

**TOWN OF FARMINGTON
PLANNING BOARD MEETING
Tuesday, February 4, 2013
356 Main Street, Farmington, NH**

Board Members Present: Paul Parker, Joshua Carlsen, David Kestner, Glen Demers, Matt Scruton

Selectmen's Representative: Charlie King

Board Members Absent/Excused: Cindy Snowdon, Charles Doke

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

Public Present: James J. Barry, Harold Butt, Jeff Catlin, Colette Catlin

At 6:09 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 January 22, 2013**

Glen Demers motioned to approve the minutes of January 22, 2012 as written; 2nd David Kestner. Motion carried with 5 in favor and 1 abstaining.

- **Continued Discussion of Revisions to Subdivision Regulations**

Chairman Parker said this discussion would be lengthy and in view of the scheduled public hearings asked for a motion to table it until the end of the meeting.

Charlie King motioned to table the continued discussion of revisions to the Subdivision Regulations to the end of the meeting; 2nd Glen Demers. Motion carried with all in favor.

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

Planner Menici reminded the Board that at the end of last year they had spoken about looking into developing low impact regulations and she had suggested the Community Planning Grant funds would be better used to tackle other areas since periodically opportunities came up to work with the Storm water Center at UNH. She said she recently received an email from the Strafford Regional Planning Commission advising communities in their region that the Storm water center at had received a sizable grant from NOAA (National Oceanic and Atmospheric Administration) and one of the activities proposed is working with municipalities in developing or improving storm water regulations. She responded to SRPC that Farmington would be interested. As a result when the application process has been established sometime in March at the earliest the Town will receive a direct notice about how to proceed.

The Chairman said he was very pleased with this opportunity since the Board had spoken about inviting the Somersworth Planner to speak about that town's experience. He asked if low impact development regulations would be in both the zoning ordinances and the subdivision/site plan regulations. Planner Menici said the Board should choose one document and recommended the subdivision or site plan regulations because the Board would have the ability to waive a requirement rather than sending the applicant to the ZBA for a variance.

At 6:19 pm Paul Parker motioned for 5 minutes recess; 2nd Charlie King. Motion carried with all in favor. Meeting reconvened at 6:25 pm.

Matt Scruton was seated in place of Cindy Snowdon.

PUBLIC HEARING - 6:30 pm

Paul Parker motioned to take the agenda out of order and hear the Minor Site Plan application before the proposed zoning amendments; 2nd Charlie King. Motion carried with all in favor.

CONTINUED CASES:

Application for Minor Site Plan Approval By: Lois Munroe, Applicant, Michael Paquette, Property Owner (Tax Map R30 Lot 4): To allow the operation of a Canine Training and Kennel Facility in an existing structure. Parcel is located at 302 Pound Road in the Agricultural Residential Zoning District. (Continued from January 22, 2013.)

Jim Barry came forward stating that he would be acting as an advocate for the applicant. Denise Stewart said she would be acting as agent for Lois Munroe who was in Georgia training dogs. Chairman Parker asked her for a representation of what will be done on the site. He said he would then ask the Planner for her comments and the Board would deal with the waivers requested.

Mrs. Stewart said the applicant is proposing a dog training facility on this 50 plus acre site. She explained that at first the walk-out basement will be used for kennels and that Ms. Munroe will install a fenced airing yard in back of the house providing a secure area when the dogs are let out for exercise. She said that although there may be up to 16 dogs staying with Ms. Munroe at one time, training is done with only one dog at a time. The dog owners are not present during training except for group sessions that take place maybe once a week and usually on a Saturday.

Mrs. Stewart said that water training is a major part of the program and it is also important to train on different terrain so training will take place at several locations. When Ms. Munroe goes on training excursions all the dogs go with her. She clarified that that the program is for retrieving purposes and not training for security/guard dogs.

Jim Barry said his dog has been trained by Ms. Munroe and that she mostly trains on an individual basis. He explained that due to her training in less than two months the dog earned first junior then senior hunter designations and is now training for master hunter. Each step increases the dog's value. He added that in his opinion Ms. Munroe is a total professional and runs a competent and professional operation.

