

**PLANNING BOARD MEETING
TUESDAY, JANUARY 22, 2002
37 NORTH MAIN STREET**

Members Present: (Troy Robidas and Bob Moriarty called in to be excused)

Don MacVane, Norm Russell, Jim Horgan, Hiram Watson seated for Bob Moriarty and Van Wallace for Troy Robidas

Selectmen's Rep: John Fitch

Staff Present: Tom Rozwadowski and Fran Osborne

Public Present: John & Jane Wingate, Randy Orvis (Conservation Commission), Margaret Russell, ZBA

- Chairman MacVane brought the meeting to order at 7:00 p.m. with a review of January 8, 2002 minutes. John Fitch made motion to approve minutes as presented, Jim Horgan 2nd, all in agreement - motion carried.
- Chairman stated next item for discussion was the Pike Industries gravel pit on Rte. 11/Paulson Rd. In looking through the Site Review we have obtained information that the pit has not been properly reclaimed. They have excavated too close to the water table. How does the board feel about asking them to bring the level of soils up two feet. Tom said the pit is still open and that a "condition of approval" was to reclaim it which has not been done to date. Tom said he looked at it and wouldn't close the pit as it hadn't been reclaimed as agreed upon. Tests show they excavated below the level they should have. John asked about excavating below the water table. Norm said it is up to the Town regulations (5' between the water table and the finished excavation/seasonal high-water table). Our regulation allows us latitude (6'). The Planning Board has complete authority to enforce (possibly 5' with rapidly permeable soils.) Realistically we can achieve what we want with 2' of moderately drained soils which might be suitable to modify this problem (very well drained soils) which in turn might solve the issue here. Don said we should enforce 5' - discussion followed. Norm - the seasonal high-water table does fluctuate some amount. Our primary interest is preservation of the ground water. Don - we should speak to legal representation. Norm - I'd like to do this without court representation. Don - we could get good advice from lawyers. Tom - ask for 2' and if they say no, then proceed with legal action. Jim - we can't prove condition of pit. Norm - we have approved test pit data presented to us. Jim - let them come back to us with an option and run it by us, meet the conditions of approval, then the Planning Board can dicker with them. John Fitch - right now they cannot put a septic system in there. If built up, we could end up with homes in there. Don - have Tom notify Pike Industries in writing regarding reclamation and see what they say. Jim - motioned to leave this in Tom's hands to correspond with Pike Industries regarding meeting the original conditions of approval for reclamation, Norm 2nd, all in favor - motion carried.
- **Cluster Development Regulations** - Chairman and Norm stated we want to discuss these regulations. Reference was made to page 1 B.
 - Land to Which Regulations May Be Applied:** Land to which cluster development may be applied will be land where there are a minimum of five (5) available lots and when the lots are to be conveyed separately: condominiums as eight (8) or more condominium units are proposed.Discussion followed. Norm - in the event that condos are proposed as part of the cluster development - they should contain at least 8 units. There are few areas in town that allow for multi-units classified as condos. Condos are single dwelling units with separate deeds in a multi-dwelling building. What is central to this issue is that they are deeded separately. Don - discussed individual units within a building. John Fitch - is there an association? (see attached Cluster Regs) - all common areas designated as open space are commonly owned and maintained by a Homeowner Association. Tom stated the Cluster Regulations allow this to be done within our Subdivision Regulations. Discussion followed on Table of Permitted Uses (Residential) and the Zoning Ordinance. Norm asked does the Zoning Ordinance supercede the Cluster

Regulations. Kelly - zoning should be 1st priority. Cluster development could be houses, but closer together. The regulations the way they are would allow condos - single or double. Duplexes are single dwellings and are allowed in about all zones. Don said if you want to do condos it must be 8. Norm said 5 conventional lots could not be used for 8 condos. Don - how does the board feel - are 2 condos multi-family? Norm - that's the way I feel - if they are clustered, my interpretation is they are not allowed. Discussion followed. John Fitch said 70 s.f. is needed for 1st person, each additional 35 s.f. or 7'x7'x7'. Don - multi-family is more than 2 housing units. Two family is a duplex and considered single family. Tom - the cluster development is for the areas set aside for condo development units. Cluster development modifies the subdivision regulation. Norm - we can't supercede the Zoning Ordinance. Discussion followed. Norm - we need to work on this. Tom - Cluster Development - we need to see what the intent of the ordinance was. Norm - condos can be duplexes or single-family (8 duplexes or 8 single family). Don - you can make the argument 3 units can be allowed - the question is, are 8 units in one building allowed? More discussion on Cluster Regulations vs. Zoning Ordinance. Norm - multi-dwelling units are designed for remote areas - there is nothing that says all the units can be under one owner and they can be rented. Someone could acquire 8 units and rent to whomever they wished. Kelly made a motion to form a Subcommittee to rewrite the Cluster Regs and withdrew the motion. Don - if you apply for a cluster development can you have more than 2 units in a structure. Kelly motioned that the Planning Board interpretation - any structure containing more than 2 units is multi-dwelling unit and will be considered for cluster development, Norm 2nd, all in favor except Jim Horgan who was opposed. Kelly also made motion to form a Subcommittee to look at Subdivision/Cluster Regulations and modify as needed, Norm 2nd - Jim Horgan feels we should look at the entire document not pick on just one thing. The Site Review Regulations will be looked at separately. Jim opposed. The Subcommittee will consist of Jim Horgan, Kelly Parliman and Norm Russell (and possibly Troy Robidas). These meetings will be open to the public.

