

**FRANKLIN PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING –
COUNCIL CHAMBERS**

Wednesday, August 22nd, 2012 at 7:00 p.m.

Call to Order: 7:00 p.m.

- ❑ Pledge of Allegiance.
- ❑ Roll Call

Present: Brian Colburn, Mayor Ken Merrifield, Ted Starkweather, Marty Russo, Bob Sharon, Michael Freeman, Powell Glenn, David Veysey and Planning and Zoning Administrator, Richard Lewis.

Absent: Brian Sullivan, Tim Stangroom, Tony Giunta and Anthony Daniel.

Member Veysey was seated in place of absent Voting Member Brian Sullivan. Councilor Sharon was seated in place of absent Voting Member Tony Giunta.

- ❑ Approval of Minutes:

- ❖ July 25th, 2012 Minutes

MOTION: Member Sharon moved and Member Starkweather seconded to approve the minutes of the July 25th, 2012 Planning Board Regular Meeting. All were in favor of approving the minutes.

New Business:

- ❑ **P12-11:** Robert F. Kidder, Owner/Applicant; David Krause, LLS, Agent, requests Subdivision approval to subdivide a 2.016 acre lot, creating one new lot that will be deeded as non-conforming and non-buildable, the parcel is identified as 208 Chance Pond Road, Tax Map/Lot # 077-403-00, New Map # M6, C Zone (Conservation District).

MOTION: Mayor Merrifield moved and Member Veysey seconded that the Franklin Planning Board accept the application of Bob Kidder for a public hearing. All were in favor and the motion passed.

Richard Lewis indicated that this is an unusual situation. He stated he had multiple conversations with Mr. Kidder on this and has spoken with the engineer. This application was initiated with a title problem of an older track shown as Parcel A on the plan. He spoke with the City Attorney and the conditions to keep the parcel, even if in a separate deed, with the remaining parcel as far as for transfers, sales language, keeps it as one large parcel, which is why some of the zoning issues did not seem to be that significant.

Mr. Lewis stated it was pointed out to him that with this lot line adjustment the existing house on the primary piece would not meet the side yard setbacks, so if the board wanted to require a zoning variance on this it could be a condition talked about this evening. Chair Colburn asked if the board could waive this, and Richard Lewis stated they could not, that a variance needs approval from the zoning board.

David Krause was present to speak for Mr. Kidder. He stated they are requesting to create a non-conforming, non-buildable lot, shown as parcel A on the plan. The current tax parcel is composed of three separate parcels, with all having separate deeds until somewhere between 1984 and the current date. The parcels were all held in separate ownership, they were merged by the City for tax purposes. Richard Lewis interjected that there is a note in the assessors file from 1985 for a merger. Mr. Krause continued, by adding that the lots were three stand alone lots. When the lots were merged, the owner of Parcel A only had a 6/8th interest in the property, and they were missing heirs. He stated as this is not a new line, he doesn't believe that Zoning approval is necessary. Mr. Krause stated this is an unusual situation.

There were no questions from the Board.

Public Comment: None.

Board Discussion

The Mayor asked about the existing line, existing building, and wondered why it is not a grandfathered exception. Richard Lewis stated that in the background section of the approval document, item #2 talks about the note that Deb Ryba in Assessing, worked for a good deal of time with Mr. Kidder before he eventually ended up applying for the subdivision, and in her research she found the note to the file that the previous owner came into the office to have the three lots merged, which is all they would have done at the time. The Mayor asked if the lots were merged and if the merger was legal. Richard Lewis states that it shows the intent of the previous owner to merge the lots for tax purposes.

David Krause stated that he has an old tax map and it shows the line being taken off the tax map. Chair Colburn then asked why there are not three parcels shown? Mr. Krause indicated there is no need to, as the other parcel is on the other side and there is no need to separate that, the problems with the deeding are with this parcel A.

