

Town of Farmington  
Planning Board Meeting Minutes  
Wednesday, August 16, 2023  
Selectmen's Chambers  
356 Main Street-Farmington, NH 03835

**Board Members Present:**

Rick Pelkey, Chairman  
Bill Fisher, Vice Chairman  
Stephen Henry, Secretary  
Charlie King, Selectmen's Rep  
Jeremy Squires  
Mike Day

**Others Present:**

Charlie King, Selectmen's Rep Kevin Grondin,  
Peaceful Pines owner  
Jeremy Squires Kody Grondin, Peaceful Pines  
Manager  
Mike Day Norman Russell, abutter  
Rebecca Patton-Sanderson Margaret Russell,  
abutter

**1). Call to Order:**

Chairman Pelkey called the meeting to order at 6:05 p.m.

**2). Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**3). Review of Minutes:**

**August 2, 2023-Public Meeting Minutes-** No errors or omissions

**Motion:** (Henry, second King) to approve the minutes as written passed 7-0.

**4). Old Business:**

**A. Public Hearing and Consideration of an Excavation Application for Patricia Torr Aiken, 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. *(A final request has been made to continue this application to the September 20 meeting to allow the applicant to address safety concerns).*

Mr. Pelkey read the above notice and said the applicant has requested a continuance of the hearing to the Sept. 20 meeting.

So moved by Mr. Pelkey and seconded by Mr. King.

Mr. King asked if they have received anything back from the applicant's engineer to send to our outside engineer regarding the questions that were raised.

Mr. Pimental said no but they are anticipating getting those this week. He said they got together and did a site visit with the Town's third party engineer but we have not seen any of

the revisions that they requested in terms of the storm water analysis, the travel roads and some of the other safety concerns.

He said he has been told that this is the last continuance request and that they will be ready along with enough time between now and then that our third party reviewers will also have a technical memo for the board at that time so they will have everything in front of them for the Sept. 20 meeting.

Mr. Pelkey asked if they have a way of updating the public with that information when it becomes available. He said it will be in the board's packets but asked if they could put something on the Planning Board page (on the Town website) so that when it becomes available interested parties can take a look at it as well.

Mr. Pimental said they will upload the packet to the Planning Board's page a week prior to the meeting. He then told the board that Mr. Torr died earlier in August. He said he knew him from serving on the Dover Planning Board and he had been on the board for 25 years until he stepped down earlier this year. He said his obituary is online and he lived a pretty amazing life. He said he won the same award that Mr. King won in 2020, the Citizen Planner of the Year and what he gave back to his communities with the different boards and committees that he sat on over the years was incredible. He gave a lot back and it's certainly a significant loss he said.

**Vote:** the motion passed 7-0.

**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.

Chairman Pelkey reopened the public hearing for this application. He said they received a submission today at 10:30 a.m. and that most of the people on this board have jobs so they didn't get the opportunity to review it prior to this meeting so they had to take some time prior to the beginning of the meeting so they could look at it. That's kind of late he said.

He said reviewing the memo that they got didn't really do a lot to change his opinion. He said the board met with the board's attorney and after review they believe that the Planning Board does not have the authority or the jurisdiction to issue a decision that the proposed expansion does not need or is exempt from variances. He said they believe that this has to be decided by the Planning Dept. or the Zoning Board of Adjustment that says it does appear to me that variances would be required to expand the park. He said he would like to know what the other board members think about that.

Mr. King said he would agree based upon discussion with Town Counsel that our prior opinion still stands on what the applicant has for availability to pursue this project and they don't have

the proper authority to say that basically run against our current zoning which requires either zoning relief or administrative appeal.

Mr. Henry said he had a chance to review some case law, Pope v. Hinsdale and he agreed that with our current zoning it would not be permissible without a variance.

Mr. Pelkey asked Att. Tom Quarles if he would like to say something in response to that. He asked him to limit it to about 5 minutes or so and that they weren't going to have a discussion.

Att. Quarles came forward and said he was sorry that the board received the submission this morning and that is unfortunately how the schedules on their end work. He said what has changed since the last time they were here in mid-July is that they found the old but still valid Town of Farmington Mobile Home Park Regulations. He said if anybody thinks they're not valid because you eliminated mobile home parks in the future back in 2004 you have been faithfully taxing his client with his required annual mobile home license continuously since the '80's when he first came online. He said he had in front of him the paperwork with regard to his client's annual license that he needs for the mobile home park and the only authority for that license is these regulations.

He said despite the fact that you said no new mobile home parks in 2004-05 his client has special grandfathered status and there is absolutely no legal dispute that when he built his mobile home park in the late '80's and it was expanded in the early 2000's he was in complete compliance with your regulations and your ordinances and those vested rights in his mobile home park under NH law not your ordinance to reasonably expand his park. That's the law and it trumps any ordinance the Town has and any regulations the Town has he said.

He said they still agree that the regulations are applicable to Peaceful Pines and their proposed expansion that Mr. Tetreault went through with you in detail in July is completely consistent with those regulations and it was designed to be so. He said it's an expansion of 20 units in a park that already has 118 and there would be a sentiment here if they were approved to go forward as a conceptual approval tonight that they might consider agreeing with the Town that there would be no further expansion but he didn't have authority for that but that issue is on the table.

