

**TOWN OF FARMINGTON
PLANNING BOARD SPECIAL MEETING
Tuesday, December 6, 2011
356 Main Street, Farmington, NH**

Board Members Present: Paul Parker, David Kestner, Glen Demers, Cindy Snowdon

Board Members Absent: Charlie Doke

Selectmen's Representative: Charlie King

Town Staff Present: Director of Planning and Community Development Kathy Menici,
Department Secretary Bette Anne Gallagher

Public Present: Christopher Berry, Steven Coppola, Thomas Nano, Packy Campbell

At 6:05 pm Chairman Paul Parker called the meeting to order and all present stood for the Pledge of Allegiance.

BUSINESS BEFORE THE BOARD:

- **Review and approve Meeting Minutes of November 15, 2011 and November 17, 2011**

Charlie King motioned to approve the minutes of November 15, 2011 as written; 2nd Glen Demers. Motion carried with three in favor and one abstaining.

Charlie King motioned to approve the minutes of November 17, 2011 as amended; 2nd David Kestner. Motion carried with all in favor.

- **Update on receipt of escrow for engineering services and revised information from David Haycock – Major Site Plan Approval Tax Map R47 Lot 5**

Planner Menici told the Board that the escrow check had been received and that the applicant's agent, Randy Orvis, had brought in some revised information but there had been to opportunity for Public Works Director Scott Hazelton to review and comment.

Chairman Parker asked, and the other Board members agreed, that Mr. Hazelton would be asked to attend the December 20th meeting. The Planner said she would let him know about the request.

Cindy Snowdon arrived and was seated at 6:10 pm.

- **Second draft of Small Wind Turbine Ordinance (SWES)**

Planner Menici said that the purpose and definitions in the first draft of this proposed ordinance were agreeable to the Board but there were sections that were not applicable to Farmington. She said the Board had discussed

that the SWES would be permissible in all zoning districts that could meet the requirements of the ordinance. A maximum height had not been set and the Board had discussed using the height of the average species within 300 feet of the tower instead of 30 feet above the average tree height on the property. Planner Menici, at the Board's request, had emailed Eric Steltzer at the NH Office of Energy and Planning for suggestions. Mr. Steltzer said most residential systems are between 60 and 80 feet in height with a maximum of about 150 feet.

The Board discussed several ways to establish maximum height such as: 30 feet above the tree canopy; or 30 feet above surrounding tree canopy within 300 feet; or tiered criteria tied to kilowatts; or setting a maximum height of 150 feet and defer the decision to the system installer.

Planner Menici suggested that a good example of a residential system is Newburyport. It is clearly visible from Interstate 95 and is very attractive. It is probably a 100 kW system and gives a good idea of scale.

At 6:25 further discussion was tabled by motion until after the public hearings.

Charlie King motioned to table to the end of the meeting any further discussion on Small Wind Turbines, Housing Maintenance and Occupancy Code and any other business; 2nd David Kestner. Motion carried with all in favor.

Chairman Parker said Charles Doke was not in attendance due to his health and on the Board's behalf he sent wishes for a speedy recovery and their hopes that he would be back for meetings soon.

PUBLIC HEARINGS

CONTINUED CASES:

3rd PUBLIC HEARING - Proposed Amendments to the Town of Farmington Excavation Regulations and Application to amend the changes to remove all fees and direct the applicant to the fee schedule.

Planner Menici said because application fees may change over time, at the last hearing the Board decided not to include any fees on the application but to make reference to the fee schedule. That change was made. Also, any renewal language was removed as State Statute does not allow for renewal.

There was no discussion by the Board.

Charlie King motioned to accept the amendment to the Town of Farmington Excavation Regulations and Application to amend the changes to remove all fees and direct the applicant to the fee schedule as posted; 2nd Cindy Snowdon.

David Kestner said the motion should be tabled for public comment.

Chairman Parker opened the public hearing, there were no comments and he closed the public hearing.

Charlie King restated the motion:

Charlie King motioned to accept the amendment to the Town of Farmington Excavation Regulations and Application to amend the changes to remove all fees and direct the applicant to the fee schedule as posted; 2nd Cindy Snowdon. Motion carried with all in favor.

Application for Special Use Permit approval by: Coppola Physical Therapy, applicant, for property owned by Sands Brothers Construction Co. Inc. (Tax Map R-20 Lot 7), located at 395 NH Route 11: To allow the construction of a 600-sq. ft. addition to an existing structure. The proposed addition is located in the Limited Development Zone of the Waterfront Protection Overlay District.

Cindy Snowdon asked the Board to consider whether there was a potential conflict for her to sit on this hearing due to a lawsuit with a homeowner's association involving a party to the proceeding.

