

Town of Farmington
Planning Board Meeting Minutes
Tuesday, December 15, 2020

Board Members Present:

Charlie King, Chairman
Rick Pelkey, Vice Chairman
Bill Fisher, Secretary
Bruce Bridges
Ann Titus

Others Present:

Kyle Pimental, Interim Planner
Jason Lauze

Board Members Absent:

Gerry Vachon, Selectmen's Rep., excused
Stephen Henry, excused
Jeremy Squires, Alternate, excused

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman King called the meeting to order at 6 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

November 17, 2020 – No errors or omissions

Motion: (Titus, second Pelkey) to accept the minutes as written passed 5-0.

November 3, 2020 – No errors or omissions

Motion: (King, second Fisher) to approve the Nov. 3 meeting minutes as written passed 5-0.

Public Comment:

Resident Jason Lauze said he came to the board on Nov. 3 for a conceptual discussion (on his plans to rehab his building at 445 Main St.) and it was determined he didn't need site plan review and 6 weeks later he received an e-mail from Mr. Pimental containing some correspondence between Mr. Pimental and Code Enforcement Officer Dennis Roseberry where Mr. Pimental told Mr. Roseberry if he was going to allow an expedited review of the project Mr. Lauze should cover some additional items in that application process. He said that Mr. Roseberry responded that if Mr. Pimental feels he needs a site plan review then he would deny any of Mr. Lauze's applications anyway. He summarized that the board said he could go through the CEO (for an expedited review), Mr. Pimental said he didn't like that, the CEO won't approve anything because of Mr. Pimental and now he is back before the board

6 weeks later.

Mr. Pimental said while the board supported an expedited review for Mr. Lauze's plan that decision is the CEO's decision to make. He said after the meeting he anticipated they would receive an expedited review application, they would review it and if there were some additional information needed such as parking and snow storage that is what they would be looking for. He said after not receiving the application he contacted Mr. Roseberry last week to see what they could do to get the process moving forward again and listed the items he thought they should get more information on. He said Mr. Roseberry's response was that he never said he didn't think that it didn't need site plan review. Mr. Roseberry said he was never in that corner and advised Mr. Lauze to go to the Planning Board to get their thoughts on the matter he said. Mr. Pimental said the other challenge is the Town doesn't have any documentation for the uses on the 2nd floor of Mr. Lauze's building. He said Mr. Roseberry gave 2 reasons for his potential denial of an expedited review application- Mr. Pimental's recommendation and no documentation of the second floor use.

Mr. Pelkey asked when the CEO is talking about denying an application if he means he doesn't want to do an expedited review which is not the same as denying an application.

Mr. Pimental said he was talking about denying the expedited review application.

Mr. Pelkey said the CEO doesn't feel he could do that and he has grounds for saying that.

Mr. Pimental said that is correct.

Mr. Lauze said the only part of the e-mail where Mr. Roseberry specifically says anything tied to denying it is "since you (Mr. Pimental) have already informed the applicant that in your opinion the site review is required then even if requested by the applicant I would deny the request for an expedited review on that basis".

Mr. Pimental said he thought there was a 2nd piece to that that talks about the second floor.

Mr. Lauze said that Mr. Roseberry originally told him that because there's no history it might need a site review. He said the main point he got from his discussion with Mr. Roseberry was for him to go before the Planning Board, have a conceptual discussion and get their opinion as to what is needed which he did 6 weeks ago.

He said he didn't submit the request for an expedited review because he has had his hands full trying to renovate the middle unit which is almost done and his intention was within the next few days to start this process. He said he was expecting he would be able to submit an application to Mr. Roseberry to get that process moving but now he can't and has to get a site plan review which if Mr. Pimental was adamant about him doing that at the last meeting he would have already started that process and they would be discussing his site plan review at this meeting.

Mr. King said Mr. Pimental raised some concerns that needed to be addressed whether through an expedited review or not and asked for Mr. Roseberry's exact words.

Mr. Pimental read the same portion of the CEO's e-mail that Mr. Lauze read aloud and that Mr.

Roseberry went on to say that the applicant misinformed the Planning Board that he stated he did not need site plan review. He read that Mr. Roseberry's discussion with the applicant prior to that meeting was just the opposite where he informed him that due to the fact our records show nothing occurring on the second floor of that structure he felt that he needed to start out fresh with a site plan but that he should present his information to the Planning Board and get their input as to what they may request or need to determine the next steps for review.

