

Minutes accepted and approved.

Motion made by: Member Jager

2<sup>nd</sup> by: Member O'Grady

In Favor: 3 Opposed: 0 Absent: 2 (MJ, CL)

Signed and Dated: *Sandra Allen 10/6/2022*

## **Town of Windham Planning Board Meeting**

Thursday, September 15, 2022

Board Members Present: Chairperson: Thomas Poelker  
Members: Claudia Lane, John O'Grady, Matthew Jordan, Lisa Jaeger  
Recording Secretary, Sandra Allen

Board Members Absent:

Also Present: Helene Tiegez, Paul Ciancanelli, Robert Gerhards, Neal Higgins, Teresa Higgins, Antonia Besculides, Scott Ouimet, Evan Schieren, Elisa Schieren, Patricia Charbonneau, Darrin Elsom, Alan Trinkle, James Sasa, James O'Sullivan, Donald Lesser, Kristen O'Sullivan, Jim Illegible (see attached 1)

Chairperson Poelker called the meeting to order at 7:00 PM, followed by the Pledge of Allegiance.

PUBLIC HEARING – SITE PLAN: James O'Sullivan 139 Slater Rd TM# 97.00-5-23. Proposed project is a two-car garage with similar color and siding as the existing house on a slab foundation. Received certified mail receipts. Notice was read for the record. Mr. O'Sullivan reviewed the project for the Public. No Public in attendance. Reviewed maps, documents, and pictures. The garage is well beyond the setback requirements. Motion to approve as presented was made by Chairperson Poelker, seconded by Member Jaeger with an all-in favor.

SITE PLAN: Robert Gerhards 478 State Route 296. Proposed project is a 20 X 20 addition to the existing house. Reviewed maps and drawings. Concrete slab foundation. Motion to classify SEQR as Unlisted Action was made by Chairperson Poelker, seconded by Member O'Grady with an all-in favor. Motion to set Public Hearing for Oct 6, 2022, at 7:05 PM was made by Member Jaeger, seconded by O'Grady with an all-in favor.

SITE PLAN: Evan Schieren, Windham Escape LLC, Route 296 TM# 96.00-1-14. Mr. Schieren reviewed the proposed project as a Tiny Home community of 16 tiny modular homes each with a 10 x 36 footprint, slab foundation and 3 signs on 40 acres. Reviewed the map and design of the proposed homes. Will use the County Route 296 entrance for property. Of the 40 acres, utilizing 15/16 acres for the tiny homes. The homes will be for rent not sale.

SKETCH PLAN: Hickory Hill Residences State Route 23 TM# 79.00-6-6. Just under 7 acres, proposed project is two small duplexes with two bedrooms each not visible from the road and an accessory structure. Perks have been done, will have a well water. Goal is long-term rentals. Meets setback regulations.

SITE PLAN: Neal Higgins 7 Schafer Drive TM# 96.00-5-40. Proposed project is single family residence, prefab, 2 bedroom and 2 baths. Has access to Town water. Received larger map as requested. Reviewed maps and documents. Motion to set Public Hearing for Oct 6, 2022, at 7:10 PM was made by Member Jaeger, seconded by Member Jordan with an all-in favor.

**SITE PLAN:** Carol Lynes Manor Drive TM# 78.15-1-13. Proposed project is a small single-family residence 12 X 44 on 0.17 acres. Has access to Town sewer. Will have a drilled well. Received EDU letter. Reviewed maps, documents, setbacks and well. Member Jaeger asked about the quality of water in that area and if Kaaterskill knew of the poor condition of neighbors' water; this might be a concern for all in the area. Motion to set Public Hearing for Oct 6, 2022, at 7:15 PM was made by Member Jaeger, seconded by Member Jaeger with an all-in favor.

**MAJOR SUBDIVISION:** James MacDonald 281 Old Road TM# 79.00-1-11, 79.00-8-2, 79.00-8-112. Subdividing 18.58 acres (3 lots) into 4 lots 3.27, 6.17, 4.98 and 4.16 acres, lot 4 will have ROW to lots 1 & 3. Receive Lead Agency comments from DEP and DEC. Motion to set Public Hearing for Oct 6, 2022, 7:20 PM was made by Chairperson Poelker, seconded by Member Jaeger with an all-in favor.

**MAJOR SUBDIVISION:** Greifeld 798-2 Mitchell Hollow Road TM# 46.00-2-69.1 and 47.00-2-1. Proposed sub-division, 200 acres parcel to four lots of 7 acres, 3.5 acres, 2.5 acres and remaining 187 acres. Reviewed the ROW and the potential "loop", this Board does not see this as a feasible concern. Motion to approve was made by Chairperson Poelker, seconded by Member Lane with an all-in favor.

**MAJOR SUBDIVISION:** Windham Luxury Estates formerly known as Catskill Holdings Windham LLC aka Bonfiglio 116 & 225 Galway Rd TM# 79.00-1-40. Proposed project is approximately 130 acres on both sides of Galway Road subdivided into 12 lots of varying sizes. Waiting for Resolution from Town Attorney, Rappleyea. Member O'Grady asked that this Board further discuss this project and stated that he did a lot of research on the matter of the Comprehensive Plan (see attached 2), he expressed that the Comp Plan is open to interpretation, and he interprets this project as not in agreement with the Plan. Member Jordan responded that this Board should be true to the spirit of the Comp Plan, and he believes that this project is in keeping with the spirit of the Plan. Because the Comp Plan focuses growth in the Hamlet doesn't mean stopping growth everywhere outside of the Hamlet. Member Jaeger agreed with Jordan saying the Applicant is only proposing twelve houses on 130 acres and feels that is in keeping with the Comp Plan. O'Grady stated that as far as his interpretation this project should be denied. Member Lane stated that she agrees with O'Grady and his interpretation.