He said he was very convinced after doing this for many years that they have a sound legal analysis here and despite what your Town Counsel says or your Planner what you're leaving us with without agreeing with our conceptual design and proposal tonight is who is going to decide under NH law what our reasonable rights to expand this mobile home park are. He said there is no question they have that right your passage of the amendment to the ordinance to get rid of mobile home parks doesn't affect them because they have vested rights.

Att. Quarles said there is no way in the world that the ZBA has any expertise on that the Planning Board does and they are the proper entity to judge whether a 20 unit expansion under all the circumstances they have been talking about here is a reasonable expansion which NH law says they have the right to do. He said to forget about what the Town of Farmington's ordinance says because laws trump ordinances it's as simple as that.

He said they are not going away and they wish they would share their analysis and opinion and

he is happy to answer any questions but he is convinced their analysis is rock solid and if they can't get relief here there will have to go elsewhere.

Mr. King asked what he felt the difference is in his legal argument vs. the court case Pope v. the Town of Hinsdale.

Att. Quarles said he had no idea what he was talking about and this is the same thing you were complaining about me giving you the authority at the last minute and he's never seen that case.

Mr. King said this was a case where there were some similarities to his argument that they were given some highlighted copies of and he assumed he was familiar with it.

Att. Quarles said no one ever gave him a copy of it. He said that was the Town Counsel's fault and she knew that he is the applicant's attorney. He said out of courtesy she should have given him a copy and said this is one of the basis on which she is advising that their application be denied.

Mr. King said they received this after the information he gave them this morning. He said they were forwarded this by her to enlighten them on some of the case law regarding this type of cases. He said the case number is 92-201, Supreme Court of NH, May 20, 1993. He said that was the only question he had and if he is not familiar with the case he didn't have to answer the question.

Att. Quarles said if they would like him to he would be happy to read it and give them a written response. He then asked if it involves vested rights and if the terms grandfathering and vested rights are in there because if they're not then it's absolutely inapplicable.

Mr. King said it has a lot of similarities and he assumed he was familiar with it based upon his argument here.

Att. Quarles said there are thousands of NH Supreme Court cases nobody knows them all.

Mr. Pimental said in the response of sending the attorney's memo over to our legal counsel by the time she reviewed it we got it at 4 p.m. so there wasn't a ton of time. He said the board is just seeing this now same with us it wasn't like we had this weeks ago she was just able to turn this around today.

Mr. Pelkey said in this particular case it's important and incumbent on them to have the information here.

Att. Quarles said if he had it he could have addressed it.

Mr. Pelkey said they were not going to have a back and forth on it.

Mr. Henry then gave Att. Quarles his copy of the case printout to take home.

Mrs. Patton-Sanderson said thought she read that it wasn't just that you were prohibiting any more mobile homes parks but you prohibited the expansion of mobile home parks as well.

Mr. Pelkey said it's not on our Table of Permitted Uses right now.

Mrs. Patton-Sanderson said she just wanted to make that point because Att. Quarles was just talking about that there were no more mobile home parks being permitted but it also wasn't allowing the expansion of the parks.

Chairman Pelkey opened the hearing to public comment at 6:21 p.m.

Peaceful Pines Mobile Home Park owner Kevin Grondin said they tried to do a good job and he has never been written up for anything in this town and they have done anything that the Building Inspector, the Planning Board and he was abused by the prior Planning Board because one of the people on the board happened to be the contractor for his chief competitor in 2 towns. He said he put him through the wringer and he put up with it and he hasn't squawked and tried to get along with everybody.

He said he wanted them to know this will be a court case as he took it that is what they are trying to say and they are not going to look very sweet to the Superior Court when his competition in this town can have lots that are 75 ft. frontage 2 per acre and he is asking for less than 1.25. He said that is not comparable, competition-wise that's not even fair and with the new workforce housing laws and the mobile home reasonableness issue that he has been trying to bring up whether they agree with it or not. He said they are not trying to jamb mobile homes in on you these are out back in the woods and he ran it all by Vic LaPierre and he is about the only one that would even notice that someone could be behind him and he is for it. He said he didn't do it without the neighbors knowing what was going on or thoughtfully going on. He said they tried to do everything they can to be good neighbors a good business in town, we pay our taxes the people pay their taxes and this mobile home park does not have an over burdening position with your school dept. and we have way less children per home than anywhere else probably in Farmington. So we are not a tax burden to your town he said. Mr. Grondin said there are issues they could get help with from the state with affordable housing which the Town has used before when they were putting in homes. He said the difference between adding sites and buying a new lot and trying to expand the park is not going to look good to a court of law because they are not adding a new lot they're not trying to expand the park any further than its current boundaries with no neighbors affected and they're just using the geography that's proper in the park for good soils and close to roads because these things aren't cheap anymore as everybody knows in all kinds of building.

He said the towns around here that are helping with affordable housing are doing mill buildings and this and that and they are way more of a burden to the town than what they are trying to do which is not be a burden to you guys at all. We really just want to add a simple 20 homes which is way under the 1.25 and I don't think that's an unreasonable request and I want to stick with the reasonableness of this because we're not trying to be unreasonable. We differ on who is going to have the say in court Kyle doesn't agree and you guys don't agree. I don't think it's reasonable that you're not allowing us to use the land that we have when my competition in the same town can have double the spaces that I can have on the same land he said.

