

Town of Farmington
Planning Board Meeting Minutes
Wednesday, July 19, 2023
356 Main Street-Farmington, NH 03835

Board Members Present:

Bill Fisher, Vice Chairman
Stephen Henry, Secretary
Charlie King, Selectmen's Rep
Jeremy Squires
Roger Mains, Alternate member
Mike Day

Board Members Absent:

Rick Pelkey, Chairman, excused
Rebecca Patton-Sanderson, excused

Others Present:

Kyle Pimental, Planning Director
Chris Berry, Berry Surveying & Engineering
Kevin Grondin, Peaceful Pines Park owner
Kody Grondin, Peaceful Pines Park manager
Randy Tetreault, Surveyor, Norway Plains Assoc.
Scott Richardson, Eversource Work Planner
Tom Quarles, Attorney, Devine Millimet
Abutters/Residents Sterling Grondin, Tracy
Grondin-Sanfacon, Marcia Jenkins, Donna
Plourde, Lawrence Gorney, Melissa Perkins,
Paul Plourde
Jonathan Bombaci, Millennium Holdings Project
Manager

1). Call to Order:

Vice Chairman Fisher called the meeting to order at 6 p.m.

2). Pledge of Allegiance:

All present stood for the Pledge of Allegiance.
Mr. Fisher then seated Roger Mains as a full member of the board.

3). Continuation Request:

Public Hearing and Consideration of an Excavation Application for Patricia Torr Aiken and Franklin Torr, Tax Map R32, Lot 6. The applicant is proposing to remove approximately 410,000 cubic yards of material from an approximately 31 acre site. The proposed project is located on Chestnut Hill Road and is within the Rural Residential Zoning District.

Mr. Fisher said a request has been made by the applicant to continue this application to the August 16 meeting to allow the applicant to address safety concerns so they would not be discussing this case tonight. He said if the public had anything they would like to say they can listen but they can't discuss it.

There were no public comments or questions.

Motion: (Fisher, second Henry) to continue the meeting to August 16 passed 6-0.

4). Public Comment: None

5). Review of Minutes:

November 2, 2022- Meeting minutes- no errors or omissions

Motion: (Squires, second King) to approve the minutes as written passed 6-0.

June 21, 2023- Meeting minutes- no errors or omissions

Motion: (Henry, second Day) to approve the minutes as written passed 5-0-1 (Squires abstained).

6).New Business:

A). Public Hearing and Possible Vote on a Request for Tree Removal on Designated Scenic Roads. Pursuant to RSA 231: 158, Eversource Energy is requesting a public hearing for the removal of trees adjacent to and beneath some of its power lines along the following designated scenic roads in town: Poor Farm Road and Reservoir Road. This work is part of Eversource's scheduled maintenance and necessary to ensure the safe distribution of power and to improve the reliability of electric service customers.

Mr. Fisher said this is Eversource's yearly/bi-yearly cleaning up of the trees that are affecting the power lines and they will contact the landowners prior to any work being done. They are just informing us that they will be doing this he said.

Mr. Henry asked if they needed a motion to schedule the public hearing.

Mr. King said they are having it right now.

Mr. Fisher said he didn't remember ever voting on doing this and he thought they were just informed they were doing it.

Mr. Pimental said the Town needs to approve it.

Eversource Work Planner Scott Richardson said he was sent here to go over the list of trees they were presenting to the board tonight. He said they are actively inspecting circuits throughout the Town of Farmington and these types of trees that are dead, rotten are posing a serious threat to their infrastructure. He said they located about 24 trees on that stretch of road and even though some of the addresses may say Meaderboro Road they are on the scenic part and their parcels abut the scenic portion of the roads. There are 24 trees in front of you tonight that are dead or very rotten that will fall on the power lines and we are seeking your approval to have these trees cut down. Upon your approval we will reach out to the abutting landowners and get their permission as well he said.

Mr. Henry asked what "FSR" (tree removal list, notes column) stands for.

Mr. Richardson said it stands for Farmington Scenic Road.

Mr. King said on this list most of these are Ash and asked this is the result of the Emerald Ash Borer.

Mr. Richardson said that is correct and that the Emerald Ash Borer is raising hell throughout the entire state of NH. It's going to kill probably every Ash tree around he said.

Mr. King said he counted they are 14 out of the 24 trees.

Mr. Richardson said that seems about right and the other majority of them are cherry trees that generally have a tough life as well.

Mr. Fisher opened the hearing to public comments.

Mr. King asked if the notices have already gone out.

Mr. Richardson said he didn't think so but some of them may have because they have a couple of trees that aren't on the scenic portion and some of these parcels are fairly large so the homeowners may have been informed they were seeking permission to cut some trees down. We will reach out again specifically for the ones that are adjacent to the scenic road he said.

Mr. Fisher asked if they were going to bring this to the Conservation Commission.

Mr. Richardson said he didn't think Eversource has to do that they get approval from the Town of Farmington and the landowners.

Mr. Fisher said he is the Chairman of the Con Com and he will bring it up at their next meeting. He asked if there were any questions or comments from the public and hearing none he closed the public comment portion of the hearing at 6:08 p.m.

He then asked if there were any comments from the board and hearing none he called for a motion.

Motion: (Henry, second Day) to approve passed 6-0.

B). Public Hearing to Conduct a Design Review for Peaceful Pines Manufactured Housing Park, Tax Map R19, Lot 6. The applicant is proposing to expand the existing Manufactured Housing Park which consists of 118 approved sites serviced by municipal water and individual septic systems, by adding up to 20 new sites. There are several approaches to this project that need additional input and guidance from the Planning Board through the design review process. The proposed project is located on the south side of Cocheco Road (formerly Watson Cross Road) and is in the Rural Residential Zone.

Mr. Fisher read the above notice aloud and asked the applicant or representative to come forward.

Peaceful Pines Manufactured Housing Park owner Kevin Grondin came forward and said he has been the park's owner for over 35 years. He said they run a pretty tight ship and they have done their best over the years to try to be an asset to Farmington and we have an affordable housing issue in this state and they're looking to expand a bit but not entirely to even the 1.25 range the normal mobile park sites are somewhere between 7,500 to 10,000 and theirs are 15,000. He said they have 118 sites on 118.22 acres and for years they have considered trying to expand slightly. We're not trying to fill every square inch of the land mass in any way, shape or form. We have really nice tenants we hope that we're a good match with the Town and try to stay out of trouble and do everything in a proper manner and we'd certainly like your consideration he said.

Mr. Grondin said they feel like in a small case that they have been put on the wrong side of the

road even though he is the one that put the water down the road and his neighbors Textron and the Farmington Transfer Station shouldn't bother them on that particular issue. He said they ran the water down at their cost and yet they're on the wrong side of the road here so we'd like your consideration in helping to expand in a proper manner.

Mr. Grondin said they will notice that some of them will not be considered until they live out the easement which he signed with Textron which is in 2028 so of the 20-odd units they're looking to expand they're really looking to do about 14 or 15 new ones and there is room in these places they're not jamming them in anyone's front or backyard. We're pretty much a self-sufficient operation that has Town water and should be allowed this consideration he said. He thanked the board and said he would let the experts talk because that is the end of his expertise. But we do try to get along with everyone including the Town and we'd certainly like you to know that I check in with the Building Inspector, my son and I are pretty much on the people and we have gotten rid of any bad apples the best way we can the most legal way possible so thank you for listening to me and Randy Tetreault will give you more direction he said.

