

**TOWN OF FARMINGTON
PLANNING BOARD SPECIAL MEETING
Tuesday, January 3, 2012
356 Main Street, Farmington, NH**

Board Members Present: Paul Parker, David Kestner, Charles Doke, Glen Demers

Board Members Absent: Cindy Snowdon

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, John Morganti, Maria Morganti, Ray Cardello,
Lynda Healey and Al Healey

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 20, 2011**

David Kestner motioned to approve the minutes of December 20, 2011 as amended; 2nd Charlie King. Motion carried with three in favor and one abstaining.

- **Any other business to come before the Board**

Chairman Parker said the proposed zoning amendments scheduled for tonight's public hearing were posted on the Town's website at www.farmington.nh.us.

Planner Menici said that if any changes were made to the zoning amendments tonight, a second public hearing was necessary and the tentative date for the second public hearing would be January 17, 2012 at 6:30 pm. The third public hearing would be February 1st but that date did not have to be made official until the January 17th meeting when it would be determined if changes necessitated a third public hearing.

Chairman Parker announced that both the Planning Board and Zoning Board were in need of volunteers. Planning needed one regular member and three alternates and Zoning needed alternate members. He suggested that anyone interested in volunteering for one of the boards should speak to Planner Menici.

The Chairman thought it would be a good idea to have a poster at Town Meeting asking for volunteers. Charlie King suggested this might be a good project for the after school program, the other members agreed. Rick Conway will be contacted.

At 6:20 pm David Kestner motioned for a 10 minute recess; 2nd Charlie King. Motion carried with all in favor.

Chairman Parker reconvened the meeting at 6:30 pm.

PUBLIC HEARINGS ON PROPOSED ZONING AMENDMENTS FOR 2012

1. To make changes to the boundary of the Commercial Business District from Tappan St. to the New Durham town line. The purpose of the change is to remove specific residential neighborhoods from the Commercial Business District and include them in either the Suburban Residential District or the Rural Residential District.

Planner Menici said in 2009 a rezoning on Route 11 extended the commercial setbacks to 1,000 feet on both sides of the road. This created conflicts in the area from Tappan Street to the New Durham town line between commercial and residential setbacks and minimum lot sizes resulting in a number of variance requests to the ZBA. Due to this, the Planning Board looked at the zoning ordinance. Charlie King commented that the proposed amendment would return the setbacks to where they were prior to the 2009 rezoning.

With no further comments from the Board, the Chairman opened the discussion to the public. There were no comments and discussion was closed to the public.

Charlie King motioned to move forward to Town Warrant the proposed changes to the boundary of the Commercial Business District on Route 11 from Tappan Street to the New Durham town line; 2nd David Kestner. Motion carried with all in favor.

Planner Menici will work with Town Counsel on the specific language for this warrant article and will provide a copy to the Board for informational purposes when it is ready.

2. To create a Lancelot Shores Overlay District within the Agricultural Residential District to allow a front (street) setback of 25 feet.

Planner Menici said she had noticed that a number of property owners in Lancelot Shores when applying for a building permit for a porch or minor expansion were denied and then directed to seek relief from the ZBA because of the 50 foot setback requirement in the agricultural residential zone. This subdivision was established in 1965 – 1966 prior to zoning in Farmington creating unique conditions.

Earlier this year Planner Menici had contacted the president of Lancelot Shores Homeowners Association for permission allowing the Planning Board members to visit Lancelot Shores in order to become familiar with the subdivision. All members were of the same opinion that many of the properties encroached into the 50 foot setback.

The Planning Board took note of the number of special exceptions and variances in front of the ZBA and the burden this placed on property owners including a potential cost of \$400.00. The issue was discussed during work sessions and the Planning Board decided to go forward with the proposed setback change only for the Lancelot Shores subdivision.

Planner Menici said the proposed setback of 25 feet was arrived at by looking at other residential areas with small lots. A smaller setback could potentially impact maintenance and utilities.

