

**TOWN OF FARMINGTON
PLANNING BOARD MEETING
Tuesday, September 4, 2012
356 Main Street, Farmington, NH**

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

Selectmen's Representative: Charlie King

Board Members Absent/Excused: Cindy Snowden

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

Public Present: Andrew Brassard from FST and Candid Arcidy

At 6:03 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 August 21, 2012**

Charlie King motioned to approve the Minutes of August 21, 2012 as amended; 2nd Charles Doke. Motion carried with all in favor.

- **Update on Richards Way**

Planner Menici reviewed that on July 17th the Board conducted a site visit and during the meeting that followed discussed their concerns that the project was not proceeding as planned. The construction schedule was not being updated weekly to show when specific items were being completed. The Planner had discussions with both the developer, Candid Arcidy and the town engineer, FST, regarding changes to the schedule. The Board asked that either the owner or her representative attend tonight's meeting. The Planner was asked to monitor activities and ask FST to attend if concerns arose or if the completion dates were not being met.

In mid August while the Planner was on vacation three construction updates were received during one week and last week another update was received. A review of all these schedules showed that the changes discussed had not been implemented. Last week photos of the drainage were sent by the contractor showing flooding. Planner Menici said she is concerned about the project not being able to meet its deadline. She said the road was supposed to be completed last year. Candid Arcidy said that was only Phase 1 and that Phase 2 was supposed to be completed this past spring. The Planner said the end of another construction season is fast approaching and there was very good weather for the most part with only a couple of rain events of any significance. At this point in the year the weather is changing with more frequent rainy periods and the Planner said she is concerned that the project will stretch out until next year.

Chairman Parker asked if the developer would need another extension. Planner Menici said she would have to check the Notice of Decision for conditions of approval. She said she is very concerned that the contractor does not have sufficient personnel onsite to finish in a timely manner. There have consistently been a minimal number of people working on the site and if staffed appropriately the project would most likely have been completed.

Chairman Parker asked Drew Brassard from FST to speak. Mr. Brassard said he agrees with the staffing comments made by the Planner. He said when he is on site and points out erosion and other areas of concern, the

contractor is responsive but with only two people working he is fixing problems but not moving forward. He said that this is the smallest pipe crew he has ever seen adding that he is not saying it can't be done with a small crew but it is difficult to keep up with the schedule. Chairman Parker asked if Phase 1 was completed up to the final course. Mr. Brassard said Phase 1 still needs the top course which the contractor intends to do when Phase 2 is finished. Phase 2 does not have the gravel course laid yet and they are still doing underground drainage installation. Charlie King said it appeared that there were eight or nine remaining drainage items to be completed. Mr. Brassard said that was correct.

David Kestner commented that according to the construction schedule the contractor is more than one month behind. He also said that based upon the photos submitted they were lucky they had not lost the road and wondered how they would fare tonight with up to four inches of rain predicted.

Mr. Brassard he agreed with David Kestner that the three basins that have been reinstalled are sitting in a low point and they are a channel for water coming down and going into Governors Road. He said these three must be reshaped to standards and he was not sure if the contractor needs to reshape them before proceeding with the drainage. Another issue is the ledge that must be removed to achieve elevation for the basins down the line. The ledge must be removed and the basins reshaped in accordance with the new construction details. Vegetation is also a concern as growth is sparse and not withstanding erosion.

Mr. Brassard said that a quite a few months ago he did elevation shots and found discrepancies. The contractor said the reason for that was he had hit ledge and built around it. Mr. Brassard said that would be okay if the volume capacity for the pond is achieved. He recommended to the contractor that he consult with his own engineer, Norway Plains. It sounds like the pond can be constructed properly without removing the ledge but the berms must be reshaped.

Chairman Parker asked when the construction season will end noting that the State of New Hampshire DOT specification is the first week of November. Mr. Brassard commented that one year paving was done at the end of the second week in November but that is not the norm. The Chairman asked if completion could be achieved this season and Mr. Brassard answered that it was getting pretty tight.

It was noted that the developer had been given the full construction season to sometime in November 2012 for completion but not into 2013 and that this is the fourth extension. Mr. Brassard said he has seen bridges done in 14 days but to accomplish that sufficient personnel is needed. Candid Arcidy said she is working on bringing in additional crew from two other companies but they are working on their own projects and she is waiting for them to be available. She asked if the Board could recommend other companies that she could contact but both the Chairman and the Planner said the Board does not do that.