Norway Plains Land Surveyor Randy Tetreault said he was here because he was involved originally in the first expansion of the park from Victor LaPierre's original park that was pre-regulations. He said it was outlined quickly in the narrative but he would paraphrase it. He said in 1988 Mr. Grondin was the owner back then as well and at the time the town had mobile home park regulations but different zoning-half acre and one acre. He said in this case they bought the land from Mr. LaPierre and wanted to expand the park so he bought the first piece. He said their drawings show a line across an area on the map and it is really one lot now and he showed that for a purpose on theirs the reason being it came in 2 parcels. He said the first parcel was 85 mobile home sites not lots and the terms are used interchangeably but it's not the same thing. He said you could draw dashed lines around these areas but most surveyors and engineers don't because Planning Boards want to see solid lines.

He said it is one fee title lot and those sites that are shown were per the regulations at the time as they said 12,500 sq. ft. was the minimum area of the sites that the people rent plus it allows for special arrangement when you go through the site plan review process.

Mr. Tetreault said the first go round was for 85 sites and then Mr. Grondin purchased the land in the back by the Spears and that's the big parcel up back that goes all the way and borders Pike so he had a total of 118 acres. He said in 1988 they went to the Planning Board and they tried to get approved for 118 sites.

He then said he would back track a tad and originally the existing park that Mr. LaPierre had was on community water with wells over by his house on Chestnut Hill Rd. when the whole thing hit the fan with Textron and the Town wells they were caught up in that and that was when Lilac ran the municipal water up to the site so they could do the project. Again, the zoning was different at the time it was just 3 zones, downtown, the one acre zone and 3 acres on the

west side of Rt. 11 and that's all the zoning there was at the time.

Mr. Tetreault said when they went through this there were mobile home park regulations with requirements for the size of the lots, frontage on the roadway and so forth. He said again these have Town water but they have septic systems which are individual or combined with other lots in a fashion to make it work the best. He said they got state approvals for that and so forth. He said the loading requirements for the state were that they could have gone 3 times the size because of the Town water factor. He said in a small lot if you're required for 40,000 the state lets you go half unless the Town's zoning requires more than that's your density.

He said when Mr. Grondin spoke of density when the Town came up with the new zoning in the early 2000's and they switched the zoning around he didn't know if they remembered there was Suburban Residential, Suburban 1 and it got a little confusing and they changed it after a time period. He said the zone line that they picked made sense because the Town side of the dump road or Cocheco Rd. or Watson Cross Rd. there is more infrastructure considering most people have water and the odd case with the mobile home park having water on the south side of the road. He said when the park was approved it was approved for 118 sites and they had 118 acres which is a one acre density. He said in the other zones or across the street you can get a 25% reduction per water or sewer service.

Mr. Tetreault said they did a report for Mr. Grondin a couple of years ago and said these are the regulations and if you're on the other side of the road you would get a 25% reduction so that would get you an extra 157 minus 118 or how many sites that is. He said at the time their report indicated that currently there are no mobile home park rules because mobile home parks aren't permitted and there is a density issue there as far as expanding.

He said since then they have been considering it and with the pressure that is being put on a bit with the whole affordable housing thing Mr. Grondin asked them to look into potentially where they could physically put some additional sites on the property. He said they did that and went out there and looked but they haven't vetted them completely because they have to get past this first stage before they can look at them a little closer. He said he can tell you that the ones that were part of the negative easement and then explained what he meant by that.

He said in 2002 they purchased a big piece off of Spear's and pointed out the piece on map. He said that gave them the acreage so they could expand the park and they went through the Planning Board for an expansion for those extra sites. He said shortly after that stuff hit the fan with the Cardinal landfill so there was a radius placed and within this distance they couldn't have any mobile homes. He said Mr. Grondin had to sign a negative easement for 20 years before they could be put back. He said they moved some of the sites out back and did the additional that they got the extra land from. That all got approved and the state approvals were amended he said.

Mr. Tetreault said they had to do a connection road from the old park to get this get this extra expansion so they had 2 ways in and out and then pointed out the original LaPierre mobile

home park on the map and noted that it had about 30 sites.

He said they got to 2005 when the hazardous waste thing went down and they relocated whatever ones had to be removed in that area which actually were good sites because they had better soils and good material but there were set up for the standard at the time which back in the '80's and '90's was for single wide mobile homes. He said he showed those sites as they were originally depicted so when the time period runs out and he could replace them it gets past the density issue and that would be an area they would target for that whether they could get all of them or $\frac{3}{4}$ of them they would have to vet that out with septic systems and so forth. Mr. Tetreault said since then there hasn't been any more development in there and they haven't done anything in there and it's been that way since 2005. He said he worked with (former DPW Director) Dale Sprague to develop a water plan for all the connections so the Town had that. He said its Town line and they had to pay for each service like everybody does that has Town water.

He said so at this point what prompted them to be here tonight was to just have a preliminary discussion about the regulations and is there any path forward. He said Attorney Tom Quarles was behind him and he is Mr. Grondin's attorney and he would like to talk to the board about that and he will be here if there are any questions about particulars on the site or the history of the site or anything like that.

Mr. Fisher said it looks like they plan to cut a new road in from Chestnut Hill Rd.

Mr. Tetreault said no there's an existing roadway that Mr. Grondin owns that feeds to Principal Drive. He said it was part of the land purchased from Spear's and he happens to own the fee title to that roadway but he is not proposing to do anything in that area. He pointed out on the map the area where he is proposing to extend the road and try to get some sites in there.

He said if there were mobile home park regulations as far as the open spaces there is a lot of extra land for open spaces so there's no worry about impinging on that percentage should anything like that go forward. He held up the original survey where they can see where the extra land goes all the way down on that side and that's where the sites were located before the relocation in 2002-2003.

Mr. Grondin said that the Spear access road from Principal Drive is a separate subdivided lot not included in this theory at all. It's a separate one acre lot over there he said.

Mr. Tetreault said the road is part of this property and the separate lot that he is talking about is over on the Rochester end and the access to that lot is over that road.

Attorney Tom Quarles said he is an attorney at the Devine Millimet law firm in Manchester and that they are all fortunate to have Randy Tetreault involved in their project because he has such a long history as a resident of the town and working in the town on land use issues back into the '80's when this whole project first started. He said they have heard some of the history and he is going to give them the legal overlay as they see it and tell them why they believe that they have the right to expand this park and they certainly don't think they can say hello goodbye and

start construction as soon as they get their NH DES approvals. He said they agree that they need to get site plan approval from the Planning Board but they believe conceptually they have the right to this expansion and he would go into detail on that. He said it's not simple because the ordinance was changed about manufactured housing parks so he will review that in the context of what Mr. Tetreault and Mr. Grondin said about the history of the park.

Att. Quarles said back in the '80's the zoning ordinance allowed manufactured housing parks but he hasn't seen that ordinance so he didn't know the details but to rest assured that when this park was developed in the late '80's and then in the 2 subsequent expansions they were properly vetted by the Town officials and the Planning Board and those approvals were obtained. He pointed out that back in the '80's Farmington had manufactured housing park regulations and even though the ability to have such a park in Farmington has now been eliminated by the zoning ordinance those changes were made in the early 2000's and he would get into that in more detail.

He said those regulations still are out there and they're still valid because they apply by their own terms to both construction of manufactured housing parks and on-going maintenance that's right in the language of the regulations. He said what is significant out of those regulations tonight is it says the density should be a minimum of 12,500 sq. ft. for each unit and they have heard how they are saying it's very important to have your nomenclature right and understand distinctions between lots and this is all one big lot there's no question about that, the units which are the individual manufactured housing structures and sites and sometimes units and sites are used interchangeably and the site is the space around the unit including the unit.

He said the residents of these mobile home parks including Peaceful Pines own their units they do not own the site they rent the site from manufactured housing park operator Kevin Grondin's company. He said so they have to keep some of those legal issues and distinctions between units and sites and lots in mind as he goes forward because what happened is for reasons unknown and Mr. Tetreault lived through this in the early 2000's and he can't remember and he has searched his records and he can't find a record of why that you as a town went from allowing manufactured housing parks to completely prohibiting parks. He said the town continued to allow individual units on compliant individual lots so you could have your own mobile home on your privately owned lot.

