



FREMONT PLANNING BOARD

July 10, 2013

Meeting Minutes

Approved July 24, 2013

Present: Chairman Roger Barham, Vice-Chairman John (Jack) Karcz, Members John (Jack) Downing, Andrew Kohlhofer, Selectman Brett Hunter, Building Official Bob Meade, RPC Circuit Rider Jenn Rowden, Phillip Coombs, and Land Use AA/Recording Secretary Meredith Bolduc.

Mr. Barham opened the meeting at 7:00 pm.

MINUTES

Mr. Karcz made the motion to approve the minutes of the June 19, 2013 meeting as written. Motion seconded by Mr. Downing with unanimous favorable vote.

SEACOAST UNITED SOCCER CLUB

Map 6 Lot 020-001

Present: Chris Albert of Jones & Beach, agent for SUSC

At 7:00 Mr. Albert joined the meeting.

Site Visit: June 28, 2013

Mr. Meade submitted pictures of the site and the following report.

On Friday night June: 28: 2013 I met Roger Barnum, Jack Downing and Andy Kohlhofer from the Planning Board along with residents Jeff & Erin Arsenault at the town hall and then drove over to Seacoast United Soccer Club on Shirkin Road where we met Greta St Germain and her husband. We also met up with the engineer who had come in previously (Chris Albert) and several people from SUSC.

On the plans we had from the original Plan review there were two open spaces where plantings were required but never done. I believe the intent was to try to keep down on noise and lights for the neighbors across the way. Not only was this never done but a good amount of cutting had been done in the existing buffer making the matter worse for the neighbors.

We walked around the fields and the buffer, some plantings had been established but they appeared to be few and far apart. This was done to comply with the state of New Hampshire and not to reestablish the buffer between property owners or the town of Fremont nor were the trees required by Epping planted at this time.

I had a concern about winter and if there were any games and was told in January, February and March there were no games there though there would be snow blowing and if weather conditions were right, there may be practices or try outs on a limited basis. My real concern was how clear it would be through the buffer and whether deciduous trees with their leaves off or coniferous trees might offer more blocking. Another concern is Brown Brook as a named, protected body of water in Fremont.

We were told that soon the lights would be on a timer and be set for ten pm.

I took many pictures trying to show open areas, the flora and some of the stumps and cutting which I offer along with this report.

Mr. Barham said tonight's meeting is as a result of the June 28, 2013 site visit. The plan presented shows the deficiencies and what needs to be restored to meet the requirements. Mr. Barham distributed a plan he created that details the destruction of the natural buffer between SUSC and residents at Brown Brook Circle. Information for this plan was based on the June 28, 2013 site visit, Jones & Beach Survey of March 2012 and the 2004 SUSC approved site plan and the wetland restoration plan. Mr. Barham explained that the legend showed the area of 134 proposed hardwood and softwood tree plantings (from sheet 6 of the site plan approved in 2004), the area of 49 trees cut within the established buffer in Fremont and the area of 8 trees cut within the established buffer in Epping (from the Jones & Beach 2012 survey).

Mr. Barham explained that the majority of the trees SUSC was supposed to plant as a condition of their Site Plan approval were evergreen providing a year round natural buffer. Mr. Barham showed sheet 6 of the approved site plan that showed the exact locations and species of plantings that were required to be planted. He quoted condition 4 of the 2-11-2004 approval which states in part: ***buffer planting of hardwood and softwood trees be put in place for noise and visual barrier.*** He noted that when the Planning Board approved the development they made a condition that additional trees should be planted in 2 specific areas where the natural buffer was thin. This indicates it was the intention of the Board to ensure a natural buffer exists to protect the abutting residents. These trees were never planted. The purpose was to provide a visual and sound buffer between field 3 and the residents on Brown Brook Circle. Mr. Barham added that the reason this is important is that there was a natural buffer and the added plantings were to enforce this buffer.

