

**TOWN OF WOLFEBORO
PLANNING BOARD
January 6, 2015
MINUTES**

Members Present: Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Brad Harriman, Selectmen's Representative, Mike Hodder, John Thurston, Paul O'Brien, Vaune Dugan, Members, Dave Alessandroni, Chuck Storm, Alternates.

Staff Present: Rob Houseman, Director of Planning & Development, Lee Ann Keathley, Secretary.

Chairman Barnard opened the meeting at 7:00 PM at the Wolfeboro Public Library.

I. Public Hearing

Petitioned Warrant Article

Are you in favor of amending the "Rural Residential District" and "Residential/Agricultural District" zone(s) to further protect the aquifer, water table, lakes, and character/integrity of the Neighborhood/District by prohibiting commercial for profit and light manufacturing uses within said zone(s) excepting those uses that are currently legally grandfathered and currently listed by special exception.

Kathy Barnard read the Petitioned Warrant Article submitted by Town residents, as noted above; noting if the article passed it would affect 175-88 and 175-122. She stated the zoning districts were amended in 2010. She stated the Board would vote to recommend or not recommend the Petitioned Warrant Article and a notation regarding such would be placed on the ballot.

Rob Houseman reviewed a Powerpoint presentation regarding such, see attached.

Kathy Barnard stated the wording that was submitted is the wording the Board has to proceed with; noting changes cannot be made to such.

Chairman Barnard opened the public hearing.

Roy McCandless, McCandless and Nicholson Attorneys at Law, stated he is representing Suzanne Ryan, Laura and Rick Campbell and Jim and Sandy Brown who are in support of the petition. He stated the proposed changes to the zoning recommended by Town Counsel are not necessary because the petition, if approved, will not outlaw agriculture or farming uses even if they are for commercial purposes because that is the law in the State of NH. He stated under RSA 674:3 a warrant article like this is not going to affect agriculture or farming activities unless it is specifically addressed in the warrant article. He stated nowhere does this warrant article state it will prohibit in any way, to handicap anyone, in pursuing their agriculture, horticulture or farming activities. He stated therefore, because NH law defines farming and agriculture activities as including the sale of those kinds of products, whether they be flowers or honey bees and honey, and all those things you can do under NH law. He stated this petition has no intent to prohibit anyone in the Agricultural or Rural Residential Districts from continuing to do their agricultural and horticultural activities. He stated so that the notion here under the language for personal use has to be added to the Zoning Ordinance, per Town Counsel, is not what the petition says or what NH law provides. He stated the words "limiting the agricultural activities for personal use" should not and will not be required to be inserted. He stated the proposal to add the language is not required under NH law and should not be added to the Zoning Ordinance. He stated the petition, if it is approved, will not affect the agricultural uses and referenced RSA 674:32-a. (the presumption), b. (existing agricultural uses are not going to be affected) and c. (specifically protects agricultural activities) whereas specifically provides that those activities, agricultural activities, are not to be in any way presumed to be affected or changed by a warrant article

unless it is specifically noted that that's the purpose and the intent and that is not what the wording says in this petition.

Referencing 674:32-a., b. and c. as quoted by Attorney McCandless, Mike Hodder asked if the statute would allow for farming in all districts whether or not it was specified in the zoning.

Roy McCandless replied under NH law, yes, farming is allowed in all districts.

Mike Hodder asked if Attorney McCandless is implying the zoning and regulations the Town has to regulate farming in particular areas are pre-empted by the statute.

