

**TOWN OF FARMINGTON  
PLANNING BOARD MEETING  
Tuesday, October 20, 2015  
356 Main Street, Farmington, NH**

**Board Members Present:**

Charles Doke, Chairman  
David Kestner, Vice Chairman  
Glen Demers  
Martin Laferte  
Anthony Vittorioso  
Resta Detwiler

**Board Members Absent:**

Jim Horgan, Selectmen's Rep.

**Town Staff Present:**

Liz Durfee, Regional Planner

**Public Present:**

Angela Squires  
Carlene LaPierre  
Tony Luchianni  
Jerry McCarthy  
Ann McKinnon  
Frank Blaney  
Holly Atwell  
Beverly McCarthy  
Holly Atwell

**BUSINESS BEFORE THE BOARD:**

- **Pledge of Allegiance**

At 6:05 pm Chairman Doke called the meeting to order and all present stood for the Pledge of Allegiance.

- **Review and approve Meeting Minutes of October 6, 2015**

*Martin Laferte motioned to approve the minutes of October 6, 2015 as written; 2<sup>nd</sup> by Glen Demers. The motion passed 4-2 (Detwiler, Vittorioso abstained).*

Chairman Doke introduced a new member, Resta Detwiler, and thanked her for joining the Board.

Chairman Doke then asked the Board if they wished to delay the other agenda items until after the Public Hearing scheduled for 6:30 pm. The consensus of the Board was to continue the discussion of the SRPC membership and postpone the discussion on storage trailers until after the Public Hearing.

- **Continued discussion on membership to SRPC**

Chairman Doke said the Board had questions following the presentation by Strafford Regional Planning Commission Executive Director Cynthia Copeland at the previous meeting. He said the Board needs to make a decision about whether the Town should become a member of the SRPC and opened discussion to Board members. Discussion included that some members did not see any big advantage to joining the commission, they weren't sure the money would be well spent, from a cost benefit view may be no more than a wash at the best,

justification for recommending spending \$6,700 for membership when the bill for non-member services is \$4,800 and saving money by paying only for the services needed.

Other members said there would be less additional service costs as a member, it is unknown what future services and related costs would be, there is no full time Planner, the Planning Department Office is not open full time and other Boards/Departments will use their services.

The Chairman then called for a motion and said the results will be sent to the Selectmen as their recommendation. Vice Chairman Kestner noted the Board was split on the matter.

Martin Laferte said he goes to SRPC meetings every month and most of the talk is about roads and DOT. He said we should spend our money taking care of things in Town rather than give it to SRPC so they can talk about DOT.

Planner Liz Durfee clarified that the meetings Mr. Laferte attends are transportation meetings so they focus heavily on their work with DOT and how SRPC helps bring in Federal transportation money. Mr. Kestner asked if there are reasons the Board is unaware of for the difference between the \$4,800 in services that Ms. Copeland cited vs. the \$6,700 for membership.

Ms. Durfee said that a lot of the member services SRPC can provide would need to be requested by the Town. She said the costs member and non-member Towns pay for services could be quite different depending on the scope of the work. If a member town needed an extra traffic count it's likely the cost would be covered, but a non-member town would pay about \$200 for one count. She noted that if the Town is going to continue to contract with SRPC for Planner services the amount of saving you get from being a member is 50% of what your dues are. She added that she could not provide any more budget information than what was provided by Ms. Copeland at the previous meeting.

Mr. Kestner said there is value in the fact that we don't have to purchase the GIS software and maintenance agreements if the Town becomes a member. Glen Demers said the yearly upgrade fee for the GIS is in excess of \$1,000 a year. Mr. Kestner then said the hardware, software and annual maintenance agreements for one computer would be the \$1,000 to \$2,000 difference in the cost for members and non-members and said he was fine with joining based on this additional information.

