

**TOWN OF FARMINGTON
PLANNING BOARD MEETING
Tuesday, September 15, 2015
356 Main Street, Farmington, NH**

Board Members Present:

Charles Doke, Chairman
David Kestner, Vice Chairman
Anthony Vittorioso
Glen Demers
Martin Laferte
Jim Horgan, Selectmen's Rep.

Board Members Absent:

None

Town Staff Present:

Planner Liz Durfee

Public Present:

Peter Brown
Randy Orvis
Paul Trumey
George Sacco

BUSINESS BEFORE THE BOARD:

- **Pledge of Allegiance**

At 6:00 pm Chairman Doke called the meeting to order and all present stood for the Pledge of Allegiance.

- **Review and approve Meeting Minutes of September 1, 2015**

Jim Horgan motioned to approve the minutes of September 1, 2015 as written; 2nd Glen Demers. The motion passed 5-0-1 (Vittorioso abstained).

- **Discussion with Cynthia Copeland on SRPC Membership**

Postponed until the October 6th meeting.

- **Preliminary discussion with Peter Brown regarding site plan review for Map R14 Lot 005**

Peter Brown told the Board he purchased the property located at 257 Route 11 at the beginning of the year through an auction and did not receive any building or site plans. He said an architect has reviewed the building and provided him with a floor plan of the structure. The building had been used as a repair facility but he intends to break it up into 2 or 3 units and then market the building. He said he would like to discuss approved uses for the site similar to past uses to make it easier to attract tenants as they will know what uses are allowed there. He asked if the Board would consider approving a motor vehicle repair facility, motor vehicle sales and small engine repair at the location. Vice Chairman Kestner said the Town's Zoning Ordinance lists what uses are permitted and not permitted in each zone. Chairman Doke said the application does not specify the intended use and the Board could not approve a "blanket development" for a site plan. Mr. Kestner suggested if the client intends to use the property for a use previously allowed at the site, Mr. Brown would first go to the Code Enforcement Officer and the application could fly through with a minor technical review. If the CEO determines it needs Planning Board approval then a hearing before the Board would be scheduled.

Jim Horgan said hazardous waste and trash disposal are some things the Planning Department would take a critical look at.

Glen Demers added the Police and Fire Chiefs will want to know about the chemical uses at the site. He said Brown's suggested uses are permitted with review and would come before the Board anyway.

Jim Horgan asked about the paved area above the building and what is the setback requirement from the edge of the road to the front of the vehicles for sale parked there. Mr. Brown said the vehicles have been removed per request of the Building Inspector.

Chairman Doke suggested that when he does have a tenant he should come to the Code Enforcement Officer and the plan may become approved with just a minor site plan review. Selectman Horgan said nothing Mr. Brown has suggested for uses have raised any red flags with the Board. Mr. Brown thanked the Board for their time.

- **Review of conditions required for final approval for Watson subdivision Map R25 Lot 1-2**

Randy Orvis said he was appearing as an agent for the property owner and was there to answer questions if needed.

Chairman Doke said the Board received a memo from Planner Liz Durfee and asked her to address her comments. Ms. Durfee said that a list of items was identified by Planner Mike Garrepy as conditions for final approval. Some of the bigger issues include NH DES subdivision approval which is included on the revised plan with a note regarding the working order of the system. She said the primary reason the application is under review is because the Board granted two waivers contingent on the waivers being submitted in writing to the Board and the applicant has submitted two petitions. Ms. Durfee said she was informed that the Board will accept a petition instead of the actual waiver form.

Another issue was a review of the draft easement language on the deed. The previous planner noted that the access easement should depict specific information about who will be allowed to pass over the access, what activities will be allowed, who will be responsible for its maintenance and what material will the access be composed of. She noted the final plan has been submitted.

David Kestner asked Mr. Orvis why the easement language hasn't been drafted so the buyer is aware of the issue involving the maintenance of the easement. Mr. Orvis said the proposed easement is where it is presently located and how it is maintained is irrelevant to the approval because the owner owns both lots and would work out the details with the buyer and have it written into the deed. He said the owner asked to have the easement put on the plan so if the property doesn't sell he will be able to get his tractor across the culvert to the back property. There are no proposed improvements, just a tractor path through the field. If he gets the work done before he sells the land, he will extinguish the easement and sell it without the easement. Vice Chairman Kestner said the Board did not have an explanation as to what the owner was planning to do in a language they could understand. Mr. Orvis said the owner can change his mind anyway as he owns both lots.