He said that is obviously that is not what is going on here and for some reason between 2003 and 2006 some of the zoning ordinance amendments in that time frame eliminated any future manufactured housing parks and that is not what the state wants towns to be doing relative to manufactured housing parks. He said there are a number of statutes on manufactured housing parks that encourage manufactured housing parks and as we have heard about the whole affordable housing crisis here it's probably one of the biggest public policy issues we have and need in the state right now. We need affordable housing and the NH legislature has reacted to

that starting way back in the 80's he said.

Att. Quarles said there is a large body of affordable housing statutes they think they fit in but he was not going to go into those tonight but one of the more targeted statutes that is in play tonight is the fact that towns quote "must afford realistic opportunities for the expansion of manufactured housing parks" and to do so "lot size and overall density requirements for manufactured housing parks shall be reasonable". He said their analysis is that the town back in August 1986 adopted these manufactured housing regulations and regulations are different from ordinances but they still have the force of law unless and until the ordinance supersedes the regulation.

He said they don't believe that's the case in this situation and back then you had to have for your entire lot must be an area not less than 12,500 sq. ft. per unit so in the context of what we're talking about tonight we have a 118 acre single lot completely undivided. Each of those existing 118 units meets that requirement for which they were approved in the '80's, the 90's and the early 2000's and they in this proposal are respecting that. Each of the proposed units shown in green in your materials meets that requirement and we believe that's the density requirement he said.

He said Mr. Grondin said they also think they should get some credit for the density issues because of they have Town water and when the zoning ordinance was changed on that one they created a whole new zone and had they stayed in that same zone they would have definitely gotten that credit but because of that change in zones that credit was denied us. He said they think as a matter of fairness because the real reason for this is if you have either Town water or Town sewer they should get that 25% density bonus.

Att. Quarles said for that reason, for the reason that this regulation that is still in existence and still in force even though it can't apply to a new mobile home park because they are prohibited unless and until a judge says otherwise they meet this 12,500 sq. ft. per unit requirement under the regulation and that is the density requirement in his legal analysis.

He said Mr. Tetreault gave them another argument for why the density requirement increasing here from 118 units to 138 units would also be allowed under that density credit analysis.

He said finally he would go back to what he read before. He said NH law trumps any regulation or ordinance that they have and has the highest authority and it says you must allow for realistic opportunities for the expansion of manufactured housing parks and in doing so lot size and overall density requirements must be reasonable. I think we've given you 3 reasons why our proposed expansion is reasonable he said.

He said he mentioned that you have outlawed manufactured housing parks since 2005 going forward but you have to allow existing parks to be grandfathered and you have a section on that as most zoning ordinances do called non-conforming uses and one of the pertinent provisions says "Any non-conforming use lawfully in existence at the time of the adoption of this ordinance may continue indefinitely" and your ordinance allows the expansion of non-

conforming uses as long as you get site plan approval. He said it says all expansions of non-conforming uses shall require site plan review regardless of the size of the expansion. Special Use Permits shall be approved only after site plan approval is granted. We don't think we need any Special Use Permits from my review of the ordinances and your regulations he said. He said that's the legal over view of why they think they are absolutely entitled to do this expansion. He said Mr. Tetreault mentioned that they haven't even done the calculation to see how they can max out the site because Mr. Grondin doesn't want to. He said his plan is 15-20 units and 6 of the units could not be constructed until the Cardinal landfill/Textron easement expires in 2028 but they don't want to come back in 2028 they want to get the approval for the 20 units in this process. The intent here is to do a reasonable expansion and work with the Town to get more affordable housing in town. Kevin has been a good steward of this property and we expect it to continue to be so and we want to provide the public service of more affordable housing in an area where costs are going out of control. Any of the 3 of us would be happy to answer any questions before you open it up to public comment he said.

Mr. Pimental said in the staff memo provided to the board they mentioned that these discussions have been going on as far back as March 2020 where he, the Town's legal counsel and the applicant's attorney met to discuss this very topic. He said the staff's thought on this and what their recommendation was is that despite everything they just heard from the attorney they still believe that a density variance from what is in the Rural Residential zone is needed as well as a Variance about the expansion of the existing manufactured housing parks because they are prohibited in this zone.

He said in terms of the argument about they were in a zone that provided a density bonus he did not know if that density bonus was there at the time or not but as of right now they're in the Rural Residential zone and that zone provide for a density bonus for water and sewer. He said the Town's legal counsel has agreed and tonight is the first that he is hearing about the other part of the zoning ordinance that speaks specifically to manufactured housing and whether or not that supersedes the unlawful expansion of mobile homes is a legal question he would defer to the Town's legal counsel.

Mr. Pimental said the only other thing he would mention in terms of the non-conforming use is that the non-conforming use is allowed and it can stay but it's not quite as simple as what it was made to seem to be. He said the Planning Board can grant a Special Use Permit for the expansion of a use but it also goes on to say that use must conform to all dimensional requirements for that special use to be permitted. It does require a site plan review but that Special Use Permit can only be approved to the site plan so it's not necessarily that just because it's a non-conforming use that you allow expansions by right. There's a little bit more to it that is spelled out in the Town's zoning he said.

He said their recommendation from the very beginning was always that the applicant has made a good case for why this may be approved but it's not for this board to decide it's for the Zoning

Board of Adjustment to decide. He said that has always been their opinion but the applicant decided that they wanted their time with the Planning Board and that has been their choice. Mr. King asked how long ago they gave this interpretation to the applicant.

Mr. Pimental said the e-mails that went back and forth were around March-April 2022.

Mr. King asked if they wanted to appeal that interpretation they would have had to appeal to the Zoning Board which has a time requirement and that time would have passed.

Mr. Pimental said they never issued them a formal interpretation this was conversation they had on a Zoom call at the time and then follow-up e-mails. He said they asked if they wanted a formal interpretation and they denied wanting them to issue them a formal zoning opinion.

Mr. King said based on what they sent them whether it meets that threshold or not and it's up to the Town's attorney to advise them on that. He said there are 3 methods to go forward-one is if they are eligible to appeal his interpretation at the ZBA, two is to apply to the ZBA based on what Mr. Pimental thinks they need for relief based upon our current zoning or three go to Superior Court. He agreed this is all good to know on this potential pending application but with the current zoning they need to use one of those 3 methods to proceed.

He said he was not for or against the plan and he was not disputing that the park has been a positive thing for the Farmington community it has been over the ups and downs of that area. He said he was on the board and was probably even Chairman when the zoning changed so he is very familiar with the reasons why it met legal review at the time so past and current legal feels that what we have for zoning is solid whether that will be proved in court if it goes to court. I think you have some reasonable arguments to seek relief at the Zoning Board but that's not here he said.

He said based upon Mr. Pimental's interpretation the applicant would have to decide how they want to proceed and those are the 3 options whether or not the appeal of the administrative decision has lapsed or not is not for him to decide.

Mr. Grondin said it has come to his attention through legal advice that should he have gone to the ZBA that would be the only thing he could appeal to Superior Court and he is fairly certain that the Town wouldn't have a prayer in Superior Court knowing what the laws are that have been brought up to him that he has seen that do push for affordable housing and having a reasonable and proper use. He said his competition in town is half the size lots as his with double the density and that alone is outrageous.

