

**TOWN OF FARMINGTON
PLANNING BOARD MEETING
Tuesday, September 18, 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: Janet Kalar, Steve Ferguson, Randy Orvis, Neil Johnson, Philip Hastings,
Ed Moran, George Saco, Kevin Baum

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 September 4, 2012**

Charlie King motioned to approve the Minutes of September 4, 2012 as amended; 2nd David Kestner. Motion carried with all in favor.

- **Continued discussion of Richards Way**

Planner Menici, at the Board's request, provided copies of the past Notices of Decision relative to this project. The extensions granted pertained to Phase 1 only with no completion date for Phase 2 even though the property owner indicated that the road in its entirety would be completed during the 2011 construction season. The original Notice of Decision dated to 2007 and the developer is in compliance with all those conditions. The Planner reviewed that earlier this year the Board had required a performance bond from the developer due to lack of progress. She received emails from Drew Brassard of FST, the Town's review engineer, at the end of last week, yesterday and today. Mr. Brassard was on site on Monday and last week and Candid Arcidy has hired a second contractor to deal specifically with erosion and slope stabilization. The original contractor, Ray Thibodeau will complete the road and drainage. The only issue Mr. Brassard raised on Monday concerned the ledge that is to be broken up to complete the detention pond. Mr. Thibodeau said his equipment would not be on site until Thursday but offered no explanation as to why there would be a delay. He met with the second contractor on Monday and said significant progress had been made to the areas of erosion. Mr. Brassard was preparing his weekly inspection report and when received the Planner will email it to the majority of the Board members but will mail it to David Kestner.

Chairman Parker asked if Phase 1 was complete. Planner Menici said it was completed to the binder course as required and the elevation issue that had existed between the two phases had been corrected. The plan changes needed for the detention pond with the ledge issue had been submitted by Norway Plains and reviewed by Kevin Gagne of FST. Mr. Gagne determined that the changes do not require an amended plan and an as-built plan provided at the end of the project will be sufficient.

Charlie King asked what the Board can do to keep the project on track. Planner Menici said because the developer has posted a bond and is continuing to work there is not much the Board can do except to keep pressure

on the developer. Chairman Parker said four extensions had already been granted and the project needed to be completed. David Kestner suggested that the Board allow the developer the opportunity to work with the two contractors and see how FST's reports go over the next 2 weeks. He stated that Mrs. Arcidy appeared to be trying in good faith to move forward. The other Board members agreed with this.

Charlie King motioned to follow the recommendation of the Town's engineer to accept the detention pond as an as-built change; 2nd David Kestner. Motion carried with all in favor.

- **Special Use Permit**

Planner Menici asked that before the Board started discussing the subdivision regulations they consider the letter from Randy Orvis requesting a special meeting for his client's special use permit application.

He stated that his client had a fire in his house and has been back and forth with his insurance company and the appraiser and now the insurance company was setting deadlines for reconstruction. The property owner had talked to CEO Roseberry about a variance and Mr. Orvis had discussed a special use permit with him because in Farmington property within 100 feet of a water body requires a special use permit. His client wants to have a hearing before the regularly scheduled November meeting. Mr. Orvis said his client is willing to compensate the Town for staff time and use of the building in order to have the extra meeting.

Chairman Parker questioned why the applicant wasn't coming to the October 16th meeting. The Planner said he had missed the deadline and although the Board could grant an extension of the deadline for submission, staff cannot prepare a description of the project for abutter and public notice without the plans and application. She said she was told these materials would not be available for about 1½ weeks however she would need the application and abutter information by this Thursday and the plans by the following Wednesday.

Randy Orvis said his client wanted to break ground in the beginning of November and is looking to construct within 100 feet of the shoreline. The house would be closer than the current structure, but not within the 50 foot protected shoreline zone. Charlie King said that waiving the submission requirement would require a significant reason and asked what that might be. Randy Orvis said the Code Enforcement Officer did not know his client needed a special use permit, but Planner Menici said that was not true and the property owner had come in only yesterday with his latest idea but no plans for review. Charlie King suggested that Mr. Orvis's client had not asked the questions he needed to ask.

During further discussion on an appropriate date, it was brought out that the Zoning Ordinances require a 30 day time line after consideration by the Conservation Commission and the Planning Board did not have the authority to waive anything in the Zoning Ordinances. The next Conservation meeting is scheduled for October 10th. The Board will hear this matter on November 13th and based upon the need to have requirements met all application materials must be submitted no later than October 15th.

Charlie King motioned to set the date for the Special Use Permit Application hearing as November 13th with all application materials to be submitted no later than October 15th; 2nd David Kestner. Motion carried with all in favor.