Mrs. Stewart said that the dog waste is covered on a daily basis and removed to a facility in Massachusetts. She showed photos of the current facility in South Hampton including the inside kennels and how the dogs would exit to the airing yard. Chairman Parker asked if the dogs were kept in the kennels only during the day and Mr. Barry said they were for overnight as well but there was plenty of room in the crates and the dogs are exercised. Mrs. Stewart said the dogs stay with Ms. Munroe when they are being trained because her day starts early to accommodate the individual training of up to 16 dogs. She also goes on training excursions and takes all the dogs with her.

Planner Menici explained that the ZBA heard Ms. Munroe's application for a special exception on January 3rd but due to an abutter notification error two abutters were missed and the application is being reheard by the ZBA on Thursday, February 7th. She said that if the Board gives conditional approval tonight and the ZBA does not grant the special exception, tonight's approval will be void.

Chairman Parker said any action tonight would be contingent on ZBA approval and if not granted then it would be null and void. Charlie King said the ZBA could set additional conditions.

Planner Menici told the Board that there has been a change in State law and an application cannot be denied by the Planning Board because all other permits and approvals have not been obtained. Chairman Parker said the Board could continue this hearing until after the ZBA hearing.

The Planner said there was a subdivision a few years ago and the survey provided at that time includes a portion of the area in this parcel.

It was established that the site slopes and there are wetlands on the parcel but they are down toward Ten Rod Road and not in the area proposed for this activity. There is an open field on the Pound Road side.

Planner Menici said the applicant had not submitted formal requests for the waivers but they were on the checklist. Chairman Parker told Mrs. Stewart the proper paperwork for the waivers must be submitted.

The waiver requests were from Section 18 C property survey and D existing grades and topography. Charlie King said he had no problem with the request since the original subdivision had a waiver to the topography and for the proposed use it was not a necessity. Planner Menici said it had been done to the existing home. Mrs. Stewart confirmed that the open field is about 50 percent and then there is a wooded area that drops down to the stream.

Charlie King said he would be willing to grant the waivers based upon the type of application before the Board. David Kestner, Glen Demers and Josh Carlsen were in agreement. Matt Scruton said before he gave his opinion he wanted the Board to know that a few months ago he had looked at this property as a potential buyer but it did not meet his requirements and no offer was made. The other members did not feel this was a conflict. Mr. Scruton said he was okay with both waivers.

Charlie King motioned to grant the waivers from Section 18 C and D contingent upon submitting the correct paperwork; 2nd Josh Carlsen. Motion carried with all in favor.

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

The Board discussed the application. Ms. Munroe will be a full time resident and the dogs will not be left alone overnight. If she is gone for a portion of the day without the dogs then she has someone else there. For training purposes, such as now when she is in Georgia, the dogs are with her.

David Kestner said the narrative states there are no overnight stays but in fact up to 16 dogs are there for a whole week. Mr. Barry said there is no boarding and only those dogs that she is training stay overnight maybe for a month at a time. Mr. Kestner said that is a difference in language only and whether it is daily or monthly it is exactly the same. He said the dogs are still out in the kennel and the peace and solitude of the area will be impacted because this is not one or two animals in the typical household but up to 16 which is a pack. Additionally there will be gun training with a blank pistol on a regular basis. He said that in an area such as this there are people who target practice and hunt but not on a continual basis. He asked how this operation is not going to impact the abutters.

Jim Barry said where Ms. Munroe is now located there are one-half dozen houses within 100 to 300 yards and he does not know of any complaints. He said the pistol is not used each time and explained that hand signals and whistles are also used. The dogs will only be on site one or two days a week because they are also trained at sites in Massachusetts and in Greenland. He said training usually starts between 8:00 and 9:00 am.