Roy McCandless replied no and noted he has not reviewed all other articles in the Town's zoning. He stated it is affected by the State law in the sense that you need to interpret your zoning ordinance in the light of State law. He stated the Town is allowed to regulate farming however, it must be done specifically by State law because if you don't do it that way the presumption is the change does not apply. He stated that is why the rule applies here. He stated the petition doesn't affect the agricultural uses; noting there are very broad activities that are not affected in any way by the petition. He stated if someone is legally participating in agricultural farm use now they are not going to be affected by this petition. He stated the list of special exception uses are not affected at all with respect to this petition and people will be free to pursue what they have been pursuing as far as agricultural, horticultural and farming activities if this petition is passed. He stated he is aware of a pending application for an Alzheimer's 58-bed facility to be established in one of the districts and there is some concern as to whether or not this petition will affect the variance that was granted. He stated it is their position that this petition will indeed apply if it is passed by the Town. He stated this warrant article will apply to that application because there has been no application that has been filed with the Planning Board with regard to that facility and under State law the vesting or the freezing of what law applies to those types of applications depends upon when something is filed with the Planning Board. He stated it is their understanding that based upon the public record is that applicant has not submitted any type of application to the Planning Board that is subject to public notice and which would have frozen in time the ordinances, rules and regulations that apply to that application. He stated the applicant, by choosing to go to the ZBA for a variance, has subjected themselves to the possibility of a change in the zoning ordinance and that that subsequent change will apply to whatever proceedings that they then would conduct in the future, whether it be Planning Board or getting any building permits. He stated if this petition passes, the amended zoning ordinance would apply to any application (referencing the Woodbine application) because they have not chosen to go to the Planning Board to obtain any vesting. He stated under NH law, if you receive a variance the rights are not vested unless you have made substantial financial investment in construction activities; noting such is called Common Law Vesting. He stated it is their understanding that there have been no substantial construction investments in that application and therefore, there is no common law vesting with respect to the variance that was obtained. He stated lastly, with regard to the Woodbine application, he has tried to find evidence that there was a decision by the Code Enforcement Officer with regard to the application that was appealable to the Zoning Board and they have not yet seen anything that there was indeed a decision that was then appealed to give the Zoning Board jurisdiction in order to grant that variance. He stated we believe that is a substantial legal problem with respect to the Woodbine application and therefore, if this petition is passed this would be another reason why the amended zoning ordinance would apply to any efforts to establish that facility in these districts.

Jim Brown stated he is one of the originators of the petition and noted the petition was started because the petitioners, as residents and abutters in this district, felt they were not listened to. He stated they want to live in a peaceful neighborhood without worrying about 24/7 businesses and large commercial properties that affect them. He stated going through the meetings with zoning got them nowhere and as abutters all they heard was that it is for the greater good for the whole town. He stated Alzheimer's facilities are needed and noted it was an opportunity for the Economic Development Commission to support Huggins Hospital and the vacant wings as the location of the facility. He stated there would have been a huge increase in their funds and jobs. He stated it was a missed opportunity instead of pushing it to go to a place where it didn't belong; between water, runoff, protection of lakes and the number of daily trips into the district. He stated the petitioners aren't trying to stop them from doing their livelihood but, they don't want the neighborhood or district to change.

Charles Wiebel, resident of one of the districts, stated he is opposed to the Petitioned Warrant Article. He stated all the organization has to do is change its status to a nonprofit organization and the warrant article wouldn't apply because it specifically states for profit. He questioned the number of home businesses that exist within the districts that do not need a permit that would be affected by the article if it passed. He stated the businesses would then be illegal. Referencing agricultural services, he questioned the impact to a person living next to a farm that would like to do weaving in their home; noting such is not an agricultural use rather, it is a manufacturing use however, they can't use the wool next door because you have zoned them out of existence. He stated the proposed location is one of the best locations the facility could be placed.

Suzanne Ryan stated the newspaper cited her as starting the petition and infers that it was specifically hers; noting it was not. She stated she joined the petitioners because she also feels that although they had many opportunities to speak she feels that they were not heard as well as one of the descending members of the Board also stated Supreme Court reasons as to why it should be denied. She stated what it does is start the process of commercial creep into the residential zones and while it doesn't change the boundary line on the map, it is zoning by variance. She stated the Planning Board worked very hard on the zoning changes and tried to keep and expand commercial where it is and in fact, the record shows that the Board didn't want to include inns and laundry mats in that residential area/the Pollini parcel. She stated the EDC works very hard to make a productive core and encourage commercial use in the commercial zone. She stated she hopes its understood, per the attorney's presentation, that it's not removing all commercial use. She stated her purpose in joining in was to stop the commercial creep and make aware to the Planning Board when removing a use could specify it as a prohibited use when making changes and discourage use changes by a zoning variance.

Charles Horsken, Chairman, Agricultural Commission, stated the Commission held a Special Meeting on 1/5/15 to discuss the warrant article. He stated the Commission worked hard to amend the zoning and feels it was very successful. He stated he doesn't understand the variance process and when he reviewed the special exception uses, there was no category the facility fell under.

Mary DeVries, Wolfeboro Area Chamber of Commerce, stated the Board of Directors of the Wolfeboro Area Chamber of Commerce is not in favor of the Petitioned Warrant Article, see attached letter.

Alan Frederickson, Martin Hill Road and member of the Agricultural Commission, stated farming is protected under State law and goods are allowed to be sold. He asked whether the Petitioned Warrant Article is legal if the language recommended by Town Counsel is added. He stated State law regarding agriculture does not include language addressing personal use and would be against the warrant article for that reason.

