

**TOWN OF FARMINGTON  
PLANNING BOARD MEETING  
Tuesday, February 19, 2013  
356 Main Street, Farmington, NH**

**Board Members Present:** Paul Parker, Charles Doke, Cindy Snowdon, Joshua Carlsen, David Kestner, Glen Demers, Matt Scruton

**Selectmen's Representative:** Charlie King

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

**Public Present:** Neil Johnson, Harold Butt, Colette Catlin, Jeff Catlin, John Cardinal, Jonathan Cardinal, Mike Paquette, Sandy Trask, Denise Stewart, James Barry, Randy Tetreault, Daniel O'Lone

**At 6:06 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 February 4, 2013**

*Glen Demers motioned to approve the minutes of February 4, 2013 as written; 2<sup>nd</sup> Josh Carlsen. Motion carried with 4 in favor and 2 abstaining.*

Chairman Parker said that Josh Carlsen will be staying on the Board because he has a job closer to home. The Chairman said the minutes of February 4<sup>th</sup> state that Josh had submitted his resignation but the Board had not accepted it yet so he was now withdrawing it and remaining on the Board. Cindy Snowdon said she was glad he was staying.

- **Voluntary Lot Merger - John H. Cardinal 1993 Trust**

Planner Menici said there were actually two mergers before the Board tonight. The one for John Cardinal was to merge two pre-existing parcels, R18 Lots 10 and 11, off Great Pine Circle. The Planner said while preparing the minor subdivision application for these two parcels on tonight's agenda the surveyor found the parcels were not ever intended to be separate. However, they had separate descriptions in the deed and for the sake of clarity it was decided to do a voluntary lot merger. This way there would be no confusion when the subdivision application came up for discussion tonight.

The members agreed it was a good idea to take care of this now.

*Charles Doke motioned to approve the voluntary lot merger of Map 18 Lot 10 and Map R18 Lot 11; 2<sup>nd</sup> Josh Carlsen.*

*Discussion: Charlie King asked for a moment to identify the parcels.  
Motion carried with all in favor.*

- **Voluntary Lot Merger - Powerhouse Machine LLC**

The Planner explained that subsequent to publishing tonight's agenda this second voluntary lot merger from Powerhouse Machine LLC aka Energy Resources was received. The lots to be merged are Map R3 Lots 17-1 and

17-2. Lot 17-1 is where the existing facility is located and Lot 17-2 is the back lot that is immediately adjacent to Lot 17-1.

***Charlie King motioned to approve the voluntary lot merger of R3 Lot 17-1 and R3 Lot 17-2; 2<sup>nd</sup> Charles Doke. Motion carried with all in favor.***

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

Planner Menici said Michael Paquette had submitted a ***Class VI Road Acknowledgement and Notice of Limits of Municipal Responsibility*** for Map R30 Lot 4 at 302 Pound Road. This form will need to go to the Board of Selectmen for approval. The property is not in compliance with the building permit issued in 1995 at which time the property owner provided a sketch showing primary access from Ten Rod Road. That was not built and the secondary access from Pound Road was the only one built. Mr. Paquette was now submitting the document to obtain legal access from Pound Road to his existing house.

The Planner explained that the form is first submitted to the Board of Selectmen and then goes to the Planning Board for review and recommendation. As part of its review the Planning Board would typically solicit comments from the Police Chief, Fire Chief and the Director of Public Works and then send their recommendations back to the Board of Selectmen. She asked the Board if they would like her to start on the process by sending a memo to the department heads asking for comments and bring the comments back to the Board for the March 5<sup>th</sup> meeting or wait until the Board of Selectmen forward the waiver request to the Board. She said that it was the Board of Selectmen that ultimately approves or not.

David Kestner said that this was only submitted because the owner got caught and since this goes back to 1995 there was not much of a reason to rush after waiting 18 years. Chairman Parker said the Ten Rod Road access would cross a small wetlands area and whether the owner acted in ignorance or whatever reason he avoided crossing the wetlands by building his access on Pound Road. Cindy Snowdon said it may have taken the owner a long time to get here but she felt the Board should be proactive and get the ball rolling.

David Kestner said a gentleman was in attendance at the previous meeting who said he spends several thousand dollars a year maintaining Pound Road. Mr. Kestner added that the Board did not know if this person had ever received any money from Mr. Paquette. He also said that if the driveway was supposed to be on Ten Rod Road then the actual frontage for the subdivision application might be limited and could possibly change a conforming lot to one that is non-conforming. Planner Menici said the Board needed to keep this request separate from the subdivision that is coming up although this must be resolved before final approval on both the site plan review and the subdivision. She said the issue here is if the Board wants comments solicited from department heads so they can be discussed at the next meeting.