Mr. Barham said the diameter of the trees that were cut and removed ranged from 2" to 20" with the medium tree diameter being 11", indicating that these were predominately mature trees. He added that the location of the cut trees is clearly on a line providing a buffer between the playing fields and the abutting residents. Removal of these trees is in breach of the intended site plan because it has degraded the noise and visual barrier. Mr. Barham believes the Board is within their rights to look to SUSC to restore the visual barrier that was intended. (restore the area that was cut and also plant the additional trees). The Members agreed.

Mr. Albert said the violation DES was concerned with was cutting within the 100' buffer of a prime wetland which has been satisfied by the State with a follow-up of review of tree count. The Planning Board needs to look at the site plan aspects of violations. Mr. Barham said he is looking for SUSC to come up with a proposal for a restoration plan that is going to meet the satisfaction of the Planning Board or risk being required to amend the approved site plan. Mr. Albert asked how that would be quantified as the trees that were not planted in 2004 would be quite large today.

There was a conversation relative to remediation. Mr. Albert asked if there was a certificate of occupancy issued to SUSC in 2004. The answer was not immediately known. Mr. Downing asked what the Planning Board can do to make SUSC comply with the requirements of their approval. Mr. Barham said that there is a need to reestablish a noise and visual barrier and the Board should expect the arborist to create something that could be sustainable. Mr. Coombs asked if we were looking for a short term visual barrier or a long term conifer that would create barrier. Mr. Barham answered that there should be a balance between short term and long term by planting some trees that would grow quickly and some that would take longer to mature.

Mr. Albert reported that as far as the lights and air horns are concerned, timers are being installed on the lights so they will automatically shut off, and SUSC is creating a policy to prevent the use air horns and other noisemakers at the site.

A planting plan was discussed. Mr. Albert said he can come up with a planting plan, but it will not be 134 trees. He noted that here is a slope factor where some plantings may be expected. Mr. Karcz asked Mr. Albert if SUSC expects him to come up with a planting plan and Mr. Albert said he thought that was the case. In answer to questions by Mr. Karcz about timing, Mr. Albert said he could come back to the Board with a planting plan in about 30 days.

Mr. Barham submitted, and the Board agreed by consensus, that the restoration plan should consist of the following:

1. Planting of trees to reestablish the buffer. As a guide the site plan called for 134 trees and the harvest destroyed a further 57 trees.
2. Planting of trees 6'-8' high would be inadequate given that mature trees were destroyed and trees of this size planted in 2004 would be significantly larger today.
3. Planting should be targeted to areas best suited to repairing and maintaining the damaged buffer, and adhering to the 2004 planting plan would not be practical.
4. Given that the trees destroyed were mature it is accepted that the buffer will not be fully restored in the short term and that the restoration plan will be long term.
5. The restoration plan should address damage to the Epping and Fremont.

Actions:

- The Members agreed that Mr. Barham will draft a letter to SUSC relating the findings of the Board and what the Board will expect to be included in the restoration planting plan.
- Mr. Albert agreed to meet again with the Board on August 7, 2013 to present a restoration planting plan for the Board to review.
- Mr. Karcz suggested that Eben Lewis of DES may need to be consulted depending on placement of new trees. Mr. Barham agreed to contact Mr. Lewis. Mrs. Rowden offered that she thought DES would not have an issue with planting of trees as long as native species are used.

At 7:40 pm Mr. Albert left the meeting.

ROBERT FRASER
Map 7 Lots 85 & 86
Present: Theresa Fraser

Voluntary Lot Merger

At 7:40 Ms. Fraser presented a Voluntary Lot Merger form for property owned by her father Robert Fraser and located at Map 7 Lots 085 & 086, as per NH RSA 674:39-a Voluntary Merger.

As per the document, which is signed by owner Robert Fraser and his legal counsel Attorney Gordon Snyder. The applicant requests that the Town of Fremont, New Hampshire hereby merge Map 7 Lots 085 & 086 for the purpose of being assessed and treated for regulatory purposes as a single tract or parcel of land.