Mr. Grondin said he didn't want to get into a legal battle argument with the Town because he likes the town and they have had a great time here in trying to stay out of trouble and the Town being nice to us and it's been a pretty smooth operation he would hope they think and to go to battle in court just seems ridiculous because attorneys cost everybody money.

He said he would limit that to be the only thing and there's plenty of room out back that



nobody would know anything about anything. He then said he had some bad luck with the Textron stuff and he wanted the board to know that the Town knew about it but the actual law is they don't have to tell the neighbors that are getting polluted unless it is affecting their water and the water was being drawn from the far side of the property over by Mr. LaPierre's house. Mr. Pelkey said this isn't about the project he is proposing this is about how he wants to go about doing it. He said he didn't think this board has the authority to grant that so that's why they are going back and forth here and this isn't comment on the project that he wants to do or on how he has managed his property or anything like that. He said they feel as a board having reviewed our zoning ordinance that they can't make that decision it has to go before the ZBA. Once it goes through there it will come back to us and we can have a discussion he said.

Mr. Grondin said on the legal side of it being told by counsel if he goes to the ZBA the only thing he can go to Superior Court over is the ZBA decision and he is not doing that because that leaves the ZBA with all the power and that's not fair.

Seeing no other requests to speak from the public Mr. Pelkey closed the public comment portion of the hearing at 6:31 p.m.

Mrs. Patton-Sanderson said she has no problem with the concept and they are just being asked to apply for the variances.

Mr. Henry said it's a well kept park and he doesn't hear bad things about it. He said with our zoning as it is and he is generally the most staunch property rights guy on the board not saying that he agrees with the zoning but that's what it is at the moment and from what he is reading case law and so forth they are not the correct body to see this yet.

Mr. Pelkey said he didn't think they needed to make a motion on this because they don't have any authority on this so he stated the following: The applicant's request that the Planning Board make a decision about variances is considered closed.

Mr. King asked based on what he just if they needed a motion.

Mr. Pelkey said they didn't need a motion because they don't have any authority on it.

Mr. Henry said they have a public hearing on the design review so...

Mr. Squires said they have an open hearing and they have to come out of it somehow.

Mr. Henry said Mr. Pelkey closed the public hearing and that didn't require a vote.

Mr. Pelkey asked if they felt they needed a motion to say that they're not going to render a decision.

Mr. Henry said he didn't think it would hurt to do so.

Mr. King said they need to make sure the public record is clear in case they go to litigation they should have a motion that states something for the record for the applicant to take issue with if he wants to in court or with the ZBA.

Mr. Pimental said he thought it was okay and this is an odd structure because this is under a design review.

**Motion:** (King, second Henry) that the Planning Board does not believe that we have the authority to grant the applicant what he is requesting in this design review;

**Discussion:** Mrs. Patton-Sanderson asked if they could make a suggestion that they go through the variance process before going any further.

Mr. King said he didn't want to add that to his motion because he just wanted it to be clear that they are saying as a board that they don't have the authority to answer the question posed to them under design review based upon the current zoning.

**Vote:** the motion passed 7-0.

Mr. King added that he thought it is in the applicant's best interest to pursue the relief that they feel they need and his thoughts would be to go before the ZBA. I'm not your attorney but I think what you put forth is a reasonable argument to be given the variance it's relief from the current zoning but I'm not advising you to do that you'd have to seek your own counsel. You could take it directly to Superior Court but what is Superior Court going to say-they could say have you sought all the potential relief at the Town level and if you say no what are they going to say? I don't know I don't have that experience he said.

Mr. Pelkey said they might say the Planning Board has to make the decision go back and talk to the Planning Board again. They could say a lot of things he said.

Mr. King said his suggestion is they have avenues of relief and they should pursue the least costly and the least the ones with the least amount of effort first.

Mr. Pelkey reiterated that his opinion on this does not have to do with what he is trying to do it's just how we're going about doing it because he really feels like they can't give this to him.

## **6). New Business:**

### **Consideration and Possible Vote on Granting a Continuous Surety Bond for Pike Industries-**

Mr. Pimental said that Pike Industries has requested that the board consider allowing them to convert their existing restoration bond for Tax Map R14, Lots 6 & 7, Bond #14-003-764 to a continuous surety bond. If granted the continuous surety bond shall remain in full force and effect until canceled. This would eliminate the need for the applicant and the Town to process a renewal certificate for the bond every year he said.

He said the Town's attorney has reviewed the bond document and notes that all provisions in the original surety signed in 1998 are still in place and would continue the surety bond each year. In March Pike Industries submitted another one year surety bond until March 2024 so if the board chooses to grant the conversion it will not become effective until next year.

He said they felt as though since they had made this request they didn't want this to fall thru the cracks and get forgotten about and then next year rolls around and they just do the same thing as they've always done and renew their certificate. He said because the board is the entity that oversees gravel excavations they are the board that has the authority to decide whether or not to grant them a conversion of their bond.

Mr. Pelkey said the bond is the money that is being set aside to ensure the reclamation of their sites.