Charlie King said the information that staff was going to request could be based on an approved driveway on a Class 5 or on excessive traffic on a Class 6, He felt that if the Board was going to ask for opinions then they should clarify what they are asking for.

The Chairman asked if comments should also be solicited from the Conservation Commission. Planner Menici said that this deals only with access from the Class 6 road where there are no wetlands. She said that if the request is denied and the owner must put in a driveway from Ten Rod Road then he would have to apply for a permit from the Department of Environmental Services. As part of that process the Conservation Commission will receive a copy of the application, discuss it at public hearing and submit written comments to DES but their input is not necessary at this time.

Chairman Parker said the question being asked is if the Board wants staff to gather information to be discussed at the March 5<sup>th</sup> meeting. It was suggested that based upon tonight's decisions the questions to be asked could change and maybe this discussion should be tabled until the end of the meeting. The Chairman said the Board

could adjust the questions at the end if necessary but should decide on whether staff should gather the information and asked for a motion.

*Charlie King motioned to request staff to gather information on the Class 6 road waiver; 2<sup>nd</sup> Josh Carlsen. Motion carried with all in favor.*

*Paul Parker motioned to table any other board business to the end of the meeting; 2<sup>nd</sup> Glen Demers. Motion carried with all in favor.*

**PUBLIC HEARING - 6:30 pm**

**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 February 4, 2013.)**

Denise Stewart was presenting as agent for Lois Munroe. The Chairman said at the previous meeting the Board had questions for Town Counsel to answer and asked Planner Menici to provide that information.

The Planner said that according to Town Counsel there are no prohibitions or limitations for commercial use of a Class 6 road except for the provisions of RSA 674:41. An abutter at the previous meeting questioned whether the property owner had filed a Class 6 road liability form and whether the property was in compliance with the building permit. Town Counsel's opinion was that the property owner must provide legal access by building the driveway from Ten Rod Road or go through the process in RSA 674:41. The Planner said Mr. Paquette has elected to apply for the waiver.

Planner Menici said that the waiver is necessary in order to obtain a building permit on a Class 6 road and absolves the Town of responsibility for maintenance as well as personal and property liability for anyone using the road. The road is not private but a Town owned public way and the residents must maintain the road at their own expense.

Denise Stewart summarized the application for the Board and public in attendance. She said Ms. Munroe was in Georgia training dogs and she was acting as the applicant's agent. Mrs. Stewart said the ZBA had approved use of the property for a canine training facility with conditions and that Ms. Munroe was in agreement with all the conditions and was aware of the Class 6 road issue. The conditions of approval from the ZBA were listed by Mrs. Stewart:

- 1. Group training is limited to five canines;*
- 2. Group training to take place no more than two times a week;*
- 3. Canines may stay on site only when enrolled and participating in the extended training program;*
- 4. No more than 16 canines may be enrolled and participating in the extended training program at any one time;*
- 5. Hours of operation are between 8:00 am and 5:00 pm;*
- 6. Days of operation are Monday through Saturday;*
- 7. Breeding is limited to one litter per year; and*
- 8. Driveway access to be resolved to the satisfaction of the Code Enforcement Officer or the owner is to go through channels for a Class VI road access and maintenance agreement.*

Mrs. Stewart reviewed the photos provided to the Board with the application. She said the photos were taken at the applicant's current location and represent what will be done at the Farmington property. They show the kennels in the basement and egress from the walkout basement. In addition, some crates may be used for the

smaller dogs. Mrs. Stewart showed a photo of the 75 foot by 100 foot completely fenced airing yard 75 x 100 feet explaining that the dogs are let out a few at a time. She also said that the dogs are trained one at a time unless there is a group lesson.

Chairman Parker said the pictures for the exercise and kennel facility show chain link material and asked if that is what Ms. Munroe is going to use. Mrs. Stewart said she could not answer that however Jim Barry said he believed it would be chain link. When the dogs are in training they wear electronic collars that are also used whenever the dogs are outside of the fenced area. The collars emit a low level shock with varying power level that is controlled by a transmitter in the hands of the trainer. Mr. Barry said they are essentially 100 percent effective.

Several Board members expressed their concern regarding driveway access on this parcel especially in view of the subdivision that was also on the agenda. Planner Menici said that there was frontage on the Class 5 road for the subdivision and that each application should be dealt with separately. However, Charlie King said for him the applications were intertwined. He said that the parent lot being sold with the existing home never put in the correct driveway access and now the lot to be subdivided will use that frontage.

Planner Menici said that one of the suggested conditions for the subdivision would be that the applicant cannot record the subdivision plan if the Board of Selectmen does not approve access to the remainder parcel from the Class 6 road.