He said he does his own sewer and doesn't burden the Town with it and that's a 25% bonus but it costs him an arm and a leg. He said he ran the water down the street and would like everybody to know that he did that not knowing and the Town did know that Textron had polluted his land. He said he found out years later that they don't have to tell you that they polluted your land unless they are polluting your water. He said the water for Mr. LaPierre's park was over on the other side and the yearly super tests they had to do came through the state and was pulled off the shelf to check with to see whether the watershed had gone the

wrong direction which it didn't in fact go towards the river but the Town had that knowledge- he has plans that show the Town had the knowledge prior to his purchasing the park. No one told me they made me pay not only for running the water down the line but also the hookup fees which all they had to do was tell me about this and somehow I could have legally had the Super Fund pay for the water hookups for the park he said.

Mr. Grondin said he has been trying to be reasonable he hasn't started any "madness" with the Town but he doesn't believe that the Town has been fair to him so if he has to he is going to go to Superior Court. He said he has been told the ZBA should he go to them that's the only thing he can appeal in court and he is not doing it. He said #1 and #2 are out because they are either going to try to be reasonable or he will go to Superior Court if that is what they really want him to do. It becomes a match and I don't think that's fair to me who has been fair to the Town in every way going he said.

He said a true .25 addition would be somewhere up in the 50 lot angle something like that and he is only looking for 20 lots. He said he has plenty of room these are in the woods they are not bothering any neighbors and he would refuse to stuff homes somewhere where people weren't happy with what he was doing and they have the largest lots in the entire state.

He said reasonableness would say to give them a break here they have been good neighbors, he pays his bills, he checked with the Building Inspector to make sure they are up to snuff on whatever he wants and people really love the park so he would love to be able to put in 10 or 15 more. I want you to know that because I don't want you to be upset with me when I have to take the Town to court which I think is ridiculous because lawyers all cost money. But I'm willing to at this point because I've been trying to be reasonable all along he said.

Mr. King said that is his choice but as being a long standing member here he agrees with the interpretation and he was on the board when that zoning was passed. He said current legal counsel has looked at it and it is not their position to overturn his decision so if Mr. Grondin disagrees with his interpretation it is not for them to say he is wrong that's the Zoning Board. He said they changed that interpretation 2 years ago or the mechanism for that because it used to be just the Code Enforcement Officer. He said based upon having a more thorough vetting of the interpretation of the zoning we have the Planner working with the CEO along with an attorney as required to make the most correct interpretation of our zoning for applicants on both sides and in this case he believes the Town has done that although Mr. Grondin may disagree.

Mr. Grondin said that he totally disagrees. He said the Town attorney is misleading them and he wanted them to know that because he has seen the ordinances and the sanctions.

Mr. King said he didn't think this was the proper venue to hash that out. He said there are 3 ways...

Att. Quarles asked for a minute to clarify this because they don't need to do this 3 ways. He said he didn't want to go to Superior Court and he thought they could avoid that. He said there is no

issue with #1 and he never got a binding opinion out of Town Counsel nor did he request one. He said Mr. Pimental nodded his head so he agrees.

He said Mr. Pimental is also correct that the issue that he raised as the primary ground for why their density is allowed the 12,500 sq. ft. or more that's in your original manufactured housing park regulations not an ordinance that is still valid. He said that was not raised with Town Counsel because he didn't have a copy of that at the time so her opinion does not consider that so at a minimum he would like them to instruct Mr. Pimental to go back and have her consider that.

Att. Quarles said thirdly and this is the most important thing and what he wanted to leave this room with tonight-he said it 3 times and would say it once more because it's extremely important and he is saying it because Town counsel refused and it really ticked him off to engage on this statute that as they know is more important than the ordinance and the regulation. He said that he said he wanted the Planning Board to determine in their judgment whether their proposal meets the statutory standard that because towns must afford realistic opportunities for the expansion of manufactured housing parks they have to do that despite what your ordinance says. He said because that is their duty to do so lot size and overall density requirements for manufactured housing parks shall be reasonable so they absolutely have the ability and they are asking tonight that the board make a finding that given their presentation that their proposal for the expansion of this manufactured housing park relative to the lot size and overall density is reasonable because if they make that finding that's binding on Town counsel and the ZBA and he didn't want to go to ZBA unless he has to.

He said this is not just an exercise in "what do you think" that's one of the reasons they are here. He said they need the board's input because they are the deciding body on this issue as to how to interpret this statute. He said Town Counsel refused to engage with him on that issue and he was very frustrated and said how can you give an opinion and ignore the statute that supersedes their zoning ordinance and he never got a response. So this is the way we can get over that issue which is the driving issue and the driving directive in this case he said.

Mr. Henry asked if he had that RSA number handy so he could take a look at it.

Att. Quarles said it is RSA 674:32 and he has the book as well if he wanted to see it. He gave the book to Mr. Henry and asked him to look at the right hand column the last 10 or so lines.

Mr. King said he believed the zoning change is to not allow new mobile home parks and expansion of existing mobile home parks. He said this is the expansion of an existing mobile home park that he feels is prohibited. He said he knew that Att. Quarles feels they must make a finding on this but this board before they would even consider this would certainly be discussing this with their own counsel. He said why she did not engage in this with him they have no idea and she might have a reason that has not come to them so before they would even consider making some type of interpretation that Att. Quarles feels they are obliged to they would want to consult with their legal to see if they are required to and if they are

required to what she would advise them to make. He said at this point he would not be in favor of making a determination that could be binding because they have not been properly advised by their counsel.

Att. Quarles said his quick comment would be that while you attempt to prohibit expansion of manufactured housing parks that desire is trumped by that statute. He said it says that towns must allow reasonable expansion of mobile home parks.

Mr. King said that is his legal opinion and interpretation of that.

Att. Quarles said it's not his opinion that's what it says. He read the RSA aloud and said that statutory language trumps their prohibition in the ordinance. There's no disputing that he said.

Mr. King said their legal counsel may have a different opinion.

Mr. Fisher said that is something they should bring up with their legal counsel. He said our ordinance says no expansion of mobile home parks and asked if this is truly an expansion of the park or just an expansion of the sites within the park.

Att. Quarles said the concept of a park-that's why he was so careful about lots, units and sites and its one whole park.

Mr. Fisher said he understood that it's one whole park but asked if you are just increasing the number of sites or units within the already set park boundaries if that is really an expansion of the park or just an expansion of the use of the land within the park.

Att. Quarles said he didn't see a difference it clearly falls under the language of the statute.

Mr. Fisher said that is what he would have to understand from the lawyer.

Mr. Henry said he was reading the line that has been paraphrased and then read aloud "municipalities permitting manufactured housing parks shall afford realistic opportunities for the development and expansion of manufactured housing parks". He said the first 2 words, "municipalities permitting" and he would say at this point we are no longer a municipality permitting it's a non-conforming use.

Att. Quarles said the concept is once something was legally permitted and is a pre-existing non-conforming use that status lasts forever its right in your ordinance. He said the fact that you decided to kill manufactured housing parks after the fact doesn't affect their rights that are vested. We have a vested right to expand based on that statute because we were legal when it was built and even though you prohibited new parks you had to allow existing parks to remain which we do and under that we get the right to expand an existing park along with reasonable lot size and density requirements. I don't see any ambiguities there and Town Counsel never responded to that issue he said.

Mr. King said they have 2 choices-they can continue this meeting to consult with legal counsel regarding the things that were raised or the applicant can make a decision on which way he wants to proceed.

Mr. Pimental said the manufactured housing regulations that Att. Quarles brought up tonight they didn't discuss and asked where exactly he was referring to and if it was in the zoning or the

site plan regulations.

Att. Quarles said this is why Mr. Tetreault is so crucial to this and he has a copy of the 1986 regulations in his files and if he doesn't have them he will have to get a copy from him.

Mr. Pimental clarified that when they went back and forth our Town Counsel said in terms of the work force housing piece...