***Glen Demers motioned to recommend to the Selectmen that Farmington become a member town of the SRPC and pay the dues in the amount of \$6,773.49; 2<sup>nd</sup> by David Kestner. All members voted except Mr. Laferte. Chairman Doke asked for his vote.***

Mr. Laferte read from the minutes of last meeting and noted that the Road Surface Management Project was another DOT project that had nothing to do with Farmington. Chairman Doke noted that is only one part of the services available and that the membership is based on our needs. Mr. Laferte said the Board shouldn't authorize a single buck or recommend membership until they get to the end of this. Chairman Doke added the Planning Board is not the deciding factor in this and again called for Mr. Laferte's vote. He did not reply and the Chairman deemed he abstained from voting.

***The motion passed 5-0-1.***

***Glen Demers motioned to table the rest of the agenda items until after the Public Hearing; 2<sup>nd</sup> by Anthony Vittorioso. The motion passed unanimously.***

### **PUBLIC HEARING - 6:30 pm**

**Application for Minor Site Plan Review By: Holly Atwell, owner (Tax Map R32, Lot 023): To consider approval of an Amended Home Business Application to allow a trailer for the storage of grain for use with**

**her business, The Pet Pantry, LLC approved on August 7, 2007 and amended on October 20, 2009. The parcel is located at 188 Main Street in the Suburban Residential (SR) Zoning District.**

Angela Squires came forward to speak on behalf of the applicant. She told the Board that Ms. Atwell really needs the trailer as it holds the inventory for her business which is about eight tons of grain. She was made to remove the trailer earlier this year following receipt of a letter from the Town calling it “junk and debris”. She said she needs the trailer for deliveries because the deliveries have to be made “dock to dock”. After getting rid of the trailer she lost a Poulin Grains dealership at a great financial loss and emotional turmoil about the future of the business. She provided a sketch and a photo showing where the trailer would be placed and noted this would be in the same location as the previous trailer.

Discussion included identity of the structures on the sketch as they were not labeled, where the delivery trailers would enter the property, the distance from the storage shed to the proposed trailer, if a canopy or other attachment was planned between the storage trailer and the shed, if a second shed could be put at the site, if the unit will be a drop-off container or box trailer with wheels, the length of the trailer, screening it from view, turning it so the interior could not be seen and whether it would be a temporary or permanent placement.

Ms. Squires said she was unaware of any formal complaints in writing against the last trailer. She noted that Ms. Atwell had the previous trailer for three years without incident before May 2015 when the Board began working on the proposed storage containers ordinance.

Mr. Demers clarified that the Board was asked to take up the matter by the Code Enforcement Officer. He added that the home business is supposed to be an accessory use which means the residence is supposed to be the primary use. Ms. Squires said none of the applicant’s business is in her living area.

Ms. Durfee said the reason this has come before the Board now is because the storage trailer was not included in the original site plan and because of that the CEO issued a violation. She said the amended site plan to include the storage trailer is fairly reasonable and there are some design considerations that could make this more favorable. Home businesses are permitted to have outdoor storage if it is screened from the road and the surrounding properties. The ordinance also states there shall be no change in the appearance of the residence or other structures on the property as a result of the use unless specifically approved or required by the Planning Board. It’s a separate issue from the future storage unit ordinance as it hasn’t been officially drafted or adopted yet. In the future a permit will likely be required if the Town does move forward with that ordinance she said.

***David Kestner motioned to accept the application as substantially complete for discussion; 2<sup>nd</sup> Resta Detwiler. The motion passed unanimously.***

Chairman Doke then opened the hearing for public comment at 6:45 pm.

Carlene LaPierre said she and her husband own a small farm in Town and have been loyal customers of Ms. Atwell ever since she opened her doors. She said if they have to start traveling to buy grain that just adds to their expenses. We want to keep business in this Town and I think all of the Boards in this Town should support that she said.

Tony Luchianni told the Board he has been a resident for 11 years and has been dealing with Ms. Atwell since she opened. He also has a small farm and said it is imperative they have someone local they can go to. It’s important that local businesses stay open and to even lose a small one would be horrible. She has been a great business owner and it would detrimentally affect a lot of the families that rely on her he said.

