

Town of Farmington
356 Main Street
Planning Board Meeting Minutes
Tuesday, December 6, 2016

MINUTES

Board Members Present:

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

Board Members Absent:

Charlie Doke, Chairman, excused
Resta Detwiler

BUSINESS BEFORE THE BOARD:

Call to Order/Pledge:

Vice Chairman Kestner called the meeting to order at 6:15 p.m. All present stood for the Pledge of Allegiance.

Review Meeting Minutes:

November 15, 2016- Page 3, first line, add an "a" to "mange" to read "manage". Page 4, second line from bottom, add "if" between "ask" and "there". Page 5, mid-page, line 22, add "be" between "would" and "allowed".

Mr. Laferte motioned to accept the minutes as amended; 2nd by Mr. Kestner.
The motion passed 4-0.

Review of Draft Accessory Dwelling Unit Ordinance (ADU):

Ms. Durfee gave the board copies of Senate Bill 146, RSA 674: 71-73 and the draft of the proposed amendments to the Town's ADU Ordinance with comments from the Town attorney for review. She noted the attorney added Section H which describes that the owner must reside on the property and Section I which details the process to discontinue an ADU.

She said the board had previously recommended requiring a meeting with the Technical Review Committee (TRC) as part of the process but Code Enforcement Officer Dennis Roseberry suggested the applicant would apply for a permit from the CEO; the application would go to the Planning Board for review and then return for final approval by the CEO. She asked the board for feedback on the attorney's comments and Mr. Roseberry's suggestion.

Mr. Kestner asked if the CEO wants the board to review all of the ADU permit applications then should all of the districts be designated with "PR" (permitted with review) in the Table of Permitted Uses in the Town Zoning Ordinances.

Ms. Durfee said at the previous meeting the board suggested the permit approval could come at the TRC level but the CEO said he did not feel that was necessary as he can give final permit approval as the Town's Building Inspector. She added that legal counsel stated that per the RSA, even if the Board of Selectmen gives the Code enforcement Officer the authority to approve the permits they still need to go before the Planning Board for review.

Ms. Durfee said that even if a use is permitted in a zone it still may need another type of permit such as a building permit. She cited the example that construction of a single family home needs a building permit

even if it is in a zone where it is a permitted use without review.

Mr. Kestner asked how they would indicate to a potential ADU owner that the application needs to go to the Planning Board for review when it shows a "P" in the Table of Permitted Uses which indicates the use is permitted without review.

Ms. Durfee said she would ask legal counsel for an answer to Mr. Kestner's question and whether those uses should be designated as "P" or "PR" in the Table of Permitted Uses. She said the attorney's comment regarding this issue is found on Page 2, Section F 4 where she changed the word "may" to "shall" to read "The Code Enforcement Officer shall refer the application to the Planning Board or the Technical Review Committee for review and comment". The attorney cited RSA 674:21 which states that "any proposal submitted under this section shall be reviewed by the Planning Board prior to final consideration by the administrator."

Ms. Durfee said the Table of Permitted Uses states uses are permitted with review by the Planning Board or the Site Plan Review Committee which may also need to be addressed as it does not mention the TRC. Ms. Durfee also pointed out the attorney's note regarding the Commercial Business District. In a comment regarding the Table of Permitted Uses, the attorney said because single family residences are permitted in this zone the ADU's should be treated the same. She said this is incorrect and may have been a typo as single family residences are not permitted in this district. She said she will check with the attorney for clarification on the issue.

Mr. Kestner said that the only residential-type uses allowed in the Commercial Business District are convalescent, resting or nursing homes, residential care or congregant care facilities.

Mr. Kestner said that in the Permitted Land Use Table Codes, Page 30, the letter "P" means the use is permitted without review by the Planning Board or the ZBA. "PR" means permitted with review and that the use requires a site plan review by the Planning Board or Site Plan Review Committee prior to approval. He stated that "PR" must be shown in the Table of Permitted Uses if the application must be reviewed by the board or the applicant can go to Code Enforcement Officer for approval and would not have to come before the board. He suggested the attorney review the section on Table Codes and to provide comment to the board. He added the Commercial Business District should have a dash line in the table meaning the ADU is not usable in this district.