Kathy Eaton, resident and member of the Economic Development Committee, stated the EDC doesn't meet until next week therefore, the EDC has not taken a position on the Petitioned Warrant Article. She stated personally, she agrees with the position the Chamber of Commerce Board of Directors have taken in that the warrant article is not going to be good for Wolfeboro business in a lot of ways. She stated it is vague in the way it is worded and sees that half of the Town of Wolfeboro is being taken and prohibiting commercial for profit and light manufacturing uses in that area; noting such would indicate to her that it would include home businesses. She stated home businesses need to be supported in addition to light manufacturing. She stated the laws the Town presently has provide good guidance and is disappointed that someone brings in a zoning proposal to keep one business out of town. She stated she is against the passage of the warrant article.

Jim Brown reviewed the list of special exception uses allowed in the districts and noted the petition states "excepting those uses that are currently legally grandfathered and currently listed by special exception." He stated the petition isn't going to shut down anybody in town or in the districts that are doing a home business. He stated the petition won't limit the Town on anything.

Tim Campbell, 37 College Road, stated there has been a lot of discussion regarding the economic impact of the amendment. He stated a group of people in the community felt their voice wasn't being heard. He stated the questioned regarding the variance as to whether it would produce unnecessary harm and undue harm to the

community. He stated the petitioners feel that it would do harm and felt they had to do something and the petition is the result of them trying to protect the community. He stated they feel that economic growth of the community isn't the only thing we should be concerned about rather, it should be how to draw more people to live in the Town; noting placing businesses in residential settings will not draw people to the Town.

Mark Lush, Browns Ridge Road, asked the Board to address his questions during their deliberation. He asked which interpretation (the petitioner's attorney's interpretation or Mr. Houseman and Town Counsel's interpretation) is followed and who decides such.

Sarah Silk, member of the BOS and Agricultural Commission, stated she lives in the Agricultural District and is representing herself. Referencing permitted uses in the Agricultural District, she read 175-125 E of the Town's ordinance; noting they have been told there are a number of uses that would not be allowed however, the Town's ordinance includes those uses. She stated she is confused as to why the proposed amendment to the zoning ordinance wouldn't allow the uses as they were misled to believe from the earlier presentation.

Kathy Barnard stated grandfathered uses do continue following changes to the ordinance.

Stacie Jo Pope stated the grandfathered uses would continue as long as they were legally permitted.

Sarah Silk stated the petition talks about what is currently allowed in the districts. She referenced what the State considers agriculture and farming and what is allowed and read RSA 21:34-a, see attached. She stated nowhere does it say personal pets only.

Charles Wiebel recommended that as an alternative, the Lake Wentworth Association take their efforts and money and develop a private sewer system because every time a toilet is flushed, they're more at risk than what is being proposed on Route 28.

Randy Walker stated Town Counsel offered an opinion regarding the article and then the public heard a second attorney say he disagreed with Town Counsel's opinion. He stated he would offer a third opinion and that opinion is that the petition amendment does not expressly delete any of the permitted uses. He stated it is not clear and because it isn't clear there will be a lot of litigation and will not be helpful to the Town and for that reason alone he would vote against the amendment. He stated it is difficult to protect something by prohibiting something else and the petition article suggests they want to protect the lake, waters, etc. by prohibiting these various uses. He stated he doesn't think that is a good way to do such and that it is better to restrict and regulate but not to prohibit. He stated Mr. Wiebel made a good point when he stated that it only restricts commercial for profit and not nonprofit uses; noting there could be uses that fall under such. He stated he doesn't think it's a good idea to delete home occupations, animal hospitals and the other uses. He stated it is too broad a brush and if the intent is to shut down Woodbine then why shut down all the other permitted uses. He stated for these reasons he would not be in favor of the amendment.

Charles Horsken stated a group has been forced to write a proposal to try to protect what is already existing because of a variance. He stated through the variance process what was a very very good process it got thrown out. He expressed concern that the whole agricultural area will become full of nursing homes, etc.

There being no further questions or comments, Chairman Barnard closed the public hearing.

Kathy Barnard stated she agrees with Attorney Walker in that the existing language isn't clear, is vague and raises a lot of questions. She stated the most productive way to do things is to work together; noting the ordinance has served the Town well since 2010. She stated the Planning Board is open to suggestions from the public and noted the best way to serve the Town is to ensure a legally defensible ordinance. Referencing the ZBA issue, she stated such is a separate RSA and everyone has the right to file an application, participate in a public process; noting the ZBA process is not unique to Wolfeboro. She stated the variance was granted and that variance runs with the land; noting she feels the approval would not be affected by the passing of the article because it already has been granted.

