

**Minutes of  
The Williamstown Planning Board  
TUESDAY, JANUARY 12, 2016  
7:00 p.m. at the Municipal Building**

**Members Present:** Amy Jeschawitz, Sarah Gardner, Ann McCallum, Elizabeth McGowan, & Chris Winters.

**Others Present:** Andrew Groff, Darren Harris, Atty. Jay Sabin, Jonathan Butler, Atty. Sherwood Guernsey, Jeffery Thomas, Atty. Stan Parese, Robert Scerbo, Pat Dunlavey, Suzy Konecky, Allan Hall

Ms. Jeschawitz opened the meeting at 7:00 PM.

**MINUTES**

*Mr. Winters moved to approve the November and December Minutes.*

*Ms. McCallum seconded.*

*The Motion carried with 4 in favor and 1 abstention, (Gardner).*

**ANR**

**Potter Road : Bottesi / McAlpine**

Darren Harris of Hill Engineers stated he is attending to present an ANR plan that will transfer 7 acres from one large parcel fronting on Route 7 to another parcel and owner on Potter Road. There are no building lots created as this is a transfer.

*Ms. McCallum moved to find that Approval is Not Required under the Subdivision Control Law for the Plan of Land for Kathleen McAlpine.*

*Mr. Winters seconded.*

*The motion carried unanimously.*

**Blair Road : Galusha**

Atty. Jay Sabin stated this is an additional ANR needed to separate a three season cabin from the larger agricultural parcel that is to be conserved in the state APR program. This is needed due to recent changes in the APR program. Originally the three season cabin would be allowed to remain in the APR parcel, now it must be separately conveyable. This new parcel meets area and frontage for zoning and is a building lot.

*Ms. Gardner moved to find that Approval is Not Required under the Subdivision Control Law for the Plan of Land for James Galusha of Blair Road.*

*Ms. McCallum seconded.*

*The motion carried unanimously.*

**OLD BUSINESS**

**Waubeeka & Five Corners**

Ms. Jeschawitz introduced the proposal and noted that Jonathan Butler, the CEO of One Berkshire the Regional Economic Development Group, called the Town Manager and asked to speak at the meeting, so that is being placed on the agenda first.

Mr. Butler stated he is not present to speak for or against this particular proposal but wanted to offer a regional perspective on these issues.

Mr. Butler stated that One Berkshire is pro-development and noted that in recent years the number of hotel rooms have greatly increased, but this increase has been located in South County. This presents issues for the downtowns of Williamstown, Adams and North Adams in retaining visitors.

Mr. Butler added that ski resorts and golf courses work much better economically when paired with hotel style accommodations. One Berkshire encourages the Board to consider this and the regional perspective while going through this process.

Ms. McCallum noted that Lenox is exploring no more hotels until they study an overall hotel study.

Mr. Butler stated that the Selectboard is considering such a study and One Berkshire could promote this type of approach regionally, not focused on a single town.

Ms. McGowan asked if Mr. Butler has any occupancy information.

Mr. Butler stated that his organization can put this type of information together if requested.

Ms. Jeschawitz stated she would like to set parameters on the discussion for tonight's meeting. This is the fourth

meeting on this particular topic. The topic has reached a point where the Board needs to discuss this issue and work on this issue. This is not a public hearing; it is the Board's meeting. It is asked of the public to consider this in their comments on the issue. Therefore tonight's comments will be limited to 30 minutes and hopefully to new faces and new comments. Following that 30 minutes the audience is welcome to stay and listen but the board needs to take that time to discuss the issues and decide where the Board wants to go with this amendment. The Board agreed to this approach.

Atty. Sherwood Guernsey stated that the Planning Board visited the area shown on a map he presented to the Board. This map represents the site envelope of the proposed hotel as described by the developer.

Atty. Parese described the maximum extent of the district.

Mr. Jeffery Thomas asked for a broad description of the proposed zoning district.

Atty. Parese stated that the intent is to create an overlay district that will allow an accommodations and accessory uses to allow a resort style development. There are height restrictions, development standards, and a design standard which requires the development to be designed in a manner that is similar to the historical nature of the Five Corners District.

Ms. Jeschawitz further added that any detailed design and development approval can only be granted by the Zoning Board of Appeals.

