

**TOWN OF FARMINGTON
PLANNING BOARD MEETING
Tuesday, April 17, 2012
356 Main Street, Farmington, NH**

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

Selectmen's Representative: Charlie King

Board Members Absent: Cindy Snowdon

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

Public Present: Neil Johnson, Ray Thibodeau, Candid Arcidy, Roscoe Blaisdell,
Troy Robidas, Mike Sievert, Cathy Natale

At 6:07 pm Chairman Parker called the meeting to order and all present stood for the Pledge of Allegiance.

BUSINESS BEFORE THE BOARD:

- **Pledge of Allegiance**
- **Review and approve Meeting Minutes of April 3, 2012**

Charlie King motioned to approve the minutes of April 3, 2012 as written; 2nd Charles Doke. Motion carried with all in favor.

- **Kevin Gagne from FST on Richard's Way**

Planner Menici said this presentation from Kevin Gage was prompted by reports from FST regarding the Phase 1 and 2 elevation issues of which she became aware on December 1, 2011. FST has been waiting for communication from the developer's engineer regarding resolution to the elevation discrepancy between the phases.

The Planner explained that the Town's contract assessor had advised that lots in Phase 1 were listed for sale. Due to this the developer was contacted by letter and requested to post a bond just under \$750,000 to guarantee construction of the road. When the developer, Candid Arcidy, purchased the subdivision, she stated that she wanted to build the road in its entirety prior to marketing the lots without posting a bond as allowed under State law. The Planner added that because of this condition when the marketing of the lots was brought to her attention she consulted Town Counsel and Chairman Parker and that led the request for posting a bond and to tonight's discussion.

Chairman Parker said one lot had already been sold. However, Mrs. Arcidy said she had taken one of the lots for herself and that is the one that shows as being sold. She apologized stating that she thought the lots could be advertised once Phase 1 had been completed. Planner Menici said Phase 1 had not yet

been completed and the Planning Board had not signed off on the plans. In addition there are outstanding issues with elevation of the road from Phase 1 to Phase 2. She also stated that if a bond is not posted then the road must be finished through the wear course including the required gravel walkway, mailboxes, etc., as approved prior to any marketing. The Planner said a bond would guarantee completion of all requirements including drainage.

Planner Menici said a letter was sent to Mrs. Arcidy and she quickly responded and offered to post a bond first in the amount of \$195,000 and subsequently in the amount of \$300,000. The Planner turned the discussion over to Kevin Gagne.

Board members asked that Mr. Gagne: start with the technical issues on elevation and then address how to continue; tie in the plans with an overall view to give delineation of Phases 1 and 2.

Mr. Gagne said in December, 2011 final grading and paving of Phase 1 were scheduled back to back to take advantage of the final opportunity before winter weather set in. This did not allow sufficient time for FST to schedule and conduct necessary field evaluations prior to paving. The end of the road in Phase 1 that formed the approach to Phase 2 followed the profile, but the whole was lower by one foot. He showed the low point where both phases meet and explained that because of the height difference ice built up and created a swale forcing water across the road.

Mr. Gagne said two ponds are specified for the drainage. One has been completed as part of Phase 1 and the second is largely completed with only seeding and loaming to finish. At this time water from the second pond is being diverted.

FST wanted to see profiles to assure correction of the elevation issue and correct tie in of Phases 1 and 2 and have been waiting for plans from the developer's engineer, Norway Plains, showing the new elevations and grade since December. These were received within the last couple of days. One catch basin will be lowered and grading will be modified in Phase 2 with a change of about one-half percent. Mr. Gagne explained that there would be no change in the delineation because they are able to keep the low point at the basin by adjusting the surface height.

Mr. Gagne said the proposal seems logical to FST. The applicant should be submitting the proposed changes to the Board.

David Kestner asked if the existing catch basin would have to be ripped out and reset eight or nine inches lower and the culverts, swales and headwalls readjusted. Kevin Gagne said only the surface level would have to be adjusted.