Att. Quarles said this isn't work force housing and he wasn't talking about the work force housing statute he was talking about the manufactured housing existing expansion rights which is a different statute.

Mr. Pimental said the back and forth they had in this e-mail he referred to work force housing and the history of manufactured housing in the town and the Town Counsel did address that piece but she may not have addressed the first part that he mentioned.

Att. Quarles said they are completely different they're not related. He said he is not arguing work force housing tonight.

Mr. Pimental said he did bring that up and that was part of their discussion.

Att. Quarles said sure but he was not arguing that tonight and she did not engage with him on the expansion statute...

Mr. Fisher interjected and called a halt to the discussion because the voices were starting to get loud. He asked if the board had anything else they wanted to discuss. He then opened the hearing to public comments.

An unidentified audience member asked if there would be no change to the frontage (along Cocheco Road).

Mr. King said it appears not.

Mr. Tetreault said the land in the front in the original plans was left as open space and it was going to be a ball field. He said they were originally thinking about putting homes in that as it would make sense but there is also a small transmission line easement that runs through there. He said this particular thing as basic as it is doesn't propose anything out front there and there is a lot of room out back for passive recreation-trails and so forth if it ever gets to that stage. He added that he keeps all these regulations so he has them all at his office. He said there were mobile home park regulations and it had all of the stuff Att. Quarles talked about in it. He said when he found it he gave it to him and made a history of how we did this with the rules that applied at the time and that one applied to whenever they stopped it in the early 2000's.

He said that is what everybody used for the 2 parks that are here. He said the other park has sewer so that is a little bit different set up but the lot sizes in the mobile home park regulations were the ones that were used to formulate this park and they were basically a 75 ft. frontage on a qualifying private road with a 12,500 sq. ft. minimum and there were open space requirements that you see if you got close to the lot line. There was probably a 4 or 5 page form and that is where the 12,500 sq. ft. site area comes from he said.

Mr. Henry asked if this was the Rural Residential zone.

Att. Quarles said it is now.

Mr. Henry asked if there are any other lots in the RR zone that have water or sewer.

Mr. Tetreault said he didn't believe it goes past the park.

Mr. King said the water runs out and down Rt. 11 and asked if the house across from the industrial park is in that zone.

Mr. Tetreault said it may be in that business zone.

Mr. King said they may be the only ones in that zone because there were some houses there along the road before the park but they were taken down. And on the other side of the road it's a different thing he said.

Mr. Tetreault said he thought they drew the line there because most of the more intense stuff was towards town and most of the stuff in the Chestnut Hill Rd./Governor's Rd. area didn't have water.

Mr. Pimental said he was looking at the Town's zoning map and clarified that the other side of Cocheco Rd. the zone doesn't change right at Cocheco Rd. it's about 1/3 of a mile away from that to the west. He said it's not like this is up against a zoning change like one side of the road isn't RR and the other side is Suburban Residential. He said the SR is much further away than what it's sounding like. He said he provide a map to the board but whenever that did shift the SR area is further away than just across the street it's more closer to between a third and under a half mile away.

He said the last thing he would say and the board could make a decision on that is that he would also recommend that the Town not make any decisions in terms of the request to determine whether or not this is a reasonable use. He said he would consult the Town's legal counsel especially with the new information about the 1986 manufactured housing regulations that was not brought up before. I would let the Town's legal counsel have an opportunity to review that prior to this board making any decision so you can continue this or after seeking counsel but I would not advise you to make a hard decision right now he said.

Mr. Henry said he would like to make a motion to continue the hearing to another meeting.

Mr. Fisher said before they do that he would like to ask if the public had any questions about what they have discussed so far. Hearing none he closed the public comment portion of this hearing.

Motion: (Henry, second King) that we request Town Counsel for our next meeting and that we continue this hearing until our next meeting;

Discussion: Mr. King said their next work session is August 16.

Mr. Squires said they need to allow Town Counsel to do her due diligence and when she feels they're ready they'll schedule it.

Mr. Henry said he would like to get some feedback from the applicant if they want to come back in 2 weeks or a month but he would like to move it along for them if they can.

Mr. King suggested they ask the applicant if they want this continued because they may not.

Att. Quarles said they would like it continued and give the board an opportunity to get a response from Town Counsel so he would suggest they don't continue it to a date certain unless they want to go out into Sept. or Oct. as he didn't think Town Counsel could turn it around in 2 weeks.

Mr. King said they typically continue to a date certain and if they are not ready for that then they could continue it again.

Mr. Henry said if they don't do a date certain they would have to re-notice the hearing.

Att. Quarles said they don't know the Town Counsel's schedule so he would just say they would ask for a continuance.

Mr. Henry said his motion is in 2 weeks and asked Att. Quarles if that worked for him.

Att. Quarles said they can but he doubted that would work for her but if they want to continue it beyond then Mr. Tetreault can come here and listen to that.

Mr. Fisher said on the 16th they have the Torr excavation permit out on Chestnut Hill Rd. and that's going to be a big one.

Mr. Pimental said they could do it on Aug. 2 or 16 it doesn't really matter as both are going to have hearings for other things.

Mr. Henry said he would say Aug. 2 to keep it moving along.

Friendly Amendment: by Mr. King: provided that Town Counsel can be prepared for the 2nd.

Mr. Henry asked how much time they were going to give Town Counsel.

Mr. King said he didn't think it was unreasonable to be ready for the 2nd but he...

Mr. Henry asked if they need to have Town Counsel here or if they want a written opinion.

Mr. King said their discussion with legal counsel might fall under a non-meeting.

Mr. Pimental suggested they could have Town Counsel come here on Aug. 2 and speak to the board but continue the case to the 16th so they could meet with her on the 2nd to discuss all of this in non-public and have the applicant here for the 16th.

Mr. King said based upon that discussion there probably will be follow-up questions.

Amendment: by Mr. Henry: to ask Town Counsel to be here for the August 2 scheduled meeting and continue this hearing until August 16

Mr. King accepted the amendment.

Mr. Mains asked why they have to go into non-public session with our attorney.

Mr. Fisher said because it is a discussion with legal counsel and they don't have to but it is best if they do.

Mr. Mains said he sat on a board before where their legal counsel was present and they discussed everything. He said that gives the people what they are discussing up here with Town Counsel and what our Town Counsel gives to us instead of us saying Town Counsel said this.

Mr. Fisher said she would probably be here for discussions open to the public but they will probably have a non-meeting just prior to iron everything out with her to protect the Town.

Vote: the motion passed 6-0.

Recess: Motion: (King, second Henry) for a 5 minute recess passed 6-0 at 7:17 p.m.

Mr. Fisher reconvened the meeting at 7:24 p.m.

C).Public Hearing to Conduct a Design Review for Millennium Holdings Group, LLC, Tax Map R15, Lot 11. The applicant is proposing to subdivide the parcel, so the existing 8-unit multi-family home is situated on its own lot, the existing two duplex structures are each located on independent lots, and provide for one additional building area for a compliant use within the zone. The applicant is also reviewing the potential to place the remaining acreage into a conservation easement. There are several approaches to this project that need additional input and guidance from the Planning Board through the design review process. The proposed project is located on the western side of Chestnut Hill Road and is in the Rural Residential Zone.

Christopher Berry, President of Berry Surveying & Engineering said he was representing Millennium Holdings here this evening and with him tonight is Jon Bombaci from Millennium Holdings and if there are any questions he can't answer maybe Mr. Bombaci can and joked that otherwise he is told to sit there and be quiet.

Mr. Berry said they were here to discuss a piece of property that is fairly good sized it's 74 acres off of Chestnut Hill Rd. He said it is adjacent to a piece of property that has been eased by the Southeast Land Trust and there are abutting parcels that have also been eased by other easement holders.