The Chairman opened the discussion to the public.

John Morganti showed the Board the original covenants from 1965 that had a front setback of 20 feet, a side setback of 10 feet and required a setback of 20 feet from the shoreline.

Planner Menici said the proposed change would apply to both new construction and additions to existing structures. The Chairman said the proposed change would address a great many of the issues caused by the 50 foot setback.

Linda Healey said the lots are small and even the 25 foot setback presents problems. However, the Planner pointed out that the setback is currently at 50 feet with a three acre minimum. The proposed change would be only for the front setback. Side and rear setbacks would remain at 15 feet as well as the State mandated 50 foot shoreline setback.

It was pointed out that the zoning ordinance cannot address all situations, but strives to meet the majority. If a property owner cannot meet the requirements, he/she can still seek a variance from the ZBA if the criteria for hardship can be met.

There were no further comments and discussion was closed to the public.

Charlie King motioned to move forward to Town Warrant the proposed amendment to create a Lancelot Shores Overlay District within the Agricultural Residential District to allow a front (street) setback of 25 feet; 2nd David Kestner. Motion carried with all in favor.

3. To add a new Section 3.08 – Small Wind Energy Systems to identify standards, public and abutter notification requirements, and abandonment of the system.

Chairman Parker stated that the Board had been working on this zoning amendment for several years. It was a difficult task. Most of the requirements are State mandated, but the Town has tried to make it easier for the small user to install a system. The Chairman said the Board felt the proposed amendment would serve the Town well.

The Chairman read the Purpose and touched on Definitions and Standards. He said one unique aspect of the proposed amendment was the two tiered fall zone requirement. Planner Menici said if the Town does not choose to adopt this amendment, the State requirement will be 150 percent of the system height without any allowance for system size. David Kestner commented that the Board tried to make this amendment more reasonable than the State requirements.

Chairman Parker opened the discussion to the public.

Neil Johnson asked if minor site plan review would be required for systems less than or equal to 20kW and what the cost of application will be. The Planner said for the smaller systems only approval by the

Building Inspector is necessary and that the Planning Board does not set fees. That will be an issue for the Board of Selectmen if the proposed amendment is adopted.

Mr. Johnson asked who would measure sound levels. Planner Menici said that is the responsibility of the property owner with oversight by the Building Inspector and that sound is measured with a decibel meter at the unit. She also stated that most manufacturers will provide a statement (certificate) from an engineer regarding the sound level and that would be acceptable.

Charlie King said the sound level threshold is defined more for compliance should the level change due to mechanical problems.

There was additional discussion that as written the amendment would preclude acceptance of a manufacturer's statement. The Board said they had discussed whether the Police Department should take the measurements but since there is professional staff (Building Inspector) to verify, this was not felt to be necessary.

Neil Johnson said he thought the proposed amendment was vague with regard to color of the tower. The Chairman stated that there had been discussion on color, and the Board felt that unobtrusive was the best decision. Al Healey said most towers come in white and David Kestner commented that most people would say white was unobtrusive.

The Chairman closed the public discussion.

David Kestner motioned to move forward to Town Warrant the proposed amendment to create a Small Wind Energy System ordinance as written; 2nd Charlie King. Motion carried with all in favor.

4. To add a new Section 1.08 - Housing Maintenance and Occupancy Code to identify responsibilities for property maintenance as well as minimum standards for basic equipment and facilities, lighting, ventilation and thermal standards. The proposed code also identifies requirements regarding the safe and sanitary maintenance of parts of dwellings and dwelling units, and the powers and duties of the Code Enforcement Officer as they relate to this ordinance.

Planner Menici said the Code was adopted in 1986 and was quite cumbersome at 27 pages in length. The CEO was asked to review the document. Both he and Town Counsel felt that a lot of the Code was close to being unenforceable and must be simplified. The CEO rephrased, added references and brought the document down to twelve pages, six of which are definitions. The reworked Code is more understandable and enforceable.