Ms. Durfee said there are no unresolved issues. The Board had no additional comments.

Jim Horgan motioned to accept the application as complete; 2nd by Glen Demers. The motion passed unanimously.

Members said conditions for final approval were met and the motion gave the application final approval status and required no further action by the Board.

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

Chairman Doke said the Board received copies of the Notice of Decision regarding the Major Site Plan approval, the Amended Site Plan Approval, and Planner Liz Durfee's comments regarding a request for an extension of the

site plan approval for a general store to be located at 576 Ten Rod Road owned by Catherine Natale.

Ms. Durfee said the site plan for the general store was approved almost 5 years ago, amended and approved again in April 2012 and then in January 2015 a request for an extension of the site plan approval was submitted by the property owner's agents. There hasn't been any development to date and the owner does not have a building permit yet but is in the process to get one. She said she reviewed the site plan regulations and Planner Garrepy's recommendations and agreed with his findings that the conditional approval is valid for one year. Because the year has expired, there isn't an active approved application to extend. She said due to potential changes to the Town's zoning ordinances, that the request is not design related and site plan regulations specifically authorize the Planning Board to waive design requirements she recommended that the Board ask the applicant to submit a new site plan for approval.

Paul Trumey said he came before the Board on behalf of owner Catherine Natale as a friend, not as a professional. He said he did not have any questions other than what is the next step in the process. Vice Chairman Kestner said Ms. Natale will need to start over again with a new application as her approval expired in 2013.

Jim Horgan added she will need to start the entire process over with a new application, abutter notifications and the fees associated with the application process. He noted that if she still has the plans it would be a matter of packaging it all up again and resubmitting it for review by the Planner and then it would come back to the Planning Board.

Vice Chairman Kestner said some of the specifics may have changed and they would need to compare what was submitted for the 2010 checklist with the 2015 checklist. There may be additional paperwork that needs to be added or addressed. Chairman Doke advised him to come to the Planning Office during regular business hours and they would point him in the right direction.

Ms. Durfee noted that the application is available on the Town web site and that she is available on Tuesdays from 2-5 pm for assistance. She said she could also e-mail him a copy of the application if he would like. Mr. Trumey thanked the Board for their assistance.

Vice Chairman Kestner asked if the Board needed a motion for their decision to require a new application for Ms. Natale's project. Planner Durfee said she did not think the action required a motion as the approval expired. Anthony Vittorioso said there is an open request for an extension and asked if any action was needed such as a formal response to the request. Ms. Durfee agreed they do need to respond to the applicant.

Jim Horgan motioned to recommend that the Planner send a letter responding to the applicant for a request for an extension of the site plan approval and describing the reasons for denying the request; 2nd by Glen Demers. The motion passed unanimously.

David Kestner motioned to take a five minute break; 2nd by Glen Demers. The motion passed unanimously at 6:30 pm. The meeting reconvened at 6:35 pm.

PUBLIC HEARING - 6:30 pm

Request for Design Review by: ACM Specialized Materials, applicant (Tax Map R36 Lot 002): To amend the Site Plan approved on November 20, 2012 to allow the addition of junk vehicles as a product line. Parcel is owned by Metal Farm LLC and is located at 56 Davidson Drive in the Industrial Business Zoning District.

George Saco detailed the issues in the commodities industry necessitating an addition to their products line to help the company make it through hard economic times. He said the company needs the vehicle weight to offset the loss in volume they have experienced over the last few years and they would like to capture the local market share for that weight in iron.

Selectman Horgan then asked the following questions:

What are your plans and what will the process be? The company would like to buy scrap vehicles from the public and the process would be what the NH green yards recommend. He said he is a certified solid waste facility operation and he has received the DES automotive recycling guidelines.

What happens to the car after you take it in? It would be processed (remove the battery and catalytic converter, drain the fluids and dismantle the vehicle) stored and then shipped to the shredder.

What happens to the fluids drained from the vehicles? Oil, transmission and rear differential fluids are sent to companies with waste oil heaters, antifreeze goes to companies paid to remove it and fuel from a newer vehicle or one that has not been sitting for a long time is filtered and used in company vehicles.

What is the vehicle capacity is at the site? He said there were about 6,000 cars on the property at one time. He is requesting 425 vehicles be allowed, but is not sure what the actual number will be.