Stacie Jo Pope stated some residents are focusing on one ZBA case and if the article passes it would affect a large portion of the Town and permitted uses would be lost. She stated the language is not clear therefore, she is not in favor of the article.

Chuck Storm agreed with Attorney Walker's comments and noted the petition is set up to be challenged and subject to Town litigation. He cautioned against adopting such.

Mike Hodder stated he served on the ZBA and voted in favor of the Woodbine application. He stated he also served on the Agricultural Commission and helped write the current ordinances. He stated it is clear that those in favor of the ordinance understand the intent of the change however, the rest of us don't. He stated there could possibly be three different legal opinions as to the effect of the amendment on the Town's ordinance; noting if such is the case then it will result in litigation. He stated it is not a good idea to recommend an amendment when you already know there is a difference of opinion and will end up in court. He stated that if this ordinance is designed, as it appears to be, to either trump the ZBA's variance to Woodbine or prohibit any future variances allowed for commercial development in districts in the town that are not specifically zoned for commercial, it's going to fail because the Planning Board passes zoning ordinances to govern the use of land. He stated when those uses are found to be onerous by the Zoning Board, the Zoning Board can award a variance allowing the use not otherwise permitted. He stated the amendment is not going to stop the ZBA from issuing a variance.

Vaune Dugan stated that it seems that what the amendment was intended to do, it is not clear that it does it; noting it may have strong unintended consequences. She stated it won't stop the variance.

Paul O'Brien stated he feels the petition is about Woodbine and feels the Board is being asked to put another layer of regulation on the existing regulations. He stated what we heard was a need for infrastructure and, when reading the petition, the notion and concern that the current regulations don't adequately enforce water quality and runoff however, he didn't hear anything about that and that is why he believes it has to do with Woodbine. He stated having three attorneys have provided different points of view that are not in agreement with one another is always a troubling issue; noting the language of the Petition Warrant Article is confusing and a lot of time would be spent trying to explain our regulation to counsel.

It was moved by Stacie Jo Pope and seconded by Vaune Dugan to not approve the Petitioned Warrant Article Are you in favor of amending the "Rural Residential District" and "Residential/Agricultural District" zone(s) to further protect the aquifer, water table, lakes, and character/integrity of the Neighborhood/District by prohibiting commercial for profit and light manufacturing uses within said zone(s) excepting those uses that are currently legally grandfathered and currently listed by special exception. All members voted in favor. The motion passed.

II. Scheduled Appointments

Collden Corporation

Agents: Peter Holden, Holden Engineering & Surveying, Attorney Randy Walker

Pre-application Discussion ~ 15-Lot Subdivision

TM #77-20

Case #201502

Rob Houseman stated the applicant has requested a pre-application design review per RSA 676:4; noting all comments are non-binding on both the applicant and the Board. He stated notice has been given to the abutters and reviewed the history of the project. He stated the previous approval of the Collden Farm subdivision expired prior to the completion of the project and the applicant is now proposing a 15-Lot subdivision; noting such does not encroach onto the pre-approved open space area. He stated issues for consideration include storm drainage, open space restructuring, septic, NHDES permit process, lot calculations conforming with the Town's requirements and zoning setback requirements, building, wetlands, etc.

Randy Walker stated the applicant held a meeting with all the homeowners to receive input regarding the proposal. He stated Phase I, 18-lot subdivision, was approved in 1993; noting the remaining 42 lots were not built. He stated the Planning Board revoked the approval of the remaining lots, the applicant challenged the revocation and the Board prevailed in the litigation. He stated the proposed subdivision complies with the 2014 regulations and noting the applicant proposes a 15-lot subdivision on 315 acres. He stated when the subdivision was approved the zoning required 5-acre lots however, now the zoning requires 10-acre lots. He stated there would be no changes to the footprint of the loop road and all 15 lots would be located within the perimeter of the original 42 lots. He stated the open space has increased in size and each lot would have their own well and septic therefore, there is no impact to Phase I. Referencing the density calculations/allocation factor, he stated he reviewed such with Mr. Houseman; noting the analysis provided for 252.5 acres to be subdivided (20%/50 acres deducted for roads and 7.665 acres deemed very poorly drained soils/wetland area).

Rob Houseman stated the 1993 Open Space Subdivision Ordinance did not have the formula that is in place today. He stated the current ordinance has a three-fold test that includes the zoning district acreage, high intensity soil survey analysis and a mathematical formula (net development density). He stated in this case, the net development density is 15.2.