Ray Thibodeau commented that the surveyor had laid it out too low. Kevin Gagne said it appeared there had been a misunderstanding about what the marks on the stakes meant.

Charlie King said the Board was relying on FST to assure the Board that the modifications are correct and will work. Mr. Gagne responded that FST is looking to the developer's design engineer to supply that information so it can be verified. He also said the changes proposed work with what exists and appear to be adequate. He said FST has been asking Norway Plains the same questions as the Board is now asking.

Discussion next turned to the performance bond and what would be an appropriate amount. Mr. Gagne

explained that he obtained the original estimate from FST in the amount of \$750,000. He also obtained the original bids from the developer. Those three were in the \$600,000 range and all were within \$5,000 to \$10,000 of one another. He said the figure of \$750,000 was on the conservative side.

Mr. Gagne took the figure of \$750,000 and looked at the cost per linear foot at the same time keeping in mind that Phase 2 is less expensive because there was more drainage in Phase 1. He came up with an amount of \$361,500. Then using conservative numbers he wanted to see if the applicant's offer of \$300,000 was in the ballpark. Taking his figure and deducting amounts for the clearing and grading (\$50,000) that has been done; a good portion of the rough work that has already been completed in Phase 2; and the erosion controls as well as the detention pond that are in, he came up with \$279,500. That would mean the developer's figure of \$300,000 allows 8 percent for contingencies.

Planner Menici said the figure of \$750,000 was presented when the Board approved the extension requested in December 2010. Kevin Gagne said the only other way to come up with a figure was to have FST and Norway Plains redo the entire estimating process but this has not been done in the past and would be an additional expense to the applicant. Charlie King said that Mr. Gagne had been conservative in this estimate and the guaranteed surety was better than a bond and also exceeded the estimate arrived at by FST.

Following additional discussion, it was agreed that FST would further review the developer's submissions and prepare a report for the May 15th meeting. The Board agreed to accept the check for \$300,000 but at the same time made the developer aware that if FST's review indicated a higher amount was necessary she would need to provide the additional funds. Mrs. Arcidy agreed to any adjustments to the surety.

In answer to a question about continuation of the work on Richard's Way, Kevin Gagne said it would be in the best interests of the Town to allow work to continue. Mrs. Arcidy said for now they would stay within 200 feet of the junction of the two phases.

Planner Menici said she was concerned regarding the lots being advertised for sale through the Multiple Listing Service and signage on the parcel because the Board had not signed off on Phase 1. Charlie King said he would like to see Phase 1 solidified prior to any lots being sold. Mrs. Arcidy asked if the signs had to come down and expressed her concern that she would lose the selling season. She offered to increase the surety if the Board felt this was necessary. It was agreed that the lots could be advertised but no transfer of title could take place until all issues with Phase 1 were resolved and the Board signed off on it. Any Purchase and Sale contract entered into prior to that time must have a clause stipulating that the transfer will not take place until Board approval is given.

This matter was continued for discussion until May 15, 2012.

Charlie King motioned to accept the \$300,000.00 guaranteed cash surety for the previously approved Richard's Way project and allow the applicant to continue construction. No lots will be transferred until Phase 1 is approved and signed off by the Board; 2nd Charles Doke. Motion carried with all in favor.

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

Planner Menici reminded the Board that there was other business that should be continued until after the

public hearings.

Charlie King motioned to continue Other Business to the end of the meeting; 2nd David Kestner. Motion carried with all in favor.

Application for Minor Subdivision by: Troy and Betty Robidas Revocable Living Trust (Tax Map R16, Lot 2-1) for property located at 139 Governors Road. The applicant proposes to subdivide the existing 15.38 acre parcel into 4 lots from 1.45 acres to 10.71 acres – 3 new residential lots and 1 lot with an existing residence. The parcel is located in the Rural Residential (RR) Zoning District. (Continued from March 20, 2012.)

