

Town of Farmington  
Planning Board Meeting Minutes  
Tuesday, August 18, 2020

**Board Members Present:**

Charlie King, Chairman  
Rick Pelkey, Vice Chairman  
Bill Fisher, Secretary  
Gerry Vachon, Selectmen's Rep.  
Ann Titus  
Stephen Henry  
Bruce Bridges

**Others Present:**

Russell Stickle  
Lawrence Stickle

**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:**

July 21, 2020 – Public Meeting Minutes- No errors or omissions

**Motion:** (Titus, second Fisher) to accept the minutes as written passed 6-0-1(Pelkey-abstained).

**Any Other Business before the Board:**

**Member Handbooks-** Mr. King said if any of the members need copies of the handbooks, zoning ordinance, site plan regulations or subdivision regulations they should see Land Use Assistant Sarah Morse.

**CIP Rep** – Mrs. Titus said Mr. Pelkey is the Planning Board rep to the Capital Improvement Plan Committee and asked if there is an alternate Planning Board rep to the CIP. She said if there is no alternate rep she would like to volunteer for the position.

**Motion:** (King, second Bridges) to nominate Mrs. Titus for alternate rep to the CIP passed 6-0-1 (Titus abstained).

**Planner's Meeting Memo** – Mr. King asked if the board had any comments/questions on the memo. He said their next meeting is on Tuesday, Sept. 1 and the agenda may include some work on the Master Plan and their work products for this season.

Mr. Bridges said that he has some questions regarding storage units. He said it was decided that the storage units don't grandfather and asked if someone put a container on their lot if they were responsible to remove the container if they sell the lot. He said a property owner sold a lot with an existing container on the property and is being told he was responsible to remove it.

He said there is nothing in the ordinance or regulations requiring that so it is something that just “got pulled out of the sky”. If there is some question about what we meant by something it should come to the board and not be one person making the decision he said.

Mr. King said that was part of the discussion at the last meeting and the Planner is going to provide some information on what other towns do at the next meeting. He said the Code Enforcement Officer has been the interpreter of the zoning ordinance since the early 2000’s because the Town had less staff and no Planning Dept.

He said one issue with having the board make interpretations is the applicant will have to wait until the board is in session to get an answer to their issue.

Mr. Bridges said this would only apply if there is a dispute with the interpretation.

Mr. Fisher said that the Zoning Board has the legal authority to settle disputes. The Planning Board can change the regulations with the voters’ approval but if there is a dispute he has to file an appeal to the ZBA he said.

Mr. Bridges asked if the property owner would be required to move the structure if it was a shed. He said that there is nothing in black and white saying this and you can’t just make things up.

Mr. Henry said the attorney explained that the Town has permissive zoning which means that you can’t do anything with your land unless the Town says it is okay. The container was originally placed there illegally so it has never been there legally and therefore can’t be grandfathered because it was never there with the Town’s permission in the first place he said.

Mr. Bridges asked if the Town had permissive zoning when the container was put there.

Mr. Henry said yes.

Mr. King said that may be the legal opinion the Town paid for but he didn’t agree with it.

Mr. Bridges said there are many containers in the community and they are picking on one person and harassing him. He’s not being allowed to build his home because of this container and I think that is wrong he said.

Mr. King said this board doesn’t have the ability to give him relief regarding a decision and he has to apply for an administrative appeal from the Zoning Board. He asked if it is possible for the Planning Board to change the time limit for an administrative appeal.

Members said the 30 day time limit is set by state law.

Mr. Bridges said he was told that Code Enforcement doesn’t do anything unless there is a complaint and there have been no complaints about this storage unit.

Mr. King said he has heard that statement but it is not accurate. Sometimes Code Enforcement responds to a complaint and sometimes they respond to things they see or hear he said.

Mr. Bridges asked what they can do to fix this.

Mr. Fisher said they would probably have to talk to a lawyer because when they change rules or the zoning ordinance it doesn’t make it retroactive. He said this is in the past so he will have to apply to the ZBA. The ZBA could refuse to hear the case and recommend that he take it to civil

court because this goes back 20 years. He said he thought the man is getting a raw deal but he couldn't find anything in the rules to back him up.