Mr. King said the dollar amount is \$15,000 and asked how long this \$15,000 number has been out there and is that number even valid based upon the current economics and/or based upon the total square footage that currently would need to be reclaimed. He said it says here that it is from 1998 and if that's the date that the \$15,000 would be assessed we are 25 years of inflation which would be out of scope by at least 2 X if not more.

He said he didn't have a problem with it changing methods but asked where the mechanism is to make sure that that number is correct and now valid in current economic times because this goes back 25 years. He said this would basically be in perpetuity and in another 25 years this will be worth about \$5,000 in today's money.

Mr. Pelkey asked if there is a mechanism to update that amount and if that amount was set by the Planning Board back in 1998.

Mr. Pimental said he guess is that number has not changed since 1998 but that is his assumption not having the background on this but he thinks this number has not changed. He said he thought it was a valid point of within the next review or renewal cycle if the board does grant the change to a continuous surety that at that time there is either a mechanism put in place that allows for a certain timeframe in which this is reviewed and the bond number changes based on current conditions or something else is put into place where that number can be brought up to today's numbers.

Mr. Pelkey said this is part of a past decision so this is going to be a change to a past decision.

Mr. Pimental said his guess was when this was approved in 1998 that the board determined at that point that the \$15,000 was the appropriate amount.

Mr. King said that was based upon what was presented so they don't know in 25 years is it more open area or less.

Mr. Pelkey asked what remains to be reclaimed and if that a sufficient amount of money to do it in today's dollars.

Mr. Henry asked if they have the authority to go back and change it.

Mr. Pelkey said they may have to do an amendment for that and that's why he brought up it was a decision in the past and are they looking to amend a decision from 1998 here.

Mr. King said there was at least a perceived time period of when this reclamation was intended to take place based on their gravel excavation permits. He said he believes that time has probably long since passed of when they may have initially intended to reclaim it or at least was part of their application or maybe the time was never addressed.

Mr. Pelkey said it says within one year of the time that they stopped digging commercial gravel out of the pit they are supposed to be reclaimed.

Mr. King said we are 25 years in and he doesn't know how much they are currently doing on that site but he doesn't believe it's a lot. He said they sold the front portion of the land and he didn't know what the status is but it is within their bounds to say based upon considering changing this from an annual bond requirement to a continual bond they would like



information furnished by them regarding what the status is of the reclamation as far as how much open land area needs to be reclaimed and a current value of that work to reclaim it. Mr. King said if they are going to into this perpetual bond it should come with an escalator saying for this bond every year we want a 3% or a 4% escalator to try to keep current with the cost to reclaim. If we get another 25 years out without an escalator we're just going to be right back into the same situation we have here. I'm sure they're not going to like hearing us ask the question but it's a valid question to be asked he said.

He said it's not like we're saying you're supposed to have it reclaimed within 12 months of when you're done which is what the state law is. We're saying this is what you're asking for but we really want it to be current with what's open and needs to be reclaimed and if we're going to go perpetual where it doesn't get reviewed annually it needs to have a reasonable escalator so that we don't have to review it for 3 years to make sure the number is still right he said.

Mr. Pelkey said it becomes the Town's responsibility if they walk away and don't take care of it. He said that is one of the problems they have now they have pits that are not in compliance and it's actually the Town responsibility to ensure compliance so if the Town has to do it we need to make sure there is enough money for the Town to do it.

Mr. King said his point was Pike is not walking away but if they were they would call the surety bond and this is not enough money to cover it.

Mr. Pimental said he thought the board should not make a decision on this tonight and the staff will look into this file and get some more information. He said they will also talk to the Town's legal counsel to figure out how to craft this in terms of putting an escalator on it or how do they craft that language into that bond to take care of that concern and then how they would do this where they can require them to come in with a new existing conditions plan with an updated figure of what the costs would be to reclaim their site.

Mr. Pelkey said he would like to know if they would consider this an amended decision. He said he was sure they have the authority but they're not just going to make this decision in a vacuum it's on top of something that already exists and asked what they were doing-amending a site plan, amending an application-they're doing something here.

Mr. Pimental said this is the tricky part of these excavations that are in the past where the Town let the compliance go and the Yacoub site off of Rt. 11 has been much easier to manage. He said in terms of the administration and what they've done with the board setting up the annual inspection and having a third party engineer it has made that transition a lot easier to manage.

He said the board was very specific in their Notice of Decision that helped the staff say this intent to excavate form needs to be filled out, we need a report when you're done with this, it's now being reclaimed, we're going to have our third party engineer review it, we'll get a report and you're done. He said that has been pretty smooth and they have a process moving forward but retroactively going back is a little more difficult. He said some of the older permits' lifespan were 10 years whereas now they are doing them for 2 years, 1 year and one year they were 10 years.

Mrs. Patton-Sanderson noted this is well over 10 years.

Mr. Pimental said that doesn't mean they haven't had a renewal process for the permit it's just saying that the bond hasn't changed.

Mr. King said this is part of keeping people in compliance and reviewing this and making sure this is reasonable is a compliance issue. He said this particular item may not have been addressed to this point but maybe some of the application has been somewhere along the way and they've had them before the Planning Board in the last 20 years since he has been here regarding some of their permits so some of those updates have probably taken place but this probably wasn't addressed sufficiently at that time so here's an opportunity to make a course correction and an improvement.