What type of surface will the vehicles be parked on? The check-in area is paved and the vehicles would then be stored on a DES approved recycled asphalt surface.

What is the estimated turn-around time from the time the vehicle is taken in until it is sent to be scrapped? It would take about 2 to 3 weeks depending on the type of vehicle he said.

Will you wait for the market to improve before shipping vehicles? Mr. Sacco said that could happen occasionally, but he has bills to pay so he does not foresee holding many vehicles.

Are you contemplating any other revenue streams besides junk cars? The company is already handling most aspects of metals recycling and cars would be a good avenue due to their weight.

Vice Chairman Kestner noted that the 2012 Site Plan approval, item #6 states no junk vehicles may be taken in per application and that the applicant agreed to the decision.

Mr. Kestner then asked if Ms. Durfee she told the applicant that this type of business is not allowed in that zone. Ms. Durfee said she has not met with him yet but noted that the use is prohibited anywhere in Town. Mr. Kestner suggested he needs to get a variance and satisfy a long list of conditions. Mr. Sacco said the Town-wide prohibition of junkyards is “occupational prejudice”.

Chairman Doke said the parcel is a Super Fund site located near a Town aquifer and we don’t want to add anything else to it. Mr. Sacco said he works with DES and they have visited and approved his site.

Mr. Kestner said he will have to overcome conditions such as no hazard shall be created on a public or adjacent property on account of potential fire explosion or release of toxic materials and no detriment to property values by use.

Martin Laferte said that while he may have sympathy for Mr. Sacco’s situation, the Board is not a social service agency. He said there are rules we have to follow and Mr. Sacco must play the game by the rules.

Ms. Durfee said a design review was scheduled because he planned to amend the original site plan to comply with some issues the Town was having with the lot including open storage containers and use of the easement. Selectman Horgan said the first order of business is to make sure he is in compliance with the original Notice of Decision. Ms. Durfee said the Code Enforcement Officer is willing to be a bit flexible about not requiring an amended site plan if Mr. Sacco is going to submit a variance application for a separate use which would require another full site plan entirely.

Mr. Kestner asked if Mr. Sacco received a copy of the Building Inspector’s issues including a court case that needs to be brought into compliance. Mr. Sacco said they have been addressed and the case is closed.

Ms. Durfee said she reviewed the easement language and it appears that Mr. Sacco does not have permission to use it for anything other than passing through and asked him to explain how the proposed activities would be allowed there. Discussion included the existing scale house, the parking lot and the proposed visitor and truck parking. She said the existing language is not clear and is an issue to be clarified between Mr. Sacco and the NH Custodial Trust. She will follow up with the Trust.

Mr. Sacco asked if the Board could vote on the site plan or the storage of junk vehicles. Mr. Kestner said they could not because a qualified application was not submitted but they could give him some non-binding comments about the site plan if he plans to submit an application to the ZBA for a variance. Mr. Sacco said he was told by the Town attorney to make application to the Planning Board. He said there was no planner at the time and no one to talk to. Chairman Doke said we still have a Planning Office and this matter wouldn't be before this Board if he sought direction there.

Mr. Sacco asked if the ZBA can change the original conditions of approval. Mr. Kestner said only the ZBA could offer an avenue to amend the original approval and they would need to overrule the zoning ordinance to allow junk vehicles to be stored there. Mr. Sacco said he will apply to the ZBA.

Mr. Kestner advised that some of the planned uses don't meet the setbacks within that zone and suggested he rethink the plan so he doesn't waste money. Mr. Horgan suggested he talk to the Planner about these issues and Sacco agreed to meet with her next week. Ms. Durfee said she could discuss the specific requirements for this district, review items on the amended plan, but could not do a full review until he submits an application and has a plan prepared by an engineer.

Mr. Kestner said the meeting was a non-binding discussion. No action was taken by the Board.

Ms. Durfee said she was contacted by NH DES and the EPA to discuss access to their well testing sites as testing continues on the abutting property and on Mr. Sacco's property. Mr. Sacco said that neither agency ever said they would need to test on his property and that the issues are on the State property. She said it will be a design issue if additional access is required and will follow up with the State.

At 7:25 pm Martin Laferte motioned to adjourn the meeting; 2nd Jim Horgan. The motion passed unanimously.

Respectfully submitted,
Kathleen Magoon, Recording Secretary

Charles Doke, Chairman