Jerry McCarthy said he is an abutter located at 190 Main Street. He said three years ago Ms. Atwell spoke to him about becoming a distributor for Poulin Grains but she said didn’t have the necessary storage so she wanted to get a temporary storage container for her property. He told her he didn’t have a problem with her plan as he thought it was temporary and he didn’t want to stop her from being a distributor. But there has come a time when there must be some concern for the neighbors he said. He said using tractor trailers for storage is a good idea in certain

areas of Town such as for industrial and commercial business and in the agricultural zone but said he did not think they belong in the Suburban or Urban Residential Districts. He cited the following reasons the application should not be approved as submitted: the SR zoning regulations say buildings or accessory uses are permitted and he presumed it meant stick buildings, the density of the houses and the small lot sizes in these residential zones, the appearance – tractor trailers are 14 feet high, hard used and aren't appealing; it takes away from the property values of the neighborhood. The 2009 amended site plan approved installation of a storage building on a concrete slab but did not include a trailer. He said three years later nothing has been done as per the approved plan. If you start putting trailers in the residential areas it is not going to be good for the Town he said.

Ms. Detwiler asked him if he would be opposed to the trailer if it was blocked from view. Mr. McCarthy said the storage unit should be on the other side of the lot but she hasn't completed the prep work according to the amended site plan. Ms. Squires said Ms. Atwell may be able to do that at some point but that is an added cost to her and she has lost revenue since the other trailer was removed.

Mr. Kestner asked Mr. McCarthy if he would have an issue with a 24 foot by 8 foot storage unit that is dropped off such as a "POD" unit. He suggested she could build a ramp at the height of the tractor trailer that is delivering the grain and have it hand carted down as one pallet into the storage unit.

Mr. McCarthy said that would be better but it would still be a temporary solution.

Mr. Kestner advised the proposal before them is not temporary and will become permanent if the Board approves it. Mr. McCarthy then asked if the proposal could be approved for a certain period of time.

Mr. Kestner said the Board has to govern by the zoning ordinances and storage trailers are a permitted use there. He said the issue is will it have wheels on it or is it going to be on the ground.

Mr. Vittorioso then cautioned members not to get the current case confused with the proposed ordinance change.

Ann McKinnon said she has been a customer of Ms. Atwell since she started raising chickens in her backyard. She said Ms. Atwell is accommodating and always had what she needed until the trailer got taken out of her yard. It kills me to see her business hurt. I buy everything I can from her every chance I get and I think that is something we need to encourage she said.

Frank Blaney said he was friends with both Mr. McCarthy and Ms. Atwell and was sympathetic to the situation. He said he has a container and a storage trailer as well. He said that anything other than allowing people to have them is a direct violation of property rights. He suggested that if storage trailer was on the other side of the lot and not near Mr. McCarthy's house it might be alright with him. He said he was for the application but that she should consider her neighbors as well.

Mr. Kestner asked Ms. Atwell if she would be willing to use a POD unit on the ground with a ramp set up at the appropriate height for a tractor trailer delivery and with a hand cart where you would pull off a pallet and run it down the ramp into the storage facility. Ms. Atwell said she has been trying to think of ways to do this and accommodate her neighbor but doesn't have the funds to do it.

Ms. McKinnon asked if the issue is the type of storage unit or the fact that the neighbor can see it. If it is because it can be seen Arborvitae is perfect for that she said. She asked if she had the right to tell her neighbor they can't have something because she doesn't like it and added she didn't see that in the regulations. She added she didn't feel someone had the right to tell the Board to make someone take something out because they didn't like it.

Mr. Kestner said this is because the applicant did not come forward originally to include the trailer on their approvals in 2007 and 2009. Ms. Squires said she didn't believe it was required then as there were no rules about storage units any place in Town.

Mr. Demers said it is an accessory structure for a home business that does require Planning Board approval. He

cited the building at the Farmington Country Club for which the hearings became so involved because metal buildings are not permitted in any zone in Town. The only way to justify it was for them to change the main façade so that when people drove by it looked okay. Mr. Laferte added they also required extra windows and landscaping so it looked like a normal building.

Ms. McKinnon said if the Board requires that of Ms. Atwell it will require thousands of dollars, especially since it is a permitted building to begin with.