Matt Scruton said if the Board approves this application they should also look for:

1. any animal welfare violations
2. verification that all dogs are current on vaccinations

3. applicant's agreement to comply with RSA 466:31, the dog nuisance law, that has restrictions such as the dogs not barking for more than 1/2 hour, etc.
4. evidence of approved commercial kennel license from the Department of Agriculture

Planner Menici said in this situation a license is not required if they are not breeding. Mrs. Stewart said she had called the state and there were no licensing requirements unless Ms. Munroe was breeding 10 to 15 litters per year. She said she will find out about any animal welfare violations, verification of vaccinations will be provided and compliance with RSA 466:31 is not a problem.

The Chairman opened the meeting to public comment.

Jeff Catlin said he owns four parcels that abut this one. He asked if this was the meeting to discuss noise and other issues and was told his concerns could be addressed both tonight and at the ZBA meeting. Mr. Catlin said that the narrative indicates Phase 1 of the business will use the existing home and property for training and boarding up to 16 dogs. Phase 2 is adding outside kennel runs and a new building. The Chairman said that the purpose of the building is to move the dogs out of the basement not to add room for additional dogs. However, Mr. Catlin said he reads it as adding more. Chairman Parker said any approval would be for up to 16 dogs.

Mr. Catlin said the Board should not act as if the ZBA has given approval. The Chairman said there is no approval because the ZBA will hear the application on Thursday but the Planning Board could decide tonight contingent upon ZBA approval. David Kestner said it would behoove Mr. Catlin to be at the ZBA hearing.

Mr. Catlin said he did not see in the plan what type of fencing would be put up around the training area. He also said there will be up to 16 dogs plus 12 additional for private training. Mrs. Stewart said the group training is for the owners of the animals already there to work with their animals not for additional owners. However Mr. Barry said the applicant does offer training outside of those boarded there. Chairman Parker said the Board will need a direct answer from Ms. Munroe on this.

Mr. Catlin said that private lessons are an additional part of the business according to the narrative and asked with that many dogs what protective measures would be taken to ensure the safety of other animals and children in the area.

Mrs. Stewart said the applicant uses electronic collars on the dogs and one dog is trained at a time and the others in the group are secured. There are usually two other people working with Ms. Munroe. Mr. Barry said he has been present at training sessions twenty or thirty times and has never seen a dog get away or not respond. He said the collars have a range of maybe 300 yards. Mr. Catlin said there is a large population of deer and turkeys as well as children and grandchildren.

Mr. Catlin said his property is across and all the way up Pound Road which is a Class 6 road. He has a written agreement with the Town that states he is responsible for road maintenance for the first 1,000 feet and the Town does not guarantee emergency services. He said that based upon the current residents there are 7 cars using the road but this business could generate 35 cars which would be a 500 percent increase. He said his concerns are the increased expense and safety. Mr. Catlin also said he is not sure if the legal access for the property is Pound Road or Ten Rod Road. He suggested that the Town could change the property access to Ten Rod Road or take over Pound Road.

Mr. Catlin said there is no shared maintenance agreement for Pound Road as it is his responsibility and costs him about \$2,000 per year. Planner Menici said the document he referred to is a standard release of liability and she would have to research to see if the other properties on Pound Road have similar agreements.

Mr. Catlin said this is a very quiet area and that is why his family moved there and he pays a lot in property taxes. He said this business would be a drastic change to the area.

Harold Butt said he has been there since 1978 or 1979 and that Pound Road was supposed to be widened to 30 feet but that was never done and the road is only one car wide. He said he also thought this property was supposed to use Ten Rod Road as the access.

He said there is more than one building on the lot and asked what the new owner would do with it. Mrs. Stewart said her understanding is that Ms. Munroe would use it for storage of her all terrain vehicles and her trailer. She added that with regard to road maintenance Ms. Munroe has a history of sharing costs and intends to do so here but doesn't know to what degree.

Chairman Parker said he would leave the hearing open to public comment.

Mr. Barry repeated that the dogs are not out running around free and present no danger to children or wildlife and that he has never heard a complaint about barking in South Hampton.