Mr. Pimental said what he doesn't know is if the board has the authority to do that in between if they have an approved permit and the permit is for 10 years if the board has the authority to do that.

Mr. King said he is bringing this to them now so this is their discussion on this and if the time to approve this is 4 months away and they have to wait the 4 months fine but what they'll hear will probably be the same so they can use the 4 months to get to that point or wait 4 months and get the whole we're not approving this because we don't feel this is currently good enough based upon the 25 years that have passed.

Mr. Pimental asked if they come back in March 2024 for the renewal, forget the continuance if they don't agree that we want to change the number that the Town will not approve the bond.

Mr. Pelkey asked who it comes to and if it comes to the Planning Board.

Mr. Pimental said the bond is a Selectmen's issue so the Selectmen saw this in March.

Mr. King said it may not have come up in the discussion then based upon what they wanted to do and now it's bringing it to their attention saying that they look at it so hopefully they come to a reasonable solution with the applicant.

Mr. Pimental said he would look more into this but he does agree that if the \$15,000 was from 1998 it's well overdue to look at that and update that number.

Mr. Day asked back in 1998 how many acres they said they were going to dig up.

Mr. King said it was based upon numbers they don't have in front of them.

Mr. Pelkey said the Restoration Bond form doesn't have enough detail and read that the money would be used to "restore Pike Pit". I'm sure there's a set of plans that go with it he said.

Mrs. Patton-Sanderson asked for an explanation of what's involved with reclamation.

Mr. Fisher said they have to put it back to the way it was when it all started.

Mr. Pelkey said there is a state standard in RSA 155-E and there is also a lot of guidance from the NH Dept. of Environmental Services that tells them that they are supposed to put a certain amount of top soil on it, they are supposed to re-vegetate it to a certain extent, the slopes are supposed to be stable, there may need to be some trees planted and not just leave it as dirt.

Mr. Squires said a good example of reclamation is before you get to Dana's Collision Repair on Rt. 11.

Mr. Pimental said they are hydro seeding it tomorrow so you will see that the slopes are all graded and will be hydro seeded.

Mr. Henry said gravel pits often have steep open faces where they have been digging out.

Mr. King said typically there is a 3:1 slope and there's a required setback of 50 ft. from the boundary line so you should see a straight distance and an angle distance to a slope that can be managed and seeded.

Mrs. Patton-Sanderson asked if this automatically turns it into a detention basin.

Mr. Pelkey said no and the base of the excavation is supposed to be 6 ft. above the seasonal water table per our regulations so there is some opportunity for infiltration and stuff like that.

**Discussion on Renewal of Existing Economic Revitalization Zones-** Mr. Pelkey read that the Planning Dept. received a request from the NH Dept. of Business and Economic Affairs to renew 2 Economic Revitalization Zones (ERZ) including the Sarah Greenfield Business Park (approved 1/13) renewed (12/18) and Main St. from Elm St. to Blouin St.; Central St. from Main St. to Lilac St (approved 1/13) renewed (12/18). The Planning Dept. would like feedback from the board specifically on the Sarah Greenfield Business Park ERZ. This information was shared with the Economic Development Committee and will be discussed in greater detail at their meeting on Aug. 24. The deadline to submit the renewal certificate is December 31, 2023. It's a 5 year cycle basically he said.

Mr. King said he believes that all of the lots the Town had for sale are sold and asked if there was a reason to continue the Sarah Greenfield ERZ and if there is a benefit to the owners of those properties now if it stays as an ERZ zone.

Mr. Pimental said he was under the same impression by the name of this and it actually isn't really much of the Sarah Greenfield Park. He said if you look at the map that was included in their packets it's really the 2 Town owned pieces and only one property in the Sarah Greenfield Park, MBG which is owned by Adam Giles benefits from the ERZ.

He said they are the only ones there that are in the ERZ and receive the tax credit the other properties are the Town owned pieces that are undeveloped. He said one of the reasons why he brought it to this board is this has been on the books since 2013 in this way and nothing has been done with these sites. He asked does it still make sense to do this or do we need to be doing something with pushing some potential development in this area.

He said where the Moonshine Brook is and the wetland that is there this is an area that is in the Town's TIF District that is owned by the Town but doesn't offer a ton of development opportunities because on one side of Rt. 153 there is the Town's Public Safety Building with minimal area behind that with some trails and on the Rt. 11 side there is an existing gravel pit that he didn't know if it was still being used or with the Town's purchase of the new property it would make more sense to grab material out of that and convert this to a developable site. I wanted to get some feedback because this has been on the books for nearly 10 years and there's really only one business owner that's benefiting from it he said.

Mr. King asked if they don't continue with it if he will still be able to get the benefit that he has been receiving.

Mr. Pimental said he didn't think so.

Mr. King asked if it would behoove us to extend that for that person that is currently taking availability of it and for somebody that may take availability of it in the future. He said there might not be an immediate need but say if Sarah Greenfield Park is going to expand in the future and that sooner or later the Town is going to be out of that pit and he is working on sooner to make sure that land is readily developable for commercial/industrial use where we currently are mining. He said that connects to this park whether it connects through an inter-connecting road someday is up for discussion.