Charlie King stated that the Board should address the issue with this application because it would affect the subdivision as well as what the Board of Selectmen will consider on the Class 6 road. The Planner said that the Board had two separate applications with two different applicants. It was pointed out, however, that the owner was the same on both.

David Kestner agreed that the applications were interrelated and expressed his continuing concern about a business trying to move onto a Class 6 road. The Planner reminded him that Town Counsel had advised that there is no State prohibition against the commercial use and that there would be comments from the department heads and a public hearing when the Board of Selectmen considered the Class 6 road waiver.

Mr. Kestner questioned why the Board did not have department head recommendations before considering the applications and how the Board could possibly approve a site plan without these recommendations from Town staff. He added that there are serious concerns about the state of the road and the width as well as the other residents being impacted by any decision.

Chairman Parker said that when an individual chose to live on a Class 6 road and signed a liability waiver he or she was accepting the terms of living there. He felt the Board was making the discussion more complicated than necessary.

Planner Menici said Pound Road was not a private road but a public way that anyone had the right to use per State statute. Although she understood the Board's concerns she suggested they look at the application on its merits and have a condition of approval that dealt with the access concern. The department heads could recommend that the access for this parcel come from Ten Rod Road and the Planning Board could make that recommendation to the Board of Selectmen. If the Board of Selectmen accepted their recommendation and said that access should be from Ten Rod Road then the subdivision approval would be void until access was provided. She said the applicant should keep in mind that just because he asked for access from Pound Road there was no guaranty it would be granted by the Board of Selectmen.

Michael Paquette asked if he put the access on Ten Rod Road would all of this go away even though he had used the Pound Road access for 18 years. Chairman Parker answered that it essentially would.

Charles Doke said that on a Class 6 road the Town does not have any maintenance responsibility although it is a public way and that Jeff Catlin had been doing all work on his own. Jeff Catlin said Harold Butt also does some maintenance as well as the newest resident.

Cindy Snowdon said her concern was that so many members are circling around the same thing and that at some point the decision must be made that what didn't get done needed to be done otherwise everyone was spinning their wheels. She said that until comments were received from Town staff the Board wouldn't know what made sense.

Charlie King said that Mr. Paquette had been using the Class 6 road for residential use but this application was for a commercial use and could potentially generate much more traffic than the current level and for him that was the issue. He said that although the applicant had ZBA approval the Planning Board could impose additional conditions. He added that he did not have an issue with allowing the Class 6 road access for residential use.

The Board discussed the potential increase in traffic. Chairman Parker suggested that the language be narrowed down to the specific use for Retriever Training.

Matt Scruton said it seemed as if there were two primary issues: traffic and noise. He said he would be opposed to approving the application until the property owner is compliant with the original primary access from Ten Rod Road and until that is done there should be no further development. He felt that would address a number of abutter concerns. He said he would like to know how the applicant would control the noise from gun shots, whistles and barking.

Denise Stewart said the dogs were not just left out in the airing yard when not being trained. She said they were trained one at a time and otherwise they were kenneled. She said whistles and a pistol with blanks were used but not all the time. Additionally, Ms. Munroe would be training at this location maybe three days a week. She said that people coming for group training were the only traffic. Ms. Munroe generally trains by herself but does have help from her nephew, a high school student, during the summer. Barking would be controlled through the use of barking control collars when required but they were not often necessary.

The Board briefly discussed the hours of operation being Monday through Saturday and the restriction on breeding. Mr. Barry said the last time Ms. Munroe's dog was bred was two years ago. Cindy Snowdon asked about the type of whistle used and Mr. Barry offered to demonstrate with one he had in his vehicle. The Board said they would appreciate that.

Chairman Parker opened the hearing to public comment.

Jeff Catlin said some towns have a policy for permitted uses on a Class 6 road and asked if Farmington had one. The Chairman said that the policy would be the waiver of the limits of liability and Charlie King added that it was intended mostly for residential use and this was the first commercial use.

Mr. Catlin said he had raised his concerns at the last two meetings. He said he chose to live on a Class 6 road because he likes the natural beauty and the private setting and had been there for 20 years. He said that even residential building permits are rare on a Class 6 road. The Chairman said they are becoming more common and this area is zoned agricultural residential not just residential.

Mr. Catlin said he was against the property using the Class 6 road access and that it should be moved to the Class 5 road. He also said he was against the subdivision request because it didn't make sense to subdivide a piece of land for a different use when a decision had not been made on the business use.

David Kestner asked Mr. Catlin if he had ever received help from Mr. Paquette for road maintenance. Mr. Catlin said he did once but for the most part he had not contributed. Mrs. Stewart reminded the Board that Ms. Munroe had already stated she would contribute.

