

**Windham Planning & Zoning Commission**  
**Windham, CT**  
**Sept. 25, 2014**  
**Minutes**

The Windham Planning & Zoning Commission held its meeting on September 25, 2014 in the auditorium at Town Hall. Chair Paula Stahl called the meeting to order at 7:00 P.M. Members attending were Jean Chaine, Edward Pelletier, Dan Lein, Claire Lary and Paula Stahl. Scott Lambeck was excused. Also present were Town Planner James Finger and Code Enforcement Officer Matthew Vertefeuille.

**I) Approval of Minutes**

a) The minutes of August 14, 2014 were approved. Motion was made by Jean Chaine and seconded by Ed Pelletier. Voting in favor of the motion were Jean Chaine, Ed Pelletier, Claire Lary and Paula Stahl. Dan Lein abstained. The motion carried.

b) The minutes of August 28, 2014 were approved. A motion was made by Jean Chaine and seconded by Claire Lary. Commissioner Jean Chaine asked to have an informal discussion, for informational purposes only, later in the meeting about an issue that is in these particular minutes. Chair Stahl said we could take this up under routine business. Voting in favor of the motion to approve the August minutes were Jean Chaine, Dan Lein, Claire Lary and Paula Stahl. Ed Pelletier abstained. The motion carried.

**II) New Business**

**a) David Evans, 606 Back Road, North Windham** – formal application for a six (6) lot subdivision.

Wes Wentworth, of Wentworth Civil Engineers, LLC, representing David Evans said we are working on some administrative issues for the total project. Chair Paula Stahl said a public hearing could be scheduled on October 23, 2014.

Commissioner Ed Pelletier said because the regulations have changed is the applicant going to submit any verbiage for the common driveway for maintenance purposes. Mr. Wentworth said this is presently being reviewed by the attorney. We are working at it, said Wentworth.

Mr. Wentworth gave a brief update on the subdivision plan. He said we have received approval from the Health District. We have also submitted an application to the Inland Wetlands Commission. He said he and Planner Finger are setting up a meeting for Town staff to go over the plan. I'm sure there will be revisions, and I want to get all those in place prior to the public hearing, said Wentworth.

Commissioner Jean Chaine referred to the report from the North Central District Health Department. He said at the end of the report they say that "further investigation may be required as a result of site alterations or lot reconfiguration." What are they referring to, he asked. Is

there a chance that you will be changing what has been submitted, or is it for something that may come up in the future. Mr. Wentworth explained that the Health District would need to review any changes made to the site plan as to how the lots are configured with regards to the number of bedrooms or if they want to expand the septic systems. That is pretty much the standard, said Wentworth.

Commissioner Chaine referred to the Conservation Easement. He said isn't a conservation easement meant to allow it to be used by all those who live in that subdivision. Chair Stahl said not necessarily. She said it depends upon the individual subdivision plan. Some subdivisions would lean themselves towards common open space, perhaps a stream with a trail that could be enjoyed by others. This application's conservation easement is on the rear of the back lot and is not accessible by anybody else.

Mr. Chaine said that property backs up to property on Parish Hill. Chair Stahl said the landowner of lot #4 would own the land and the conservation easement would be owned by the Town of Windham. Commissioner Jean Chaine asked if the conservation easement language prevents that strip of land from being developed into a home lot in the future. Chair Stahl said yes, and also it will include language will allow the Conservation Commission to periodically go on site and monitor that there isn't any development within the conservation easement area of that property.

Planner James Finger said we had a similar subdivision (Krohn Subdivision) on Jerusalem Road where the property owner held 45 acres in the back portion of the property exclusive, and the town has an easement on file. So, this isn't the first time we have this situation.

Mr. Finger said we need to include Section 8-24 because we will have to make a recommendation at a town meeting to accept the conservation easement. He added that the Town Manager mentioned that he is trying to schedule a town meeting on land use issues and to handle land acquisitions and disposals sometime in October so this might be timely. Chair Stahl said she wasn't sure if this subdivision would be approved in time for this town meeting.

A public hearing will be scheduled for October 23, 2014.

**b) Jordan Herrick for property at 26 Windham Center Road, Windham Center** – formal application for a 3-lot subdivision plan. Commissioner Ed Pelletier and Code Enforcement Officer Matthew Vertefeulle both recused themselves from participating on this application.

Chair Stahl said what has been submitted to us is basically the same plan that was submitted to us a month ago.

Mr. Herrick said after looking at the property we decided that if the second rear lot ever wanted to have their own driveway, or if there was an issue with the other property owner they could have their own driveway without having to share a driveway.

Chair Stahl said one of her concerns is that lot #2 is listed as having 200 feet of frontage which is the minimum requirement. This lot does not have 200 feet of frontage. Mr. Herrick said it should have because the frontage is actually between the two roads.