Paul Parker motioned to table all remaining Board business until after the public hearing portion; 2nd David Kestner. Motion carried with all in favor.

PUBLIC HEARING:

Application for Minor Subdivision by: NH Custodial Trust c/o Edward G. Moran (Tax Map R31, Lot 34) for property located at NH Route 11, Paulson Road and Pound Road: To subdivide 10 acres from the existing 106.36 acre parcel. The parcel is located in the Industrial Business (IB) Zoning District.
(Continued from August 21, 2012)

At the August 21st meeting the Board made several requests:

1. proposed access easement for Davidson Drive in Purchase and Sales Agreement must be on plans;
2. a copy of the lease for space and maintenance for pump and treat facility;
3. underground plumbing must be shown on plans and if detailed in agreement shown on plans with language;
4. backflow preventer to be shown on plans;
5. firm up potential location of where the water line is coming into the parcel and in the Board's opinion the more it can stay off the 96 acre parcel the better;
6. letter from both DES and EPA stating that each has no issue with the subdivision and that the subdivision will not affect the Town's request for superfund status;
7. all items must be available for the next meeting;
8. building setbacks to be shown on plans;
9. foliage lines to be shown on plans; and
10. statement of error of closure to be shown on plans.

Revised plans were submitted on September 7, 2012 and included the following from the list above: #1, 3, 5, 8, 9 and 10. The backflow prevention device is not depicted on the plan as it will be located within the warehouse structure.

In addition, the applicant provided:

- a copy of the proposed lease agreement between the Trust and the purchaser of the warehouse for the groundwater containment center for a period of up to 25 years;
- a copy of specific pages of the Purchase and Sales Agreement that address easement and rights-of-way; and
- letters from both NH DES and EPA.

Planner Menici said that all items were provided to Town Counsel with a copy of the approved minutes from the August 21st meeting. The email response from Attorney Spector-Morgan (included in the Board's packets) recommended that additional language be added to the deed granting DES and the EPA an access easement for the purpose of environmental studies and remediation activities.

Chairman Parker asked if this should be a condition of approval. The Planner said it should as well as stating that the final language is subject to Town Counsel's review and approval. The Chairman asked if the applicant was in agreement with the added language to which Ed Moran answered yes and that he talked to Molly Stark and the Purchase and Sale agreement states that easements are in favor of the State and USA and he expected there will be similar wording in the deed as well. The EPA will want to have their own attorneys review the exact wording but they have no objections.

Steve Ferguson from Norway Plains said he had nothing to add to Planner Menici's excellent summation.

Charlie King thanked Mr. Moran for his assistance in obtaining the letters from DES and EPA. Mr. King asked if the easement portion for Davidson Drive was paved. Mr. Ferguson showed on the aerial photo that it is down the existing pavement and into the field and the parent parcel retains access as well.

David Kestner asked if there is sufficient language in the lease agreement for the proposed water gate valve and back flow issue. Planner Menici said that the water valve is on the remainder parcel not on the 10 acres and the back flow is going to be located in the warehouse.

Charlie King asked if there will be annual inspections. Planner Menici said that would be dealt with under site plan but there will be annual inspections.

David Kestner questioned the reason for not recording the lease agreement. It was explained that New Hampshire law does not require a lease to be recorded if the term is over seven years but instead a Notice of Lease identifying the parties, location and term renewal options is recorded. After discussion it was decided that the Town would be furnished a redacted copy of the lease. The Notice of Lease will be recorded and will include a statement that a redacted copy of the lease is on file with the Town of Farmington.

At 6:54 pm Chairman Parker opened the hearing to public comment.

Janet Kalar, a resident of Middleton who is not an abutter, asked to see copies of the letters from DES and the EPA and said she would return the letters at the end of the meeting. Copies were provided to her by Planner Menici.

Mrs. Kalar claimed that she spoke with the Middleton Police Chief who told her that Chief Roberge, Farmington's former Police Chief, said he used the warehouse for canine training for multiple departments in the area and that shortly after the training the officers and dogs participating got sick and no one could understand why. Mrs. Kalar said no air testing has ever been done in the warehouse and that she called John Regan who still won't do any testing.

Attorney Hastings told Mrs. Kalar that her statement was hearsay. Mr. Moran said he agreed to allow the police departments to use the warehouse building as well as the old factory building for training purposes and was never told by anyone there was a problem. Additionally, others had been allowed to use the building for special purposes and no complaints were ever made. Mr. Moran said that, as the Trustee, if real problems had arisen someone in authority would have informed him.