Mr. Barry returned with the whistle and demonstrated it for the Board. He said if blown too hard the whistle shuts off. He added that the gun was not used often. Mr. Barry said the applicant would be a good neighbor. He said from June to September she was gone every weekend. Cindy Snowdon asked who took care of the other dogs when she was gone. Mr. Barry said generally the dogs go with her but if any remain someone stayed with them. Mrs. Snowdon asked if the applicant's nephew, a high school student, was the care taker. Mr. Barry said no it was always an adult.

Harold Butt brought up issues about rezoning and mistakes in taxes that went back some time. The Planner said that was not something the Planning Board could consider and Cindy Snowdon suggested he speak to the Assessing Clerk, Bonnie Lauze.

Planner Menici said the ZBA granted the Special Exception subject to eight conditions but the Planning Board can place additional restrictions on their approval. As an example only she said the Board could further restrict the number of dogs in group training or the number of times a week such training could be held. The ZBA required that the driveway access was to be resolved to the satisfaction of the CEO or the owner was to go through the process for a Class 6 maintenance agreement. Town Counsel recommended a condition to state: ***“Legal access to the property to be obtained prior to the issuance of a Business Use Certificate.”*** She said the Board could require that no business certificate would be issued until access is provided from the Class 5 road. This could impact Mr. Paquette's subdivision application so that acting on it tonight might be premature other than accepting it as complete and waiting until the site plan is resolved.

Cindy Snowdon said the members sitting tonight had expressed their concerns as well as the need for information from department heads. She said it felt to her as if the Board was in a race. Chairman Parker said the Planner suggested conditions to allow the application to go forward. He said an approval could be conditioned upon legal access being obtained and the subdivision could be continued until the access issue was resolved.

Matt Scruton said he would like the property to have not just legal access but come into compliance with the original building permit. The Chairman said that could be made into a condition. Charlie King said he would like to hear from Mr. Paquette.

Mike Paquette questioned why he would want to put in a driveway across the property and wetlands when the Class 6 access has existed since 1772. He said he helps Harold and Jeff maintain the road and one time he paid half the cost to fix an issue. He said he drives a 4-wheel drive pick up truck to accommodate conditions. Mr. Paquette said he owns 60 acres and doesn't bother anyone. He said the applicant trains bird dogs not police dogs and will only be there in the summer. He said when she leaves in January he will be renting the property from her for the winter. He said that Jeff plows because he leaves first.

Mr. Paquette said the new lot could be accessed from Ten Rod Road as well as the parent lot and said he would get the wetland permit if necessary.

He added that Jeff's dog barks all the time and his kids made more noise in the swimming pool than the dogs at the training facility would. At this point Colette Catlin started yelling at Mike Paquette and the Chairman was forced to use his gavel to restore order.

Denise Stewart said she would like to make a final comment as a follow up. She said it might sound like a puppy mill to the abutters but it was not and was actually a very low impact operation involving highly trained and expensive animals. She said the use was permitted in the zoning district as proven by the ZBA granting the Special Exception. She said if this was not allowed on 50 acres in the middle of nowhere than where would it be allowed. She added that there could be a wood chipping or excavation operation on the property.

The Board discussed setting hours when the dogs could be in the airing yard and asked what Ms. Munroe's schedule was like. Mrs. Stewart said Ms. Munroe was an early riser and ran before she let the dogs out and fed

them. She was typically in bed by 8:00 pm. Mr. Barry said that the dogs were fed at 5:00 to 6:00 pm and let out after eating.

Charlie King said he was considering a time limit for the last run at night. Mr. Barry asked if the Board would consider changing the operating hours to 9:00 am to 6:00 pm. The Planner said the Board cannot change the time to 6:00 pm because they can only make conditions more restrictive than the ZBA. The Chairman said the applicant could ask the ZBA for an adjustment to their decision if she preferred different hours.

In response to a question about the dogs barking in the woods, Jim Barry said the barking control collar is used for a dog that barks because that behavior is not appropriate. Another concern discussed was the need for a responsible adult to be present at all times when Ms. Munroe is away and any dogs remain on the property.

Matt Scruton wondered if the abutters would prefer a kennel or a subdivision development that could result in ten or twelve new neighbors. Jeff Catlin said if it was nice the property value would go up. Mr. Scruton said that this property would be purchased by someone and the result could be more disruptive than this use. For instance he said it could be a pig farm.

Gary Stevens, an abutter, said a farm with pigs, horses, cows and/or chickens would be more disruptive than this training facility for dogs that are valuable and well trained.

At this time Chairman Parker closed the hearing to public comment and the Board considered conditions of approval.