He said his goal is they should try to be out of there in the next 4-5 years to have that be turned into commercial/industrial development in that area but it could also be residential as who knows what the zoning changes to. He said he would be in favor of continuing it especially if there was a business a business that was currently receiving tax incentives for the property there that would lose it if they didn't extend it.

Mr. Pimental said he thought they would but maybe they wouldn't for this year because the deadline for them to submit was in Feb. so they would probably be good for the remainder of this year. He said if the Town decided to not continue this for next year that property owner would not be eligible anymore. He noted that he didn't know how this is going to play out with the legislature but this program is set to expire in 2028 so there's one more 5 year cycle but the legislature could amend it and extend the ERZ program longer.

He said he didn't disagree that the area currently being mined could potentially connect to the Sarah Greenfield Park and to him that's that makes the most sense for development and the other parts of this area don't make sense.

Mr. King said there is one area in Sarah Greenfield that could be sold off with some limitations regarding that brook and putting protections in.

Mr. Pelkey asked if we let this go how hard would it be to recreate it.

Mr. Pimental said these run on 5 year cycles.

Mr. Pelkey asked if the Town doesn't renew this and then in 2 years decides that they want to create an ERZ there what that would take.

Mr. Pimental said he didn't know and that he has only been involved in the renewal of sites in Farmington and he has never been part of a new one. He said the other ERZ that they renewed last year was the Super Fund site (the former Davidson Rubber facility).

Mr. Pelkey asked what the process was to get an ERZ designation.

Mr. King said he didn't recall but he believes it was pretty basic and that there weren't any major hurdles they just had to establish it with reasons and criteria for their requirements.

Mr. Pelkey said so it has to go before the legislative body but the renewal does not have to go before the legislative body. He said in other words they can renew it without putting it before the town for a vote.

Mr. Pimental said it definitely doesn't have to go to Town Meeting.

Mrs. Patton-Sanderson asked why it has not been revitalized.

Mr. Pelkey said they created the zone and they sold off some of the Sarah Greenfield Park but they didn't sell all of it.

Mr. Henry asked if the whole park was not an ERZ just a little of it.

Mrs. Patton-Sanderson asked if no one proposed any economic redevelopment there and that's why it's still open.

Mr. King held up the map of the area and pointed out Rt. 11, the wetland area in Sarah Greenfield and the location of the Public Safety Building and said that some of this is not developable. He pointed out the location of the Town gravel pit for sand and gravel and the area it's connected to that he was speaking about. He said he thought that they should get out of this area to allow it to be sold and developed.

Mrs. Patton-Sanderson said she was curious why it became a revitalization zone if it can't be revitalized.

Mr. King said it puts tax incentives in place for somebody that wanted to develop it at the state level. He said there's no benefit coming to the Town per se except for incentivizing development of individuals who may buy these parcels.

Mr. Pimental said one thing he would add to Mr. King's comments is there is a potential benefit to the Town not just to the tax base but this area is in the TIF District so if this area is encouraging development by using the benefits from an ERZ that money that's generated from the TIF could be used to help fund the improvements that are intended as part of that extension of the sewer.

Mr. King asked if they are going to consider looking to extend it for another 5 years do they look at the area and revise the area to be better suited for development or revitalization.

Mr. Pimental said one of his recommendations was the area that is identified right now 50% of it doesn't make sense. He said anything north of the line where the wetlands are and on the side where the Public Safety Building is all should be removed other than the piece that's connected to the Sarah Greenfield Park and then think about the area from there south and what other areas may make sense.

He said the way that this works is that these would have to be underutilized or vacant properties that are prime for some sort of revitalization. He said the Town owned pieces because they're vacant it meets that criteria. We wouldn't want to highlight a property that's already a business and has existed forever that's not really a revitalization effort he said.

Mr. Pelkey asked why they wouldn't if it was being underutilized.

Mr. Pimental said he wouldn't say that's underutilized if it's a business that already exists.

Mr. King asked say in this area that's close to this you have a business site that may be going to transition from it's been for 20 years to somebody investing in it wouldn't you want to make that. He said you would potentially encompass some existing sites now which have been business or residential to encourage that especially if they are along the TIF. Right now it's only on one side but you could make an argument on Rt. 153 from the golf course all the way to the



intersection saying why that area on both sides of the road wouldn't be part of that ERZ.

Mr. Pimental said that would be a good conversation to have. He said the zone as it's laid out now doesn't make as much sense as what it could. He said as a part of the effort to renew it this is an opportunity to expand the zone but he just didn't know how that works. That's something that I would have to talk with the BEA about but we until Dec. and if you're thinking that on the western or eastern side of Rt. 153 all the way down to Rt. 11 if you want to see what that would look like I can make a map and come back at the next Planning Board meeting and show what that might look like he said.

Mr. Pelkey asked him why the old Davidson Rubber site is not on here and if it was because it's in a different district.

Mr. Pimental said yes it's an entirely different ERZ and it was already renewed last year or the year before. He said the Sarah Greenfield ERZ and the downtown core one are up at the end of this year. This is an opportunity to maybe make some changes to it but I don't know what the level of effort is to achieve this. I don't know the process of changing the boundaries he said.

Mr. Pelkey said he was in favor of keeping it but he was also in favor of discussing what they are but would love to know what the process is so they can have some idea of what the timeline is that they have to work with.