Mr. Pimental said he didn't research the minutes from the Nov. 3 meeting but he thought he was on the record as saying he felt this was a non-residential use and that it should fall under site plan review specifically because of some other applications that were similar and they could waive a certain amount of the application requirements.

He said he had no way of knowing which way Mr. Roseberry was going to go on this outside of the e-mail that he just picked up last week. He said he was moving this forward with some of his thoughts to help get additional information for whether he would approve or deny it and that is out of his hands.

Mr. King apologized to Mr. Lauze on behalf of the entire board and the Town staff because apparently he wasn't getting clear information on which way to proceed. He said it was not their intent to not give clear direction to people when they are trying to go through the process and that he didn't think the board feels he needs to come for a full site plan review.

Mr. Fisher questioned that there aren't any records showing what the second floor was used for and to him it seems obvious that it was previously used as office space.

Mr. Lauze said he didn't have any documentation other than the pictures he showed to the board.

Mr. Bridges asked if there was any documentation from when the school district had offices up there.

Mr. Lauze said the Town has no documentation. He clarified that he is changing nothing upstairs and is renovating the bathrooms to update the plumbing and the existing kitchenette.

Mr. Bridges said whether there is documentation for it or not the board members have knowledge that there were once offices there.

Mr. Fisher asked why he needed any type of review at all when he is just putting it back to the way it was used for 50 or 60 years.

Mrs. Titus said she remembers it being used for storage for the five and dime store and they had one office upstairs but she didn't know who had the office.

Mr. Bridges said the SAU and the School Board had an office on the 2nd floor before they moved to their Route 11 office.

Mr. King said he agreed with the board but the person that determines if it qualifies (for expedited review) by the current interpretation is the CEO. He asked who was going to determine that with the proposed zoning changes and where the expedited review would fall.

Mr. Pimental said the expedited review is in the site plan review regulations and is not in the

zoning and if the board wanted to change it that section could be changed with a Public Hearing. He said the procedure for a change in use has changed and needs to be addressed in the site plan regulations.

Mr. Pimental said the proposed zoning change is a change or expansion of a use that doesn't meet certain requirements can be reviewed and not require site plan review by the board and would be for all districts not just the Village Center.

Mr. Pelkey asked knowing the history of building as represented and the existing use may not have been documented but is still an existing use how Mr. Pimental felt about that in regards to needing a site plan review.

Mr. Pimental said his initial thoughts were the change from storage to 5 offices was enough to make the case for a site review. He said he was told that they had on record that it was used for storage and the conversion to offices which would mean more people up there and the building would be used differently than it previously had been used. If the use had been offices and the applicant is trying to upgrade them then the use is not changing he said.

He said he also provided his thoughts on what information the applicant could provide and Mr. Lauze said that certain things are not applicable and that those things could be addressed.

Mr. King suggested that Mr. Lauze apply for expedited site review and if that is denied to submit an application for regular site plan review. He said if the Town doesn't have records it doesn't mean the use didn't exist and that some of the past record keeping was not that great. Mr. Lauze asked if he submitted an expedited review application tomorrow if Mr. Pimental is still going to tell Mr. Roseberry he still thinks it needs site plan review and Mr. Roseberry is still going to deny it.

Mr. King asked if there is a separate form for an expedited review or if it is the site plan review application with a check box for expedited review.

Mr. Pimental said the expedited review application is a 2 page application and it doesn't ask for almost any information you would get on a site plan review application. He said the form is different because it is a change in use and is written in the site plan regulations as a change in use expedited review in the Village Center.

Mr. Bridges asked if he still felt the same way now that he knows the history of the building.

Mr. Pimental said that since he hadn't seen the pictures until now he was thinking it was a bare open space for storage that was being converted to 5-6 offices and that is a significant change. If the existing spaces are being renovated to remain as offices the use stays the same so I would be more okay with it not being reviewed he said.

Mr. Pelkey said the expedited review process has a lot to do with the impact to the community and if it's a minor impact then the expedited review should be the way we go in the VC. If it's a major impact from a major renovation we are going to want to see a site plan but if it's a minor impact that's exactly what the expedited review process should be for he said.

Mr. Bridges asked Mr. Pimental if he still feels he has to suggest to the CEO that he has to deny

the expedited review.