Mr. Kestner said the issue with the Board is going to be whether or not a rear end of a tractor trailer is considered a trailer or would a dropped off POD be more applicable and appealing. A tractor trailer would require 14 foot high Arborvitaes but that is above what is allowed for fencing height so she would have to be back in front of us again for that. So we are trying to work together to accommodate her business as well as Mr. McCarthy's concerns he said.

Beverly McCarthy said Ms. Atwell hadn't been totally truthful. She told them she wanted to put in a small storage container on the other side of her property and she would paint it and make it look beautiful. She said it would be built on blocks and was only temporary. None of that has ever happened. Then she moves in that ugly tractor trailer instead of a small storage container where she could put her stuff and it would look decent for the neighborhood. We would not have agreed to that she said.

Mr. Kestner said the Board would have no way of knowing what was previously said to her. All we have is what information is in the plans presented to us in 2007 and 2009 he said.

Mr. Luchianni said since it is allowed she should be able to move the tractor trailer back on site until this gets sorted out. She hasn't violated anything. It will help her to do what you want her to do and she is still losing revenue in the mean time he said.

Chairman Doke asked if there were any further comments and hearing none, closed the public portion of the hearing at 7:25 pm. He then asked Ms. Durfee to speak on the recommendations heard during the hearing.

Ms. Durfee said if the Board is considering approving the application they could also consider types of screen materials, what can be stored in the trailer, prohibit the storage of hazardous or waste materials and that there be no further changes to the business without prior Planning Board approval so this type of situation doesn't happen again.

Mr. Demers asked Mr. McCarthy if he would have a problem if Ms. Atwell brought a tractor trailer in temporarily until she could make other arrangements. McCarthy said he would not have a problem with but said it was supposed to be temporary the last time and ended up staying that way for 3 years.

Ms. Squires asked how a ramp would work with a Connex box.

Mr. Kestner said the ramp set-up would be on the driveway side and would be set at whatever height she feels comfortable with and with a down slope to reach into the trailer.

Mr. Demers said if the tractor trailer is brought in it will have to be completely screened as required by code. He suggested she would need 14 foot Arborvitaes and estimated that cost at about \$1,000 a tree. Mr. Kestner added she will need a lot of them to complete the screening requirement.

Ms. Squires asked if she could put in a dirt berm first and then put the screening on top of it to reduce the amount of footage needed and to meet the height requirement for fencing.

Mr. Kestner advised she will then get into the issues of drainage, soil types, slope erosion, irrigation and other DES issues that would require an engineered plan for alteration of terrain which could cost thousands of dollars.

Ms. Squires asked if an enclosure using 14 foot 1 foot by 12 foot lengths of wood could be built around the trailer to make it look like an extension of the grain room. Mr. Kestner said it was possible but that is more in tune with a permanent structure with a tractor trailer sitting there. He said the Board can put a time limit on a wheeled storage unit and at the end of that time frame something more permanent than a tractor trailer needs to be addressed.

Mr. Vittorioso said the ordinance says under home business if you are using it to store materials it is considered an accessory building which is allowed but needs to be part of the site plan. He said it's permitted as secondary and incidental to the residence and the intent is to allow these types of uses in a way that doesn't have a negative impact or much of a visible impact at all on the surrounding neighborhoods. It is worth considering how the visual impact of the business can be reduced so that it fits within the suburban residential character of the neighborhood. He said that a structure to store grain to allow the business to operate is a perfectly reasonable use but they should also consider what types of alternative designs could make this less visible to the neighbors. Until there is a definition for a storage trailer it's difficult to have a conversation about what is permitted and what is not permitted. The fact that the business was allowed with a shed in 2009 and not another unit is the primary reason we are here to talk about the second unit he said.

Ms. Detwiler asked if their vote was to allow her to bring the trailer back so Ms. Atwell can continue her business, set a time frame, and then decide what we going to require for her to keep it there.

Chairman Doke said that the Board is trying to find a way it can be resolved and then asked how long she would need the tractor trailer to get back in business. Ms. Squires said it would depend on what she is required to do to "live up to" the Board's decision.