He said the parcel has a private road on it that is known as Grondin Drive and there are 3 abutting landowners that have frontage and have access from Grondin Drive. He said over the years the property that they are here to discuss this evening they've had an 8 unit structure that was built towards the front of this property closest to Chestnut Hill Rd. and then there are 2 duplex units that are constructed further down Grondin Drive. He said Grondin Drive was built prior to the sale and subdivision of the 3 lots that take their access off of it and each one of those lot owners has the right to utilize Grondin Drive to gain access to their homes from Chestnut Hill Rd.

Mr. Berry said these guys recently purchased the property and they are not the historic landowners. He said prior to the people that they purchased it from the Grondin family did own and did conduct the subdivisions for the 3 lots that are off of Grondin Drive.

He said they have a small list of goals that the owners and applicants are looking for. He said they are looking to subdivide the parcel so that the 8 unit structure and the 2 duplex structures are on their own lots that's the primary goal of the parcel. He said under that set of goals there's no additional units, there's no real change in the infrastructure or how the lots are being utilized it's simply a change in ownership so that they can invest in the parcels and sell the units to private landowners going forward. Currently they own the parcel all as one he said. Mr. Berry said there is an additional goal to gain access to some developable lands off the end of Grondin Drive and they would like to build an additional duplex off the end of the roadway in

an area that is upland and isn't encumbered by wetlands or other developed sites. He said to do that they understand that that would require a potential increase in the level of safety on the roadway and may require some additional construction be considered as part of that subdivision.

He said lastly, based on the size of the parcel and the over arching goal of subdividing the parcel as he described prior and based on the abutting landowners and easement holders they may look at putting the remainder of the parcel in some sort of conservation easement so it is not developed further in the future.

He said he pointed out in his narrative based on the shape of the parcel they could go about this one of two ways and they wanted the board to discuss it and review it with them. He said the 8 unit building is closer to the neck of Chestnut Hill Rd. and in this zone that multi-family use is no longer permitted but the zoning does require 1 acre per unit be established so for them to subdivide that under conventional zoning in any sort of logical format a Variance would be required to permit that lot to be on the substandard lot size.

Mr. Berry said the next 2 lots in the proposed subdivision would be of standard size in conformance with space and bulk standards but that lot would not. He said they could do some really odd things with lot lines so that 8 unit building was technically connected to the rear of the parcel but there are other areas in the subdivision regulations that preclude odd shapes so they didn't think that was the best way of going about that type of subdivision so they have concurrently applied for a zoning variance to permit a substandard lot for that 8 unit structure. He said the second way they might be able to go about this is viewing this as an open space subdivision where multi-family structures are permitted in the RR zone and under that subdivision ordinance you would be permitted to grant lot sizes that are less than what would be required in the underlying zoning but would likely come at a cost of other buffer requirements and things that are also inside of that ordinance. We wanted to bring the product to your attention and discuss the potential avenues while we've made out application to the Zoning Board he said.

Mr. Fisher asked when the 8 unit building was built.

Mr. Berry said he didn't have the answer to that.

Mr. Bombaci said it was built in the early 2000's.

Mr. Fisher said so for 20 years it sat there on a non-conforming lot.

Mr. Berry said the lot itself today is conforming.

Mr. King said so right now it is all one parcel and there is an 8 unit, 2 duplexes which are rental units and they are looking to have another building lot split off and potentially put a bunch of land in conservation. He said they could go potentially under open space but then they carry with it some of the requirements there for use of open space for all those lots that they created and he didn't know if that is part of what they want to do and if it is that's fine.

He said they already considered making application for the 8 unit building in that lot and they

probably have a reasonable argument to get relief on the footage requirement. He said looking at it initially his biggest concern is the infrastructure that is there because now it's a subdivision and that will be servicing 8, 10, 12, 14 plus the existing and he says they have access and asked if they have access by deed and have a right-of-way.

Mr. Berry said yes.

Mr. King asked for the width of Grondin Drive and if it is set in the deed.

Mr. Berry said he spent a lot of time researching this because at first it seemed a little ambiguous. He said the first 2 lots were deeded the right to use Grondin Drive as it was built from their lots to Chestnut Hill Rd. He said the third lot which was sold to a family member which he believes still owns it was granted the same right but there was a subdivision plan that was drawn that also shows a 50 ft. r-o-w and it is their opinion that 50 ft. r-o-w basically where they're showing the r-o-w as a subdivision that would extend out to Chestnut Hill Rd. so there is a potential easement for all of those landowners to have access over Grondin Drive but also the expansion of a potential 50 ft. easement there.

Mr. King said right now it appears that Grondin Drive is pretty much on this parcel.

Mr. Berry said Grondin Drive is mostly on their parcel but the boundary line sort of weaves around it's not dead straight.

Mr. King said if it needs to expand it can expand on this lot.

Mr. Berry said yes.

Mr. King said because there are existing accesses off of it and the amount of units if you go to a road and driveway standard there's going to be a basis for what we expect. He said they show a cul-de-sac which is acceptable and asked how far back it is to the cul-de-sac.

Mr. Berry said the cul-de-sac is 1,100 ft. He said they understand that if they are endeavoring to add additional units that heightens the level of standard needed for that roadway and heightens the level of safety needed and they understand that that cul-de-sac would be placed further than the 900 ft. maximum rule.

Mr. King said that's in the regulations so they can request a waiver for that because they are close to that. He said he didn't want to say which way they should go as far as open space and that is up to what the applicant wants to do. He said either one of them could work but one of them is going to come with things they may not want to do or they may be fine with it as far as the reason why they grant the density bonus in the open space regulation and some of the things they expect. He said the biggest thing in the subdivision is the roadway being brought up to Town specs and making sure that there's not only brought to spec but that there's a mechanism in place by whatever means for that to be maintained going forward through the subdivision.

Mr. Fisher said he would highly recommend keeping good records on the development of that road, the base layers and all that stuff so that if in the future they should ask for it to be picked up by the Town. He said in order for the Town to pick it up as a Town road they're going to

want very detailed information.

Mr. Berry said he didn't believe that was the intent here.

Mr. Fisher said it may not be the intent now but years down the road...

Mr. King said the owners of these parcels may want to petition the Town and if it's done to a high enough standard and there's good records then that will be on the plus side.

Mr. Pimental said Mr. Berry has summed it up pretty well and he didn't have anything to add other than the concern Mr. King already raised about bringing the road up to standard and it has been brought to the Planning Dept.'s attention that this road is in rough shape. He said that is not necessarily the fault of the new owner but adding an extra unit just making sure that they bring that up to standard.

He said the only other thing that he would mention and for folks that aren't aware that this particular parcel abuts another parcel that is looking to be conserved as part of the Huckins subdivision that is putting that backland into conservation which also abuts the Yates property so if the back piece of this goes into conservation this would create a nice little greenway of 4 parcels in a row that would be conserved. He said whether or not NRCS is interested in that he didn't know but there is some value to seeing when you choose these pieces of conservation (land) that they would be all connected.

Mr. King said it abuts the Yates Revocable Trust and asked if that is in conservation.

Mr. Berry said he believes so.

Mr. Pimental said it doesn't abut the Yates property and explained there are 3 Yates properties and they are all right next to each other and pointed them out on the plan and noted that one of the pieces they don't have as conserved but this could be wrong. He pointed out Grondin Drive, the 2 Yates properties that are conserved and the Huckins property and then said he didn't know about the third Yates property.

Mr. Berry said that Eric Mitchell surveyed them for them and that he believes that it is conserved.

Mr. King said it was not put in conservation by the Town it was either the state or federal.

Mr. Pimental said so then his data is wrong and Tax Map R02, Lot 55 is conserved.

Mr. Berry said he would send him the plan.