The Planner handed out copies of plans from Norway Plains that were received from the developer just prior to the meeting for distribution to the Board. Planner Menici said there had been no opportunity to review the information submitted and her concern was that this change might be significant enough that it becomes an amendment and will then require public and abutter notice and a formal hearing.

Charlie King asked if an overlay to the original plan was available however, Candid Arcidy said it was not. Planner Menici asked for an opportunity to review this plan, compare it with the original and then speak with Kevin Gagne about the changes.

In Mrs. Arcidy's opinion there will be no change in terms of volume from the original to this plan. It appeared to Board members that the depth on the new plan was higher by approximately two feet but the original elevations were not on this new plan for comparison purposes. David Kestner commented that it was necessary to compare this plan to the original stating that if the ledge is not removed then the berm height needs to be increased. He added that the trough created to help channel the water presents quite a bit of difference and the grading goes farther down the hill to create a back slope. Planner Menici said FST needs time to compare the plans and recommended that discussion wait until the next meeting.

Chairman Parker said more time is needed for the Board to examine the plans and the Planner needs time to review and make recommendations. The Chairman said he wanted to impress upon Mrs. Arcidy that this project must be completed on time but that was becoming more and more doubtful.

Addressing Mrs. Arcidy, Charlie King said that the Board was doing its best to work with her and the small construction crew. However, they are not able to stay on their own timetable. Although Mrs. Arcidy had stated that she was pursuing other avenues, Mr. King said there needs to be a significant change in manpower if there is any hope of completion. There are issues with the detention ponds and stabilization and throwing down grass seed with no covering is not sufficient. He stated that the little to no vegetative growth does not appear good enough to survive the winter without additional jute matting or other engineering solution. Mr. King emphasized that there must be significant change to get this project done. He added that without such change the Board will have no alternative but to micro manage the project and Mrs. Arcidy will be billed.

The Board discussed the undated photos provided by the contractor as an attachment to his email dated August 28th and titled "Reasons for delay in construction schedule." Although there have been no recent major rain events, there is a significant amount of groundwater and the area is a natural watershed. Although the Board recognizes that the contractor has experienced some unanticipated problems, typically additional crew would be put on the job to finish but this contractor has not done so. Mr. Brassard said the point of the email is to show conditions such as groundwater that should have been considered when the project was bid.

Chairman Parker said if the project is not completed this season, the developer will be looking for another extension and this Board is leery of granting one. Mr. Kestner wondered how much water is flowing under the road surface expressing concern that the road could be undermined.

At this point Chairman Parker said the Board should give the Planner and FST time to review the plan for the next meeting. Mrs. Arcidy asked if the contractor could continue working on the detention ponds. Mr. Brassard's opinion was he could work on ponds 1 and 2 but for the new pond it is not ideal to install the basin and then the pipe and said the ledge should be removed first. Mrs. Arcidy said they found out last week the ledge can be removed without blasting.

Charlie King said the Board needed a determination from the Planner as to whether the plans just submitted can be considered an as built change or an amendment to the original plan. Planner Menici said the contractor cannot build until the Board considers the new plan and FST's determination on whether it is an as built or an amendment. The Planner said the changes are looking relatively significant but will rely on FST's opinion. The Board will make a determination at the September 18th meeting. If the determination is that the plan is a modification to the original plan then a public hearing must be held with public and abutter notice. The next public hearing is October 16th. The Planner said that it may be possible to hold the hearing at the October 2nd meeting although this it would present a burden on staff. Charlie King said the Board needed the minutes and NOD's regarding extensions.

David Kestner motioned to continue the Richards Way discussion to September 18th pending review and opinion from FST and a timeframe for completion; 2nd Charlie King. Motion carried all in favor.

Planner Menici asked if the Board wanted FST in attendance at the September 18th meeting. The Board's decision was that it would depend on the findings. If it is a modification to the original plan FST should attend but if it is an as built change a memo would be sufficient.

- **2012 Work List**

Chairman Parker said the list was previously discussed but he wanted to give the two Board members who were not in attendance at that meeting an opportunity to present their thoughts. The list as discussed is:

- Signage
- Mobile Home Standards
- Rear Lot Development
- Wetlands

David Kestner said he was not quite sure what was to be covered under mobile home standards. Charlie King said the purpose was to review construction standards to make sure they meet the best interests of the Town. The CEO could provide recommendations for standards to the Board.

