

**TOWN OF FARMINGTON  
PLANNING BOARD SPECIAL MEETING  
Tuesday, December 20, 2011  
356 Main Street, Farmington, NH**

**Board Members Present:** Paul Parker, David Kestner, Charles Doke

**Board Members Absent:** Cindy Snowdon, Glen Demers

**Selectmen's Representative:** Charlie King

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

**Public Present:** Neil Johnson, Randy Orvis, Paul Gordon, David Haycock, and  
James P. Shannon, Esq.

**At 6:06 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 December 6, 2011**

*Charlie King motioned to approve the minutes of December 6 2011 as amended; 2<sup>nd</sup> David Kestner. Motion carried with three in favor and one abstaining.*

- **Richard's Way Update for completion of Phase 1 – Map R01 Lots 1 and 1-1**

Planner Menici said the final report from FST (Town Engineer) was provided to the Board for information only and required no action. She said the contractor was taking advantage of the weather and was starting on Phase 2. There is adequate funding available in escrow for this phase and the applicant is aware that if escrow is depleted it must be brought back up before work can continue.

Chairman Parker brought up a concern about drainage. The Planner thought this was an area that had been addressed by FST but she will check and report back to the Board. The Chairman also questioned the grading in one area because the road is at a steep angle and then turns sharply to the left. He thought there could be a problem in the winter and that a guardrail might help. The Planner said this was not addressed in the approval and it was now too late to do so. She also said that she did not have the same concern based upon her observation during a site walk; however, she would take another look and ask the Public Works Director to accompany her.

- **Third Draft of Small Wind Turbine Ordinance – Proposed Zoning Amendment**

Planner Menici went over the issues outstanding from the last discussion. The Board had asked for more information regarding an acceptable level of light at the property line and after research had rewritten the paragraph.

Under definitions, wind speed under normal conditions was stated as not to exceed 10 mph, but the Board asked that this be changed to 30 mph.

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

- **Third Draft Housing Maintenance and Occupancy Code – Proposed Zoning Amendment**
- **Any other business to come before the Board**

*David Kestner 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; 2<sup>nd</sup> Charlie King. Motion carried with all in favor.*

Chairman Parker said Glen Demers was not in attendance due to his health and on the Board's behalf he sent wishes for a speedy recovery.

*At 6:25 pm David Kestner motioned for a 5 minute recess; 2<sup>nd</sup> Charlie King. Motion carried with all in favor.*

*Chairman Parker reconvened the meeting at 6:35 pm.*

## PUBLIC HEARINGS

### CONTINUED CASES:

**Application for Major Site Plan Approval by: David J. Haycock (Tax Map R-47, Lot 5) for property located at 96 Bunker Street to allow the operation of a logging company as a home business. The proposal includes locating storage trailers on the property, construction of a pole barn, and on-site equipment and vehicle storage. The parcel is located in the Urban Residential (UR) Zoning District. Continued from November 15, 2011.**

Chairman Parker asked Randy Orvis, as the applicant's agent, for comments on FST's recommendations and the memo received from Public Works Director Scott Hazelton. Mr. Orvis said FST was recommending a plunge pool and he will do that and put it on the wetland's permit application. However, he said he disagrees with Mr. Hazelton that the vehicles cannot make the turning radii without going into the opposing lane or onto private property. He said that vehicles coming off North Main must swing wide onto Mount Vernon, but this is not a problem coming from the other direction.

The Chairman asked Planner Menici if she had discussed the memo with Mr. Hazelton. She said they had discussed it and Mr. Hazelton was working with the information provided by Mr. Orvis. There are four intersections on the route: Charles to Mount Vernon, Mount Vernon to Glen, Glen to Blaine and

Blaine to Bunker. Chairman Parker asked how often the heaviest piece of equipment, the crane, uses the route. Mr. Orvis said it had been only once in the past month and that the applicant tries to take both the crane and the logging truck from job site to job site.

Charlie King asked if the turning radii had been redone based upon the size of each vehicle's wheelbase. Mr. Orvis said they had not because all fell within the original radii using a 30-foot wheelbase. He said the crane is listed as 34 feet but that is because it extends out five feet over the 29-foot wheelbase and the crane will not use the route on a daily basis.