David Kestner suggested that the abutters would have less of an issue if the driveway was brought into compliance with access on Ten Rod Road. He also suggested decreasing the group training from five to three or four.

The Board thought it would be better to provide road access from Ten Rod Road prior to the issuance of a business use certificate. The members discussed changing the number of dogs in group training or specifying a lower number in the first year with an increase if there were no complaints. It was decided to leave the number of dogs in group training at five and limit it to two times a week.

The Chairman said he felt it was critical to add "retriever" training so that in five or ten years the use cannot be changed to security dog training, etc. All members agreed.

The Board discussed at length how to set a maximum number of dogs on site. The members agreed that no more than 16 dogs could be enrolled and participating in the extended training. However, they also decided that a maximum of 16 dogs total could be on site at any one time and this would include group training and extended training combined. The maximum number would not include any puppies.

There was commenting from the public during the discussion. Planner Menici reminded the public that the Board was in deliberation and they should not be commenting. Their comments made it very difficult for the recording secretary to take the minutes.

All members agreed that the hours of operation would be 8:00 am to 5:00 pm and the dogs could not be outside before 7:00 am or later than 9:00 pm.

The Board discussed other suggested conditions and accepted them as presented. A condition was added to state: "An adult shall be on premise and responsible for canines at all times."

***Charlie King motioned to approve the application for a competition retriever training facility. Canines do not "board" on the property but instead stay on-site when enrolled and participating in the extended retriever training program with 13 conditions as follows:***

1. *Group training is limited to five canines;*
2. *No more than 16 canines may be enrolled and participating in the extended training program at any one time;*
3. *A maximum of 16 canines to be on site at any one time for group training and extended competition training combined;*
4. *Group training to take place no more than two times a week;*
5. *Canines may stay on site only when enrolled and participating in the extended competition training program;*
6. *Hours of operation are between 8:00 am and 5:00 pm;*
7. *Days of operation are Monday through Saturday;*
8. *Canines are not allowed outside prior to 7:00 am or later than 9:00 pm;*
9. *Breeding is limited to one litter per year;*
10. *An adult shall be on premise and responsible for canines at all times.*
11. *Legal access to the property to be obtained prior to the issuance of a Business Use Certificate;*
12. *Business owner must comply with all Best Management Practices with regard to the storage and removal of animal waste; and*
13. *Business owner must comply with all applicable local, state and federal laws including but not limited to those pertaining to training/kenneling of canines;*

2<sup>nd</sup> Cindy Snowdon. Motion carried with all in favor.

At 8:19 pm Paul Parker motioned for a five minute recess; 2<sup>nd</sup> Glen Demers. Motion carried with all in favor. Meeting reconvened at 8:28 pm.

**NEW CASES:**

**Application for Minor Subdivision by: John H. Cardinal 1993 Trust through Norway Plains Associates, Inc., Agent (Tax Map R18, Lot 10 & Lot 11) for property located on Great Pine Circle. The applicant proposes to subdivide the existing 78.87 acre parcel into four single family lots of 2.48 acres, 6.16 acres, 1.67 acres and 68.56 acres. The parcel is located in the Rural Residential (RR) Zoning District.**

Randy Tetreault presented the application as agent for John Cardinal. Mr. Tetreault said that most of the Board members were familiar with the site and that both John Cardinal Senior and Junior were present. He said the property is located on Great Pine Circle and the history behind it is that it has been developed in phases since the late 1980's to 1992. It is on a private road built to Town standards under a previous subdivision.

Mr. Tetreault explained that the lot merger that was approved earlier tonight was necessary because for some reason the 78.8 acres showed as two parcels on the tax rolls. He thought these were already combined but it seems they were not and the lot merger takes care of the issue.

The applicant was proposing to subdivide three additional lots along the private road and leave the back lot as one map and lot. Mr. Tetreault said he has shown all the boundaries and topography on page three of the five page plan set and explained the plans to the Board. He said State approval has been obtained for the two lots that required it. Mr. Tetreault said the Planner noticed that the contiguous upland area had not been shown on the map and he indicated where it had been added. Planner Menici said the envelope had been shown but not the square footage and Mr. Tetreault will redo the plan set to show the square footage.

The lots will have private well and septic systems. The previously recorded by-laws, homeowners' association and road maintenance agreements would apply to these new lots. The Planner said the by-laws are on record from the 2007 subdivision approval. Charlie King said that a condition of approval will be to hold the new lots liable to the original requirements. Chairman Parker said that all prior conditions of approval should apply to these new

lots. The by-laws were recorded on January 29, 2007 and the restrictive covenants and road maintenance on June 27, 2002.