The Planner said the most frequently asked question from the public concerns the oldest unit that can be brought in and put on a lot in Farmington. She added that because Bette, as Department Secretary, is part time both she and CEO Roseberry answer questions from phone calls and walk ins and this has made them aware of what a significant issue this is. Planner Menici said she had read through the master plan in preparation for a meeting with the Economic Development Committee to determine its pertinence to the Committee as a guideline. She found a recurring theme from the two consultants who had helped with the Master Plan - Jeffrey Taylor, former Director of NH Office of State Planning and Russ Thibeault, one of the most recognized statisticians. The recurring theme was the disproportionate number of mobile homes and other low to moderate income housing units and how they do not pay their way in terms of contribution to necessary town services. One of the recommendations made was that the Town should undertake steps to improve the overall quality and increase residential values.

The Planner said that when a mobile home is sited on a lot it is set on a floating pad, connected to utilities and skirting is put around the bottom. These units do not create significant value but the unit brings in residents using Town services. Some towns require a permanent foundation or a 4-foot frost wall. Charles Doke said one reason for a permanent foundation is increased value.

David Kestner said a person buys a mobile home because he/she may not be able to afford more and questioned why we are asking for standards. Chairman Parker said a balance must be found between affordable housing and what the Town needs as a tax base for essential services. Charlie King suggested that this issue should be discussed with CEO Roseberry including what other towns do. The Board should look at the quality of housing in Town. He added that in 1973 mobile homes from other communities came here at the borderline of disrepair and the Town must have standards.

Planner Menici said standards would also mean better value for the property owner. If units continue to come in that that don't provide support in terms of services used it results in asking all other residents to subsidize those units and that is not acceptable. The Town must find the point of balance. The Chairman said standards could ensure more equity for an owner.

David Kestner stated that this is reverse discrimination because some people cannot afford stick built. Both Chairman Parker and Planner Menici said that is not the direction in which the discussion is heading. The Planner referenced an email from CEO Roseberry that states in part "In the past few years, manufactured housing has surpassed conventional stick built homes in Farmington." She posed the question to the Board of how much longer a community can provide schools and services if it keeps loading the bottom end of the tax base without encouraging growth at the other end. The intention is not to create an environment that excludes people from living here but at this point the scale is tipped too much toward the lower end with not enough in the middle or at the top end. She reminded the Board that any changes would apply to new mobile homes coming in but would not apply to existing mobile homes as they would be grandfathered. If the scales tip the other way then the regulations can be adjusted to bring back a balance.

David Kestner said he is sure he is not the only person that will have issues with this and looks forward to the discussion. Planner Menici said that when the Board has this discussion everyone should keep in mind that the purpose is not to prevent people from coming to the community for affordable housing but to provide equal opportunities across the board. Businesses can be driven away if property taxes are too high and high taxes would

also keep developers from coming in. Chairman Parker said he may bring up a discussion to look at workforce housing in Town. Charlie King said the Town already has a good proportion of workforce housing including rentals but they are just not labeled as workforce/affordable housing. Mr. King said when he first came on the Board mobile homes were allowed on privately owned land and in mobile home parks. Starting in 2005 most communities chose one option or the other and the Board chose mobile homes on their own land because they tend to improve over time but in parks they do not.

David Kestner said choice is fine but could have a lengthy discussion on affordable housing. As to priority he said it is already the third quarter and changes must be finalized in December in order to have public hearings in January. He felt signage was important but was not sure about rear lot development.

Planner Menici explained that people may have a back lot and would like to have a single family residence or maybe two or three homes on a single parcel but have no access to a class 5 road. She said in other communities she has seen the allowing of a flag lot. This provides for a 50 foot wide strip from the class 5 road to the rear lot providing the access needed to build. The 50 foot road frontage pole is owned in fee simple and is created by making arrangements with an abutter who has frontage to allow the creation of a driveway to the back lot for the purpose of obtaining a building permit. Regulations now allow a large parcel to do a rear lot subdivision provided there is sufficient frontage on the class 5 road to allow for shared access with the back lot. However quite a few parcels in Town are land locked and the change would give them an opportunity to build on their property. Chairman Parker asked if this change could be limited to a land locked parcel. Planner Menici said there must be a way to do that. She added that she is concerned over shared access because it could be fine at first with family but as family dies or moves away someone other than family would purchase and the shared access could then become a problem.