Mr. Pimental said if that is the case that would be potentially 5 parcels and would create an even bigger block of conservation land. He asked how the board would feel about the 8 unit being a potentially substandard lot even though it's not doing anything it's just...

Mr. King said that is not up to them if he is going to the Zoning Board. He said if he is using the open space he could qualify that with the density bonus but that comes with other requirements and things they have to do in a cluster and if they are okay with proceeding that way but if they say we don't want to do the cluster subdivision and take care of the open space and access to the open space for everybody involved then they may not want to pursue that. That's their choice he said.

Mr. Berry said they have a preferred method but he wanted to point out there are other methods.

Mr. Henry asked if they were proposing a 4 lot subdivision.

Mr. Berry said yes.

Mr. Henry asked if they were just proposing 3 lots and not to add that additional lot for a duplex if they would still be requiring an upgraded road considering it wouldn't change any traffic or how the land is used at all if they did a 3 lot and the road stayed the way it is.

Mr. King said his answer is yes. He asked if would be 4 or 5 units and when they talk about potential conservation land if that was going to be split off separate or if it would be part of this other lot.

Mr. Berry said they would make it part of the other lot and then ease it thru conventional means.

Mr. Henry asked where they would put the requirement for the road improvement-on the subdivision or on the building permit for that 4th lot.

Mr. Pimental said he had the same question and he didn't have an answer but if they decided to not add that other unit he didn't know if the board has enough standing to say that the road must be upgraded but he was not sure. It could be because you're part of the subdivision process but I'm not positive on that he said.

Mr. Berry said the applicants are not looking to come in and make no improvements. He said these gentlemen have purchased the property, have made improvements to the property already and will continue to make improvements to the property. He said they are willing to make some improvements to the roadway but they understand that if they are talking about additional density and adding additional units, that comes with additional impact and that improvement would be increased because of that. It's something we are definitely cognizant of and reviewing he said.

Mr. King said some of the things Mr. Pimental is concerned about will be flushed out during the actual subdivision application and they are just in the design review. He said those details and requirements for we do and how we do it will be flushed out during the subdivision application.

Mr. Henry said it's fair to let them decide that maybe that 4th lot doesn't pay for itself if they have to make the road improvement requirements and if they keep it as is they don't have to make the road improvements.

Mr. Squires said it is still a subdivision.

Mr. King said that's up to the board.

Mr. Henry said that's why he is asking because if they just divide it into 3 lots, never mind the 4th lot if they would make them do the road improvements if they're not adding any traffic or any other houses than what's there now. I'd have a hard time saying if you want to split it off into 3 lots you have to improve the road even though you're not changing the number of units or the traffic on the road at all he said.

Mr. King said this is just the design review so he was not going to belabor this point but there are a lot of things in play here. He said there are currently 3 homes and 15 residences taking access off this road not 2. He said when they get into the application they will see what rate of acceptability it has or when they get to public comment.

Mr. Fisher asked if there were any further comments from the board and hearing none he opened the hearing to public comment.

Abutter Paul Plourde said the road is his concern. He said they come in, they buy the property then they subdivide it and sell it off and then they walk away and they are stuck with the road if they don't do anything with it. He said if they decide to add more later on they have the traffic going down there.

Mr. King asked who right now is responsible to maintain the road and if there is a mechanism for people to pitch in to maintain the road.

Mr. Plourde said the apartment owner before plowed it and took care of it when he was there. He said he had a maintenance guy taking care of it.

Mr. Squires asked if he was legally obligated to take care of it or he just did it.

Mr. Plourde said he owned it and the road was on their property so he had to take care of it. He said years ago when they wanted to subdivide it they said if they subdivided it the road would have to be repaired to Town specs that's why it was never subdivided.

Mr. Henry asked if he was one of the 3 houses on the other side.

Mr. Plourde said yes.

Mr. Henry asked if he has no obligation to maintain the road in his deed.

Mr. Plourde said no they don't own the road it belongs to the other people on the other side.

Mr. Fisher asked if they all have deeded access to that road.

Mr. Plourde said yes.

Grondin Drive resident Sterling Grondin Jr. said he would like to request that prior to granting a subdivision approval that the Planning Board require the access road to be constructed to Town road standards which it is nowhere near now. He said in addition he would like them to place a bond ensuring that that road will be brought up to standard not by some yokel down the road. He said he would like to have that completed in a specified time.

He said with the impact on that road from the people that are there already since they have owned that place they have never offered to put even a rock on that road and in the spring time when the frost comes off in front of his brother-in-law's house on his lot the ground just turns right to mud. He said nobody seems to care about it and people get stuck there that's how bad it is.

Mr. Grondin said coming onto that road from Chestnut Hill Rd. the road there is no wide enough for 2 cars to pass each other. He said one car has to stop at the 8 apartments and wait for the other one to go by. He said in the winter time they hired somebody to plow that road and the guy came in off of Chestnut Hill Rd. made 1 pass down to the last apartment, turned

around and plowed back out in the same path so people were getting stuck and there was no way for 2 cars to pass and they are getting no help from them whatsoever. The road at times is dangerous and impassable as well as the fact that there are a lot of disabled people on my side. In the spring they're not going to get down thru that mud that comes up thru there every year where people get stuck or pass or even get in there because the road is only 1 lane plowed. I don't want to see a hand shake oh yes we'll do it I think it's not unreasonable for them to put a bond up on that and make sure that it's done in a timely manner. Not just cover up what's there because you have to dig that subsoil up out of there and lay gravel on it, put stone on it and then pave it because they are talking about adding even more impact to the road and the road is so bad now at times it's dangerous he said.

Mr. Grondin said he would like to see the maintenance of the road to be taken care of up to a perpetual time so that somebody else is responsible for that because those parcels are not going away and somebody is going to want to build more and that's going to allow even worse traffic when they start all the trucks down there. I think they should hold the subdivision up until that road is taken care of now before they go any farther with the subdivision because the road is in such poor shape. I would like to see that there's an entity to take care of the road and that would be them not us he said.

Abutter Tracy Grondin-Sanfacon said she would like to hold the subdivision and there are wetlands down behind there. She said she had a pond at the beginning of her house and there is an abutter on the other side of her that destroyed her pond when he drained it. She said she her family has owned all this land since her father was 10 years old and there were mating pairs of ducks that came there and there is no pond anymore because he drained it.

Mr. Fisher asked how he drained it.

Mrs. Grondin-Safacon said he got a backhoe because he wanted to put a little road in. She said she called and asked about it and everybody told her it was okay there was no conservation because she wanted him stopped.

Mr. Fisher asked when this was.

Mrs. Grondin-Safacon said when he was doing it about 10 years ago. She said she didn't want this to happen to the rest of them and she has deer on her lawn everyday and she doesn't want them to go away. I don't want these 3 split up into separate owners so that it can now be said there's an owner here, there's an owner here and there's an owner here so nobody owns it now everybody is separate so they all have to take care of it.

She said it was her grandfather's land that got sold to somebody that treated them all like crap who took a little bit of care of the road but you can see it's not that great. He was responsible for the road we have access to it and we have unlimited rights to pass and re-pass and it's on our deeds. If it gets broken up it's like another person's home and then we're a homeowners' association and none of us want that she said.

She said they don't want to be in-town and they live out in the woods because that's where

they like it. We never would have had the apartments there if any of us had a choice she said. Mr. Grondin said on this proposed r-o-w beyond his property there is no way they're going to get a 20 ft. access with shoulders because of the wetlands. He said he didn't know if the board has seen all the wetlands in any of the pictures but there are wetlands all over there and he didn't see how they could be granted a r-o-w going thru swamps like that.