Mr. Tetreault said that the 6.16 acre lot had quite a bit of road frontage because of the site features and had a nice building area. He explained that originally John Sr. had proposed a road for 13 or 14 lots but the family decided to go this route instead and this was the final application as a minor subdivision. He said he added a 40-foot driveway easement to make sure they could put in a driveway for R18-11. Charlie King requested that a note be added to the plan that the proposed easement was in favor of Lot 11.

Mr. Tetreault said the stream going across the property was a class one unnamed stream but did meet the qualifications for a 100-foot setback. The stream goes through the parcels, across the road and into the Cocheco River.

***Charlie King motioned to accept the application as substantially complete; 2<sup>nd</sup> Josh Carlsen. Motion carried with all in favor.***

David Kestner asked if the 100-foot setback was flagged so that a buyer would be aware of it. Mr. Tetreault said the source is marked but not the 100-foot setback. He said that is not normally done but it is denoted on the plan although no line is marked in the field. Chairman Parker asked if the CEO would pick that up before issuing a building permit. The Planner said delineation had been required in one instance because the lot configuration was unique with a narrow building area. Mr. Tetreault commented that this is a zoning setback the same as the front, rear and side setbacks.

David Kestner said that would only be for initial construction of a home and when adding a shed, workshop or garage the homeowner may not be aware of the 100-foot setback. For instance an 8 foot by 8 foot shed could be delivered already built. Mr. Tetreault said some towns require a foundation location for every structure which requires a surveyor to show that the building meets the setbacks but Farmington does not have this requirement.

Charlie King asked if he had any proposed deed language for the lots. Mr. Tetreault said he did not and Mr. King suggested that the setback language be added to the deed as a condition of approval. Although John Cardinal, Sr. said there was quite a slope and it was unlikely anything would be sited in the setback, Mr. Kestner said he was trying to avoid any problems. The members agreed that it made sense to require that the deed reference the 100-foot setback as shown on the plan.

***Charles Doke motioned to extend the meeting to 10:00 pm; 2<sup>nd</sup> Cindy Snowdon. Motion carried with all in favor.***

Chairman Parker opened the hearing to public comment. There were no comments and he closed the public comment portion.

The Board briefly discussed conditions of approval.

***Charlie King motioned to approve the application for a minor subdivision of Tax Map R18, Lot 10 & Lot 11) for property located on Great Pine Circle with the following eight conditions:***

- 1. Area (acreage and square footage) of contiguous uplands for each of the four parcels to be added to the plat;***
- 2. Buildable area of 30,000 square feet for each of the four parcels to be added to the plat;***
- 3. No further subdivision of the remainder parcel to occur during the next five (5) years;***
- 4. Monumentation to be set on the plat and in the field prior to recording;***
- 5. Newly created lots are subject to the road association and maintenance agreements and any other recorded agreements from prior approvals;***
- 6. Note to be added to plan that the driveway easement is in favor of R18 Lot 11;***

7. *Language will be put in the deed to reference the 100-foot setback from the Class One stream; and*
8. *Applicant to comply with all applicable local, state and federal laws.*

*2<sup>nd</sup> Charles Doke. Motion carried with all in favor.*

**Application for Minor Subdivision by: Michael A. Paquette through Berry Surveying & Engineering, Agent (Tax Map R30 Lot 4) for property located on the corner of Ten Rod Road and Pound Road. The applicant proposes to subdivide a 3.62 acre lot from the existing 52.6 acre parcel. The parcel is located in the Agricultural Residential (AR) Zoning District.**

Daniel O'Lone presented the application as agent for Michael Paquette. He said the parcel is just over 52 acres with frontage on both Ten Rod Road and Pound Road. He said in 2005 the parcel was subdivided to create a building lot along Ten Rod Road (Map R30 Lot 4-1). Driveway access will be from Ten Rod Road and there are no wetlands at the proposed driveway location. The plan also showed access from Pound Road and that will be removed. Subdivision approval is pending. Mr. O'Lone said a waiver is being requested for topography and wetlands on the entire parcel because enough has been delineated to provide buildable area for the proposed 3.62 acre parcel and surrounding the existing home.

Planner Menici said that one of the issues addressed by Mr. O'Lone was access from Pound Road. The Planning Board does not have that authority because it is a Class 6 road and the final plans will not show that access. The Planner said a waiver request from Section 4.08B (Complete Survey and Topography) was submitted and there was no issue with this request. The surveyor will have to correct an error in note 10 which should say 3.62 acres instead of 3 acres. The applicant's signature must be on both the application and the fee schedule. The Planner said there is a signature but it doesn't match with any other signatures on file and there is no signature on the fee schedule.