Atty. Guernsey asked about who drafted the proposal.

Atty. Parese stated that the Planning Board has developed this bylaw in concert with the owner.

Mr. Robert Scerbo stated that the Berkshire Visitor's Board states that there are 4,200 rooms available in the County. There is an annual occupancy rate of 55% and the highest month is August at 75%.

Mr. Scerbo added that Waubeeka is a jewel in the crown of Williamstown and it should be protected and allowed to thrive. This proposal however does not go far enough. What type of hotel is this? Is there a fractional ownership model involved in this project? This type of ownership model helps to pay down the high fixed costs of such a development. The Board really needs to consider the ability to fractionalize the ownership of the hotel. The goal of the Planning Board should be to create a framework to allow the business model to be successful.

Ms. Gardner asked what fractional ownership is.

Mr. Scerbo stated that fractional ownership can be anything from  $\frac{1}{4}$  shares to  $\frac{1}{12}$  shares. The advantages of this are that owners of multiple weeks are more likely to use the facility.

Mr. Thomas stated that he has recently wrapped up yearlong work as chair of the Economic Development Committee. The results of the committee's work showed that there is a widespread perception that we are unfriendly to businesses and we are not a fertile ground for entrepreneurs. Additionally we need more jobs and we need jobs that will help build diversity and allow younger people to stay in the area. Further revenues coming from outside the community and staying in the community is positive and will grow the local economy.

Mr. Thomas added that in his own work he works with entrepreneurs in other domains and it is critically important for folks to have flexibility. There is an impulse to constrain and control what can occur at Waubeeka. That instinct if played out too far will doom efforts at Waubeeka. Good entrepreneurs are humble; they are not supposed to know the perfect business model. It is important to bear in mind that there needs to be sufficient freedom to allow success.

Mr. Thomas further added that his understanding of the Planning Board's role is whether projects comport with the Zoning Laws and the needs of the community. Tonight it seems that the Board is trying to assess the viability of the project. Is this the Board's remit? It appears not. This is up to the entrepreneur such as Mr. Deep to evaluate, not the community.

Ms. Jeschawitz stated that all members are individuals and in her opinion it is not the Board's remit to engage in economic measurements.

Ms. McGowan stated that we are, however, aware that this time of year it is tough to make a go of the hotel business. Even more so in the off season as more accommodations are available at Jiminy Peak.

Ms. Gardner added that if one reads about the situation in Lenox there are five new hotels coming online in Lenox. When the most recent proposal was received the Select Board asked for a hotel study which will promote development as to not hurt existing businesses. We don't want to promote overbuilding as everyone will then suffer more. If we care about permitting a new type of business where the voters have voted to be residential property, we must stay true to our mission.

Mr. Winters stated he does not believe it is the Board's role to pick winners and losers. No entrepreneur worth any salt will not undertake an endeavor that will lose money. It would be a bad idea to suppose our judgement over theirs.

Mr. Pat Dunlavey asked if the Planning Board is finalizing language to send a proposal to the Selectboard. If so the proposal goes to the Selectboard, back to the Planning Board, then to Town Meeting. Any development proposal has to go to the Zoning Board.

Mr. Dunlavy added that he would not want to be on the Zoning Board of Appeals interpreting this proposal. It is very difficult to interpret and enforce. This does not look like a good bylaw. There are some very specific issues with this in terms of the height requirements and the preservation of further mountain views. These seem to represent some very serious issues.

Ms. McGowan noted that the Board needs to discuss the architectural design elements.

Mr. Andrew Hogeland stated that the community has been supportive of the inn idea. The key tradeoff is to define a specific area where the hotel will be allowed and exactly how it relates to the site in exchange for preserved open space. In order to get to this point, the Planning Board must get to a place where:

- A building envelope is specifically defined.
- A defined list of uses, defined in this current draft, is a large suite of uses.
- An agreed upon mechanism for protecting open space. The current draft does not require permanent protection of open space.
- The other major issue is the lack of homework. There is no plan. There is no written list of the complex uses, no map of the complex, and no overall plan of the development.

Mr. Hogeland added that developers do homework. They create plans. These activities must occur.