The Planner said that the applicant is Steven Coppola and his agent is Berry Engineering. Mr. Campbell is the listing agent for Sands Brothers Construction. Mrs. Snowdon said she brought this up for the applicant's sake and would recuse herself if the Board felt it appropriate although she did not feel she was in conflict. The members were polled and no one felt there was an issue. Mr. Berry also did not have an issue. Mrs. Snowdon remained seated.

At the last public hearing on this application there were inconsistencies and the Planner said Mr. Berry had worked closely with her and everything appeared to be resolved.

David Kestner said he had objected at the last hearing due to the inconsistencies and missing information and what he had asked for was on the revised plan sheets. He commented there was better detailing, a note regarding use of small equipment, rip rap and standards for pipe. He thanked Chris Berry for his efforts.

Chairman Parker read the criteria for a special use permit and asked if the members had any comments. After a brief discussion the Chairman opened the public hearing, there were no comments, and he closed the public hearing.

David Kestner motioned to approve the Application for Special Use Permit by Coppola Physical Therapy for Tax Map R-20 Lot 7; 2nd Glen Demers. Motion carried with all in favor.

Application for Site Plan Review approval by: Coppola Physical Therapy, applicant, for property owned by Sands Brothers Construction Co. Inc. (Tax Map R-20 Lot 7), located at 395 NH Route 11: To allow a change of use from commercial office to a health services facility, including a 600-sq. ft. addition to an existing structure. The parcel is located in the Commercial Business Zoning District. Continued from October 18, 2011.

Planner Menici said her November 30th memo to the Board and Chris Berry's cover letter of November 22nd both detail the revisions and she read from the memo:

- Wetlands scientist stamp and signature have been added to Sheets 1-3 of the plan set;
- The construction detail sheets have been revised and include only those details that are applicable to the project;
- The location of the proposed septic tank has been corrected;

- Details of the foundation drain and outflow have been added;
- Revision dates have been updated and corrected as necessary;
- The Cover sheet has been amended to include the NH DES Shoreland permit number.

She said there were two items outstanding that the applicant needed to provide:

- NH DES subsurface approval for the modified septic system and
- NH DOT approved revised driveway access permit.

The changes are reflected on the plan but the approved permits have not yet been issued. Mr. Berry said NH DOT was waiting until the expiration of the statutory time period (December 7th) for issuing the approval and he expected written approval from NH DES in a day or two.

Planner Menici suggested as a condition of approval that no construction begin until copies of the approvals are provided to Town staff.

Chairman Parker opened the hearing for public comment.

Chris Berry asked if given the time restraints imposed by the weather at this time of year, the applicant could put the foundation in while the weather holds understanding that the applicant takes the risk of the building permit not being issued.

Planner Menici said she understood the applicant's concerns but that in addition to the outstanding approvals, there was also a 30 day appeal period. She said that the applicant should understand that he could be required to remove any work done prior to satisfying the conditions. She also said that if the two approvals are made conditional, then the CEO cannot issue the building permit. In her opinion this was not a good practice.

Cindy Snowdon asked if anything had been received from the State. Mr. Berry said he had only verbal approvals. Mr. Coppola said his concern was the requirements of his financing. He said time was running out for him to begin construction and delay could mean the bank would require a new application. Charlie King proposed that one condition be precedent to the building permit and one be subsequent.

Chairman Parker closed the public hearing and the Board further discussed making the condition for subsurface approval precedent and driveway access subsequent. The subsurface permit would have to be received prior to the foundation being poured.

David Kestner asked if the application had to be accepted as complete but it was pointed out that at the October 18, 2011, meeting the Board granted waivers requested by the application and accepted the application as substantially complete.

Charlie King motioned to approve the Site Plan Review application conditional upon:

- 1. prior to the issuance of the building permit, applicant must provide State approval for the revised septic system;***
- 2. prior to the issuance of a certificate of occupancy, applicant must provide the approved NH DOT***

permit for driveway access; and

3. *all work must be in accordance with the plan entitled Land of Coppola Physical Therapy, Route 11, Farmington, NH, Tax Map R-20 Lot 7. The plan, prepared by Berry Survey and Design, is identified as File No. DB 2011-115 and dated September 15, 2011 with a final revision date of November 30, 2011.*

2nd Cindy Snowden. Motion carried with all in favor.

At 7:05 pm David Kestner motioned for a 5 minute recess; 2nd Charlie King. Motion carried with all in favor.

Chairman Parker reconvened the meeting at 7:18 pm.

CONT'D BUSINESS BEFORE THE BOARD:

- **Second draft of Small Wind Turbine Ordinance**

The members were in agreement that the maximum height would be 150 feet.