John Thurston asked if the new lots drain onto the existing lots.

Peter Holden stated there is no flow from the newly created lots onto the old lots.

Vaune Dugan questioned ownership of the common area since there is a change in the percentage of such.

Randy Walker stated the covenants would be amended to reflect a change in ownership from 1/16th to 1/33rd.

Rob Houseman stated the application, due to the size of the subdivision, triggers NHDES Alteration of Terrain permit; noting the previous AOT permit approval has lapsed.

Kathy Barnard verified the lot sizes would be increased (from the previous approval) and each lot would have individual septic systems.

Vaune Dugan questioned the size of the smallest lot (proposed).

Peter Holden stated Lots 12 and 13 are the smallest lots.

Rob Houseman stated Village Corner Road was built to 1993 Town standards and noted the proposed road would be built to current road standards.

Kathy Barnard confirmed the applicant met with the abutters.

Randy Walker replied yes and noted adjustments were made to the plan from the input received from the abutters.

John Thurston questioned fire services and fire retention.

Randy Walker stated the lots are located in Wolfeboro and a mutual aid arrangement with Ossipee is in existence.

Rob Houseman located the fire pond on the plans and noted a mutual aid arrangement with Ossipee in that a first response system is in place in which both Wolfeboro and Ossipee respond to a fire call.

John Thurston asked if the fire pond has been maintained since it was installed.

Randy Walker stated the fire pond was designed for 61 lots however, only 31 lots would be developed.

John R. & Lora E. Frazier and Sandra Albee
Agent: Jim Rines, White Mountain Surveying and Engineering
Boundary Line Adjustment
TM #147-4 & 5
Case #201501

Rob Houseman reviewed the Planner Review for January 6, 2015 and stated the applicant proposes a boundary line adjustment between TM #147-4 & 5 that will provide single ownership of an earthen dam. He stated TM #147-5 shall increase from 25 to 25.6 acres and TM #147-4 shall decrease from 49.5 to 48.9 acres. He stated the applicant has requested the following waivers; Sections 174-7, B.4(h), 174-7, D(4) and 174-9, B(1)(2).

Jim Rines stated the intent is to adjust the boundaries of the two parcels in such a manner that the pond and dam are wholly on TM #147-5 (the pond and dam are currently half on each lot). Referencing the waiver requests, he stated both parcels were surveyed by White Mountain Surveying and Engineering in 1979 and 1991; noting both plans received Planning Board approval at the time the plans were prepared. He stated the plans are on file at the Carroll County Registry of Deeds. He stated the area involved with the proposed boundary line adjustment has been surveyed to a level of precision of 1:10,000 and the metes and bounds of the proposed adjustment are depicted on the plans. He stated both lots in their adjusted configuration vastly exceed the minimum lot sizing for the zone with one parcel becoming larger than 25 acres in size and the other becoming slightly less than 49 acres in size. He stated that since the area of adjustment is so small and the resulting lot sizes so large, it was our opinion that the cost of developing topography and soil mapping was much greater than the benefit derived from its generation. He stated the absence of the data does not negatively impact the ability of the Planning Board and the abutter to understand the proposal and to make informed comments and decisions based on the submitted information.

Vaune Dugan requested information about the dam.

Jim Rines stated the dam existed in 1979; noting the dam creates a pond on the Albee property and drains into Lake Wentworth.

Vaune Dugan verified the property owner is responsible for the maintenance of the dam.

Paul O'Brien asked if the dam is subject to State regulations.

Jim Rines stated if the dam measures below 4' then it is not considered a dam and therefore, is not subject to State regulations. He stated the existing dam consists of two 15" diameter culverts and one 18" steel pipe; noting that the exact measurement cannot be confirmed. He stated Ms. Albee wanted to have full control of the pond.

Mike Hodder confirmed there are no changes to the dam except for ownership.

It was moved by Mike Hodder and seconded by Stacie Jo Pope to grant a waiver of Sections 174-7, B.4(h), 174-7, D(4) and 174-9, B(1)(2). All members voted in favor. The motion passed.

It was moved by Mike Hodder and seconded by John Thurston to accept the application as complete. All members voted in favor. The motion passed.

Chairman Barnard opened the public hearing.

Rob Houseman reviewed the following recommended conditions of approval;

1. The following plan, as amended by the Planning Board approval, is incorporated into the approval;

Plan 1: Plan of Boundary Line Adjustment Involving Lands of John R. and Lora E. Frazier and Sandra Albee, Trotting Track Road, Wolfeboro, New Hampshire, Prepared by Wilson Stewart, LLS, White Mountain Survey and Engineering Co., Inc., PO Box 440, Ossipee, New Hampshire, 03864, Dated November 19, 2014.