*Charlie King motioned to grant waiver request from Section 4.08B to allow partial survey and topography to include the proposed 3.62 acre parcel and the proposed remainder parcel to include the area up to the existing home as requested; 2<sup>nd</sup> Cindy Snowdon. Motion carried with all in favor.*

*Charlie King motioned to accept the application as substantially complete; 2<sup>nd</sup> Charles Doke. Motion carried with all in favor.*

Charlie King questioned what is going to happen regarding the proposed driveway access to the parent parcel. Chairman Parker suggested a condition of approval for the 48 + acre parent parcel to have access through this parcel. He said that would need to be shown on the application and is not currently on it.

Mr. O'Lone said the applicant had decided not to sell the parent parcel to Ms. Munroe and instead will keep it as a residential only use and Mr. Paquette will go to the Board of Selectmen to take care of the Class 6 road access. The Chairman said that application could be denied and then access would potentially still have to go through this parcel. Mr. O'Lone said that could be a condition.

The Planner directed the Board's attention to her suggested condition of approval number 3 that requires the applicant to provide legal access for both the proposed and remainder parcels prior to recording. She said that if the Board of Selectmen does not approve access from Pound Road for the remainder parcel then the owner does not have legal access and the subdivision cannot be recorded and the approval is null and void. Mr. O'Lone said that it falls to Mr. Paquette whether he wants to take this risk because if the Board of Selectmen denies his application the subdivision is lost.

Charlie King asked if this were proposed as a rear lot subdivision could access be taken through this parcel. That was if the Class 6 access was denied he could still have access. Mr. King asked if application would have to be resubmitted as a rear lot subdivision. Planner Menici said it would.

Charlie King said if the applicant takes a risk and is not successful he can come back with a rear lot subdivision with a shared access point. Mr. O'Lone said the applicant's main concern is the financial burden of a long driveway through wetlands.

Chairman Parker said there should be a condition of legal access to both properties and if able to obtain access to Pound Road for the existing home as a current residential use then this could go forward.

Planner Menici said this would actually not qualify for a rear lot subdivision and the applicant would need a variance because of insufficient frontage. Charlie King said if that is not an option what prevents the Board from considering a driveway that goes though the proposed lot to parent lot. The Planner said that would still be a rear lot subdivision with a shared driveway. Chairman Parker said the discussion was extending beyond what was in front of the Board.

David Kestner said even with the two plus hour kennel approval there is still the issue of the access not having been brought up to compliance. He questioned why the Board was basing a subdivision approval on a "what if" with compliance pending the Board of Selectmen's interpretation. Charlie King's answer was because for 18 years the Town had not done anything. The current use was residential and the training facility was a home occupation/business. David Kestner said acting as "devil's advocate" if the Board of Selectmen granted the residential use based upon the continual 18 years of use and this Board granted the subdivision based on the merits in front of us and upon the waiver what would then prevent the next "tank training facility" from going in out there.

Planner Menici said that is an issue for the Board of Selectmen to deal with and they could put in a limitation based upon a recommendation from the Planning Board for residential use only. That would prevent any future home occupation/commercial use from using the Class 6 driveway access.

Matt Scruton said he shared some of David Kestner's concerns but if the new lot access was from Ten Rod Road then access for the parent lot from Pound Road was fine. Cindy Snowdon said if Mr. Paquette was just looking to use Pound Road for the present residential use that was okay and this came to light because of the different use proposed. Mrs. Snowdon felt the Planner's suggestion for a limitation was good.

Chairman Parker opened the hearing to public comment.

Harold Butt commented that 18 years ago it was also going to cost a lot to put the driveway in from Ten Rod Road. He said the Town never could find the building permit and he has been hitting his head against the wall to bring this up. Chairman Parker said it would be hard to ask the applicant after 18 years to put in a driveway from Ten Rod Road.

The Planner explained there was confusion about the building permit because the tax card showed 1998 and staff looked from 1997 to 1998 for the permit when it was actually issued in 1995 and filed under the old map and lot. Mr. Butt said the old building inspector should have known where to find it and Mr. Paquette proposed the Ten Rod Road access himself. Planner Menici said Mr. Paquette could ask for the road waiver like others had and the Board of Selectmen would decide.

Charlie King said that the driveway access had not been reviewed by the road agent and there should be a condition for his review. Chairman Parker suggested the Board discuss the conditions of approval as suggested.

- 1. Correct Note 10 to read 3.62 acres;**
- 2. Applicant to sign Application and Fee Schedule prior to recording;**
- 3. Applicant to provide legal access for both proposed and remainder parcels prior to recording;**
- 4. Monumentation to be set on the plat and in the field prior to recording; and**
- 5. Applicant to comply with all applicable local, state and federal laws.**

Cindy Snowdon said if the road waiver is approved it should say only for residential use. Planner Menici said the application will go through a process and the Board of Selectmen will solicit a recommendation from the Planning Board. The Planning Board will gather comments from the Fire Chief, Police Chief and the Director of Public Works and based upon that information develop their recommendation back to the Board of Selectmen and they will decide to approve or not. She said that one thing the Planning Board might want to include is if an approval is given for access from the Class 6 road then it should be limited to residential use only and that recommendation should be made separately from this application.