**REVIEW:** Prominence Restaurant (formerly Chalet Fondue/Nunzio's Pizzeria) 55 State Route 296 Tax Map # 79.00-4-56.2. The review of this project is due to the confusing language of the setback regulations for this previously approved project. The project was submitted to this Board, the Town Board, and the Building Inspector. The Applicant received approval Oct 2021 and has started pouring the foundation when he was given a stop work notice. Kaaterskill was informed that the setback regulations for site plans are based on subdivisions. Kaaterskill is here to ask for a waiver/variance for the setbacks. Motion to approve a waiver/variance to allow reduction in setback to approx. 39 feet instead of 65 feet was made by Member O'Grady, seconded by Member Jordan with an all-in favor.

**SKETCH PLAN:** James Saisa 120 County Route 65 – Brooksbury Road. Proposed project is to build a new one story, single-family residence back further than the old structure that has been recently removed. Has Town sewer and water. Gave a site plan check list to Mr. Saisa.

**MINUTES REVIEWED:** Motion to approve Sept 1, 2022, minutes was made by Member Jaeger, seconded by Member Lane with an all-in favor.

Meeting was adjourned at 9:20 PM on a motion by Member Lane, seconded by Chairperson Poelker with an all-in favor.

Respectfully Submitted,

Sandra Allen, Recording Secretary

OFFICIAL

## Town of Windham Planning Board

### Attendance Log

Date: September 15, 2022

Please Print Your Name Clearly (Name Only)

ALLEN TIERZ	
Paul Ciancanelli	
Robert Gerhardt	
Neal Higgins	
Teresa Higgins	
Antonia Resulides	
Scott Orimet.	
Evan & Elisa Schieren	
Paul Charbon	
DANIEL BILSON	
Alan Trinkle	
James Sasa	
JAMES O'SULLIVAN	
DONALD LEESE	
Kristen O'Sullivan	
Jim Mufson	

## **--Authority of the Comprehensive Plan in guiding decision-making**

NY State Town Law: CHAPTER 62, ARTICLE 16, Sect. 272-A, #11. Effect of adoption of the town comprehensive plan. (a) **All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.**"

**"The comprehensive plan is the culmination of a planning process that establishes the official land use policy of a community and presents goals and a vision for the future that guides official decision-making.** The comprehensive plan invariably includes a thorough analysis of current data showing land development trends and issues, community resources, and public needs for transportation, recreation, and housing. Zoning is merely one method – albeit an important one - for implementing the goals of the plan. Having a comprehensive or well-considered plan ensures that forethought and planning precede zoning and zoning amendments." --*Zoning and the Comprehensive Plan*, NY State Dept of State doc (2015)

**The effect of adopting a comprehensive plan is that all local land development regulations must be in conformance with its provisions.** Other governmental agencies, such as state agencies, must consider the local comprehensive plan in planning their capital projects within the locality.

The New York State Court of Appeals noted in *Udell v. Haas* that **"the comprehensive plan is the essence of zoning.** Without it, there can be no rational allocation of land use." Indeed, the statutes require that all land use regulations must be made "in accordance with a comprehensive plan." Therefore, planning should precede any adoption or amendment of a land use regulation.

## **--WINDHAM LUXURY ESTATES SUBDIVISION IS NON-CONFORMING WITH THE WINDHAM COMP PLAN: IT IS CLEARLY IN VARIANCE TO FOUR OF THE PLAN'S EIGHT STATED GOALS**

**Goal #1:** Maintain local control over land use while promoting quality commercial and residential growth that is in keeping with the existing character of the Town.

**1.1** Concentrate future growth and development in the designated hamlet areas and locations with access to centralized water and/or sewer infrastructure.

**1.2** Ensure that any new development is in keeping with the Town's historic character and preserves the scenic beauty upon which the tourism industry depends.

**Section 9, "Land Use & Planning" of the CP states:** Significant investments have taken place to provide centralized water and sewer service in the hamlet areas, and future development should be concentrated in those areas with access to public infrastructure.

**Goal #2:** Provide a wide range of housing opportunities for residents by improving the affordability and quality of local housing.

**2.1** Promote the development of affordable workforce housing for middle-income residents.

**2.5** Encourage the development of new housing that is walkable and interconnected, particularly in the historic hamlet areas.

**As stated in Section 9 of the CP:** “Windham Mountain generates significant demand for second homes, which has driven up home prices and made it difficult for full time residents to find affordable housing.”

**Goal # 4:** Protect open space and natural resources while allowing for orderly growth and development, particularly in the hamlet areas.

**4.1** Concentrate future growth and development in the designated hamlet areas and locations with access to centralized water and/or sewer infrastructure.

**4.4** Encourage “working landscapes” where undeveloped land may be actively used in agricultural or forestry production.

**Goal #7:** Improve local transportation facilities and expand bicycle and pedestrian networks.

**7.1** Encourage the development of a safer and more “walkable” community, particularly in the historic hamlet areas.

An error was made in completing the SEQRA Part 2, items 17 and 18. We made a mistake in signing off on it. But SEQR is a process of fact-finding. It takes time. At this point I am personally convinced that the Galway Road Subdivision proposal is “inconsistent with Community Plans”—namely the Comp Plan, as I laid out above. Likewise, the proposal is inconsistent with the “community character”, in that it encourages “sprawl”, in effect doubling the number of houses in a relatively undeveloped portion of the town that may come under stricter zoning ordinances in the near future--as expressed in the broader terms of the stated Goals of the Comprehensive Plan. Therefore this subdivision proposal should not be approved.