The Board consulted the septic plan of the property that shows the site and a copy of the Fremont Tax Map that shows the dimensions of each lot. Following a discussion a request for a consensus from Mr. Barham, it was the unanimous consensus of the Board that this lot merger would not create a violation of the current Fremont Zoning Ordinance or Subdivision Regulations.

Mr. Karcz made the motion to approve the voluntary merging of the parcels located at Map 7 Lots 085 & 086, owned by Robert Fraser, and direct Mr. Barham to sign the Voluntary Lot Merger form.

Motion seconded by Mr. Downing with unanimous favorable vote.

This form will be forwarded to the Board of Selectmen for their approval and signature and then recorded at the Rockingham Registry of Deeds at the applicant's expense.

At 7:55 Ms. Fraser thanked the Board and left the meeting.

MERRILL/FREMONT PARK EXCAVATION
Map 4 Lot 015, Beede Hill Road
Merrill/Fremont Park (Beede Hill Road, Map 4 Lot 015)

In answer to the Boards questions relative to whether they can make changes to the terms of the court order Town Attorney Diane Gorrow has advised that the Court Order does not limit the ability of the Planning Board to amend the permit under RSA 155-E: 6 and the Town's Earth Excavation and Reclamation Regulations to permit activities prohibited by the Court Order.

During a discussion it was noted that the court order allows no screening, but some Members felt that the Board should permit reasonable onsite screening. Mr. Downing said he objects to Merrill screening without permission from the Board because it was against the court order. He also said he believes there was more than 5 acres open.

It was noted that original permit says no material is to be brought onto the site. Mr. Downing voiced objection to allowing any more material to be brought into the site. Mr. Karcz said he

would go along with allowing screening, but not bringing in additional material. There was a discussion about allowed activity in area 6. According to the approved plan there is no excavation allowed in area 6.

Mrs. Bolduc reported that the Town has not yet received the \$20,000 bond that Jonathan Merrill agreed to submit at the June 19, 2013 meeting.

There was some conversation relative to whether another site visit is warranted and it was the decision of the Board that it would serve no purpose at this time because there has not been enough time for recent seeding for reclamation of the worked areas to take effect. It was agreed that when the Town Engineer and Board Members conduct the annual site visit in the late spring of 2014 in conjunction with the excavation permit renewal it should be evident whether the reclamation/seeding was successful.

Mr. Kohlhofer made the motion to approve the Excavation Permit Renewal for George Merrill/Fremont Park Map 4 Lot 15, with an expiration date of July 1, 2014 with the following conditions.

- Receipt of the \$20,000 bond within 30 days of this decision.
- That there shall be no additional material brought onto the site.
- That reasonable onsite screening of material that does not bother the neighbors shall be allowed.
- All existing conditions shall apply.

Motion seconded by Mr. Karcz with unanimous favorable vote.

The September 1, 2013 extension is no longer in effect.

BEEDE SPAULDING, LLC,
(Formerly Stratham Acquisitions, LLC)
Map 3 Lot 56

Conservation Deed Restriction: The Board received a draft of the Conservation Deed Restriction document for the Spaulding Beede subdivision that the Town Attorney and the Attorney for developer have been working on. Mrs. Bolduc reported that Conservation Commission Member Janice O'Brien has reviewed the draft and she finds it to her satisfaction. In a June 26, 2013 e-mail correspondence she related her comments that the proposed revisions look good, the percentage of allowed impervious surface area would be sufficient for the gravel roadway and proposed parking area, (but because she cannot be certain not knowing how much area the road/parking areas encompass). The Conservation Commission has not formally reviewed it because they have not met since it was drafted. They will see it at their July 15, 2013 meeting and forward any changes to the Town Attorney.

The Board agreed that they want to review the final draft of the conservation restriction deed and discuss it at the next meeting.

SEACOAST FARMS
Map 5 Lot 035

Mr. Meade reported that the Town has received a June 26, 2013 odor complaint relative to Seacoast Farms and dumping on Shirkin Road. He said he contacted owner Bob Kelly who told him that a lot of green grass came into the site, but he agreed to cease operations until the weather dried up. Mr. Meade is meeting with the Selectmen on July 18, 2013 to discuss the violations further.