Mr. Hogeland noted that the Board needs to reevaluate what the current proposal will do when it goes to town meeting. The Board needs to think of the reaction to such an expansive proposal and think about how to make a bylaw that will pass Town Meeting. Open space protection is key.

Atty. Parese handed the Board some proposed language changes to hopefully address some of the concerns from the public.

Atty. Parese added that there is a process this has been a process of full disclosure.

Atty. Parese stated the first suggestion is to tighten up the area of defined open space. Open space must also include subsurface structures for tanks, stormwater, wells, and septic disposal. Likewise there should be things that are not clearly open space. These shall include roads, buildings, and other lots created to meet minimum lot sizes. Further this will clarify what is included in open space, what precisely does it mean to be in an open and natural state.

Atty. Parese further added that the entire parcel is needed to be defined in the open space as the water requirements of the proposal will have to be met on upland property.

Atty. Parese also took note with the comment that nothing has been done on the planning side of this work. The Zoning Board will review and must approve by a 4 out of 5 votes. Much work will have to be done.

Ms. Gardner noted that the 80% open space in the bylaw is a place holder. To know the proper number we need much, much more information on infrastructure and other uses.

Atty. Parese stated that the open space requirement in this district it is 50%. An entrepreneur must do these calculations and try to make it work in consultation with the Zoning Board of Appeals. We really do not know what the proper number is at this stage there likely is no way to know what the exact proper number is. We have to have some flexibility with this.

Atty. Parese also added that he considered adding reference to MGL Ch. 183B which refers to time sharing and fractional ownership as specifically defined. This was only brought up because it was previously mentioned by other attendees.

Suzy Konecky of Oblong Road asked if the building envelope has to be contiguous.

The Board noted that the Bylaw doesn't state the envelope has to be contiguous.

Atty. Guernsey stated that as a Town, we can create a win-win situation. Economic development is very important. There are many ways to do economic development and one key piece is attracting people to town. We can do that with an attractive gateway. We can create this with the right bylaw, keeping in mind that good decisions are based on good information. We are lacking a marketing study, we are lacking conceptual renderings, and we need to see this type of information.

Atty. Guernsey stated that the proposal is structured in several key ways. Number one is that the development envelope decision is pushed off onto the Zoning Board of Appeals. The Planning Board in this element is abdicating its zoning function to the ZBA. This is the Planning Board's responsibility. Additionally open space must be protected and restricted. This is usually done through a conservation restriction. This is done by a developer sitting down with a conservation organization and negotiating a deal that governs the manner in which the land can be used. These are the things that make open space, open space. Further the development standards are essentially loopholes, additionally the accessory uses are permitted by right. This can materially change the nature of the bylaw.

Ms. Gardner noted that accessory uses must be permitted by special permit.

Ms. Jeschawitz thanked the audience for productive participation.

Ms. McCallum stated we should take a turn to each get thoughts on the table.

Ms. McGowan stated that she is concerned that this is in fact the southern gateway to the community. We don't know what this might look like. There are four entrances to town. East is Colonial Plaza, not good. West is a runaway truck ramp. North, a parking deck. The single pristine attractive gateway is south, Waubeeka and Five Corners. The 1982 Massachusetts Landscape Inventory described the area as a distinctive and important view shed. We need economic development but at the same time there is big concern over preserving the single remaining community gateway.

Mr. Winters stated that the presumption is that the view shed is destroyed by any development.

Ms. McGowan noted that not necessarily the board must be careful.

Ms. Hogland read from page 52 of the Economic Development Plan that the views and scenic nature must be protected with special attention to gateways.

Ms. Jeschawitz added that she has worked in the hospitality industry and someone will build something that is attractive because they want someone to come to the community. They want to make money; they won't do something that is bad because it won't make money.

Atty. Parese noted that if the golf course fails no one gets to tell potential homeowners what their houses will look like.

Mr. Winters stated that something has to change, we are not comparing known outcomes to unknown outcomes, we are comparing unknown to unknown.

Mr. Groff noted that the Zoning Board understands how important this view shed is and read a decision that denied permission to construct a cell phone tower at the location above Mount Greylock High School and specifically referenced the landscape inventory.