The consensus was that the suggested five conditions were fine and that two additional should be added:

- 6. Driveway location to be approved by the Public Works Director; and**
- 7. No further subdivision of the remainder parcel during the next five years.**

Planner Menici said the final condition should be standard for all minor subdivisions. Cindy Snowdon agreed and commented that allowing a minor subdivision with the five year restriction saves the applicant money.

Chairman Parker closed the hearing to public comment.

**Charlie King motioned to approve the minor subdivision of Tax Map R30 Lot 4 for property located on the corner of Ten Rod Road and Pound Road as proposed with the following seven conditions:**

- 1. Correct Note 10 to read 3.62 acres;**
- 2. Applicant to sign Application and Fee Schedule prior to recording;**
- 3. Applicant to provide legal access for both proposed and remainder parcels prior to recording;**
- 4. Driveway location to be approved by the Public Works Director;**
- 5. Monumentation to be set on the plat and in the field prior to recording;**
- 6. No further subdivision of the remainder parcel to occur during the next five (5) years; and**
- 7. Applicant to comply with all applicable local, state and federal laws.**

**2<sup>nd</sup> Cindy Snowdon. Motion carried with all in favor.**

- Any other business**

Chairman Parker said he had recently been reviewing Riggins Rules and found there was a lot that he could approve upon as well as a lot that all members could improve upon. He said he wanted to share two thoughts tonight.

1. Packets provided from staff. He said that Bette does an excellent job in preparing and getting the meeting packets to the Board. It was important to pick up, read and study the materials over the weekend prior to a meeting. Two websites that provide a lot of information are NH.gov and OEP. Everyone can find helpful references to publications or RSA's on these websites. The Chairman suggested that each member should be well researched and know the subject as well as the rules and regulations that are applicable. He said the OEP site was the most thorough but sometimes it was easier to read an RSA from nh.gov.
2. Attendance at meetings. He said it was extremely important to attend all meetings. Even though everyone had some problems from time to time if you made a commitment then it was important to attend and to give 100 percent. He said this applies to every committee.

The Chairman suggested the members could get a copy of Riggins Rules from Planner Menici or Google them on line.

Chairman Parker said that some boards say after two or four missed meetings a member can be let go. He said that maybe the Board should look at this for the Rules of Procedure. The Chairman added that anyone looking to

join the Planning Board is welcome and that the Board has lost some applicants because they did not understand the commitment.

The discussion then turned to Mr. Paquette's application for a road waiver. Charlie King asked if the Planner could give him a memo with the Board's recommendations for the Board of Selectmen's meeting the next night. The Planner pointed out that the RSA states the Board's recommendations should be after review.

Charlie King said if the Board considered it now the Board of Selectmen could possibly act on it at their meeting on Wednesday. Chairman Parker said the residential use was not an issue. Charles Doke said he could not give an answer because the original permit said Ten Rod Road and for the Board to offer an opinion puts it in a position of taking away an opportunity. He said he would not want to make a judgment that should come from the Board of Selectmen and what happened 18 years ago had to be straightened out. Mr. Doke said that he had no opinion because of the way the conversation had been going all evening and if the applicant had decided not to sell then there was no point in considering the waiver. Chairman Parker said Mr. Paquette still needed the waiver to continue using the Class 6 road access.

Cindy Snowdon said one of the things the abutters brought up and were heated about was that it appeared Mr. Paquette had not been participating in taking care of the road and if the waiver was granted participation should be specified. It was pointed out that maintenance on a Class 6 road was "every man for himself" and that the Town did not get involved.

David Kestner said everyone was tired and the Board should sit on this and get back to it when everyone was thinking cohesively. Glen Demers said he had no problem keeping the access on Pound Road if it were for residential use only since it had been in use for 18 years and that everyone should learn to get along. He agreed with Mr. Kestner about postponing any recommendations.

Matt Scruton said if they do impose that condition then the argument would be that the proposed use was a residential, at home business and would still qualify to use the Class 6 road access.

Charlie King said it appeared that the consensus was to discuss recommendations for the road waiver at another meeting.

***At 9:53 pm Glen Demers motioned to adjourn the meeting; 2<sup>nd</sup> Josh Carlsen. Motion carried with all in favor.***

Respectfully submitted,  
Bette Anne Gallagher, Department Secretary

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Chairman, Paul Parker