Mr. Pimental said if they can use this to leverage the immediacy of moving out of that pit area into another location to allow for this to actually work but there's no guarantee that after 2028 the legislature is going to continue with this program. He said they don't need to be out of there tomorrow but it does have some immediacy that the sooner the better that they could shop this around because as of right now those Town owned parcels not a whole lot can be done with them unless something changes.

Mr. Pelkey said they are also about to get some information concerning the levee corridor and what's going on there to add for consideration as well. That study is going on now he said.

Mr. Pimental said they visited the site and they will have recommendations about that next July specifically about the potential zoning changes but this is a good opportunity to make some adjustments. He said the downtown core one is not as big of an issue in terms of changing and he wouldn't really want to mess with that one unless the board felt really strongly about it.

Mrs. Patton-Sanderson said she would like to see it get utilized for its intent.

Mr. Pelkey said it would be great if the lot the Town is using could be turned over for development Charlie has the right idea.

Mr. Fisher said he would extend it along Rt. 11 to Rt. 153 to include the former Honey Dew property and maybe somebody could come in and put in a new store or something. They may want to bulldoze everything and completely rebuild and giving them a tax incentive to do that wouldn't be a bad thing he said.

Mr. Henry said that could be considered underutilized as it's vacant.

Mr. Fisher said the green building on the corner of Rt. 153 and Rt. 11 across from Irving has been vacant for about 6 or 7 years. He said that is a good area for improvement and if they can make that a revitalization zone that could give a company a tax incentive to come in.

Mr. Henry asked if ERZ is strictly for commercial or residential development too.

Mr. Pimental said he believes it is just for commercial uses.

Mr. Henry said looking at the one for downtown where it's along Central St. on the back side of it there is a lot of gravel that is just open lot that he thinks is parking lot attached to the stuff coming off Central St. and asked if they are encompassing that with the ERZ as well. It goes with the commercial property that fronts on Central St. he said.

Mr. Squires said the only big one they have to revitalize is the old Fire Dept.

Mr. Henry said Mechanics St. has some room for revitalization between Mechanic and Civic.

Mr. Fisher said the Farmington House of Pizza is reclaiming the lot next to them and they are doing a lot of work there too.

Mr. Henry said Main St. has certainly seen a lot of facelifts in the last couple of years.

Mr. Pimental said with the downtown core one he would agree that not every single one of these lots is necessarily underutilized but looking at the area as a whole if they want to extend this he didn't know what the street is that's north of Central to capture the area that Mr. Henry is talking about those 6 or 7 lots he is happy to make that change and bring it back to the board. I don't know the process of changing the zones and what that entails during the renewal process I just have to find out he said.

Mr. Pelkey said they are willing to have a discussion about it but they need to know how to get there.

Mr. Pimental said generally the board is supportive of keeping the ERZ's but maybe making some changes to it and as they go through this process this is an opportunity to maybe work with the EDC. He said he didn't know how many business owners within the downtown core are aware of their tax benefit opportunities and whether or not they're taking advantage of those. He said he talked with the EDC Chair about after they go through this process this might be a good opportunity to make a facts sheet and get the addresses for everybody within this district and work together to let them know they're in this district to see what they can do in Feb. to apply if they're not already doing so. He said there may be some outreach and engagement needs that the EDC could help take on as part of their role as a local board.

Mr. Henry asked what a reasonable amount of time is for somebody to expect to receive tax benefits for developing in an ERZ. I don't think it should be a 99 year thing he said.

Mr. Pelkey said he is sure the intent is not to subsidize a business forever.

Mr. Pimental said if this program ends in 2028 that could be the end of it.

Mr. Henry said but governments love to keep continuing programs.

Mr. Fisher said he thought it had a 3 year time limit and once you applied you have 3 years to use it and then after that your taxes went back up and the guy to ask would be Jason Lauze.

Mr. Pimental said that's the RSA 79-E program and that is one where you can negotiate relief of your taxes with the Board of Selectmen for "x" amount of time. He said if you buy a building for \$1 million and you plan to make all these renovations the Town will freeze the taxes for \$1 million for say 5 years and after all the improvements its now worth \$5 million you have 5 years where you're paying on \$1 million instead of \$5 million and at the end of that you'll pay the

new assessed rate. He said the Town has signed onto the program but he didn't know how many other developers have used the program. We shopped it around we encouraged Kodiak to use it but they never did he said.

Mrs. Patton-Sanderson asked if that applies to the property owner only.

Mr. Pimental said it's for the owner of the building. He said there are certain criteria that need to be met with the 79-E and it's really a program to help keep historic buildings was the real reason for it. He said someone would come in and it's cheaper to just destroy this and rebuild but you give them a break on their taxes to keep an older building and renovate it which could be more expensive but that person will make up their money over time because they're not being taxed at that rate right away. He said he didn't think it needed to be a building that's historically registered but it tends to be sort of older buildings that need a facelift is the intent.

Mr. Henry said the Honey Dew building wouldn't qualify.

Mr. Pimental said probably not because he didn't think the Selectmen would want to give a tax break for a Dunkin' Doughnuts or a Honey Dew. I don't think that's the intent he said.