According to the minutes of the June 27, 2013 Selectmen's meeting "there was some discussion about Seacoast Farms and a recent complaint about odors at the property, as well as items being dumped alongside Shirkin Road. From the last set of Site Plan Review meetings with the Fremont Planning Board, the procedure is for complaints to be filed with the Building Inspector, and if necessary (during BI off-hours); they be directed to the Fremont Police Department for documentation. The Town was unsuccessful in the court system to deem the site a public nuisance and any further legal action would be done by abutters or other aggrieved parties."

Mr. Meade said protocol for complaints have been established. Mr. Hunter asked how to prevent the need for complaints. He also questioned who would police or enforce the conditions of approval. Mr. Downing said he has visited the site four times and each time there were violations. Mr. Coombs suggested if Mr. Kelly is not fixing the problem he is in violation of his conditions.

Fines were discussed in the case of violations of a site plan and RSA 676:17 was consulted for the process.

Mr. Barham said one of the reasons for requiring the amended Seacoast Farms Site Plan (December 2012) was that it gave the Planning Board the authority to require the owner to follow Best Management Practices. The Board needs to determine if Seacoast Farms working practices are within the conditions of his approved Site Plan.

Monthly site visits were discussed and it was agreed that to be proactive and assure that Seacoast Farms operates in compliance with the conditions of their site Plan Review, the Board recommend to the Selectmen that the Code Enforcement Officer conduct regular monthly site visits to confirm that the applicant is in compliance and that if the applicant is found to be noncompliant the Board recommends fines and penalties be levied in accordance with RSA 676:17. The Board also recommends that the applicant should be given notice of these proposals and be given 30 days to become compliant.

Mr. Meade reported that he received an e-mail from Mr. Kelly that $\frac{3}{4}$ of the tailings pile has been removed and Mr. Kelly told him that the rest would be gone this week or next.

Mr. Hunter will raise this issue with the Board of Selectmen at their meeting tomorrow evening.

RPC CIRCUIT RIDER/PLANNER CONTRACT

The Board received and discussed the annual contract for the Circuit Rider Planner submitted by the Rockingham Planning Commission. The contract project period covers July 1, 2013 – June 30, 2014 with the core services and hourly rate the same as the last four year’s contracts:

Night Meetings	24 meeting x 3.5 Hrs	84 Hours
General Assistance	52 Weeks x 0.5 Hrs	26 Hours
	12 Months x 4.0 Hrs	48 Hours
Contract Total		158 Hours x \$55.00/Hr = \$8,690

Mr. Downing made the motion that the Board recommend approval and authorized Mr. Barham to sign the July 1, 2013– June 30, 2014 RPC Circuit Rider contract, and forward it to the Board of Selectmen for their Chairman’s signature.

Motion seconded by Mr. Kohlhofer with unanimous favorable vote.

FREMONT UNITED METHODIST CHURCH

Map 3 Lot 47

408 Main Street

The Board received the following correspondences relative to use of the Fremont United Methodist Church.

- A copy of a June 25, 2013 correspondence from Fire Chief Richard Butler to the United Methodist Church relative to NFPA 101 Life Safety Code , NH State Fire Code, the International Building Code and local Town ordinances as well as and IBC code violations for change of occupancy as a result of a possible change of use from a place of assembly to residential occupancy of the building due to allowing people to stay in the building overnight while participating in the Family Promise of Rockingham County homeless shelter program.
- A copy of a July 3, 2013 correspondence from Rev. Stephen Bascom to Chief Butler stating that the church was not aware that participating in the Family Promise of Rockingham County homeless shelter program would violate any code requirements and Rev. Bascom related that the Church is scheduled to host participants from August 25 – September 1 and requested to begin the necessary inspection process as soon as possible.