Mr. Orvis said he feels the recommendation for a \$250,000 bond is excessive and that other commercial vehicles use this route including the Town's plow trucks, fuel delivery trucks, utility trucks and vehicles from Bob's Auto including a car carrier recently. However, the Planner pointed out that Bob's Auto is a grandfathered business and cannot be considered for the purposes of this discussion.

Suggestions for limits based upon weight, hours and/or number of trips was made and concern for the residential nature of the area was raised. The Board agreed that the roads were not designed for the weight of commercial vehicles and they must consider placing limits on both vehicle weights and the hours the proposed route could be used. David Kestner read from the Town's Site Plan Regulations and then asked how this business would enhance the quality of life for the residents of this area. Charlie King commented that the Board could not deny the operation as it had already been approved by the ZBA as a special exception – they could only limit the scope. The Chairman said the goal would be to minimize the impact on the neighborhood as much as possible.

Mr. Orvis said the applicant would be agreeable to not having the crane use the route and that the logger must be empty. However, he asked how the applicant would handle doing a job on the route. Charlie King said the occasional job would be okay but not daily use by prohibited vehicles. The Planner said the Town must have a mechanism to address complaints when abutters call to complain.

The Planner said the purpose of any notification requirement would be to protect the applicant not restrict him. She said this was a proactive step for handling complaints and was not intended as regulatory. Notification could be made to the CEO within normal business hours otherwise the Police Department would be notified. The notification should not be construed as an approval and would only be needed if the applicant was doing a job along the approved travel route. It would simply be a "heads up" in case a complaint is received.

Discussion turned to hours of operation and the time restrictions placed upon use of the travel route by the ZBA. The applicant asked if the restrictions applied when school was not in session. It was determined that they applied only when school was in session. In accordance with the ZBA's decision, there could be no travel along the route between 7:15 am to 8:00 am and 2:30 pm to 3:30 pm when school was in session. Hours of operation would be 6:00 am to 6:00 pm, except for the above restrictions, and would be Monday to Friday. The Board agreed that Saturday hours would be 6:00 am to 1:00 pm. Additionally, no wood processing could be done on site.

The next issue considered was repair of vehicles at the applicant's property. It was agreed that repairs could be done on site during the approved hours of operation. The Planner stated that abutters' rights must be considered as this is a residential neighborhood and if the applicant wanted a location to come and go as he pleased, he should have chosen a different location.

The applicant asked about emergency call outs. The Board agreed that these conditions/restrictions apply to normal circumstances and not bona fide emergencies. However, notification must be given to the CEO or PD for emergency work outside of normal hours of operation.

The issue of a road bond was discussed. Charlie King said if a bond were imposed, how it would be determined that any damage was caused by the applicant since other commercial vehicles use the same route. He felt it would be better to set restrictions on the heaviest vehicles and limit use of the route.

Charlie King said that vehicles over 33,000 pounds GVW should not be allowed except for the logger which must be empty to use the route. The crane is not allowed on the travel route except for a job as discussed above. Vehicles between 12,000 pounds GVW and 33,000 pounds GVW could be restricted as to the number of daily trips.

Chairman asked for any additional public comments, there were none and he closed the public hearing.

***Charlie King motioned to approve, with the following conditions, the Major Site Plan Application by David J. Haycock (Tax Map R-47, Lot 5) for property located at 96 Bunker Street to allow the operation of a logging company as a home business. The proposal includes locating storage trailers on the property, construction of a pole barn, and on-site equipment and vehicle storage.***

- 1. Construction of a plunge pool, as recommended by Fay, Spofford and Thorndike Engineers, with pool to be shown on the plans;***
- 2. Required wetlands permit to be obtained from the State and a copy supplied to the Planning Board when approved;***
- 3. Note on plan regarding fuel storage to be amended stating that fuel storage must be in compliance with all Federal, State and local requirements;***
- 4. The hours of operation will be 6:00 am to 6:00 pm Monday to Friday and 6:00 am to 1:00 pm on Saturday;***
- 5. Travel to and from the site on the approved travel route will be between the hours of 6:00 am and 6:00 pm Monday to Friday and 6:00 am to 1:00 pm on Saturday excluding the hours noted in the ZBA approval: from 7:15 am to 8:00 am and from 2:30 pm to 3:30 pm when school is in session;***
- 6. Vehicles traveling to and from the site are restricted to a maximum GVW of 33,000 pounds except for the International log truck (GVW 54,000 pounds) which must travel empty to and from the site;***
- 7. All vehicles using the travel route to and from the site are limited to those owned by DJ's Tree Service not subcontractors;***
- 8. All contracts between DJ's Tree Service and property owners on the approved route require advance notice to the Code Enforcement Officer and/or Farmington Police Department;***
- 9. Emergency work outside of the normal hours of operation also requires notification to the Code Enforcement Officer and/or Farmington Police Department;***