Planner Menici said the setbacks in this draft were taken directly from the minutes of the last discussion:

Where unit size is less than 30kW: 110% of system height (front, side and rear) with review and approval by the Building Inspector. Where unit size is 30 to 100 kW: 150% of system height (front, side and rear) with review and approval by the Minor Site Plan Review Committee.

Chairman Parker questioned the 110% setback. He felt it would be harder to achieve compliance with noise levels and shadow flicker as well as being a potential safety issue if the tower fell.

After discussion including a suggestion to tie the system size to the setback, the following motion was made:

Charlie King motioned to leave the setbacks as written. Motion dies for lack of second.

The Board continued to discuss the setbacks agreeing that a setback of 150% tries to control impact on abutters but that it would be harder to satisfy that setback in urban or suburban areas and 110% may accommodate smaller lots.

Paul Parker motioned to make setbacks for all sizes of systems at 150% of system height; 2nd Cindy Snowdon. Two Ayes – motion dies

Additional discussion brought the Board to agreement that the setbacks would be tied to system size.

David Kestner motioned to change the setbacks to read:

Where unit size is 20 kW or less: 110% of system height (front, side and rear) with review and approval by the Building Inspector.

Where unit size is 21 kW to 100 kW: 150% of system height (front, side and rear) with review and approval by the Minor Site Plan Review Committee.

2nd Charlie King. Motion carried with all in favor.

Maximum sound levels was changed to read: Maximum sound level not to exceed 55 decibels at the property line using a calibrated sound meter and verified by the Building Inspector operating under normal conditions.

Charlie King questioned what would happen in a high wind event when an abutter says the decibels exceed 55. The Board discussed this and at the Planner's suggestion a definition of normal conditions will be included: Weather conditions that produce winds that do not exceed 30 miles per hour.

Paragraph 5 regarding shadow flicker was removed as well as the definition for shadow flicker.

Allowing signs was extensively discussed by the Board and it was decided to remove the phrase "that are commercial in nature".

The Planner explained that she had not been able to find anything on lumens for the small wind energy system but will continue research on this and report back to the Board so Paragraph 7d can be completed. The Board agreed that there should be limit and that it should be determined at the property line.

Sections D and E were acceptable to the Board.

- **Second draft Housing Maintenance and Occupancy Code (Continued from Nov. 1, 2011)**

Chairman Parker said he thought there could still be a lot of streamlining done to the Code.

Pages 1 through 6 were acceptable to the Board. Unregistered vehicles covered on page 7 paragraph 9 was felt to be too restrictive and needed to be clearer but at the same time in compliance with State Statutes. The CEO will be consulted to clarify this section.

Under Section II, paragraphs 2 and 3 on page 8 appear to be similar in nature and could be combined. Paragraph 4 was referred to the CEO for review. Paragraph 7 should be removed.

Paragraph 5 on page 10 was referred to the CEO to review for uniformity with the building code. The Board felt this was all covered by the building codes and the Planner agreed but stated that it also helps landlords with their responsibilities. Page 11, paragraph 1, and pages 12 and 13 were all referred to the CEO for review.

On page 14 in paragraphs 3 and 4 references to Selectmen and/or Board should be changed to read the Board of Selectmen.

On page 15 the Penalties section should contain a reference to State Statute and "punished" should be changed.

The third draft will be reviewed at the December 20th meeting.

- **Any other business to come before the board.**

Planner Menici stated that agenda items for the December 20th meeting include the Haycock continued application and the third drafts of both the Small Wind Energy Systems and the Housing Code.

The Planner said that she would like to schedule the first public hearing on zoning amendments for the January 3rd administrative meeting and the second public hearing on January 17th. If necessary, a third public meeting could be scheduled on January 24th as a special meeting. The last day to file with the Town Clerk is February 7th so this leaves an adequate timeframe to do so.

The Planner said the public notice must be published by December 23rd but would like to put the notice in earlier that week due to Christmas.

Charlie King motioned to post the first public hearing for January 3, 2012 for proposed zoning ordinance changes; 2nd Glen Demers. Motion carried with all in favor.

Planner Menici distributed a draft of the Zoning Map with proposed changes to the commercial zone on Route 11 west of Tappan. She said the existing boundary line is not shown on the map and she'll have that added. The residential lot at the corner will be removed as well.

The map will be printed in a 24 x 36 inch format and the cost from Strafford Regional is \$250.00 for both the work and copies. Both Charlie King and Glen Demers said if the map is sent in a PDF format they can print it and suggested that 1 copy be obtained for SRPC and they will provide additional copies.

As a final item, Paul Parker and Glen Demers said they would like the old chairs back because the Board finds the new ones quite uncomfortable.

At 9:00 pm David Kestner motioned to adjourn; 2nd Glen Demers. Motion carried with all in favor.

Respectfully Submitted,
Bette Anne Gallagher
Department Secretary

Chairman, Paul Parker