Mr. Kestner then suggested that Page 2, Section F4 be amended to put a period after Planning Board to read "The Code Enforcement Officer shall refer the application to the Planning Board" and to strike the rest of the sentence.

Ms. Durfee asked if the application be permitted with just the review by the Planning Board since it is going to be referred to the Planning Board or the TRC anyway. She said this doesn't necessarily mean the applicant would come before the board but could mean the CEO would receive and evaluate the application, provide comments and ask the Planning Board for comments and the CEO would give final approval for the ADU and building permit. The other option is to have the applicant come straight to the Planning Board she said.

Mr. Horgan suggested that would eliminate a step for the applicant and noted there would be input from the CEO at some point anyway.

Ms. Durfee said the CEO's input would come when the building permit is applied for.

Mr. Kestner said his understanding of the original intent was not to require the applicant to have to come before the board. But based upon the attorney's comments it would appear that even if the applicant goes to the CEO first, the CEO must still refer the applicant to the Planning Board for approval unless it is handled at the TRC level. He suggested they be "up front" with the applicant and state before the CEO

can approve the application it must be approved by the Planning Board. The Table of Permitted Uses should indicate "PR" and we can do away with the idea of going to the TRC and not confuse the applicant about the process he said.

Mr. Horgan said the TRC is for the benefit of the applicant and helps to put the application package together before it comes to the board for review. It already contains all the dept heads input and helps the board with their decisions. He said the bottom line is prior to going to the CEO they must come before the board and the board tells them where to go from there.

Ms. Durfee said the TRC came up at the last meeting because they can approve certain uses like a home occupation without going to the Planning Board. She said she understood that could be an option for ADU's because that would save the applicant from having to come before the board and the TRC could approve the application instead of the board. She said in her opinion, unless the proposal is complicated or there are a lot of questions from the dept. heads, it may not be necessary to require both the TRC and the Planning Board review and then go to the Building Inspector for the permit because the elements of the construction are the same elements the Building Inspector already deals with for the building permit. Mr. Horgan said he was concerned that a single family dwelling can be placed on as little as one-quarter of an acre depending on the zone and he would want to see the configuration of lot for those small size lots. He said he would like to see information from the TRC if possible and the board could require conditions of approval based on that information. He said this is information the board should have and the board should be aware of the impact this could have on residents.

Ms. Durfee then suggested the portion concerning the CEO be removed and require the ADU's to be approved solely by the Planning Board but the applicant would still need to get a building permit following the board approval. The Planning and Codes Dept. is one dept. so it is fairly simple to get comments from the CEO when applications come in she said.

Mr. Kestner then asked Ms. Durfee if she would leave Section F4 as noted by the attorney.

Ms. Durfee said she would revise the whole section on the ADU permit process (Section F) and Section B (Administration) would change to shift the "burden" to the Planning Board from the CEO

Mr. Laferte said Section F4 says the CEO decides whether the application goes to the TRC or the Planning Board.

Mr. Horgan said Section F will disappear with the requirement to bring the application before the board for approval.

Mr. Kestner asked if they should include a requirement that ADU's shall not exceed 750 sq. ft. He suggested it be included in Tables 2.0 (B) through Table 2.05 (B) in the Space and Bulk Standards Tables.

Ms. Durfee said the amendments will be inserted directly into the ordinance so they could find a place to add that information.

Mr. Laferte said the 750 sq. ft. requirement is mentioned in the ordinance.

Mr. Kestner agreed but was concerned applicants would not read the entire ordinance and there is no mention of the requirement in the dimensional requirements in the Space and Bulk Standards Tables.

Ms. Durfee said all of the existing space and bulk standards still apply and the only thing that changes is the residential density. She said she could add the ADU space requirement in the tables but noted it does not list any other of the ADU requirements there.

Ms. Durfee then suggested it could be added to the definitions page and to the permit application. She said that all of the criteria for review will be spelled out on the application or be referred to in Section 6.0 of the ordinance so applicants are made aware of the criteria they have to follow.

She said she would discuss the board's concerns with the attorney and return with her recommendations to the board in 2 weeks.

Public Hearing Schedule:

Ms. Durfee asked the board if they are ready to hold Public Hearings on the amendments to the ADU and Sign ordinances in preparation to be placed on the warrant for Town Meeting in March. She suggested the first hearing be held in December.