Mr. Catlin said he is not interested in an agreement for road maintenance but if the Town is going to allow a commercial business and invite the public to use a Class 6 road they the Town should take responsibility or the property should use Ten Rod Road.

Charlie King said on its face the application is a good idea and would fit the area but with an approval for 16 for overnight it could be different if someone else came in and did not run it the same way. The Planner said the Board could make the approval specific to this activity. Charlie King still had concerns about how to prevent it from becoming a boarding facility not run by this owner. Chairman Parker said by specific conditions but that the Board can't see everything that might happen.

David Kestner asked how the Board could approve a commercial operation on a Class 6 road. The Planner said she would need to check if there is liability. She said that a Class 6 road agreement usually requires the owner of a property to assume responsibility for guests or visitors. The Planner will check with Town Counsel on this issue.

Charlie King said he had concerns about granting approval contingent upon ZBA approval because he did not want to predispose their opinion. He suggested continuing this hearing until after the ZBA meeting. He also posed the question of how to keep this approval from going awry ten years from now since the approval runs with the land. Planner Menici said the Board can impose conditions as stringent as they feel is necessary to protect future interests.

Chairman Parker said the hearing should be continued to allow the ZBA to issue their decision and for the Planner to consult with Town Counsel. There was general agreement to a continuance.

Matt Scruton said the application did not indicate the fenced area where training would take place. He said the noise could impact a much larger area than just the abutting properties. Charlie King disagreed with fencing all of the training area and said that would need further discussion. Mr. Barry said that would mean fencing in 48 acres. Mr. Scruton replied that this is an abutter concern and fencing would be one way of addressing it.

All Board members agreed that approving a commercial operation on a Class 6 road was a serious issue. Planner Menici said she would research a release of liability on the Paquette property and look at the building permit also.

Planner Menici said at the February 19th meeting there is a minor subdivision of 3.62 acres from this parcel with frontage on both Pound Road and Ten Rod Road coming before the Board.

Mr. Catlin said his concern about maintenance is not primarily cost but safety. He said when he moved in there were two houses and now there are four and the agreement has not changed. Now a commercial operation is being proposed and it is not fair to him.

Mr. Barry said it is still a public road and traffic cannot be stopped. Mr. King said safety must be considered.

Chairman Parker closed the hearing to public comment.

Charlie King motioned to continue the public hearing on the application to February 19, 2013; 2nd Glen Demers.

Charlie King said when the Planner talks to Town Counsel to find out if an approval would affect the current maintenance scenario in place and what issues there are for the Town and public to consider.

Motion carried with all in favor.

At 7:50 pm Charlie King motioned for a five minute recess; 2nd David Kestner. Motion carried with all in favor. Meeting reconvened at 7:57 pm.

The Farmington Planning Board will hold a third public hearing on proposed zoning amendments on February 4, 2013 at 6:30 pm at the Municipal Office Building, 356 Main Street, Farmington. A summary of the proposed zoning amendments is provided below; the full text of the proposed amendments is on file for public inspection at the Farmington Planning Department, Municipal Office Building, 356 Main Street, Farmington.

To amend Section 3.09 - Signs to extend the time period during which political signs may be displayed, to clarify standards that apply to temporary signage and signs with messages or graphics that change electronically, and to add language permitting directional signage for agriculture enterprises and standards for said signs.

Chairman Parker said some minor grammatical changes had been made and asked Planner Menici to highlight those for the members. Charlie King said the zoning amendments met the expectations of the Board as a whole. The other members had no comments and the Chairman opened the hearing for public comment. There was no one present and the Chairman closed the hearing to public comment.

Charlie King motioned to approve the Zoning Amendment to Section 3.09 as written and to move forward as a warrant article; 2nd David Kestner. Motion carried with all in favor.

Chairman Parker read the warrant articles for Board consideration.

Charlie King motioned to accept the language for the warrant articles; 2nd David Kestner. Motion carried with all in favor.

After a brief discussion it was decided to change the listing of zoning districts to say in all zoning districts.

Charlie King motioned to approve the warrant article as amended; 2nd Josh Carlsen. Motion carried with all in favor.