Mr. Kestner asked if Ms. Atwell was acceptable to using a metal storage container on the ground such as a POD on blocks with a ramp system in lieu of a storage unit with wheels underneath it which is the main visible bone of contention for the trailer. Ms. Atwell asked if she would have to screen the POD.

Mr. Kestner said there was no complaint against the idea of a metal storage container on the ground, only against having a 14 foot high tractor trailer sitting on wheels parked there. He asked what would be a comfortable time frame for a temporary tractor trailer to be put back in there and advised there should be a permanent solution within a certain amount of time.

Mr. Vittorioso said the ordinance says that the unit must be appropriately screened from roads and surrounding properties but he didn't think it is the Board's place to dictate what method she uses. Mr. Demers said the last part of the sentence states "as specified by the Planning Board". Mr. Kestner added the Planning Board may specify an exterior change of the residence and/or other structures on the property as a result of the use.

Mr. Vittorioso said he didn't want to lock her into one way of addressing it and then have to revisit the issue again because there may be another way to "skin a cat". Mr. Demers said the board is trying to keep her from having to come back to us unless there is another major change she wishes to make.

Chairman Doke said the Board is trying to find a way to allow the trailer there so the business can make money but within a certain time limit to put something in that's permanent because there is an abutter who doesn't like the appearance of a storage on wheels.

Ms. Squires noted the Board is in the process discussing a proposed new zoning ordinance and come March (after Town Meeting) it may or may not apply to what she's doing. She suggested the trailer be brought in temporarily and in March if residents decide to approve the new ordinance then Ms. Atwell can go by the new rules.

Mr. Kestner advised the Board can't discuss what is going to possibly happen in the future but what is currently in the zoning ordinances for a site plan review for Holly Atwell. He said the issue is how to hide it visually. Ms.

Squires asked if trees could be planted along the property line in addition to the existing trees to shield the trailer from view.

Members added the storage trailer must also be screened from roads and surrounding properties.

Mr. Kestner said if Ms. Atwell chose to use Arborvitaes there would be no idea what size tree to start with to meet the screening requirements within a year or two.

Mr. Kestner then asked Planner Durfee if the Board is able to amend the site plan that is currently in front of them to permit a temporary storage trailer on the site for one year. Ms. Durfee said she thought the Board could temporarily approve it but suggested the Town attorney could be consulted on the matter.

Discussion included whether or not to seek legal counsel, postpone taking action, moving the trailer to a different location on the lot, checking with the CEO before moving anything, visibility of the trailer from the left side of the house and if there are wetlands on the property.

Ms. Durfee suggested Ms. Atwell provide a written letter of proposal describing where the structures will be located, the size of the trailer and a more detailed sketch. She said she is not familiar with extending an approval of a currently non-permitted structure and suggested they check with the CEO.

Mr. Vittorioso said there's a procedure that does state that all motions resulting in an approval or denial of an application shall contain subsequent conditions that must be met, specified time period and/or as a condition of operating hours of operation, screening landscaping etc.

Chairman Doke asked for a motion.

***Resta Detwiler motioned to allow the application to go through with the condition that the trailer can come back for one year but within that year the trailer has to be moved and all the site work has to be done. After some discussion the motion was withdrawn.***

***Anthony Vittorioso motioned to approve the site plan as amended with conditions for one year at which time a more permanent solution must be presented such that the plan for the temporary trailer meets Zoning Ordinance Section 502 as presented to the Planning Board.***

Ms. Durfee suggested listing the conditions clearly and separately similar to what you would see on an actual approved plan so that it is clear. ***The motion failed due to lack of a 2<sup>nd</sup>.***

***Anthony Vittorioso motioned for a 5 minute recess to allow members to work on the wording for the motion; 2<sup>nd</sup> by David Kestner. The motion passed unanimously.***

Chairman Doke reconvened the meeting following the recess and called for a motion.

