



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Planning Board Minutes

January 18, 2023

7:00 pm at Community Development Meeting Room
3 North Lowell Road

Attendance:

- Chair Tom Earley, Present
- Vice Chair Jennean Mason, Excused
- Derek Monson, Present
- Jacob Cross, Excused
- Matt Rounds, Present
- Alan Carpenter, Present
- Joe Bradley (alternate), Present, seated for Mr. Cross
- Dave Curto, (alternate), Excused
- Pam McCarthy (alternate), Present, seated for Vice Chair Mason
- Dan Spalinger (alternate), Excused
- Bruce Breton, Board of Selectmen ex Officio, Present
- Roger Hohenberger, Board of Selectmen ex Officio (alternate), Excused
- Alexander Mello- Planning Director, Community Development
- Chris Sullivan- Assistant Planning Director, Community Development
- Renee Mallett- Minute Taker

The meeting opened at 7:00pm with the pledge of allegiance and the introduction of members. Mr. Bradley was seated for Mr. Cross, Ms. McCarthy was seated for Vice Chair Mason.

Case 2022-37 –72 Range Road (Parcels 17-H-30); Major Final Site Plan, WWPD Special Permit, WPOD Site Plan / Subdivision Land Development Application, and Final Subdivision; Zone – Gateway Commercial District, WWPD, and WPOD

Mr. Karl Dubay, representing the applicant for this proposed 8,364 sq. foot commercial building with associated site improvement, has requested an additional continuance to February 1, 2023.

Chair Earley opened the session to public comment.

Patrick Nysten, thought it was unfair that the delay in receiving comments from town engineer Mr. Keach was being used as a reason to request another continuance. Mr. Nicen said the applicant had resubmitted the plan with substantial changes after an initial review had already been completed by Mr. Keach, and that it was these changes on the part of the applicant that required a second round of

43 comments. Mr. Nysten named a number of items, including delineation of the wetlands, which had been
44 just recently completed. He felt the project was incomplete and should be rejected, calling the
45 continuances an egregious use of the resident's and the board's time.

46 Mr. Carpenter asked staff if the case had been formerly opened. Staff said it had not. Board
47 discussed, procedurally, if the case should be considered incomplete, rescheduled, or continued. Mr. Dubai
48 said the only changes were reductions and that in his experience no board had ever called a plan
49 incomplete for this reason. Chair Earley asked if Mr. Dubai was confident that the case would be ready to
50 hear on February 1, 2023. Mr. Dubai said he was ready to present this application tonight but had
51 requested the continuance out of deference to the board's self-mandated deadlines and procedures. Mr.
52 Carpenter reviewed the process for the edification of the public.

53 Mr. Nysten said this case was continued three times, not just on January 4, 2023. He disagreed with
54 Mr. Dubai's assertion that the plan was reduced. Mr. Nicen did not think the continuance was justified as
55 Mr. Keach had raised zoning deficiencies. Mr. Carpenter cautioned the residents that it was not uncommon
56 for the board to see a commercial project several times.

57
58 Jacques Lopez thought the onus should not be on the public to have to constantly review changing
59 plans. He said he had attended meetings with several boards regarding this case already. He was frustrated
60 with the process to this point.

61
62 Staff was asked a series of questions about procedure and the history of the application. Mr.
63 Carpenter asked for specific dates when the conceptual was heard and when the application was filed. Mr.
64 Dubai confirmed that variances were received in August of 2021.

65
66 Mr. Nysten said the applicant had not met with abutters on a date previously agreed on. Mr.
67 Nysten said Conservation has requested meeting with the applicant again which should be seen as a sign of
68 its' incompleteness.

69
70 Mr. Carpenter made a motion to reschedule Case 2022-37 to February 1, 2023 at 7pm, with
71 renotification of the abutters, and with the condition that Mr. Dubai be aware that all requested materials
72 would be submitted to staff by January 27, 2023 at 12pm and that the case would be considered
73 incomplete if it was not ready to be heard on February 1, 2023. Mr. Rounds seconded the motion, asking
74 that staff determine if the case was complete. Mr. Carpenter amended the motion to say that his motion
75 was to "extend the deadline to February 1, 2023" instead of "reschedule." Mr. Rounds said his second still
76 stood. The motion passed with the following roll-call vote and Mr. Rounds and Chair Earley opposed. Chair
77 Earley said because of the changes of zoning regulations and thought the extensions were egregious.

78 Chair Earley, Opposed

79 Mr. Monson, aye

80 Mr. Rounds, Opposed

81 Mr. Carpenter, aye

82 Mr. Bradley, aye

83 Ms. McCarthy, aye

84 Mr. Breton, aye

85

86 **Case 2019-19F – 64 Mammoth Road (Parcel 19-A-200); Application for**
87 **Workforce Housing-Final; Zone - Rural District.**

88 Mr. Maynard representing this application to build sixteen single family detached units, with an
89 existing house being included as part of the condominium style development, that had been previously
90 denied by the Planning Board before being remanded back before them as part of the State of New

91 Hampshire Supreme Court Order (Case No. 2021-0473) which affirmed the Housing Appeals Board Order
92 (Case No.: PBA-2021-04) that 1) VACATED the 2/3/21 PB denial of the waiver for the required percentage of
93 workforce housing; 2) REVERSED the 2/17/21 PB denial of the two CUPs, and; 3) VACATED the 2/17/21 PB
94 denial of the overall project. The Planning Board has previously discussed this case on six other dates since
95 2020.