This project has changed from a major to a minor subdivision. Roscoe Blaisdell explained that he moved the lot lines to achieve the required 30,000 square foot building area, he added wetlands delineation, and after TRC meeting added notes to the latest plan revision dated April 4, 2012.

Chairman Parker said Note 6 on the plan reduction should read 4 lots not 5 lots and Note 9 had the easement on the wrong lot. It appeared that changes had been made to the large plan sets but not the reductions. Planner Menici asked that a corrected reduction be provided since that was the copy retained in the file.

The Planner said the revised plans meet the intent of the regulations. The remaining issue for lot 2-4 is the well. The existing home will have a new well and the current well will be on lot 2-4. The radius will extend onto lot 2-1 and an easement will be necessary. The impact of the revision is not as significant as previously proposed. The revised plans also show the replacement 4,000 square foot area as required by the State.

Planner Menici noted that elevations are now shown for the wetlands and asked if the Board felt enough was shown or if they wanted to require more. Mr. Blaisdell said the land behind the elevations shown is flat. Charlie King said it would be acceptable to him to consider that as a waiveable requirement.

A short discussion occurred regarding back lot development. Planner Menici said any development would require crossing a significant amount of wetlands and require a wetlands crossing permit. Mr. Blaisdell said it would be over 400 feet and DES was unlikely to grant a permit. The Planner agreed.

Charlie King asked if a waiver would be necessary for lot 2-4 because of the shape of the buildable area. The Planner said it was not because the shape meets the intent of the regulations. However, Mr. King suggested a formal motion so that the issue would be clear for future applicants. Roscoe Blaisdell said a second waiver from delineating topography for the entire parcel was needed.

Charlie King motioned to grant a waiver from Section 4.04.06 with regard to the shape of the buildable portion of the lot in that the intent of 30,000 square feet of high quality buildable uplands is met; 2nd Charles Doke. Motion carried with all in favor.

Charlie King motioned to grant a waiver from Section 8 Paragraph 10(b) with regard to showing elevations every five feet on the full wetlands delineation; 2nd Charles Doke. Motion carried with all in favor.

The Board discussed the well currently on 2-1 that will become the well for 2-4 as to how a condition of approval should be structured to protect both lots and ensure that the new well for 2-1 is installed and an easement put in place for the well radius from lot 2-4.

It was agreed that the new well must be installed and the existing well disconnected prior to transfer of the properties. Also that Town Counsel should review the easement before the mylar is signed and the mylar and easement should be recorded at the same time.

Charlie King motioned to accept the application as substantially complete; 2nd David Kestner. Motion carried with all in favor.

At 7:30 David Kestner motioned for a five minute recess to allow the Planner time to compose language for Note 13; 2nd Charlie King. Motion carried with all in favor. At 7:43 the Board reconvened.

Planner Menici read the language for amending Note 9 and new Note 13:

Note 9 should be amended to read: There will be an easement recorded on Lot 2-1 prohibiting any septic systems, etc., to be built within 75' of the existing well on Lot 2-4. See easement for more specific restrictions.

Add a new note 13 to read: Prior to the individual transfer of either Lot 2-1 or 2-4, the existing well located on Lot 2-4 must be disconnected from the existing house on Lot 2-1. A new well must be installed on Lot 2-1 as approved.

Chairman Parker opened the discussion to the public. There were no comments and he asked the Board members for any further comments. Glen Demers asked how to insure compliance on the wells if someone buys both lots with the intention of holding onto for his/her children and then later sells lot 2-4. The Planner suggested adding "prior to the issuance of a building permit".

New note 13 will read: Prior to the individual transfer of either Lot 2-1 or 2-4, or prior to the issuance of a building permit for Lot 2-4, the existing well located on Lot 2-4 must be disconnected from the existing house on Lot 2-1. A new well must be installed on Lot 2-1 as approved.