Charlie King was concerned that allowing flag lots could potentially create a lot more curb cuts and driveways and there could be two or three accesses right next to one another. Planner Menici said the road agent would still have to sign off on site distances.

Chairman Parker brought the discussion back to the work list order.

Planner Menici said that she could suggest a major simplification to the wetlands ordinance. It now talks about Class 1 wetlands being designated by the Conservation Commission but that has never been done. Class 2 wetlands are supposed to be wetlands depicted on the National Wetlands Inventory however that organization has not been funded since 1987 so each year it chips away at one percent of urban wetlands nationwide but are not even looking at rural areas. There are maybe three or four Class 2 wetlands mapped in Farmington. All other wetlands are considered Class 3. The regulations provide for Class 1 and Class 2 setbacks but none for class 3.

The current zoning ordinance provides no protection for wetlands in Town. The Planner suggested this work list item because of the difficulty in applying the ordinance as written. It provides no protection for the headlands of the Cocheco River and there are some significant wetlands that are not protected. Chairman Parker said he thought the wetlands should be number 1 and only put them at number 4 to allow time to wait for studies and then incorporate the ideas presented. The Planner said her idea for simplification would be easier for applicants and professional teams to understand and for the Town to apply. She would tie setbacks to soils so if soil was poorly drained it would have, for instance, a 25 foot setback and if very poorly drained or very soggy and wet then the setback would be 50 feet and that would be all the ordinance needed to say.

Charlie King said some of this will come from studies being done and some from Planner Menici. He said he wasn't concerned with order because a couple of items could be worked on at the same time. CEO Roseberry and the Planner could be working on some while the Board was simultaneously working on others.

Planner Menici said her recommendation would be signage, mobile home standards and wetlands.

Charlie King said he didn't think anything should be dropped but if one must be dropped he thought it should be rear lot development. He suggested that Planner Menici work on wetlands and CEO Roseberry work on signage.

Glen Demers recommended taking wetlands first but other than that the order did not matter. He said that wetland areas must be protected and taken into consideration when homes are built.

Paul Parker motioned to continue the work list discussion to September 18th; 2nd Charlie King. Motioned carried with all in favor.

- **Poster Project**

Chairman Parker said he was discouraged that the work that was assigned to a Board member to be done has not been done. The Board was trying to involve the schools in the project but as far as he knew there had been no discussion with them. Planner Menici said time was now too short for the project to work for November.

Charlie King motioned that the Poster Project is finished; 2nd David Kestner. Motion carried with all in favor.

- **Discussion of Community Planning Grant and continued review of the Subdivision Regulations**

Planner Menici said the Board of Selectmen had chosen Jeffrey H. Taylor from Concord. Mr. Taylor was one of the consultants that assisted with the revision of the Master Plan and the Town will benefit from working with him again. He will conduct a regulatory review and will make recommendations so the Town's regulations better support the goals of the Master Plan. She said she was working on the contract between the Town and the consultant. The contract would be reviewed with the Town Administrator and then sent to Town Counsel if necessary. It would then be sent to Mr. Taylor next week (week of September 10th) and the consultant could begin as early as September 17th. Planner Menici said when she spoke with him about the Board starting a review of the subdivision regulations and asked him if the Board should continue and he said to complete the review and put in draft form and they will schedule their review for the end of their process.

The Planner said at the next meeting there will be the continued discussion on Richards Way and the continued public hearing on the subdivision of the former Collins-Aikman property. She said there has been a lot of email activity and the applicant is moving aggressively to get together all the material that the Board requested and hopefully not a lot of time will be spent on that so the Board can spend time on the subdivision regulations.

The Planner added that if everyone comes prepared they can spend some time on the regulations on September 18th and also on October 4th. The Board agreed to this.

Charlie King motioned to add the continued review of the subdivision regulations to the September 18th Agenda; 2nd Charles Doke. Motion carried with all in favor.

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

None

At 7:43 Glen Demers motioned to adjourn the meeting; 2nd Charlie King. Motion carried with all in favor.

Respectfully submitted,
Bette Anne Gallagher, Department Secretary

Chairman, Paul Parker