2. The applicant shall submit the Mylar plan for recording at the Carroll County Registry of Deeds.
3. The applicant shall be responsible for the payment of all recording fees.

There being no questions or comments, Chairman Barnard closed the public hearing.

It was moved by Paul O'Brien and seconded by Vaune Dugan to approve the John R. & Lora E. Frazier and Sandra Albee Boundary Line Adjustment application, Case #201501, subject to the recommended conditions of approval. All members voted in favor. The motion passed.

Green Mountain Realty Corp. and Paul W. Whalen and Town of Wolfeboro

Agent: Randy Tetreault, Norway Plains Associates

Boundary Line Adjustment

TM #217-68, 70 & 71 and 203-74

Case #201503

Rob Houseman reviewed the Planner Review for January 6, 2015 and stated the applicants propose a boundary line adjustment between TM #217-68, 70 & 71 and 203-74; noting 988 SF of land will be transferred to TM #217-68 from TM #203-74 (the old electric substation), 141 SF of land will be transferred to TM #217-74 from TM #217-70 (eliminating the Town's encroachment onto TM #217-70) and 1,229 SF of land will be transferred to TM #217-70 from TM #217-71. He stated the properties are located in the Central Business District and TM #217-68 is a lawfully existing nonconforming lot since it is less than ½ acre. He stated the proposed boundary line adjustment eliminates setback encroachments associated with the garage. He stated the following waivers have been requested; Sections 174-7.D(4) and 174-9.B(1)(2).

Randy Tetreault stated the proposed lot line adjustments have received approval from the BOS and the waivers have been requested because all of the subject parcels are fully developed lots and are serviced by municipal water and sewer. He stated the original boundary line adjustment that was approved between Mr. Whalen and Green Mountain Realty Corp. resolved the parking lot issues. He stated the waivers have been requested because the lots are fully developed with no changes to the boundaries. He noted the landscape easement area has been reduced to only include the permanent improvements.

Vaune Dugan asked if the BOS approved the request.

Rob Houseman replied yes.

Brad Harriman confirmed that access easements exist for the properties.

Randy Tetreault stated the rear access easement and the access easement between the properties that are currently deeded will remain in place.

It was moved by Mike Hodder and seconded by Vaune Dugan to grant a waiver of Sections 174-7.D(4) and 174-9.B(1)(2). All members voted in favor. The motion passed.

It was moved by Stacie Jo Pope and seconded by Paul O'Brien to accept the application as complete. All members voted in favor. The motion passed.

Chairman Barnard opened the public hearing.

Rob Houseman reviewed the following recommended conditions of approval;

1. The following plan, as amended by the Planning Board approval, is incorporated into the approval;

Plan 1: Lot Line Revision, Lehner Street, Carroll County, Wolfeboro, NH, Green Mountain Realty Corp., Plan prepared by Randolph R. Tetreault, PE, Norway Plains Survey Associates, Inc., PO Box 249, Rochester, NH 03867, Plan Dated August 29, 2014 (Plan unsigned).

2. The applicant shall submit the Mylar plan for recording at the Carroll County Registry of Deeds.
3. The applicant shall be responsible for the payment of all recording fees.
4. The applicant shall be responsible for Monumentation and the submittal of the Certificate of Monumentation and updated plans.

There being no questions or comments, Chairman Barnard closed the public hearing.

It was moved by Vaune Dugan and seconded by Stacie Jo Pope to approve the Green Mountain Realty Corp. and Paul W. Whalen and Town of Wolfeboro Boundary Line Adjustment application, Case #201503, subject to the recommended conditions of approval. All members voted in favor. The motion passed.

Jean P. Roberts 1992 Trust
Agent: Jim Rines, White Mountain Survey and Engineering
2-Lot Subdivision
TM #233-2, 234-29
Case #201504

Chairman Barnard stated the Jean P. Roberts 1992 Trust Subdivision application has been continued to February 10, 2015; noting the abutters have been notified of such.

III. Public Comment

Referencing the public hearing for the Petitioned Warrant Article, Cindy Patten stated she observed confusion regarding the language of the petition and frustration on behalf of the public because their questions weren't followed up by the Board. She confirmed there could be a cost to an applicant if the petition were passed; noting such could retard development.

IV. Action Items

Cynthia M. & Michael J. Ingalls
Lot Merger
Tax Map #34-10 & 11

Rob Houseman stated the lot merger would create a single 12-acre parcel with 927 feet of frontage on North Wolfeboro Road; noting the substandard lot would become conforming.