Chair Stahl said the frontage must be contiguous on one road. That is how it is defined in the regulations. This lot has frontage on two roads, so it's not contiguous. She said because the lot doesn't meet zoning requirements the commission would not be able to approve that lot. She said she spent a lot of time reviewing the plan to see how it could work for three lots under a Flexible Design Subdivision, and provided a potential layout to Mr. Herrick's engineer.

Planner Finger said he wasn't aware about the frontage. He said he was not at the last meeting and had not listened to audio portion of the meeting. He said he knew that Mr. Herrick was eager to get moving because he has two customers.

Chair Stahl said the commission has two concerns; 1) lot #2 does not meet the subdivision regulations under the definition of frontage (in our zoning regulations) because the 200 feet frontage is being met using 100 feet on each road. It is not contiguous. We could not approve lot #2 because it is not a legal lot. She said we also had concerns at the last meeting with the odd shapes of the lots and with the fact that there were two long side-by-side driveways. This is actually taking away from lot #1. She said our goal, and what we talked about a month ago, was that we wanted to see how we could help you create three lots where people would be delighted to live there, and to have shapes that would make sense to people. She said Mr. Herrick had said he wanted to have lot #3 have its own driveway, however the submitted map says it's a common driveway.

Chair Stahl advised Mr. Herrick that the commission could schedule a public hearing on October 23, 2014, but we wouldn't be able to approve the subdivision as submitted because lot #2 does not meet the regulations regarding frontage. She said she wasn't sure how Mr. Herrick wanted the commission to proceed. She suggested that Mr. Herrick ponder this and to contact Planner Finger and let him know how he wanted to proceed. Mr. Herrick agreed to contact Planner Finger.

Commissioner Ed Pelletier and Code enforcement Officer Matt Vertefeuille resumed their seats.

### **III) Other Business**

Code Enforcement Officer Matt Vertefeuille reported on the following:

a) Rogers Corp. Building – Frog Bridge Gymnastics has moved into space there and is up and running. The owner of the building has pulled several construction permits. Mr. Vertefeuille said he has talked to several people regarding renting or leasing space there. One party was looking for 60,000 square feet, one was looking for 20,000 square feet. And another party was looking for 10,000 square feet. Mr. Vertefeuille said it is a pleasure working with the owner of the building.

b) The Hurley Building – The developers have received 98% of their funding. They have hired an architect and an engineer and are working on completing their drawings. They hope to start construction within the next 4-5 weeks. The roof should be done before winter as well as the windows.

c) Mr. Vertefeuille said the Building Dept. has moved its offices into the old court room space in Town Hall. Other departments included in that space are the Health Dept., the Economic Development Office, and the Fire Marshall's office. He said this is meshing very nicely and will result in a more efficient process.

d) Mr. Vertefeuille said his people have been taking down old signage in town. He said literally hundreds of signs have been removed. Commissioner Jean Chaine asked if the owners are notified that this is happening. Mr. Vertefeuille said yes they are notified.

e) Housing code changes – We have been trying to streamline housing code issues and also offer some incentives to make it a little easier for landlords, and the town as well. He said right now we are on a 3-year cycle for inspections. We hope to shorten this to a 2-year cycle, said Vertefeuille. He went on to explain the inspection process. Commissioner Jean Chaine asked what does the landlord find advantageous to hire his own inspector. What do they think they are gaining, he asked. Mr. Vertefeuille said most of the landlords that he has talked to said they haven't seen the merits yet of hiring their own inspectors. He said bigger complexes might find it more advantageous.

#### **IV Routine Business**

a) **Correspondence** – there was no correspondence.

b) Commissioner Jean Chaine said it is his understanding that if a landowner has an encroachment on their property and they do not challenge it over a certain period of time they could end up losing it. He said there is a time sensitive period in which these kinds of infractions may take place beyond the time frame before this legal potential can kick in. He said he was bothered by the Rivera issue last month. He said it appears that the landlord infraction had taken place on developing that barn or whatever that building is in the back. There was a Cease & Desist Order that was ignored. And it appears as though whatever enforcement did or didn't take place, it continued to be used outside the regulations. Is there a time element that enters into that where it has been going on for so long and they haven't been stopped that they can now keep on doing it for eternity. Code Enforcement Officer Vertefeuille explained how adverse possession enters into the situation.

c) Planner Finger said our subdivision regulations talk about solar access and maybe the regulations need to be revised to actually include what the industry wants regarding solar energy. Chair Stahl said maybe we need to have a section in our regulations relating to alternate energy.

As there was no other business, the meeting was adjourned at 7:48 P.M. The motion to adjourn was made by Ed Pelletier and was seconded by Jean Chaine. The motion carried unanimously.

Respectfully submitted,  
Lillian Murray, Clerk