Ms. McCallum added that the proper tradeoff really needs to be giving a conservation restriction on the golf course in exchange for the permission to build the hotel. This is not an unrealistic or punitive measure. The other issue is a ZBA issue. It is not fair to ask the ZBA to police badly written bylaws. We seem to be giving them impossible tasks. The Board has come to the Planning Board many times asking for specificity. We need to get to more specificity. Additionally, we all would be better with more information if we had precise work, we could define a precise bylaw. Right now the College is working on the same issue. The Board was asked to expand the Village Business district. It was further noted that in order to win over the Planning Board the College has spent many thousands of dollars on plans and specifications.

Mr. Winters asked if that is what it takes to do business in Williamstown.

Ms. Jeschawitz also added that the Board should be careful in creating expectations regarding the College hotel.

Ms. Gardner stated she would love to see the golf course survive and it is in everyone's best interest to pass along a good solid bylaw that is clear and specific so that it will pass at Town meeting. People in this community are wary of chain hotels, dollar stores, and the like. It is in the developer's best interest to come to the Planning Board with a specific site plan with which a specific bylaw can be written. If this is done there will be a much easier discussion at Town Meeting. The more specific this bylaw is written the more likely it passes at Town Meeting.

Atty. Parese stated that the College's resources are spectacular. Additionally the College can't go anywhere. They are stuck in Williamstown. There are developers with the type of resources that can do this project. If we are tough they will go elsewhere if we say you have to spend a large sum on design in order to go to Town Meeting to get approval to ask the Zoning Board a question.

Atty. Parese also added that he would not recommend his client place a permanent CR on the land because if the hotel is not successful years from now, most of the value of this land is lost.

Ms. Gardner asked if the Board could deliberate on the points in the bylaw.

Ms. Jeschawitz added that this is a major struggle. There are several ways for this proposal to get on the warrant. There are other ways for the bylaw to get to Town Meeting. The best manner of this is for the Board to Sheppard this proposal thought. In Williamstown, a big problem is we take forever to do something, for some reason we seem to be afraid of something. We also can't control every single aspect of what someone wants to do; we have to give freedom of creativity and opportunity. We squeeze until nothing is left and pass it off. We need to work hard and figure out a way to send this proposal to Town Meeting this year. If we don't do this ourselves, it will get to Town Meeting somehow and yes, that is too bad. It is unfortunate we have time. We need to work; it is unfair not to do so, to developers, the owner, and the community.

Ms. Gardner stated we want to talk about the details. What is being asked for is not hard to figure out, we can work through the specific aspects of this proposal.

Ms. Jeschawitz stated that yes there are many issues with the current zoning and we can't fix it all with one amendment.

An unknown member of the public asked who reviews development applications and zoning.

Ms. Jeschawitz stated the Community Development Department works on these issues. That is why we have them. The Board began working through the proposal line by line.

The Board agreed that intent was good.

Ms. McCallum read the super imposition section.

Mr. Groff noted that the language is taken out of other areas of the bylaw.

The Board and the meeting attendees noted that eleven homes are permitted as of right with the superimposition language as presently written.

Ms. McCallum stated the allowed uses and described the distinction between hotel and motel.

Mr. Winters noted they are defined as the same thing.

Ms. McCallum also suggested a room limit on the development.

Ms. Jeschawitz stated that she is opposed to a room limit.

Ms. Gardner stated she would like this flagged.

Mr. Winters took issue with the provision restricting exterior access to rooms. This seems unobjectionable. A motel is exterior access off of parking lots lets define this as such.

Mr. Groff noted that Webster's offers good definitions of what a hotel or motel is. Staff can develop these definitions.

Ms. McCallum called the Board's attention to accessory uses.

Ms. McGowan stated that adding accessory uses to farms was a very contentious idea in previous discussions.

Atty. Parese stated that language could read, "Uses customarily associated with resort properties including but not limited to", and list the specific properties.

Ms. McCallum proposed including retail and service in the accessories.

Ms. McCallum proposed removing the orientation provision from the draft.

Ms. McCallum also proposed removing the provision on requiring windows and doors facing a street.

Ms. Gardner stated referring to the National Register Historic District document should take care of this issue.

The Board agreed to strike these provisions noted by Ms. McCallum.

Ms. McGowan stated that the development standards on height are an issue.

Atty. Guernsey stated that in the time left available, there is no time to really understand this and develop it fully.

