the upland review area.

Mr. Wentworth said he has been in contact with Zoning Code Officer Matt Vertefeuille who said the plan had been reviewed by the Town Engineer, and Public Works, as well as the Fire Marshall and we have received no negative comments. He said we have also submitted the bond estimate to support the private lane. He explained that the Subdivision Regulations require underground utilities and we are requesting a waiver in order to allow overhead power lines. He said he is not sure which way the property owner will develop that, but they would like to have the option to go either way.

He concluded his presentation by saying there will be no negative impact to public health, welfare or safety as a result of this project. Mr. Wentworth said we have been working with the commission since January on this application and he felt that the consensus between the Commission and the applicant/owner is that this is the best way to develop this property and achieve what we are trying to do with the Flexible Design Subdivision regulations.

Mr. Wentworth said the only change in the plan that was previously submitted relates to the private way. Lot 6 has a driveway directly to Back Road because location of the existing garage doesn't make it feasible to have the driveway off the private way. The previous plan had the property lines down the center line of the private way, because Lot 6 would not be using the private way, the owner has requested that we move this property line out to the edge of the private way as Lot 6 will not be using it. We just shifted that over 15 feet. That is the only change to the plan. The other changes are simply housekeeping changes.

Chair Stahl referred to the conservation easement and said the previous plan had a larger conservation easement area, most of that lot is not developable anyway. Ms. Stahl asked if the Conservation Commission had reviewed the plan. Planner Finger said they did, and said they didn't have any comments.

Planner Finger then reviewed some of his concerns. He said the Town Attorney asked that the commission condition any approval on satisfying the Town Attorney so that he can look it over.

Wes Wentworth said he did add notes relative to solar access and solar development. He said there are no floor plans at this point; however the site is conducive to solar access. There is east/west access and also the way the house faces is a mostly open area. Commissioner Chaine said he has advocated for this type of exposure in the past. It costs less to maintain a house when you start off in the beginning to orient the house so that you can take advantage of the sun.

Chair Stahl opened the public hearing for public comments.

1) Brett DeMarchi questioned drainage. Mr. Wentworth said the house site basically follows the driveway. There were some tests done originally and we have proven that each lot can support a house, septic system, and well. He also asked about the location of a particular house and its proximity to the property line. Chair Stahl asked the Planner for clarification on the setback for

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a rear lot versus a standard lot. Planner Finger responded that it is 50 feet for a rear lot, and 30 feet on a standard lot unless it is on Back Road which would be 50 feet off the front line.

2) Mike (inaudible) referred to lot 1 and asked if there will be a problem with erosion. Mr. Wentworth said we are not seeing that at this point. He reviewed the proposed drainage plan and identified the location of the culverts. Chair Stahl said it looks like there is some water that already collects there and added that no additional water will be added because of the proposed subdivision.

After consulting with the Commission and hearing no other public comments, Chair Stahl closed the public hearing. She added that she would like to keep this on the agenda for the next meeting to talk about the easements and a list of conditions. We also need to discuss the waiver for underground utilities to see if we are in favor of that. Discussion will continue at the November 20, 2014 meeting.

2) Jordan Herrick for property at 26 Windham Center Road, Windham Center, CT
(Assessor's M 17-3/245/29 – Application for three lot subdivision.

Commissioner Ed Pelletier and ZEO Matt Vertefeuille recused themselves from this participating in this application.

Wes Wentworth of Wentworth Civil Engineers, LLC representing the applicant, Jordan Herrick, said letters were mailed to the appropriate neighbors and signs have been posted on the property. He submitted the Certificates of Mailing receipts.

Mr. Wentworth identified the property on the map. He also pointed out Route 203 and Mullen Hill Road. The property consists of 18.4 acres. It is relatively flat in the eastern portion of the site. It drops off slightly as it goes westerly to the middle portion of the site and then it gets a little bit lower in elevation. Three building lots are proposed on this 18.4 acre parcel for three homes. On the easterly frontage of the property exists a garage, a few sheds and a well. There is an existing driveway and underground utilities up to this point. This will be lot #1 and will utilize access off of Mullen Hill Road. A house will be constructed to the east, in front of the existing garage. Two more building sites are proposed to the center of the site. Access to the site will be from a private lane 200 feet in length. And the plans show a common driveway coming off that for lots #2 and #3. Lot 3 will have frontage on Mullen Hill Road and on this private lane which is a 14 foot wide gravel road without any curbs on it within a 30 foot easement and that is where that frontage is. The frontage for lot #2, which is a rear lot, is only a hundred feet or so in frontage on Windham Center Rd but there is no access to Windham Center. The only access is on the common drive from Mullen Hill Rd.