Member Starkweather stated the thing that has him confused is these were supposedly merged sometime after 1984 for tax purposes, was anything registered with the registry of deeds. Mr. Krause stated that there was not. Member Starkweather stated that it was a convenience for the city for tax maps rather than legality of the deed at the County Registry. The Mayor indicated this is the issue, as it is not merged. Richard Lewis indicated that under the time frame that Mr. Kidder was operating, which was extremely tight, that he did not have the opportunity to do research and nor did he ask the City Attorney, as to what the lot merging statutes were in the 1984-1986 time frame. Mr. Krause stated that the current statute is that a voluntary lot merger application would need to be filed and that the city couldn't currently merge lots without the owner's consent. Mr. Krause indicated the 2/8th interest that are floating around out there, that are currently causing the title problems, did not allow for consent to merge the lots.

Chair Colburn asked Mr. Lewis if the wording could be changed in the background in such a way that we are reestablishing lots that pre-existed and get around the side yard setback issue. Mr. Lewis stated that a finding could be put in, being new finding F, that the re-creation of the lot line that creates parcel A is a historic restoration of the line therefore in the opinion of the board no variance is necessary for the setback of the existing structure. Chair Colburn asked if there were any objections to adding such a finding and the board indicated there was not.

Member Starkweather stated that there appears that there are some heirs to this property that haven't had some input on this. Mr. Krause stated that was correct, that this parcel A is the only parcel with a title problem. He stated the property was owned by the Kelly family in the 70's, and was left to the heirs upon their death, and unfortunately has some unclear issues. Mayor Merrifield stated the title is cleared to the rest of the property.

Member Starkweather asked if sometime along the line, they may have some future legal claims to this. Mr. Krause stated that they are taking care of this. Mr. Krause stated that he has done some preliminary work looking into this.

MOTION: Mayor Merrifield moved and Member Sharon seconded that the Franklin Planning Board approve application P12-11 for the Kidder Subdivision on Chance Pond Road. The Board issues this approval consistent with the draft Approval decision prepared by the Planning and Zoning Administrator and submitted to the Board for review. This approval is granted with the modifications to the draft, duly noted by the board, to be the addition of finding f, which states: "The reestablishment of the lot-line re-creating parcel A is re-creating a historic lot line and therefore in the opinion of the board the lot-line does not trigger a non-conforming setback for the existing home on the primary lot."

Mayor Merrifield stated to the applicant that in the conditions that were being accepted, if the entirety of this property is sold, that this parcel needs to be sold to the same buyer at the same time. Richard Lewis stated that he had a discussion with the applicant after the memo was sent out, and he stated the need for this is, due to the uncertainty of data on this property, that by keeping it together, you keep the lot together, by dividing this parcel off, there is the setback issue, the lot doesn't meet the required lot frontage or lot area, so this is due to the nonconforming issues. Richard stated that both the applicant and the engineer had received a copy of this memo.

Mr. Krause indicated that right now, it is affecting a mortgage and could be affecting a purchase even with the separation. Richard stated that Mr. Kidder indicated to him that he had a sale, the title problem came up and he lost the sale, and he said he has another prospective buyer who was going to buy the primary piece of 1.42 acres for the sale price and that parcel A would be sold to the same owner for \$1.00 or nothing. He just wanted to sell it as fast as possible and there wasn't time to do the proper research by the owner or the city.

The Mayor asked if by selling together it could hold up the entire sale. Mr. Lewis stated currently as one lot it has been holding up the mortgage, the lot will have its own deed and ultimately would be sold for cash and not a mortgage once separated, and the new buyer would have the luxury of time to get this figured out.

All were in favor and the motion passed.

- **Conceptual Discussion:** 213 South Main, LLC, Owner; Louis Pichette, Applicant; Amoskeag Architectural Group, Agent, request a conceptual discussion with the Planning Board regarding the removal of existing vacant buildings and building of a six (6) unit apartment building and a professional office with laundry, on property located at 213 South Main Street, Tax Map/Lot # 099-043-00 and 099-044-00, B-1 Zone (Low- Density Business and Commercial District).