It was moved by Vaune Dugan and seconded by Mike Hodder to approve the Cynthia M. & Michael J. Ingalls Lot Merger. All members voted in favor. The motion passed.

Susan Reppelier
Lot Merger
Tax Map #217-169 & 170

Rob Houseman stated the lot merger would create a single 0.636-acre parcel with frontage on Oak Street and Clow Road (approximately 165' of frontage on both roads). He stated both lots are nonconforming; noting TM #217-169 is a vacant lot of record and encumbered by a driveway on TM #217-170 in common ownership. He stated TM #217-170 will become conforming in acreage and frontage as a result of the merger.

It was moved by Mike Hodder and seconded by Paul O'Brien to approve the Cynthia M. & Michael J. Ingalls Lot Merger. All members voted in favor. The motion passed.

V. Informational Items

None.

VI. Planning Board Subcommittee Reports

No reports.

VII. Approval of Minutes

December 16, 2014

It was moved by Mike Hodder and seconded by Paul O'Brien to approve the December 16, 2014 Wolfeboro Planning Board minutes as submitted. All members voted in favor. The motion passed.

VIII. New/Other Business

Planning Board meeting scheduled for 1/20/15 will include a public hearing on zoning changes to the Central Business District and a public workshop on the Sign Ordinance.

It was moved by Paul O'Brien and seconded by Stacie Jo Pope to adjourn the January 6, 2015 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business, the meeting adjourned at 9:18 PM.

Respectfully Submitted,
Lee Ann Keathley
Lee Ann Keathley

*****Please note these minutes are subject to amendments and approval at a later date.*****

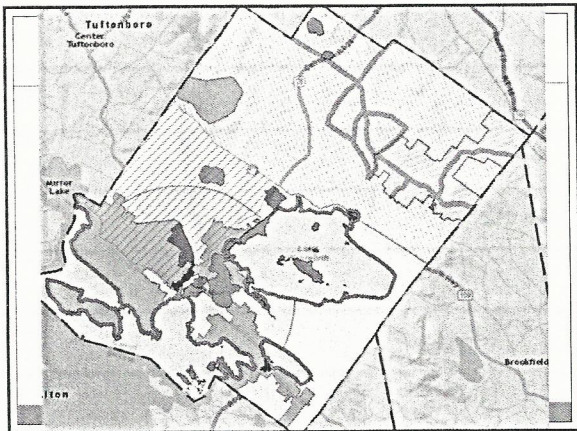
Wolfeboro Planning Board

PUBLIC HEARING ON
PETITIONED ZONING AMENDMENT

JANUARY 6, 2015

Petitioned Zoning Amendment Public Hearing

- RSA 675:4 governs petitioned zoning amendments.
 - Petitioned amendments must be submitted to the selectmen, who must submit them to the planning board "in a timely manner."
 - The planning board must hold a public hearing on any petitioned zoning amendment.
 - The ballot must include a notation of whether the planning board approves or disapproves of a petitioned zoning amendment.



Petitioned Zoning Amendment Public Hearing

Are you in favor of amending the "Rural Residential District" and "Residential/Agricultural District" zone(s) to further protect the aquifer, water table, lakes, and character/integrity of the Neighborhood/District by prohibiting commercial for profit and light manufacturing uses within said zone(s) excepting those uses that are currently legally grandfathered and currently listed by special exception.

Petitioned Zoning Amendment Public Hearing

- Based on guidance from Counsel, the effects of this amendment would be to amend the permitted uses section of the "Rural Residential District" and "Residential/Agricultural District"

Petitioned Zoning Amendment Public Hearing

Article XIII.A. Rural Residential District (RR)

§ 175-88.4. Permitted uses.

Permitted uses shall be as follows:

- A. One of the following dwelling unit structures is permitted per lot:
 - (1) One single detached dwelling per lot.
 - (2) One single detached dwelling per lot with one accessory apartment.
 - (3) One duplex dwelling per lot.
- B. Accessory structures.
- C. Accessory uses.
- D. The seasonal, outside storage of items of personal property on residential lots, provided that such items must be placed on the lot to the side or rear of the dwelling, but their use for living and/or business while so stored is prohibited.
- E. Home occupation, occupying up to 500 square feet of the single-family dwelling (requires TRC approval).
- F. The keeping or harboring of all livestock **for personal use** in accordance with New Hampshire Department of Agriculture's Best Management Practices.

Petitioned Zoning Amendment Public Hearing

Article XX. Residential/Agricultural District
§ 125-125. Permitted uses.