- **Site Review Application Continuation Eva Christensen** - Chairman MacVane stated Mrs. Christensen asked to be continued to February 12, 2002. Don said we have no tangible evidence as to water leaving the site and need correlation of pond to lot size and professional opinion as to pipes and actual water on the lot. Norm said we need to give Tom direction. Tom said he would call Eva, but the property level being changed may result in her decision to purchase. John Fitch - asked again about the elevation of the high-water mark. Norm - we should not be discussing this as we do not have a plan in front of us. Don - we do have her on the agenda and we did do a site walk. Tom called the NH Municipal Law Association and they stated you can continue indefinitely if it is announced continued at the meeting and the same original request is being continued. Norm - we need to state conditions upon which we would declare approval. Discussion followed. Randy Orvis said he hasn't seen any plans he can intelligently understand and the public has major concerns. Don - the list we gave her from 1/8/02 is what she needs to complete. Norm said we asked for a final map (include backup data) and asked backup data for what? Tom - I think we should just continue this and see how things work out with communications from Pike Industries. Norm - we should give Eva some more time - she has a great deal of compassion for what she is doing. Chairman said we will continue this to February 26, 2002 to allow time for Pike to correspond with the Planning Board.

- **Zoning Ordinance Amendments:**

- **Section 1.04** (discussion took place that someone could have a building lot with absolutely no frontage.) We need to have a minimum of frontage - ? 50 feet. Randy said if it is an existing lot of record and has an easement, then I have a problem with it. If they have a way to get to it, there's no reason to deny a building permit - not all problems are solved with a Zoning Ordinance. John Fitch - didn't we talk about having a 20' right-of-way? Norm said in some cases this is not enough. Tom referenced page 253 of the N.H. Land Use Regulations RSA 674:41. Discussion followed. Randy disagrees. John asked how are you using "grandfathered lot" if it were subdivided before the Zoning Ordinance went into

effect. Tom will look into the legality of a building lot without frontage. Kelly will write up the wording for this.

Section 1.14 - Norm - this should be included so it's clear, Jim 2nd - all in favor - motion carried.

Section 2.01 (B) Table - Jim made motion to include this, Norm 2nd, - all in favor - motion carried.

Section 2.07 (B) Table - Front setback (principal & accessory buildings) **50'** - Van motioned to include this, Hiram 2nd, - all in favor - motion carried.

Section 2.08 (B) Table - Front setback (principal & accessory buildings) **50'** - Kelly motioned to include this, John 2nd, all in favor - motion carried.

Section 2.09 (B) Table of Permitted Uses - this was already voted to include at a previous PB meeting. Norm would like to see added "This will allow a financial institution with a drive - through window (**sides and rear only**) to be located in the Village Center District..... John motioned to include this, Jim 2nd - all in favor - motion carried.

Section 3.15 Sludge - This was previously approved by the PB but was eliminated from last year's Town Meeting. John Fitch made a motion that this will be a separate warrant article for 2002 Town Meeting, Hiram 2nd - all in favor to include - motion carried.

Landscaping Appendix Revision Proposal - John Fitch made motion to accept this revision and withdrew his motion. Randy Orvis feels this should be included in the Site Review. After discussion, Kelly made a motion to not approve at this time, Jim 2nd, - vote unanimous to not include this revision.

Recreational Vehicle Parks or Campgrounds - Randy Orvis said this limits seasonal use of these areas. Norm made motion to include as amended, Kelly 2nd - all in favor - motion carried.

Section 3.02 Access of Lots to Streets - It was decided not to include this - "eliminate." Discussion followed on Class VI roads.

Section 4.04 Waterfront Protection Overlay District - discussion took place and it was decided to have all board members review thoroughly and continue this to next public hearing.

Table of Permitted Uses (Page 3 of 4)

- **Mineral Extraction** - add PR in SR, OR, and VC districts.

Norm made motion to include this, Kelly 2nd, all in favor - motion carried.

The Zoning Ordinance Amendments will be continued to February 12, 2002 public hearing meeting.

- Jane Wingate asked to speak about an article in the Fosters Democrat on housing being 2nd most expensive in the Rochester and Portsmouth area. She asked how fast we want to see Farmington grow and the need to put in place good regulations/ordinances to protect against excessive development. Don said we've tried to allow for controlled growth. She is concerned about Packy's development.
- Kelly asked about updating Master Plan and Tom mentioned having impact fees included would be a good idea. Our existing ordinance addresses sprawl. Jane said we need to employ all avenues legally with regard to developers.
- Margaret Russell made mention RSA 674:28 regarding non-conforming lots. Norm mentioned the use would be what it is presently if nothing is built on it now.

- Kelly made mention that we should pursue the free training for Planning Board and Zoning Board members by the new Town lawyers.
- Kelly informed board members that Laurie Chase from the Cocheco Watershed Coalition will hold a meeting to give a report on the Cocheco River data findings on Thursday night at the Rochester Community Center behind the High School.
- With no further business to discuss the meeting adjourned at 9:15 p.m. Minutes recorded by Fran Osborne. Taped transcript available in the Code Enforcement Office.

APPROVED

Don MacVane, Chairman
Planning Board
Town of Farmington

Date