Mr. Fisher said there are a lot of different mechanisms in place to control things like that. He said there's an **Alteration of Terrain** permit that will probably be required, the state will look at the wetlands and the Conservation Commission will look at the wetlands. He said if they decide to put a 4th lot out there they have to come before the Planning Board with a site plan with everything delineated- the wetlands, road frontage and all types of things on there so the purpose tonight is just to give them a conceptual yes we agree with them trying to subdivide this up.

He said this is not granting approval for anything tonight it's just giving them their ideas and they will take his comments into consideration especially when it comes back before the Planning Board for site plan review. We appreciate your comments and I can understand he said.

Mr. Henry said if they approve the site plan when they go to develop that 4th lot it will not come before this board.

Mr. Fisher said it will before they build on it for site plan review.

Mr. Henry said not on a residential lot. He said they don't review duplexes or single family.

Mr. Fisher said if it's going to involve wetlands it will still have to get an AOT permit.

Mr. King said if there's a wetland impact which there may be to put that road structure in that would be part of their plan and they may be review and comment at the Con Com and there may be some state permitting required. That's yet to be determined based upon they're not before us with a plan yet. Looking at the wetlands that are delineated there may be some wetlands impact and a wetlands permit would be needed he said.

Mr. Pimental said it does look like with the potential road infrastructure there could be some impacts to the wetlands that would trigger a Dredge and Fill Permit with the state it would also be an opportunity for a Special Use Permit to be issued by this board which would trigger review with the Con Com and the Code Enforcement Officer. He said it looks like the turn-around area would be within the 50 ft. buffer that the Town has but for something like this it's unlikely that you'd see an AOT and would not have site plan review unless they decided that that unit in the back was going to be a 3 unit or more but a duplex and a single family home this board doesn't have the authority to review. That would just be a building permit he said.

Mr. Fisher asked if this would fall under the same category as the subdivision that was put in on off of Fox Trot Drive. He said they put in 7 homes out there and it came before the Con Com because it involved wetlands.

Mr. Pimental said that was a subdivision not a site plan review.

Mr. King said those go before the Con Com depending on what the impacts are. He said an AOT permit is not going to kick in until they have over 100,000 sq. ft. and there would have to be more than 2 acres of disturbance and he doesn't see that here.

Mr. Fisher asked if there were any other comments before he closed the public comment portion of the hearing.

Mrs. Grondin-Safacon said she appreciated that want to put any land in conservation. There were no further comments and Mr. Fisher closed the public comment section of the hearing.

Mr. Berry said these gentlemen purchased this in January of this year and a lot of the disparities that they heard about have nothing to do with them. He said there may be additional attention that needs to be paid so their management company pays a little more attention to how it's plowed during the winter time but these guys are the recent owners.

He said it's important for the board and the public to know that these guys have purchased this property and they're looking to make improvements. He said they understand what has to happen as part of any future development that takes place and they understand their maintenance responsibilities for the roadway until that does happen.

He said it was also important to note that for any substantial improvement for that road to take place there needs to be a substantial gain to the applicant in doing so. He said if they are talking about adding units and larger developments it's why he said then the impact and the infrastructure of the roadway would have to go up accordingly and be in line with that type of development where right now they have an obligation to maintain the roadway and that's it and they will certainly adhere to that obligation.

Mr. Berry said they wanted it known for the record that a lot of what they've heard tonight- people digging around where they shouldn't be digging, people doing things that they shouldn't be doing on site those are the former owners not the current owners. We'll do what we can to improve the situation as we go forward he said.

Mr. Pimental asked Mr. Berry if he got everything he needed from the board in terms of the multiple approaches and if there was anything else he was looking for from them.

Mr. Berry said they were all set.

Mr. King asked if they were on the ZBA's next agenda.

Mr. Berry said yes.

Mr. Pimental said the next ZBA meeting would be on August 3.

Mr. King asked when Mr. Berry thought they would be back before the Planning Board with a formal application.

Mr. Berry said that is unclear.

There were no further comments from the board so Mr. Fisher closed the public hearing.

Mr. King said when they make formal application the abutters will be notified by mail.

7). Member Comments: None

8). Any Other Business before the Board:

Proposed Telecommunication Towers in Strafford- Mr. Pimental said they got notified by the Town of Strafford about 2 cell towers that are going through the process with their Planning Board. He said it's just a part of the regulations of telecommunication that abutting municipalities are notified. He said the towers are 160 ft. and in their packets it shows a distribution of the cell coverage and the potential improvements of where those towers are being proposed so Town Administrator Ken Dickie asked him to provide this to the board as an FYI.

Mr. King asked if they need to provide any comments.

Mr. Pimental said if they want to- they're already in the middle of the process but they're not required to. He said in that packet it shows the sites and they did a balloon test where they put the balloon up and then they Photoshop what it would look like. He said there is a potential that you would see it in a few places in Farmington but there's really not a whole lot in terms of legally that the Town could do.

Mr. King said there is already a tower there now.

Mr. Pimental said there is at least one and there may be 2 and they are proposing another 1 or 2 towers.

Mr. Henry asked if this going up on Blue Job Mountain.

Mr. Pimental said it's on the Strafford side it's not in Farmington. He said if folks have comments they would like him to pass along to the Strafford Planner they can shoot him an e-mail and let him know.

Former Fire Station Visit- Mr. Pimental said this morning they did a site visit to the former fire station with a couple of the Selectmen, the Town Administrator, 2 members of the EPA, a rep from the Nobis Group (consulting firm conducting the Phase II assessment) and someone from the NH Dept. of Environmental Services. He said they walked them through where they were with their contracting and the timeline of getting that Phase II assessment where they're going to do 7 monitoring wells, some soil sampling and the goal is to get the results of that sampling by Oct. and they may have a report by the end of the year.

Mr. King asked if they would provide the results of that testing before the report. He said even if they don't have the report at the beginning of the year they would at least be notified if they found something.

Mr. Pimental said that's correct and that will be one of the first things that gets done. He said they should have the results by Oct. but the report is probably a few months later. He said they did a tour of the facility and the site and we will have to move some parking around a little bit when they drill the holes for the wells. They're going to be capped but while they're out there they're going to want to make sure that people know they may not be able to park exactly where they're parked now and may have to move around. He said the site is plenty big enough where they don't see any issues there's only 7 locations some of which are in the back where

they're not going to park anyway. Hopefully the testing comes back showing there's nothing significant and ideally if we get those results we can close the book on any additional environmental assessments that are needed he said.

Mr. Pimental said the Planning Commission was given a large Brown Fields grant that he wanted to say was \$400,000 over the next 3 years. He said they wrote Farmington into that scope of work so if they find something that needs additional monitoring or something that needs potential cleanup they have some funds set aside with the Planning Commission that can help Farmington immediately slide into cleanup. If we don't need to do that and Farmington has another site somewhere else they can allocate that funding to a different site he said.

Mr. Henry asked if the site has to be owned by the Town.

Mr. Pimental said he didn't know and he would have to find out.

Mr. King suggested when he asks the question to say "owned or leased". He said the results could also come back that something needs annual monitoring without any required cleanup which would just be annual testing and reporting to the state.

Mr. Pimental said as soon as the results are available he would share with this board and the Selectmen.

Congratulations Kyle! Mr. Fisher said Mr. Pimental has been promoted to Asst. Director of the Strafford Regional Planning Commission and congratulated him as the board applauded.

Mr. Pimental said it would not have an impact on the services he provides to Farmington because during the negotiations he had with the Director one of the things he was not willing to give up was this position.

9). Adjournment:

Motion: (Squires, second Henry) to adjourn the meeting passed 6-0 at 8:17 p.m.

Kathleen Magoon
Recording Secretary

A handwritten signature in black ink, appearing to read 'William B. Fisher', written over a horizontal line.

William "Bill" Fisher, Vice Chairman