Mr. King said under 79-E if the applicant meets the requirements the board has to give it to them. He said the state sets the requirements and if they meet them get it automatically it's not like the Selectmen said we don't like that plan that's not how it works.

Mr. Henry said but they have discretion over how long the taxes are locked in at the lower rate.

Mr. King said he wasn't sure and he would have to dig back into it.

Mr. Pimental said he understood that the Select Board has the authority to choose how long and the increase in the assessed value they have to show it has to be a certain percentage. He said in Dover it's 200% so a developer has to say this building will be assessed at 200% more than what it is now for the City Council to approve it. There's a little bit of flexibility but it is governed by the state he said.

**7). Member Comments:** None

**8). Any Other Business Before the Board:**

**Rt. 11 Corridor Study-** Mr. Pimental said the Rt. 11 Corridor Study project team got together last Wed. and did a driving tour of the route. He said there was some really good conversation and he took them all to Crowley's so they got to experience a little local flavor in Farmington. He said they had lunch here and discussed some of the challenges and opportunities and it was really good for them to come up and see that. He said members of that team will be here before this board on Sept. 6 and they will give a project overview on what's been done to date, what are some opportunities for public engagement and they are considering putting together a couple of surveys on what people would like to see for the types of uses along Rt. 11 as well as a targeted focus group engaging with existing business owners and landowners that own large parcels of land along the route to engage them in what they would like to do and if there are any existing barriers to the zoning that is not allowing them to do what they want to do so

hopefully that will be a good opportunity to get some feedback in a couple of different areas so they will talk to the board more about that. I've also invited members of the EDC to participate in that workshop on the 6th here he said.

ZBA Variance Approval- Mr. Pimental said the ZBA approved a variance for Millenium Holdings Group. He said they were before this board for a design review off of Grondin Drive and the approval was to allow for an 8 unit apartment to be subdivided onto a lot that didn't meet the residential density. He said they discussed here that they could go the route of getting a variance or they could go with open space subdivision if they decided to do that. He said they decided to go to the ZBA and its cleaner the way that they outlined it with the 2 duplexes on their own lot and the 8 unit on its own lot and it's very likely that they will be back in front of this board for what that subdivision will look like and the additional multi-family building that will be at the end of the cul-de-sac and they should be prepared to talk about the big issue which is what improvements will be made to the road as part of this approval.

He said that was a big conversation at the ZBA and they made it clear to the residents that attended that it was not in the ZBA's authority to have any discussion about the condition of the road and that would be discussed here whenever that subdivision application came before us.

Mr. Pelkey said all of these private road subdivisions with people already on there and they come in and want whoever is doing the work to make the road perfect they own that road too and they need to understand that they also have some skin in the game when it comes to these roads too.

Mr. Fisher said it got quite heated and quite emotional at the ZBA meeting. He said there are 3 or 4 families that no longer have any rights to the road they have rights to use it but that's all. They pay no money for upkeep they just have a right-of-way to use the road. It's the 2 duplexes and the 8 unit that are paying for the upkeep he said.

Mr. Pimental said this is one is a little more unique than others and he agreed that in this case the owners on the other side of the road don't have any skin in the game because all they have is a right to use it they don't have any ownership or maintenance agreements whatsoever.

Mr. Henry said they don't have rights to a road per se they have a right to use that strip of land.

Mr. Pelkey said they have a right to pass over.

Mr. King said this discussion should continue when they come back as they didn't want to be predisposed to an opinion.

Mr. Pelkey agreed.

Mr. Fisher returned to the Rt. 11 Corridor study and said there was a good article in the Strafford Regional Planning Commission's newsletter that came out a few days ago. He said he posted it on the Farmington Conservation Commission page because he is the Chairman but he didn't want to post it on the Town page. He asked if the Town could post this on the Farmington news and community pages on Face book to let everybody in town know what SRPC is doing for the town and how the Town is working to get these areas developed. I'll bet

you that not that big a percentage of the people in town know what is going on with any corridor studies or anything going on in Farmington and if we can get the news out that this is a good thing he said.

He said he has heard people at Town Meeting ask what we are paying them for and has heard the Selectmen say that too so maybe they can get somebody from the Town to post this on the Town's website.

Mr. Pimental said he would talk to the Selectmen's Secretary to see if this is something that could be posted. He said it will be posted in the EDC's fall newsletter and they are going to write a more in-depth article that they will send to them.

He said they have created a Farmington Housing Project on SRPC's website so if you go to Strafford.org and go to Farmington under the Communities dropdown there's a Farmington housing project where they are going to post maps, documents, projects, staff contact information, the partners involved in that and information as it becomes available. It will also be posted to SRPC's Face book and Linked In accounts. We're going to try to continue to promote the project as we get further along he said.

Mr. Fisher asked if there would a link on the Town's website to the SRPC website.


Mr. Pimental said that's up to the Town to decide if they want to add something to their website.

Mr. Fisher said he would definitely put a link on the Town website otherwise people aren't going to know-well if that's if they go to the Town's website but at least the information is there for them to link to.

**9). Adjournment:**

**Motion:** (Squires, second Day) to adjourn the meeting passed 7-0 at 7:27 p.m.

Kathleen Magoon  
Recording Secretary

  
Richard "Rick" Pelkey, Chairman