Mayor Merrifield asked if the planning board had talked about this property previously. Richard Lewis stated that this property was before the Zoning Board several years ago, but never came before the Planning Board.

Chair Colburn stated that this is supposed to be a pretty informal, discussion back and forth, and asked the applicant if there are any questions during the presentation, the board can ask and get answers to them as we go along if that is okay. The applicant indicated that was good.

The agent for the applicant, Alan Yeaton, was present to speak. He stated that he works for Amoskeag Architectural on this project. He stated he is here as the applicant has been before a board in town before and he wants to hear what the board members might have to say about the development and get their personal knowledge of the area and the community. His personal practice is to come before the board as he is now.

The two sites together are currently 22,000 square feet. Field measurements have been done, and they have discovered there is a small parcel to the rear. The existing site has two existing buildings, a two stall garage that's approximately 30 x 30 and then there is a small building on the front of the lot. The site is currently used by the apartment building to the north for parking. The building to the left of this apartment building is a two-family that has no on-site parking and also uses this lot for parking. They are trying to solve what to do with the lot, while also trying to add to off street parking for the two adjacent residential units, being the 6 unit building and the 2 unit building. The additional 15 spaces you see on the plan would be parking by agreement for the abutting properties. After due consideration, they came up with the concept of adding 6 residential units to the site. The configuration of the lot is not readily created for commercial. The study of the neighborhood was that the property to the south is a commercial lot in a residential type building, the easterly property is residential, as well as the northerly lot being residential.

Mr. Yeaton indicated they have also applied to the Zoning Board for the residential use, and for a few other incidents that have been discovered. He stated he would like input and questions from the board. They are looking to maintain side yard setbacks for fire standards, even though side yard setbacks are not needed in the zone. He added that the tax maps are not quite correct and a surveyor will be doing plans for them when they come back to the board. He stated that this will be a small project and with the board's interest, they would move forward after tonight.

Member Starkweather asked if the applicant is the current owner of the lots to the north. Mr. Yeaton indicated that they are in LLC's and he is not sure who the owner is, he stated the 6 unit building is owned by the applicant, but he isn't sure about the other ones. Member Starkweather indicated that if the long building is not the applicants, then he wanted to know how the parking lot would be divided. Mr. Yeaton stated that the applicant is the owner of the subject lot and in the deeds it states that there needs to be interaction between the two property owners relative to parking.

Chair Colburn stated that the intent of the proposal is to provide enough parking for all of the buildings. Mr. Yeaton stated yes, for all three buildings, plus storage and other things on site as well. The parking spots do straddle both lines, but based on the deeds, there is an easement for parking rights. Member Starkweather indicated that if any of the parcels were sold off to another owner, then they would have to determine parking rights at that time. Mr. Yeaton stated that the easements in the deeds suffice. Member Starkweather asked if this included snow removal and Mr. Yeaton stated that this would include any stipulations that the board wants to put on the property and he would assume that would be one of them.

Member Starkweather asked about the laundry room and whether that would be strictly for the occupants of the proposed apartment building. Mr. Yeaton stated that it would be and would not be a business type of use. He stated there would only be two washers and two dryers. Member Starkweather asked if any thought was given to having the laundry room in the apartment building, so there would be more room for parking. Mr. Yeaton stated that in the configuration of the parking, they were trying to keep it out of the main building as it is not for just this building but for the other apartment buildings too, to provide service for all as there is no laundry currently. Member Starkweather asked if these are separate LLC's, under separate ownership, then how is it going to work with a common Laundromat. Mr. Yeaton stated by an agreement between the parties.

Member Freeman asked if there were existing easements now regarding the parking for these buildings and Mr. Yeaton stated there is nothing he has found in the deeds. Member Freeman stated the buildings to the north have no parking available to them now and is just using a neighboring lot and Mr. Yeaton stated that was correct. Mr. Yeaton stated that at one time the buildings were all owned by the same LLC and were purchased at the same time.