A. One of the following dwelling unit structures is permitted per lot:
(1) One single detached dwelling per lot.
(2) One single detached dwelling per lot with one accessory apartment.

B. Accessory structures.

C. Accessory uses.

D. The seasonal, outside storage of items of personal property on residential lots, provided that such items must be placed on the lot to the side or rear of the dwelling, but their use for living and/or business while so stored is prohibited.

E. One home occupation, occupying up to 500 square feet of the single-family dwelling (requires PUC approval).

F. The keeping or harboring of all livestock **for personal use** in accordance with the New Hampshire Department of Agriculture's Best Management Practices.

G. Farm, agriculture, farming **for personal use**.

H. Veterinarians, animal hospitals.

I. No more than two signs per business, including add-on signs, each not over 16 square feet in area.

J. Accessory uses.

K. Horticultural establishments.

Petitioned Zoning Amendment Public Hearing

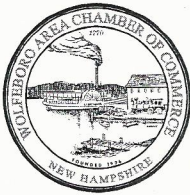
HOME OCCUPATION Any occupation, profession, activity or use which is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood and is further defined as follows:

(1) It occupies no more than 1,000 square feet of floor area.
(2) The principal operator is the owner of the home occupation business, owns and resides on the premises for at least nine consecutive months per year, employs not more than one other person and sells no principal products on the premises prepared by others, except for antiques. [Amended 3-11-2003 ATM by Art. 2]
(3) There is no indication of such occupation visible on the exterior of the building or on the lot, except permitted signs.
(4) The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.
(5) The activity is completely enclosed in a building.

HORTICULTURAL ESTABLISHMENTS An establishment for the sale of flowers, fruit, vegetables, and nursery stock.

Petitioned Zoning Amendment Public Hearing

• Public Hearing



WOLFEBORO AREA CHAMBER OF COMMERCE

January 6, 2015

Kathy Barnard, Chairman
Wolfeboro Planning Board
PO Box 629
Wolfeboro, NH 03894

Dear Ms. Barnard:

The Board of Directors of the Wolfeboro Area Chamber of Commerce is not in favor of the Petitioned Zoning Amendment to the "Rural Residential District" and "Residential/Agricultural District" zone(s).

The Chamber of Commerce Board is satisfied local ordinance and state regulations exist already for the protection of "the aquifer, water table, lakes, and character/integrity of the Neighborhood/District" and that this petition amendment would not enhance those processes.

The petition amendment's intent of "Prohibiting commercial for profit" will, we believe, have a negative impact on Wolfeboro's economy.

Thank you for your time and consideration.

Sincerely,

Mary DeVries, Executive Director
On behalf of the Board of Directors
Wolfeboro Area Chamber of Commerce



PO Box 547, 32 Central Avenue Wolfeboro, NH 03894
603-569-2200 800-516-5324

www.wolfeborochamber.com

mary@wolfeborochamber.com

2015 Board of Directors

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Executive Director: Mary DeVries

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 21

STATUTORY CONSTRUCTION

Section 21:34-a

21:34-a Farm, Agriculture, Farming. –

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.

II. The words "agriculture" and "farming" mean all operations of a farm, including:

(a)(1) The cultivation, conservation, and tillage of the soil.

(2) The storage, use of, and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.

(3) The use of and application of agricultural chemicals.

(4) The raising and sale of livestock which shall include but not be limited to all beef and dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).

(5) The breeding, boarding, raising, training, riding instruction, and selling of equines.

(6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.

(7) The raising, breeding, or sale of poultry or game birds.

(8) The raising of bees.

(9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.

(10) The production of greenhouse crops.

(11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

(b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(2) The transportation to the farm of supplies and materials.

(3) The transportation of farm workers.

(4) Forestry or lumbering operations.

(5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.

(6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

(7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II(a) (4).

(8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.

III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

IV. Practices on the farm shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, and appropriate agencies of the United States Department of Agriculture.

V. The term "farmers' market" means an event or series of events at which 2 or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture, as defined in paragraphs I-IV. "Farmers' market" shall not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.

VI. The term "agritourism" means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on farm operations, or active involvement in the activity of the farm which is ancillary to the farm operation.

Source. 1961, 140:1. 1977, 95:1. 1979, 60:1. 1985, 6:1. 1997, 250:1. 1999, 191:2. 2005, 107:1. 2006, 11:5; 326:1. 2007, 157:1. 2008, 8:1, eff. July 4, 2008. 2014, 97:2, eff. Aug. 10, 2014.