The Planner will send the exact wording, as agreed to above, to Roscoe Blaisdell by email.

The Chairman closed the public discussion. The Board discussed conditions of approval.

David Kestner motioned to approve the Application for Minor Subdivision by Troy and Betty Robidas Revocable Living Trust (Tax Map R16, Lot 2-1) for property located at 139 Governors Road in the Rural Residential Zoning District to subdivide the existing 15.38 acre parcel into 4 lots from 1.45 acres to 10.71 acres – 3 new residential lots and 1 lot with an existing residence – with the following conditions:

- 1. amend Note 9 to read: There will be an easement recorded on Lot 2-1 prohibiting any septic systems, etc., to be built within 75' of the existing well on Lot 2-4. See easement for more specific restrictions;***

2. *new Note 13 to read: Prior to the individual transfer of either Lot 2-1 or 2-4, or prior to the issuance of a building permit for Lot 2-4, the existing well located on Lot 2-4 must be disconnected from the existing house on Lot 2-1. A new well must be installed on Lot 2-1 as approved;*
3. *monumentation shall be set on the plat and in the field prior to recording;*
4. *the surveyor shall provide a written statement certifying that the monumentation has been set; and*
5. *All applicable local, state and federal regulations must be met.*

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

Application for Amended Site Plan Approval by: Catherine Natale (Tax Map R29, Lot 12-4) for property located at 576 Ten Rod Road. To allow for a 672 sq ft. structure to house a small scale retail store and to reorient the store front, parking and loading and to improve drainage for the previously approved retail store. The parcel is located in the Agricultural Residential (AR) Zoning District.

Planner Menici informed the Board that the revised plan was received late Friday afternoon and handed out a revised memo based upon her review.

Michael Sievert, as agent, said this application was to amend a previously approved major site plan to reorient the store front 90 degrees providing for better parking and turning. The footprint of the store remains the same but instead of being 24 feet x 24 feet with a 10 foot covered porch the building will be 24 feet x 28 feet with a 6 foot covered porch. The interior space will increase from 576 to 672 square feet. The amended plan also provides for improved drainage.

Mr. Sievert said the parking lot and walkway will be paved and ADA accessibility will be met

Chairman Parker said a waiver had been granted for paving under the original approval and asked if the waivers originally granted would have to be granted again. Planner Menici said that they would not, that all the original conditions remain in effect and should be referenced in the motion if this amendment is approved.

Planner Menici said in her memo to the Board she had suggested either continuing the application to the May 15th meeting or including a condition of approval to allow the Public Works Director to approve the proposed drainage plan. Additionally, a revised floor plan would be needed because the interior retail space had increased and the restroom and food prep area must be included.

Chairman Parker said the restroom is required for employees but access by the public would be the applicant's choice.

Mike Sievert said he had spoken with Scott Hazelton, DPW Director regarding his recommendations for the proposed drainage and felt he had met all the Director's requirements.

The Board agreed that approval of the drainage at the time of placement by DPW Director Hazelton should be a condition of approval. The proposed drainage was discussed and the Board clarified with the agent that no water would be directed onto the roadway or any abutting properties. Mr. Sievert

confirmed that stormwater runoff would not impact anyone. Cathy Natale said the closest abutter was 500 feet from the roadway on Button.

Charlie King asked how the signatures from the original surveyor and wetlands scientist would be applied to this amended plan. Mr. Sievert said the original parties could stamp/sign this plan or the original can be referenced on this plan because there were no changes to the original. Planner Menici said referencing would be the best way. Glen Demers agreed that referencing would be best. David Kestner said there was a change to the size of the retail store. The Planner said the reference would only be for the survey work and wetlands delineation. Mr. Sievert will add the references and provide a revised floor plan. The Planner said the revised floor plan should include the shelving, preparation area and bathroom and this plan will also be required as part of the building permit process.