Chair Colburn asked if there were any questions, comments, or suggestions that the board members wanted to see when this application comes back in a month or so, if they receive their zoning variances. Mr. Yeaton stated they will also come back with landscape plans.

Chair Colburn stated that he thinks the intent of the project is a good idea, as the applicant appears to be cleaning up the parking for not only this lot but the two adjacent lots. He stated that given the complexity of the property issues we've heard tonight, there are some concerns that once it gets to us that the necessary easements are described so that the board can understand them, to make sure that this won't turn into a future issue if the property ownership changes. Mr. Yeaton stated he will work with the civil engineer and Richard Lewis on these issues. Mr. Lewis stated that one issue that come into mind a few weeks ago, is that the proposal is to pave all these parking areas and as Mr. Starkweather pointed out some of the work is proposed on the abutting property, all the paving needs to be done at the same time, and in the approval document some bonding for the parking area should be outlined and the bonding be applied to all of the properties being affected by the parking area. Mr. Yeaton stated that this would a reasonable stipulation to insist on to ensure that it is done correctly.

Public Comment

Johanna Brown was present to speak. She stated she is a new resident to Franklin, but was raised in Franklin. She stated her concern is regarding the Laundromat area being just two washer and dryers and not accommodating for all units. She asked if the proposal was just regarding parking or if upgrades to the buildings, being the two unit and six unit, were being recommended.

Mr. Yeaton stated that since the buildings have been purchased numerous improvements have been made to all the buildings. He stated that the intention is to improve all buildings as time goes on, but this is dependent on the LLCs. Regarding the number of washer and dryers per the number of people that will be left up to the experts, it could be two, it could be three.

Chair Colburn thanked the applicant for coming in. Mr. Yeaton stated he looks forward to working with Mr. Lewis on the finalization of this project.

Old Business: None.

Public Comment: None.

Other Business

❑ **Roadway Acceptance- Finch Drive**

Mr. Lewis apologized for the last minute item on the agenda. He stated this came up in the last couple of days, and this memo was drafted and run by Brian Sullivan, who concurred with the background information and the proposed motion and conditions. Upon a positive recommendation of the board, this would be sent to the City Council for their approval at their September meeting.

Member Veysey asked if the board is currently only accepting the finished portion of Finch Drive. Mr. Lewis stated the extension has not even begun to be started to be built yet.

MOTION: Mayor Merrifield moved that the Franklin Planning Board send a positive recommendation to the Franklin City Council supporting the acceptance of the completed portion of Finch Drive (as of August 22nd) as a public street. The motion by the Council to accept the street should, in the opinion of the Planning Board, include the following conditions:

1. The preparation and submission of the As-Built for the existing Finch Drive shall be completed when the As-Built for the extension of Finch Drive are prepared.
2. Any significant deviation highlighted in the As-Built from the construction plans for the current Finch Drive shall be addressed as part of the final punch list work for the acceptance of the overall Finch Drive.
3. The bond posted for the construction of the new extension of Finch Drive shall include language and measures, as determined by staff, to ensure the protection of the existing section of Finch Drive. Items to be addressed include the integrity and functioning of the pavement, drainage, and all associated utilities.

- ❑ **Upper Merrimack River Local Advisory Committee (UMRLAC):** Discussion regarding land use issues and regulations relative to water quality protection, low- impact development practices, conservation funding sources, and natural resource mapping. Discussion to be twenty (20) minutes.

Vanessa Goold, of the Central New Hampshire Regional Planning Commission, was present to speak. She then handed out to the board an information sheet. She stated that four of the six communities that are part of the UMRLAC are designated Central NH Region. She stated that the Planning Commission has been working with the UMRLAC on the 2007 River Management Restoration Plan, and one of the adjustments in their plan is to assist local Planning Board's and Conservation Commissions in terms of waste and protection of their natural resources. She stated that one of the things that the UMRLAC has done is to distribute a questionnaire to all Planning Boards and Conservation Commissions. She stated that she is here tonight to follow up on the questionnaire, as based on some of the responses that were received, certain areas of interest have been identified by Planning Boards and Conservation Commissions, and the sheet that she gave to the board lists resource information.