There were no other comments and at 6:57 pm Chairman Parker closed public comment.

The Board discussed the final conditions of approval and agreed that all conditions should be added to the final plan.

Charlie King motioned to approve the subdivision with the following conditions:

- 1. Language to be added to the deed granting access to State of New Hampshire and USA for environmental studies and remediation activities with respect to environmental contamination in the soil and groundwater of Seller's adjacent parcel(s);*
- 2. Final lease for the pump-and-treat facility, redacted as discussed, to be provided to the Town of Farmington;*
- 3. All final documents to be reviewed and approved by Town Counsel;*
- 4. Town Counsel to review Notice of Lease before recording;*
- 5. Notice of Lease to include a statement that a redacted copy of the lease is on file with the Town of Farmington; and*
- 6. Conditions of approval to be added to the plan.*

2nd Glen Demers. Motion carried with all in favor.

At 7:10 pm Charlie King motioned for a five minute recess; 2nd David Kestner. Motion carries with all in favor. Board reconvened at 7:32 pm.

CONTINUED BUSINESS BEFORE THE BOARD:

Before continuing with revisions to the Subdivision Regulations, the Board discussed possible zoning amendments and the 2012 work list. Planner Menici said at the September 4th meeting both she and the CEO had presented some recommendations for zoning amendments and the Board requested these be put in the format of a zoning amendment for review. Manufactured housing standards were suggested by CEO Roseberry: on own lot

should be on a permanent foundation defined as a full basement or 4-foot frost wall; newly located mobile home units should not be greater than 5 years old.

The Planner prepared and the CEO reviewed the signage amendment. Temporary signs and signs with movement were clarified. The temporary sign permit fee is not listed because that would be within the purview of the Board of Selectmen. Charlie King suggested putting the fee in the fee schedule and Planner Menici said the Board could then adopt the fee.

CEO Roseberry wanted to know if the number of temporary signs allowed at any given time should be a specific in the zoning ordinance. The Planner said this would apply to a business advertising as an example a special sale for a week. However, one local business has a sign on wheels that they move one day a month but the sign has been there forever. Other businesses use these temporary signs to sell pizza or advertise lottery tickets. Planner Menici said they are cropping up downtown in windows and hanging on buildings. The intent is to keep downtown and the commercial/business districts from being cluttered up with signage.

Paul Parker motioned to continue the discussion on Zoning Amendments and Subdivision Regulations to the end of the meeting; 2nd Glen Demers. Motion carried with all in favor.

- **Jeff Taylor and Steven Whitman of Jeffrey H. Taylor & Associates, Inc. to discuss process for the Community Planning Grant and to obtain input from the Board.**

Jeff Taylor and Steve Whitman introduced themselves and said they were glad to be back in Farmington. Mr. Taylor said they both have questions about what has happened since they were last in Town and Mr. Whitman will discuss the vision statement and coordinate his calendar with the Board.

Chairman Parker introduced the Board members and staff.

Mr. Taylor said he has been a planner in New Hampshire for 35 years and provided an overview of his background and Mr. Whitman's for the Board. They have been working together as consultants since 2003 providing services to municipalities, non-profit organizations and occasionally to for profit companies.

Mr. Whitman explained how the audit will proceed and that it provides a nice opportunity to look at the whole picture and work with the Board. Initially he will meet with the Board to discuss the problems that need to be addressed then he will do a thorough analysis of the master plan and regulations. His report will show how the Master Plan is guiding the town, what has changed, and new issues to be included such as energy related issues. He will then review the Subdivision and Site Plan Regulations to see where there are disconnects and help with language. The final versions should be working documents that the Planning Board can come back to as they have time.

Mr. Taylor said the report will make recommendations as to what zoning amendments are the priorities so the list is not overwhelming. He attends the first of the meetings and then Mr. Whitman attends the meetings and prepares the first draft which then goes to Mr. Taylor for review before being presented to the Board.

Mr. Whitman handed out the existing vision statement to the Board members. He said it contains information on the past, present and future. One of the first steps is checking with the Board regarding changes since 2005 and what should be incorporated. He explained that page 2 of the Vision Statement spoke in general terms and then the actual chapters are more specific.

Charlie King said some development has been identified that the Town would like to encourage and there is an expanded area for site development for commercial and mixed use. He said that minor site plan reviews such as change of use do not have to go to the Board, but can now be heard by the Site Plan Review Committee consisting of the Planner and Code Enforcement Officer thus making the process faster.

Chairman Parker said some changes have worked, some have not. He added there have been some conversations about the downtown area and expanding the village district but no actions yet.