Mr. Kestner said Mr. Horgan was absent from the previous discussion on the sign ordinance and said he wanted to give him the opportunity to express his views on the matter.

Mr. Horgan said he would like to re-visit the issue and discuss electronic/motion signs.

The board then determined they were not ready to move forward with the proposed language for the sign ordinance.

After some additional discussion the board decided to schedule both Public Hearings on the proposed amendments to both ordinances in January.

The board will continue the discussion on signs at the December 20, 2016 meeting.

Review of the 2012 Zoning Map:

The board continued the discussion on the changes to the Commercial Business District (CBD) on the north side of Route 11 that were approved by voters at the 2012 Town Meeting. The warrant article sought to make changes to the boundary of the CBD and to remove some of the lots from that zone and include them in either the Suburban Residential District (SR) or the Rural Residential (RR) District. At a previous meeting Ms. Durfee told the board the changes were not made following the 2012 Town Meeting and it was not clear which lots were to be moved out of the CBD. She asked the board to re-visit the issue and discuss which lots should or should not be included in the CBD in that area.

She provided the members with a color coded map of the zones in the area that extends from Tappan Street to the New Durham town line.

Mr. Horgan asked if the intent was to use the individual property lines for boundaries.

Ms. Durfee said that in 2012 the intent was to use the Ela River as a natural boundary on the north side of Route 11.

Mr. Demers added the previous Planner also used other natural features and streets when putting together the CBD. He said this issue was caused by several complaints from Spring Street residents who were affected by the zoning and couldn't subdivide their properties due to the 5 acre lot size requirement.

Ms. Durfee said all of the properties in question were in the Commercial Business district that fell within the 1000 foot buffer from the north side of Route 11. She said she was able to delineate the zoning of most of the parcels by bringing the zoning lines straight down along the existing property lines to the CBD. There were a few parcels that presented a challenge to determine their zoning such as a Colonial Circle property which is located at the intersection of 4 zoning districts. She said she determined Colonial Circle should be in the Urban Residential zone and asked the board for their opinions.

Mr. Kestner read from the 2012 zoning amendment that states all parcels east of the river (including Colonial Circle) from the New Durham town line to Tappan Street will be removed from the CBD and placed in the SR or RR District.

Ms. Durfee said the amendment does state which of those 2 districts each parcel should be placed in (SR or RR).

Mr. Horgan said her suggestion to place the Colonial Circle parcels in the Urban Residential District does meet with the language of the zoning amendment. He said the map needs to reflect what was approved by

voters. He added that because it is on the east side of Route 11 he would be inclined to determine that it is in the SR zone.

Ms. Durfee asked if there is clear delineation as to where the Urban Residential district ends and if any the parcels in this area should be considered as Urban Residential.

Mr. Kestner said the lots from Colonial Circle to Tappan Street behind the CBD to the 1,000 foot buffer from Route 11 would be considered in the Suburban Residential zone and those lots immediately behind the 1,000 foot buffer would be in the Urban Residential zone.

Mr. Horgan expressed concern about causing some sort of “financial catastrophe” for residents there by changing the zoning districts and asked if there is any significant impact to residents with the allowed uses for SR and RR districts.

Ms. Durfee said animal husbandry is allowed in one and not the other but the dimensional standards are the same for both districts.

Ms. Durfee said she could not speak to financial considerations but suggested the safest route to follow would be to conform to the amendment and deal with any issues as they come up.

Mr. Kestner noted that the amendment only affects portions of Pine Knoll, Loring Ave., Perkins Ave., Central Street, Maple Street and Tappan Street and the SR designation would be more fitting than RR for that area.

Consensus of the board was to include the portion of the Colonial Circle parcels that “jut out” into the RR district in the SR district.

Ms. Durfee said she will revise the map and return it to the board for review.

Any Other Business Before the Board: None.

Next Meeting: December 20, 2016 at 6 p.m.

Adjournment:

Mr. Laferte motioned to adjourn the meeting, 2nd by Mr. Demers. The motion passed unanimously at 7:15 p.m.

Respectively submitted
Kathleen Magoon
Recording Secretary



David Kestner, Vice Chairman