***2<sup>nd</sup> David Kestner.***

*Charlie King asked how an issue or change might be handled several years down the road. Planner Menici said any change would require an amended site plan or the Board could add a condition of*

approval for a specific item. An additional condition was proposed to handle a change in the travel route.

- 10. Applicant will use the travel route as determined by the Town of Farmington subject to approval by the Board of Selectmen following input from the Planning Board and subject to the 8-ton load limit posted each spring.**

**David Kestner accepted the friendly amendment to the motion.**

Discussion followed regarding how to handle damage that could be directly attributed to the applicant's vehicles. Charlie King said the Town could litigate as it would with other issues. To bring the applicant back before the Planning Board for non-compliance would require that the Board impose a condition such as the applicant could not cause excessive damage to the roadway. The Planner said a condition must be something concrete such as limiting the number of trips tied to vehicle weight. The following condition was added by Charlie King:

- 11. Vehicles over 12,000 pounds GVW are limited to the equivalent of six (6) round trips a day.**

**David Kestner accepted the additional condition. With no further discussion, the motion carried with all in favor.**

**At 8:35 pm David Kestner motioned for a 5 minute recess; 2<sup>nd</sup> Charles Doke. Motion carried with all in favor.**

**Chairman Parker reconvened the meeting at 8:40 pm.**

#### **CONT'D BUSINESS BEFORE THE BOARD:**

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

The Board continued their discussion. Under definitions, normal circumstances will say wind speed not to exceed 30 mph instead of 10 mph. Planner Menici said paragraph 6(c) was rewritten to remove reference to lumens since it has been determined that lumens are not an accurate measure of light trespassing on abutting properties. As the Board had directed at the last meeting, lights cannot be higher than 15 feet except for seasonal lighting which can be up to 55 feet.

**Paul Parker motioned to accept the draft of the Small Wind Turbine Ordinance as amended and move it forward for Public Hearing on January 3, 2012; 2<sup>nd</sup> Charles Doke. Motion carried with all in favor.**

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

Planner Menici said at the last meeting, the Board asked for changes and deletions to the draft and it was given to the CEO as requested. He agreed and made additional changes. The Code is now down to twelve pages consisting of five pages of definitions and seven of code. Charlie King commented that simplifying would make it easier to understand and enforce.

Chairman Parker said that Section IV paragraph 1 still did not address the use of vent less heaters. After brief discussion the Board agreed to leave the paragraph as written due to concerns with carbon monoxide buildup and inadequate permanent heating.

***Charlie King motioned to accept the draft of the Housing Maintenance and Occupancy Code as amended and move it forward for Public Hearing on January 3, 2012; 2<sup>nd</sup> Charles Doke. Motion carried with all in favor.***

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

Planner Menici said the Board had previously accepted the proposed zoning amendment for a lesser front setback in Lancelot Shores but it needed to be moved forward to public hearing.

***Charlie King motioned to move the proposed zoning amendment for creation of the Lancelot Shores Overlay District forward for Public Hearing on January 3, 2012; 2<sup>nd</sup> Paul Parker. Motion carried with all in favor.***

The Planner said the Board had also previously come to an agreement on the boundary line for the rezoning of the commercial district on Route 11 from Tappan Street to the New Durham town line. She said this was necessitated because the 2009 change to a 1,000 foot setback allowed business to encroach into established residential neighborhoods. This proposed change also needed to be moved forward to public hearing.

***David Kestner motioned to move the proposed changes to the Commercial Business District along Route 11 from Tappan Street to the New Durham town line forward for Public Hearing on January 3, 2012; 2<sup>nd</sup> Charlie King. Motion carried with all in favor.***

***At 9:05 pm Charlie King motioned to adjourn; 2<sup>nd</sup> David Kestner. Motion carried with all in favor.***

Respectfully submitted,  
Bette Anne Gallagher  
Department Secretary

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Chairman, Paul Parker