The Planner suggested changing mobile home to manufactured housing unit to keep consistent throughout. Charlie King said to put mobile home in parentheses.

Charlie King motioned to approve the warrant article as amended; 2nd Matt Scruton. Motion carried with all in favor.

- **Continued Discussion of Revisions to Subdivision Regulations**

Chairman Parker asked Planner Menici to comment on Town Counsel's email regarding the Board's questions on cemeteries.

The Planner said Town Counsel said that number 15 on page 20 as written requiring an owner to grant an easement for the benefit of someone else is unconstitutional because the property should be all theirs. The Chairman said he looked at the RSA 289 referenced and it covers all the concerns the Board had regarding the sale to other than a family member and read the RSA to the other members.

Charlie King said he disagreed with Town Counsel on the first point but was fine with the RSA reference. He questioned how it could be unconstitutional if property owners voluntarily provide an easement such as for a utility or for the right to pass and repass. An owner can turn down the request. He thinks the Board had the better solution.

Chairman Parker said the RSA satisfied most concerns. He said the owner could be approached first and if access is denied then the Board of Selectmen could be asked to allow access over the owner's objections. He said to reference RSA 289. David Kestner said based upon RSA 289 to strike the last sentence added based upon Board discussion and per Town Counsel's recommendation. Planner Menici said the RSA does not have to be referenced because these are subdivision regulations and the Board has no enforcement authority over the RSA.

All members except Charlie King were in agreement.

Matt Scruton motioned to strike the last sentence of number 15 on page 20; 2nd Paul Parker. Motion carried with 5 in favor and 1 opposed.

Planner Menici said the Board had talked about moving the section on sidewalks and bikeways on page 23 to the Roadway and Driveway Regulations but she thought the section should stay in this document. The Planner said Scott Hazelton had looked at the Road and Driveway Standards and made recommendations for changes and that would go to the Board of Selectmen as it was not a Planning Board document.

Chairman Parker said the Regulations had been adopted by the Planning Board. Charlie King said the Board had looked at both state and other municipalities' regulations and the Board of Selectmen have used it when someone comes in for a Class 6 road building permit. David Kestner said the Regulations were adopted on January 10, 2006.

The Chairman said the Board would review Director Hazelton's suggestions. Planner Menici said both Scott Hazelton and Kevin Gagne from FST had review and update some of the professional standards that are referenced and when Scott Hazelton did that he also reviewed and updated the Road and Driveway Standards. She said she will prepare a draft for the Board.

The Planner suggested incorporating the changes into both the subdivision regulations and the road and driveway standards. The Chairman was in favor of that but Charlie King suggested to have in only one document because if in two eventually they will become out of sync. He recommended the Road and Driveway Standards. Mr. King also suggested taking out the specification for 6 inches above grade because that is addressed in the Standards.

After discussion it was decided the Subdivision Regulations should address this area in general terms and point to specifics in the Road and Driveway Standards. The Planner said out that Section 4.19 in the existing Subdivision Regulations is detailed. Charlie King said the Standards were adopted after the Regulations and some of what is in the Regulations was put into the Standards.

David Kestner suggested that the Board allow the Planner and Public Works Director enough time to meet and talk about changes. The Planner said the Board had already put substantial work into the revisions and it was important to get it right the first time as this will become the basis for revising the Site Plan Review Regulations. David Kestner said the Board had taken care of the Town Warrant and the other regulations would be fine for now.

Paul Parker motioned to continue the discussion of Revisions to the Subdivision Regulations to March 5, 2013; 2nd Charlie King. Motion carried with all in favor.

Chairman Parker announced that Josh Carlsen had submitted his resignation due to employment in the North Country. He said the Board wished him well, that he would be missed and would be welcome to come back.

At 8:49 pm Charlie King motioned to adjourn the meeting; 2nd Glen Demers. Motion carried with all in favor.

Respectfully submitted,
Bette Anne Gallagher, Department Secretary

Chairman, Paul Parker