Mr. Pimental said in his e-mail to Mr. Lauze he recommended that he not fill an expedited review application because he didn't want him to fill one out and then be denied. He asked if Mr. Lauze can provide the additional information on parking, snow storage, utilities and lighting and keeping the historic structure (needed because of the RSA 79-e application) because the way the expedited review application is set up it doesn't require any of the information they would get through the site plan review process.

Mr. King said the staff could revise the form to get the pertinent information needed. He said the board approves the ground work and the staff wrote the process and applications to accomplish the goal and they can be changed at any time based upon their input.

Mr. Pelkey said they could use a standard site plan review form and denote which ones don't need to be completed for an expedited review.

Mr. Pimental said that is essentially what he did in this instance by going through and putting a star on the ones he thought would be applicable in this case. He said he was taking the first cut at it but it's not part of the application.

He said if the applicant can provide with those photos that the upstairs use was offices and if he can make the case that it's staying as offices and supply the information he requested in his original e-mail he would be willing to make a recommendation that it does not need site plan review. I can make that recommendation but there's no guarantee on that decision he said.

Mr. King said he hoped Mr. Lauze would provide the information requested then they could have a discussion and get everybody on the same page so Mr. Lauze can move forward.

Mr. Pimental said if the application is denied the applicant has the opportunity to request an appeal of an administrative decision to the ZBA within 30 days.

Mr. King said he could take that approach or go before the Planning Board and request waivers from many of the requirements.

Mr. Lauze said he didn't have a problem with providing any information they want.

Mr. Bridges suggested Mr. Lauze contact the SAU Office and ask if they have any information on when they were located upstairs in his building.

Mr. Fisher suggested he also check with the previous building owner to see if he has any old pictures or data showing it was previously used as office space.

Mr. Lauze said he understood the need for site plan review but with that particular space he is changing nothing and is adding nothing and taking away nothing.

Mr. Fisher asked about the fire exits.

Mr. Lauze said the CEO said he will probably have to have a second egress out the back of the building.

Mr. Fisher said that when restroom facilities are upgraded they have to be made handicapped accessible.

Mr. Lauze said that is part of the building codes.

Site Closure of Paulson Road Gravel Excavation- Tax Map R35, Lot 7:

Mr. Pimental said at the last meeting the board reviewed a request from Pike Industries to have the board authorize him or someone at the Town level to issue a letter acknowledging the site closure. He said they have already received their closure letter from NH Dept. of Environmental Services (DES).

He said during the previous discussion the board went through the conditions of the 2011 renewal and there were several conditions the board wanted to make sure that they accomplished including the reclamation surety bond, if the road was maintained at the lower entrance, closing the upper entrance and stabilizing the area. He said he followed up with Pike and they are going to meet with the DPW Director to do a site review or get any documentation on the required yearly inspections.

Mr. Pimental said they will get all the information over the next few weeks and he will bring it back to the board when he has received all of it. Then the board can review it and make a motion to authorize someone to write the closure letter from the Town he said.

Mr. King asked about the status of the surety bond.

Mr. Pimental said they don't know yet as it is still under investigation. He said the Pike representative dealing with their compliance requirements has acknowledged they need to come up with these items before the Town can issue a letter.

Review of Zoning Amendments:

Mr. Pimental said the board received the final version of the proposed zoning amendments and they have been reviewed by legal counsel. He said there are some minor changes he wanted to review with the board which are as follows:

Amendment #3 –Section 2.00 Base Zoning Districts, D Special Exception General Standards, 1

(a)- Mr. Pimental said this section needed some word-smithing where the attorney recommended they get rid of "where the use is proposed to be located and is consistent with the purpose of said District" so that the last sentence of that section would read "The proposed use is consistent with the character of other Permitted uses allowed within the district."

Section D 5 – He said they suggested that this section be brought more into line with the law states so "Complaints of the ZBA's decision on the Special Exception are first heard by the ZBA and then may proceed to Superior Court:" would be struck and this section would state "The ZBA's decision on the Special Exception is subject to a motion for rehearing and then appeal to the Superior Court".

Section 2.00, Table of Permitted Uses – Mr. Pimental said the attorney was a little confused with the "P/SE" and he realized he didn't include the footnotes so he added them in. He said it didn't make it clear because the intent is that barns, garages, gazebos and sheds don't need site plan review regardless of what they are so he added "Either use is not subject to site plan review". He said he wanted it to be clear that if you wanted to put a barn, garage, gazebo or shed on a lot without a principal structure you can do that and you don't need site plan review.