96 Mr. Maynard reviewed the edits that had been made to the plan since receiving further board
97 feedback at a previous meeting. Mr. Rounds said he would recuse himself from any votes taken regarding
98 this case.

99 Mr. Carpenter asked about Keach-Nordstrom review of the closeness of the leach fields. Mr.
100 Maynard said all of the septic elements met the guidelines. Mr. Bradley asked about a third-party review of
101 an easement on the land where the septic was slated for. Mr. Maynard said this had already been
102 adjudicated by the town attorney. Mr. Bradley said an abutter's lawyer disagreed with this assessment. Mr.
103 Monson said the third-party review would be free of cost, through the NHMA.

104 Attorney Drescher, speaking for the applicant, said DES had agreed that the land could be used for
105 lot loading and wanted to note that the role of NHMA was advisory, so they would tell the board to consult
106 with their town attorney.

107 Mr. Monson had concerns about the continued lack of sidewalks, especially leading to the
108 community mailbox. Mr. Carpenter wanted to see more visual buffers between the abutters and the
109 development. Specifically, Mr. Carpenter said he would like to know exactly what would be visible when the
110 abutters were in their own yards. Mr. Carpenter said he would like Mr. Keach to go to the site and to
111 consider the closeness of the leach fields.

112 Chair Earley said the board was in the process of hiring a third-party expert to review the financial
113 considerations, since the applicant was asking for a reduction in the required number of workforce housing
114 units. On the question of garnering further opinions on other items like the lot loading calculations,
115 Attorney Drescher felt that the HAB had already addressed and settled the issue and that it was not up for
116 review. Ms. McCarthy said she was not comfortable taking this opinion without consultation with the town
117 attorney, as she was not in the position to rebut the legal opinion of the applicant's lawyer.

118
119 **Chair Earley opened the session to public comment.**

120
121 Elizabeth Cooper asked how many feet away from her deck the closest home would be located as
122 the plan seemed to indicate it was only forty feet. She thought seventeen homes on 2.5 acres of land, along
123 with garages, septic systems, driveways, and the rest was too dense. The septic system that covers her
124 home and nine other residents has already failed and is being redesigned.

125 Ms. Cooper asked for more information on the specifics on the HAB decision. She said she has been
126 given the impression that the only item the Planning Board can comment on is the number of workforce
127 housing units and nothing else.

128
129 Matt Russel, had concerns that the clear cutting of the parcel in question could undermine the
130 vegetation that exists on abutting land. Mr. Russel said besides the septic failure at Wentworth Circle
131 mentioned by Ms. Cooper the same problems were being seen in the septic in the development
132 immediately behind the proposed development. He would like to see the board have third party review of
133 the leachfields and septic.

134 Mr. Russel said four of the units would look directly into his backyard. He would like to see less
135 residences along his property line and some kind of berm and landscaping to protect his family's privacy.

136
137 **Chair Earley closed the session to public comment.**

138

139 Ms. McCarthy asked for more information on the failed septic systems on abutting properties. Mr.
140 Maynard said it was indicative of why he disliked community septic systems and why his plan did not
141 depend on that kind of shared use. Mr. Bradley asked if, when septic was installed, they used an average
142 soils calculation or if it considered the exact calculations for the location where it was being installed. Mr.
143 Maynard said he was required to have test pits within so many feet of actual installation location.

144 Mr. Carpenter asked if it was possible to not cut vegetation in the buffer. Mr. Maynard said cutting
145 was necessary.

146 Chair Earley read the HAB ruling. His interpretation of the language was that adverse impact to
147 abutters was still under Planning Board consideration. Attorney Drescher disagreed. Mr. Mello said he
148 would discuss the specifics with Attorney Campbell.

149
150 **Mr. Monson made a motion to have the easement question reviewed by NHMA legal advisory.**
151 **Mr. Carpenter seconded the motion. Mr. Rounds recused himself from the vote. The motion passed with**
152 **the following roll-call vote:**

153 **Chair Earley, aye**
154 **Mr. Monson, aye**
155 **Mr. Carpenter, aye**
156 **Mr. Bradley, aye**
157 **Ms. McCarthy, aye**
158 **Mr. Breton, aye**

159
160 Mr. Monson said he shared abutter concerns about privacy and would like to see that mitigated. He
161 thought protecting the trees on surrounding lots was important and continued to express concern about
162 the safety of the residents in regard to the lack of sidewalks to the community mailboxes.

163 Mr. Carpenter said he would like to take a site walk since it had been three years since the board
164 saw the property in person, and that at that point there was not a complete plan. Mr. Maynard said there
165 was a tenant in the existing single-family home and he would need to confer with them to find a date that
166 would work. Ms. Cooper and Mr. Russel said they granted the board permission to also walk their
167 properties at this time so they could assess their proximity to the development.

168
169 **Mr. Carpenter made a motion to continue Case 2019-19F to February 15, 2023 at 7pm. Mr.**
170 **Monson seconded the motion. The motion passed with the following roll-call vote:**

171 **Chair Earley, aye**
172 **Mr. Monson, aye**
173 **Mr. Carpenter, aye**
174 **Mr. Bradley, aye**
175 **Ms. McCarthy, aye**
176 **Mr. Breton, aye**

177
178 **Mr. Carpenter motioned to adjourn the meeting, Ms. McCarthy seconded the motion. The**
179 **motion passed with the following roll-call vote:**

180 **Chair Earley, aye**
181 **Mr. Monson, aye**
182 **Mr. Rounds, aye**
183 **Mr. Carpenter, aye**
184 **Mr. Bradley, aye**
185 **Ms. McCarthy, aye**
186 **Mr. Breton, aye**