Town Counsel reviewed the edited document and suggested removing the enforcement section advising that a separate section on enforcement is no longer necessary if the Code is adopted into the Zoning Ordinance as it would be enforced the same as any other section.

Planner Menici read the one paragraph that Town Counsel recommended and said enforcement would mainly deal with the areas of trash, non road worthy vehicles and illegal dwelling units.

Charlie King stated he felt the Board should follow Town Counsel's recommendation and hold a second public hearing and all Board members agreed.

Charlie King motioned to accept as written the recommendations of Town Counsel to amend Section VII; 2nd David Kestner. Motion carried with all in favor.

There were no questions from the Board on the remainder of the document and the Chairman opened the discussion to the public.

Alfred Healey referred to Section I (1) and asked how trash would be dealt with. The Chairman said the CEO who is also the Town's Health Officer should be notified. Planner Menici said a complaint form must be completed and filed with the Town so appropriate action can be taken.

Charlie King said adoption of the Housing Code will help the CEO with enforcement on a difficult property. He also said that taking a property owner to Court takes time and costs the Town a considerable amount of money. Mr. Healey asked if adopting the Code will help and the Chairman said it should. Charlie King said there have been instances where the CEO has prohibited occupancy based upon violations.

Ray Cardello said the Code appears to deal with health and safety on improved properties and asked if it applies to empty lots. The Chairman said it can help. Charlie King said some issues could fall under junkyards as defined by State statute and enforced through the CEO.

The Planner asked Mr. Healey if the property he was referring to was on the lake side of the road. He said it was on the opposite side but within 150 feet of the water. The Planner suggested that he contact the State at the Department of Environmental Services with his complaint as this would fall under the Shoreland Protection Act. The DES will then contact the CEO for photos and information and start their process.

Linda Healey asked how they could deal with the large RV that was encroaching on the space for snow storage and if the Town could tow the vehicle. She was told that would be difficult and that the road is private. Again it was recommended that the DES be informed of the issue.

The issue of how many unregistered vehicles are allowed on a property was brought up and discussed. The Planner confirmed that State statute under RSA 236:112 two or more unregistered vehicles constitute a junkyard.

Charlie King motioned to change Section I Paragraph 9 to read: The owner or occupant of a dwelling unit shall not store, place, abandon, or allow to accumulate unregistered motor vehicles of any classification or variety upon the premises that would cause the premises to become a junkyard as defined by the State in RSA 236:112; 2nd Glen Demers. Motion carried with all in favor.

There was discussion regarding language to clarify where responsibility falls in Section I Paragraphs 7, 8 and 10.

At 8:15 pm Charlie King motioned for a 5 minute recess; 2nd David Kestner. Motion carried with all in favor.

Chairman Parker reconvened the meeting at 8:25 pm.

Planner Menici recommended that the paragraphs be amended to say the owner of a dwelling unit for rent.

Charlie King motion to amend Section I paragraphs 7, 8 and 10 to read: The owner of a dwelling unit for rent; 2nd Glen Demers. Motion carried with all in favor.

The wording of Section II Paragraph 1(a) was questioned, but the Board felt it was acceptable.

Neil Johnson said he felt the word “morals” in Section V at the top of the page should be removed.

Charlie King motioned to strike the word “morals” from Section V; 2nd Glen Demers. Motion carried with all in favor.

Chairman Parker closed the discussion to the public.

Paul Parker motioned to hold a second public hearing on the proposed Housing Maintenance and Occupancy Code on January 17, 2012; 2nd Charlie King. Motion carried with all in favor.

At 8:35 pm Charlie King motioned to adjourn; 2nd Glen Demers. Motion carried with all in favor.

Respectfully submitted,
Bette Anne Gallagher
Department Secretary

Chairman, Paul Parker