Chairman Parker asked Mr. Sievert if all the concerns of Director Hazelton had been satisfied. Mr. Sievert said based upon his discussion with the Director on the preceding Friday he believed that they had, but he was comfortable with conditional approval for review and approval by the DPW Director.

Glen Demers said this amended plan was a much nicer and more thorough design than the original. The Chairman asked if the lighting had been addressed. The Planner said the applicant had presented a good plan. Mr. Sievert said putting a light on the existing pole as suggested was not the best place and he recommended a separate pole mounted light. Lighting of the entrance sign was discussed and it was decided not to require a lighted sign. The applicant's preference was not to light the entrance sign.

Charlie King motioned to accept the application for amended site plan approval as substantially complete; 2nd David Kestner. Motion carried with all in favor.

Chairman Parker opened the public discussion. There were no comments and he closed the public discussion.

Planner Menici said this plan is much improved with better traffic flow and reduced abutter impact.

Charles Doke motioned to approve the Application for Amended Site Plan Approval by Catherine Natale (Tax Map R29, Lot 12-4) for property located at 576 Ten Rod Road in the Agricultural Residential Zoning District to allow for a 672 sq ft. structure to house a small scale retail store and to reorient the store front, parking and loading and to improve drainage for the previously approved retail store with the following conditions:

- 1. add plan reference to previously approved site plan for wetlands delineation and survey work;***
- 2. revised floor plan including location of shelving, restroom and food preparation area;***
- 3. all conditions on the December 28, 2010 Notice of Decision are incorporated by reference into this Amended Site Plan Approval.***
- 4. all applicable local, state and federal regulations must be met.***

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

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

Chairman Parker asked Charlie King if there was an answer from the Selectmen regarding the return of some of the chairs that had been replaced. Mr. King said he had brought it up but there was no decision

and he will speak to the Interim Town Administrator when he returns from vacation.

The Planner reminded the Board that there was a DES Drinking Water Source Protection Workshop on May 2nd in Concord and anyone interested should contact either Bette or herself to register. There was another reminder from Dave Connelly, Chairman of the Conservation Commission, regarding the Workshop the following evening at Old Town Hall from 6:30 pm to 8:30 pm. There was also a letter for information only from DES regarding timber harvesting on Meetinghouse Hill Road.

Planner Menici said she recently received a call from a resident who had in December 2005 received approval from the Planning Board for a site plan review application to allow a two-structure commercial condominium with related parking and infrastructure on a 6.88 acre parcel with frontage on both Route 11 and Ridge Road. Approved access to the property was from Route 11. To date, none of the improvements have been constructed.

The notice of decision included eight conditions of approval. The NH-DES wetlands permit that was required expired on August 1, 2011. The NH-DES Alteration of Terrain expired on November 9, 2010. The NH-DES subsurface permit that was required as a condition of approval was not received by the Town. The notice of decision required revisions to the condominium association documents and revised condo docs have not been provided to the Town, nor were they recorded at the Strafford County Registry of Deeds.

The Planner said that Section 15, Paragraph B.5. of the Town of Farmington Site Plan Review Regulations states that “conditional approval shall be valid for a period of one year. The Planning Board may, at its discretion, extend the Conditional Approval beyond one year, in one-year increments. Extensions beyond the second year shall only be granted if the only outstanding conditions are State approvals and the applicant can demonstrate that such approvals were requested in a timely fashion.” As there are outstanding conditions of approval and no request for an extension was submitted to the Planning Board, staff is seeking a determination from the Planning Board regarding the status of this project.

Planner Menici said the property has been for sale for some time and according to the Town Clerk back taxes are owed. After discussion, the Board decided that the owner should be notified that the conditions of approval have not been satisfied and the site plan approval has expired. The owner may reapply to the Planning Board and although the same plan may be presented, if approved, the conditions may be different.

There was no other business to come before the Board.

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

Respectfully submitted,
Bette Anne Gallagher, Department Secretary

Chairman, Paul Parker