This is an R-3 zone and an historic district shown in red on the map which encompasses the western third of the site all the way back towards Route 203. The conservation easements, which are in two areas, are shown and meet the 20% minimum. It is 3.78 acres in size. The concept of granting those conservation easements was to protect not only the underlying wetlands but the uplands area as well. He said the Windham Fire Department is abutting the property on the north so that prevents that area from any type of development.

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We have submitted the plan to the Health Department, and are awaiting a review and approval from them. Mr. Wentworth explained that they need a waiver on the amount of wetlands in the open space as the maximum allowed in the subdivision regulations is 50%.

Chair Stahl said this is a Flexible Design Subdivision which requires a hundred foot frontage, Lot 2 meets that requirement with the frontage on Rte 203. She asked Mr. Finger if there was a maximum length of the common driveway. Mr. Wentworth said it is 600 feet. A discussion ensued.

Commissioner Jean Chaine asked who owns the conservation easement. Mr. Wentworth said lot 2 owns the conservation easement. The northerly conservation easement is owned by lot 2 and the southerly conservation easement is owned by lot 3. Mr. Chaine said the person who owns the conservation easement (which is lot 2), without knowing that area is wetlands, the temptation would be to put a driveway in from Route 203 to access the property. If that conservation easement did not have water in it, or if some part of it was not wetlands would that prohibit any future owner from putting a driveway through to that lot.

Chair Stahl said it would depend how the conservation easement was written, but the easement would most likely say no buildings, or structures, or driveways could be added. The easement has to specify the details and is recorded on the land records. Commissioner Chaine said the easement is going to belong to lot #2. Chair Stahl said the land will be owned by lot #2, but the development rights will be owned by the town. Commissioner Chaine said that is the problem he is having. There have been issues in which you couldn't do something with a piece of land, but the municipality would be exempt. Chair Stahl said that doesn't hold water with a conservation easement; not even the federal government can build on a conservation easement if the easement doesn't allow buildings. She then referred to Section 6.5.3B which states that the open space shall be in one contiguous piece except when the commission finds that the purposes if the regulations would be more effectively served by separate parcels. She said if none of that is developable maybe the two areas should be connected. And also, Section 6.5.3C6 says that individual lot lines shall follow any existing stone walls except when not feasible. That is a way to preserve a stone wall, and the plan disregards the stone walls.

Jordan Herrick, owner of the property, said his only concern about connecting the two conservation areas is that right now there is a grass/dirt path that goes down to the pond and there is grass that goes to the pond area. If the conservation easements were made to attach the two lots that whole pond would be in the conservation easement, would they still be able to maintain the area; mow the grass, enjoy the area etc. Chair Stahl said it would depend on what the conservation easement said. It could be two different levels of conservation, one area could allow mowing, the other not.

The Chair opened up the hearing to the audience:

1) Tom McNally said he believes that lot #2 comes close to his property. He said he can see the pond and the wetlands down there. He said his main concern is that once you lose wetlands you can never get them back. That area is home to a lot of wildlife.

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2) Ray Silveira said he also has concerns with the wetlands. He posed questions regarding the conservation easement and these were addressed.

3) Dave Perry said he would be significantly impacted by any development here. He referred to the driveways. He said this property was subdivided from this piece when he purchased the property 5 years ago. It is all open. He said everything is so close to his property. Chair Stahl asked if he would prefer it if they were able to move the back driveway. Mr. Perry said most definitely.

Mr. Wentworth said regarding the driveway that is on lot #2 there is some flexibility. Mr. Wentworth stated in responses to Mr. McNally's concerns, he said there are no wetlands or water courses being disturbed or altered as a result of this project.

Chair Stahl said her feeling is that the public hearing will be kept open for a month because there are too many unanswered questions. She offered to meet with Mr. Herrick.

Planner Finger asked Commission members if they wanted to have a site walk before the next meeting - only two members expressed interest, but no date was set, and Mr. Herrick said that they could come anytime they wanted.

Planner Finger said he will work with the developer on the conservation easement language and to try to work out the property lines.

Commissioners were advised to contact Planner Finger if they wished to walk the site.

Chair Stahl said the public hearing will be continued until November 20, 2014.

III) Other Business

Planner Finger advised the Commission of a bus tour in East Lyme area with the Southeastern Housing Alliance; no one expressed interest.

As there was no further business, the meeting was adjourned at 8:30 P.M. Motion to adjourn made by Ed Pelletier and seconded by Scott Lambeck. The motion carried unanimously.

Respectfully submitted,

Lillian Murray, Clerk