Planner Menici said there have been staff level discussions about trying to obtain CDBG (Community Development Block Grant) funding for a housing rehabilitation program downtown focusing on apartments on the second floor of businesses and in neighborhoods adjoining downtown where the most serious deterioration and code violations exist.

Some areas that the consultant will work on with the Board included the items on the Board's 2012 work list, fluvial erosion as it relates to slopes, volunteerism for boards, and social and recreation programs.

Charlie King brought up that the percentage of manufactured housing in the current vision statement is 46% which is the largest in any community except in Rochester which is 48%. In many other surrounding towns it is 18%. He said the Board is looking at the standards to see if they are reasonable or need revising. Planner Menici said that CEO Roseberry has said that the percentage continues to exceed that of conventional construction. There are also open approvals in parks. The Planner will check when those approvals expire. Mr. Taylor suggested that there should be clarification in the ordinance that the approvals do expire and when they expire.

David Kestner said the Board briefly discussed trailer issues. He read Chapter 5 provided to the Board and he is not in agreement that it is necessary to tax everyone at a higher assessment in order to provide services. He said he is concerned that the average person could not afford the taxes. Planner Menici said it is important to achieve a balance in housing and it is not there at this time. Mr. Taylor said in general the Master Plan is talking about encouraging higher value homes for the tax base because the town is at a considerably higher percentage of manufactured housing. Residents expect services but the reality of economics is that the services must be paid for and that is the reason for trying to achieve a balance. Mr. Whitman said he will look at and revisit the idea of Farmington increasing the non residential tax base to get to that balance.

The New Hampshire Housing and Finance Authority is offering a training seminar that will be attended by both the consultants and the Planner and the information obtained will be an agenda item in October.

Chairman Parker said the conflicts between the Subdivision Regulations, Site Plan Regulations and the Zoning Ordinance are a concern for the Board. Mr. Whitman said he would look for them during his review. He recommended that the Board continue the revisions to the Subdivision Regulations and Planner Menici said the final draft will be ready in October.

It was agreed that Mr. Whitman will be scheduled for the October 16th meeting at 8:00 pm and Chairman Parker invited any former ZAMP members that are interested to attend that portion of the meeting.

Mr. Taylor will send his draft to the Planner one week ahead for distribution to the Board and asked if the Board thinks of other items for him to add they should send their ideas to him through the Planner.

- **Zoning Amendment - Signage**

It was pointed out that although political signs are allowed only 30 days prior to an election most are set out so early that long grass has grown up around them. Planner Menici said the CEO has been hesitant to tackle the issue of political signs. The language in the Zoning Ordinance is not unique to Farmington but very standard to other towns as well and there seems to be concern among code enforcement officials over this issue. The Planner said a fine can be imposed but like any other zoning violation the Town has to file with the Court to enforce against the property owner.

Chairman Parker commented that some towns instruct their Public Works Department to pick up the signs. Planner Menici agreed and said some also send a notice to the land owner that the signs will be removed because they are in violation. The Board agreed that a reasonable ordinance is important. Some suggestions were to

extend the number of days a political sign can be displayed from a total of 45 to 60 days up front and 7 days after the election.

The three work list items will be discussed at the October 2nd meeting and the Board was asked to have suggestions ready. Charlie King asked for the CEO to explain how he arrived at the five year age limit for mobile homes and to have him check if Farmington is in line with other communities as the Board should be aware of those regulations. He added that questions may come up during the public hearing and the Board should have supporting documentation ready. Chairman Parker pointed out that ultimately the Board will do what is best for Farmington.

Charlie King motioned to continue the discussion of the three work list items to October 2nd; 2nd Charles Doke. Motion carried with all in favor.

- **Continued review of the Subdivision Regulations**

Section 9 paragraph I – no changes

Section 9 paragraph J - written approval by Farmington sewer and/or water department is required prior to Planning Board approval

Section 9 paragraph K

Take out #3 and #4

Point out State requirement in #5 "siting and design should meet with NH DES requirements"

Take out #6 through #9

Take out #12 and #13

Take out #16

Section 9 paragraph L

#2 take out "reasonably"

Section 9 paragraph M – no changes

Section 9 paragraph N

#d take out last sentence

Section 9 paragraph O

Add #d to state: LID techniques should be incorporated wherever practical

Update reference to 2008 manual if necessary

Move up to 50 year – can be waived on case to case basis

Paul Parker motioned to continue the discussion on revision of the Subdivision Regulations to October 2nd; 2nd Charlie King. Motion carried with all in favor.

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

There was no other business to come before the Board.

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

Respectfully submitted,

Bette Anne Gallagher, Department Secretary

Chairman, Paul Parker