We should get more information, postpone the action, and consider outside consulting. This is an outline of a zoning amendment, not a real zoning amendment.

Ms. McCallum stated she believes three things make chain hotels unattractive:

- 1) Large open porticos on the front of the building.
- 2) Stucco type siding material.
- 3) Through the wall heating and cooling units.

Atty. Guernsey reiterated that there are concerns with a lack of information.

Mr. Winters stated that Ms. McCallum is suggesting her personal subjective criteria on design choices.

Ms. McCallum asked the Board for comment on height requirements.

Mr. Groff explained the inclusion of the height regulations and made reference to section 4 of the bylaw.

The Board decided to change the height requirement language from "may" to "should" and change the language to "up to 3 stories no higher than 40 feet". "Design features should have architectural elements that divide the building into smaller pieces".

Mr. Groff noted that the board could remove the statement, that the applicant is required to present plans on the height.

Ms. McCallum read the landscaping requirement.

Mr. Groff stated that the landscape requirement is pulled directly from the height regulation.

Ms. McCallum and Ms. Gardner noted that this is ok.

Ms. Gardner stated that the dimensional standards from RR2 apply. This seems to not make sense for this proposal. This would allow 11 houses in the property as well.

Ms. Jeschawitz noted that the way this is written a developer has to restrict 160 acres from development. If the development is a hotel it will take up a big space with infrastructure, parking, buildings, etc.

Mr. Andrew and Ms. Ann Hogeland noted that the open space requirement will only apply to the area of the course that is being developed not the entire parcel.

Atty. Parese stated that the golf course won't be reconfigured there is simply not the space.

Ms. McCallum asked for guidance from Mr. Hogeland.

Mr. Hogeland stated the bylaw must have a drawn envelope.

Ms. McCallum stated that 10 years from now, the course is losing a large sum of money, what if that person wants to cut down the course to 9 holes and this person wants to build homes on the freed up acreage. Is that possible? Do we want that?

Ms. Gardner stated that many of these confusions could be solved by approving a building envelope now.

Ms. McCallum asked if Atty. Parese has an objection to defining an envelope now.

Atty. Parese also recommended that the Board not adopt a permanent CR restriction. However things change over long time scales many old hotels are gone. Do we want this land restricted forever?

Ms. Gardner stated this is why it would be helpful to have a feasibility study for the course and hotel project. There could be advantages to this type of process of requiring a CR. There could be value for Mike in this equation, we could provide Mike with good value by reducing his tax burden it could be beneficial.

Ms. Jeschawitz stated that she is concerned that Mr. Deep would give up all future rights.

Atty. Guernsey stated that book 1290 page 798 details the conservation restriction on the Cranwell development.

Atty. Guernsey further detailed the benefits and advantages of a proper conservation restriction.

Ms. McCallum stated the present concern is that we need to determine if a permanent restriction is proper, if a restriction through zoning is proper, or another mechanism all together is proper.

Ms. McCallum read the open space requirement.

Ms. Gardner asked if the 80% is contiguous space, is it separable space? The intent of the proposal was to make this area contiguous.

Atty. Parese asked where he could place solar panels on this site with such a tough open space requirement.

Atty. Parese added that a permanent restriction is not a workable outcome. This is an exceedingly valuable piece of property. He cannot recommend that his client be restricted to a permanently restricted piece of land. It cannot be guaranteed that the hotel will last forever.

Ms. Gardner stated that these reasons are why a drawing is helpful.

Mr. Hall stated that a drawing will make the townspeople feel they were deceived when they see a markedly different drawing when the project comes before the Zoning Board of Appeals.

Ms. Gardner stated she simply wants people to know what they're getting.

Ms. Jeschawitz stated that this approach pigeon holes the person into a specific outcome. What if Mike doesn't build this and another individual comes along and has a different concept that could fit within a different bylaw? That person takes money elsewhere.

Ms. Jeschawitz added that the Zoning Board has to be given deference to enforce its own law.

Ms. Gardner stated that the bylaw has to be strong enough to soothe these concerns of unintended consequences.