***Anthony Vittorioso motioned to approve the site plan for Holly Atwell as amended with the following conditions:***

- 1. After a period of one year the applicant will resubmit to the Planning Board the permanent solution so that the storage trailer is appropriately screened from surrounding properties to include an updated sketch showing screening materials and height of screening materials as applicable;***
- 2. The storage trailer will be used for only the storage of materials and supplies customary to the applicant's home business;***
- 3. That no hazardous material or waste will be stored in the trailer;***
- 4. This amendment only approves one storage trailer; and***
- 5. Any additional changes to the home business require prior approval of the Planning Board.***

***2<sup>nd</sup> by David Kestner. The motion passed unanimously.***

The applicant asked for a letter stating the conditions of approval.

- **Continued discussion on Storage Trailers**

Chairman Doke said the Board received a draft of the latest revisions to the proposed zoning ordinance regarding storage trailers.

Ms. Durfee said the Town would prefer not to have storage units located on vacant/undeveloped lots and a potential definition for “vacant” is not included in the draft. She suggested the definition include land that is in its natural state and lacks utilities and structures or land that has no manmade structures. She said storage units are not likely to be permitted with a temporary storage unit permit long term and after a one year period they would likely be considered a permanent fixture and be taxable. The Town doesn’t really want to go down that road she said.

She suggested the Board add a statement to clarify that temporary storage unit permits won’t be issued on vacant or undeveloped lands and include the definition of vacant offered by the Planning Office.

Mr. Vittorioso said the Board took that prohibition out following a discussion about allowing the storage of snowmobiles in a storage trailer on a vacant lot. He asked if the CEO recommended putting it back in. Ms. Durfee said the CEO does recommend putting it back because once a “temporary” storage unit becomes permanent it’s no longer vacant land and it can be considered a structure that would automatically become assessed for tax purposes.

Chairman Doke then asked the Board for their opinions about Ms. Durfee’s comments.

Discussion included amending the definition to include wheeled and non-wheeled containers, including size requirements, the definition of “transportable” and whether to seek legal opinion on the definition. Board members decided to send the entire draft to the lawyer for review when it is completed along with the proposed camper zoning ordinance.

Chairman Doke recognized Mr. Blaney who told the Board he didn’t think this issue was much of a problem in Town and said taxpayers are going to have to dish out more money to enforce the proposed ordinance. He said people are not knocking on the CEO’s door with problems with containers. He added residents have the power to have containers today and tomorrow they won’t and didn’t think it was fair to punish everybody for a few problems.

Chairman Doke said there are areas in Town where there are trailers with added structures and people have been living in them for years.

Mr. Kestner added the ordinance is a way to give the CEO the authority to address these issues on an individual basis. He then explained the process to adopt new ordinances which includes Town counsel review, two public hearings and then it is placed on the Town Warrant for approval at Town Meeting.

***Resta Detwiler motioned to submit the draft to the Code Enforcement Officer and then to the Town Attorney for review with the following revisions to include with or without wheels in the definition and add the word “is” between “home” and “limited” in number 6; 2<sup>nd</sup> Martin Laferte. The motion passed unanimously.***

- **Review of proposed 2016 Meeting Schedule**

This was postponed until the next meeting.

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

Site Plan Expiration: Ms. Durfee told the board the Town Assessor and the Planning Dept. has learned that a property owner had an approved site for a home business which was not developed. The approval has expired but the individual is marketing the property as a commercial site.

*Glen Demers motioned to notify Paul Gordon that he no longer has an approved site plan for his commercial business and the property reverts back to residential; 2<sup>nd</sup> by David Kestner. The motion passed unanimously.*

Letter from Eben Dorr: *David Kestner motioned to grant the extension to the road completion deadline as written for a term of one year to Aug. 31, 2016; 2<sup>nd</sup> by Glen Demers. The motion passed unanimously.*

Next Meeting: November 3, 2015. The agenda will include a joint meeting with the Economic Development Committee with a presentation by Planner Liz Durfee on updates to the Aquifer Overlay Protection District.

Adjournment:

*At 9:20 pm Martin Laferte motioned to adjourn the meeting; 2<sup>nd</sup> by Resta Detwiler. The motion passed unanimously.*

Respectfully submitted,  
Kathleen Magoon, Recording Secretary

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Charles Doke, Chairman