Mr. King asked for the meaning of "P/SE".

Mr. Pimental gave the example of putting a barn on a lot adjacent to or abutting a lot under the same ownership that has a principal use is allowed by right (P) in the AR district and a barn located on a lot that is not adjacent to or abutting a lot under the same ownership which has a principal use is allowed by special exception (SE) in the AR district.

Section E Principal Uses -Mr. Fisher asked if this section would take care of the problem with accessory uses such as allowing computer repairs at a shop that sells computers.

Mr. Pimental said this section currently says "All lots are allowed only one principal use except as expressly provided otherwise in this ordinance" and he added "Additional accessory uses, which shall be complimentary to the principal use, are allowed in all zoning districts provided that the accessory use is allowed in the Table of Permitted Uses in said district". He said if the accessory use is complimentary to the principal use this would allow for some flexibility and someone could point to that and say they're selling computers but they also want to fix computers and phones.

Mr. Fisher asked who would make this decision.

Mr. Pimental said that goes back to the authority established in Warrant Article #3 Amendment #2 where the Director of Planning and Community Development or their designee has the authority to interpret, administer and assist in the enforcement of this ordinance.

He asked if the board wanted to read out each amendment in the motion to move them to a public hearing or just move all four amendments to the public hearing to be held on 01/05/21.

Mr. King asked if any of members felt they were not ready to move all 4 amendments forward to a public hearing.

Consensus of the board was the amendments were ready to move forward to a public hearing.

Motion: (King, second Bridges) to move the four proposed warrant articles forward to Public Hearing passed 5-0.

Any Other Business before the Board:

Voluntary Lot Merger Application Revisions- Mr. Pimental said the board talked about revising this application several meetings ago and gave the authority to review it at the staff level so he reworked the application and had it undergo legal review. He suggested they include it at the same public hearing as the zoning amendments so the Town wouldn't have to pay twice (for legal notices).

Mr. Pelkey asked if they would discuss the changes to the application at the Jan. 5 Public Hearing if they so move.

Mr. Pimental said that is correct.

Motion: (Pelkey, second Titus) to move the revised Voluntary Lot Merger Application to a Public Hearing to be held on January 5, 2021 passed 5-0.

Request to Extend Period for Substantial Development – Mr. Pimental said at last Tuesday's special workshop the board discussed an applicant's request to extend the time period to show

active and substantial development which is 24 months from when an application is approved. He said this person got called to active duty and wasn't able to start the process and asked to extend that timeframe. He said the board decided to ask legal counsel if a public hearing was necessary to do that and the attorney said it is necessary.

He suggested that the applicant be included at the Jan. 5 meeting and ask him to pay for the abutters' notices and that the Town would cover the legal public notices. He said he wanted to be respectful of someone serving active duty in the military and try to save him some costs if we could and this is the best that we can do.

Mr. King said this will have to come back to board as an amended site plan as he suspected.

Mr. Pelkey said he planned to take up the relevant RSA with our state reps regarding any existing language that would allow for this and if not if there is something they can do to help.

Mr. Pimental asked what the board would like to see from the applicant.

Mr. Pelkey said he would like to see his orders or something that shows he was called to active duty during this time period.

Motion: (King, second Titus) to move the request to a Public Hearing held on January 5 for a revised site plan by Joseph and Janet Gray, Tax Map R-18, Lot 5 passed 5-0.

Mr. Pimental asked because this is an amendment if the board wanted to see their full application again.

Mr. King said it was a short application and asked to have it reissued to the board.

Mr. Pelkey said the meeting minutes from when it was approved may be helpful to the board.

Mr. King said the abutters may pose questions or concerns the board needs to be prepared for based on the previous discussion.

Mr. Pimental said the applicant is responsible to provide his set of orders or assignment letters and the Town will reissue the application, the Notice of Decision and the meeting minutes to go in their meeting packets for the Public Hearing.

Mr. Pelkey then wished everyone a Merry Christmas and a Happy New Year and thanked Mr. Pimental for his good work this year.

Adjournment:

Motion: (King, second Titus) to adjourn the meeting passed 4-0 at 6:58 p.m. (Mr. Bridges left the room).

Respectively submitted

Kathleen Magoon, Recording secretary



Charlie King, Chairman