Ms. Hogeland stated that she is sympathetic to developers and as the Planning Board, you recommend zoning change decisions. If a developer wants to make a dramatic change in a protected area and allow a large resort it is eminently reasonable to figure out its precise location and request a tradeoff for open space protection in a specific area. There is also nothing wrong with two envelopes, including solar. This property is the scenic gateway and they govern what we do in this community. This is not just about the next developer this is about planning in a precious area.

Ms. Jeschawitz stated we are giving a guideline. This is 200 acres. We need to set aside a large percentage of it for an open space. This is exactly how the current draft is written. What we did was took a 200 acre site, we took 160 of it and said you can't do anything there. We want the Zoning Board to define that area with proper information.

Ms. Hogeland stated that the voters of the town have the right to define that envelope at town meeting specifically.

Mr. Winters asked if Ms. Hogeland is stating that the voters should be given rights to certify locations of buildings specifically on other properties.

Ms. Hogeland stated that this is materially different from a home.

Mr. Dunlavy asked how the town will enforce this provision.

Atty. Parese stated that if the bylaw is ignored the town will use the Zoning Enforcement mechanism and take the owner of the property to court. The entire bylaw is about controlling use of land. It will remain enforceable. We don't have to run the bylaw on private covenants.

Ms. McCallum stated if the course goes to 9 holes what if no one enforces that the old 9 holes aren't mowed. Then we lose those views and that open space. Our town's economic value comes from open land like this.

Ms. Gardner asked what it is that is being enforced.

Ms. McGowan stated that the Master Plan calls for intensified land use in the town center and limit consumption of land and keeping land open where it's already open.

Atty. Parese added that economic development strategies should focus on the enhancement of existing economic assets.

Mr. Winters stated that anyone can find an argument in the Master Plan.

Atty. Parese stated that if this project fails the golf course goes will likely fail as a business. This will mean it will go away forever.

Atty. Guernsey added that these provisions are simply not enforceable, guidance is needed.

Ms. Jeschawitz gavelled the public.

Ms. Jeschawitz asked for suggestions from the Board on how to proceed.

Ms. Gardner stated that the Board is looking at dimensional requirements.

Ms. Jeschawitz stated that if the special permit is applied for, then the site plan becomes the governing document for this development.

Mr. Groff comments on how the project would be enforced, noting warnings, fines, and then court action.

Ms. Gardner stated that clarification is needed on the building envelopes. We need to have stricter requirements.

Atty. Parese's documentation provided this evening, helps clarify this by placing any development in close proximity to Route 7.

Ms. Jeschawitz noted that if the Board adds the word contiguous there is an issue. That needs to be left out.

Ms. Gardner moved on to parking and the Board decided to keep that provision included.

Ms. McGowan read the special permit criteria.

Mr. Dunlavy expressed concern that as a member of the Zoning Board he would not understand what to do with this provision but it does seem to offer guidance.

Ms. Gardner stated that the document describes the history and architecture of the Five Corners District, mostly the homes that are no longer there.

Ms. McCallum asked how useful this is.

Ms. Gardner stated we're referring the ZBA to the historic district document but this likely doesn't help.

Ms. Jeschawitz stated that there was a lot of feedback on how to protect the historic district that is how this came about.

Atty. Parese stated that this gives certainty that you can't do a Motel 6 and it gives you a defensible mechanism to appeal to Superior Court.

Ms. Gardner stated she likes the statement on enhancing qualities. If something is very out of line, it wouldn't be approved.

Mr. Winters noted that the example given of the cell tower is appropriate as it highlights that when necessary the ZBA jumps in and says this idea is very out of line. When they needed to they stopped something.

Ms. Gardner stated that RR2 uses a few uses by special permit such as cell towers and others should we discuss this.

Mr. Hogeland stated that this should be considered; use the example of the cell tower. This could be placed right inside the box.

Ms. McCallum stated that the open space provision could be rewritten to read that the building envelope simply needs to be defined by the ZBA, without a percentage requirement.

Mr. Scerbo stated that part of selling the whole thing is going to town meeting and convincing people that this is a good idea. Could a sunset clause be provided to make this easier for town meeting to approve?

*Ms. Gardner moved to meet on the 26<sup>th</sup> of January at 7PM.*

*Ms. McCallum second.*

*The Motion Carried 5-0.*

Ms. Jeschawitz adjourned the Board at 10:30 PM.