Mr. Meade said that the Church has twice allowed people to stay in the building for a week each time already and the Fire Chief and Code Enforcement Officer were not notified. Mr. Kohlhofer questioned whether the insurer has been advised.

Mr. Meade said he and Fire Chief Richard Butler have scheduled a site visit for July 16, 2013 to determine what is currently in the building and what steps would be needed for code compliance due to the ongoing and proposed activity. Chief Butler has related to Mrs. Bolduc that depending on the outcome of the site visit he may want to meet with the Planning Board to discuss the situation.

It was discussed and noted that if there is a change of use and the Church would need to apply for a Site Plan Review.

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PZ EXPENDITURE REPORT

The Board received and reviewed the P/Z Expenditure report for January 1 – June 30, 2013.

BUDGET

Town Planner Heidi Carlson has advised that the 2014 budget proposals are due by August 5, 2013. Mr. Barham said he would get together with Mrs. Bolduc to draft the 2014 budget proposal and present it to the Members at the next meeting.

BUILDING OFFICIAL/CODE ENFORCEMENT OFFICER

Mr. Meade submitted his end-of-month report for June which included the following:

Permits for;

- 2 single family homes
- 1 barn
- 1 addition
- 25 trade permits

There was also a permit denial due to a zoning violation and another due to code violations.

Mr. Meade reported that he has drafted a letter to Darlene Olson, PJP Excavation Operation to clarify the 2-year timeframe for excavation reclamation.

INCOMING CORRESPONDENCE

There was no incoming correspondence.

Mr. Karcz made the motion to adjourn at 9:40 pm.

Motion seconded by Mr. Downing with unanimous favorable vote.

Next regular meeting: July 24, 2013.

Respectfully submitted,

Meredith Bolduc, Land Use AA/Recording Secretary

ACTION ITEMS

From the June 19 meeting:

Rowden:

- Update the Vision draft per changes agreed at tonight's meeting. Completed.

Bolduc:

- Draft an amended notice of decision for the Beede Spaulding subdivision approval. Completed.
- Post notice of site visit for SUSC. Completed.
- Merrill: Draft letter of excavation permit extension. Completed.

From the July 10 meeting:

Bolduc:

- Send the Beede Spaulding conservation restriction deed draft to the Board Members. Completed.

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- Process approved excavation permit renewal for Merrill. Completed.
- Forward a copy of the Seacoast Farms portion of the rough draft of tonight’s meeting to the Selectmen for discussion at their July 11 meeting. Completed.
- Forward the RPC Circuit Rider contract to the Selectmen for their signatures. Completed.

LEGISLATIVE BILLS

The following bills are among those introduced for the 2013 Legislative Session. Mrs. Bolduc will follow these bills and report any results to the Board.

- Senate Bill 49: This bill provides for appeals of planning board decisions concerning a subdivision or site plan to the board of adjustment prior to appeal to the superior court.
- Senate Bill 50: relative to expiration of variances and special exceptions.

PROJECTS PENDING/COMPLETED WITH RPC

- CIP Annual Process - Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of this date.
- Provide one (1) final paper copy and one (1) electronic version of the updated MP. Provide one (1) final copy of all elements of the CIP annual update process- Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of this date.
- Vision Chapter of MP - Funded with the 2012 Targeted Block Grant (TGB); completion date of June 30, 2012. Paid Towns share of **2,500** in November 2011. Pending as of this date.
- Energy Chapter of MP – Funded through the Energy Technical Assistance Program (ETAP) (no Town cost-share). Completion date of April 30, 2012.

Updated project timeline table below.

RPC

Projects Non-CTAP	Status	2009 30 June	2010 30 June	2010 22 Sept	2010 27 Oct	2012	2012 April 30	2012 June 30
CIP Process Submittal Materials (2010 TBG)	Pending		Contracted Completion Date					
1 final copy of updated MP, CIP elements (2010 TBG)	Pending		Contracted Completion Date					
MP Vision Chapter update	Pending							Contract Completion date
MP Energy Chapter	Pending					Completion date		