She stated the most popular item that was brought up was regarding Best Management Practices, so there is a list in order of importance of contact information and resources. The first one is the NHDES Stormwater Program. She then went through the list with the board and the resource's locations (See attached list).

Member Starkweather asked if there was any hope that State DOT will follow these best management practices as far as stormwater runoff into the rivers and the lakes. He stated there seems to be a high level of minerals and other contaminants from State Highways running off into Webster Lake and most of it is coming off of state roads. Ms. Goold stated that she knows this is an issue, but she is not sure of what their new changes for protection are currently, but it is a work in progress for roadway maintenance and she is not sure if they have standard operating procedures, but the State is aware and DES is aware of this issue.

Member Starkweather stated that he doesn't hold much hope in DES, as he has called them with a complaint about runoff and erosion from a piece of property across the road and into the lake and the answer he received was this is your lucky day, I happened to be in the office, I go into the field on even numbered days and my colleague goes out on odd number days, with the economy they are understaffed.

Mr. Lewis asked about the funding source, he stated she may be aware that the City of Franklin has two property owners who have gone through the Natural Resource Conservation Service for Conservation Easements and those have been about 600 or 700 acres, so she might want to add that to your list. He stated also, with the overall Webster Lake Project, the City has received the Moose Plate Money. Ms. Goold stated that she did not list them as they are listed on the resource sites, but those are excellent things that are happening within the City.

Mr. Lewis asked about the buffer protection study in July 2012 and if this was a continuation of that. Ms. Goold stated that this is another phase of efforts for the vision plan and a draft report is being put together, which will be distributed at a later time. She stated they are working on GIS based mappings currently as well, which is DES money being used.

Public Comment: None.

Planner's Update

Richard Lewis stated that the City is getting closer to getting going with some of the construction work on the Webster Lake Project that he mentioned on the Workman property, using the Arm Fund grants that were received. He stated the City will be doing about 15,000 square feet of wetland restoration on the area where the Pessa cabins use to be located. The wetland permit was submitted yesterday and hopes are to begin construction in the next 45-50 days. He stated they will be getting some seeding and restoration work done this fall and then going back in the Spring and doing additional planting and seeding stabilization.

Mr. Lewis stated that in speaking briefly with the engineer on the downtown project, in the next 3-4 weeks Lyman will be back in for some minor clean-up, punch list items work for them on the transportation improvements. Hopefully everyone noticed the new single loop has been installed and some adjustments to the timing have been made. Mr. Lewis stated he has been receiving feedback that the lights are working more effectively and timely. The Mayor stated that he agrees that they are running more effectively.

Mr. Lewis stated that on the economic redevelopment front, a week ago Monday the city had the formal big check event with the formal award from EPA for the Brownfield Project at 599-601 South Main Street, Guay's garage, where the City received a \$200,000 grant. He stated he has started work on the RFQ for that and they are hoping to get that out in the next couple of weeks and get a firm on board and start the planning work.

Richard Lewis then handed out to the board the Central NH Planning and Lakes Region Planning Initiative, being Granite State Future Community Initiative, to update the Regional Plans in each region of the state and they are doing a little outreach before they go to public workshops in the winter and spring. If the Board is so inclined, they could put their thoughts and comments into the box out in the lobby or bring it into the Planning and Zoning Office.

Adjournment

MOTION: Member Starkweather moved and Mayor Merrifield seconded to adjourn the meeting of August 22nd, 2012, at 8:15 p.m. All were in favor and the meeting was adjourned.

Respectfully submitted,
Angela M. Carey
Planning and Zoning
Assistant to the Administrator