Mr. Bridges said they may be leaving the community open to being sued because with as many containers as there are in town he is the only one this is being enforced on.

Mr. Henry said at the last meeting the Planner had a memo that said Code Enforcement decided they would allow containers as long as you paid for a building permit and asked if he misunderstood this.

Mr. King said the information given to the board at that meeting was different than the past practice over the last year or two.

Mr. Pelkey said that no matter what the board does there is always going to be some instance where somebody is not going to get a good deal or feel like they are being picked on. We are like the legislature-we write the rules but we're not the Police force and if there's a problem with it we're not the people that you go to for a remedy he said.

Mr. Bridges said he was told he couldn't have a storage unit on his property but a commercial property owner could have one with no permit and he put one on his land and was done.

Mr. Vachon said when the CEO was called to the property for a building permit (for a new house) and saw the container and knew it was illegal he had to do something or otherwise he is liable for not enforcing the zoning. He said the CEO told the owner he has to follow the proper channels to make it legal or remove it.

Chairman King called for an end to this discussion at this time.

**Motion:** (King, second Titus) for a 7 minute recess before the Public Hearing passed 7-0 at 6:23 p.m. The meeting reconvened at 6:30 p.m.

#### **PUBLIC HEARING: 6:30 P.M.**

##### **NEW CASES:**

**Public Hearing for consideration and possible vote of a major site plan for S&S Paving, Tax Map R32, Lot 22-7. The parcel is located on Lot#7 within the Sarah Greenfield Business Park and is in the Industrial Business zoning district. The proposal is to construct a contractor storage yard with a 30 x 50 foot steel frame building with associated parking and storage areas.**

Mr. King then recused himself from the board as he currently has Norway Plains under contract for his own project and is using the same engineer as the applicant. He asked Vice Chairman Pelkey to take over as Chair and left the meeting.

Mr. Pelkey asked the applicant to come forward and go over his application with the board.

Mr. Bridges said he knew the applicants personally but felt he could be neutral on their case.

Russell Stickles said he thought that Scott Lawler with Norway Plains was going to attend the meeting but he was not present.

**Motion:** (Titus, second Henry) to take a 5 minutes recess to allow the applicant to contract Mr.

Lawler passed 6-0 at 6:35 p.m. The meeting reconvened at 6:40 p.m.

Mr. Pelkey said the applicant had a chance to contact the engineer who did the drawings for his application and asked Mr. Stickles to proceed with his presentation.

**Motion:** (Bridges, second Titus) to consider the application as substantially complete passed 6-0.

Mr. Pelkey opened the public comment portion of the hearing at 6:45 p.m. He asked Mr. Stickles if he had a chance to read the comments from the Planner concerning the application. Mr. Stickles said he read the Planner's comments.

Discussion on some of the revisions as recommended by the Planner is as follows:

**Revisions to the Cover Letter:**

Address the inconsistent number of employees- the cover letter says 8 employees and the application and parking calculations are based on 7 employees.

Mr. Stickles asked if a parking space is needed for every employee.

Mr. Pelkey said the site plan regulations say for industrial warehouses there must be one space per employee and one space per company vehicle operating from the premises and one space per 10,000 sq. ft. of gross floor area. He said there will be 4 vehicles for company use and 8 employees so that calls for 12 sites and the site plan shows 12 parking areas.

Mr. Stickles said there a few employees that carpool to the site and he wanted it to state he has 7 employees.

Mr. Pelkey said then the narrative, the application and the drawings have to be changed to show 7 employees.

Mr. Stickles said the number of employees varies as they become busier as the season goes on and he didn't want to have to change the plan as this has been put off for a long time.

Mr. Henry said he understood that Mr. Stickles did not want to have to wait until the board convenes again so they can add conditions and his plan would have their approval as long as those conditions were met. The Planning Dept. staff will make sure the conditions are met and you are not coming back before us. We are talking about making sure the plan and the narrative match and then you are okay once they are fixed he said.

He asked if the planning regulations limit how much a business can grow.

Mr. Pelkey said he must use the best information he has at the time of the application.

Mr. Bridges said they are trying to make the paperwork match no matter what the number is.

Mr. Stickles said he wanted the number of employees to match the number on the plan (7).

Mr. Pelkey said that eventually the plan will come back to him to be signed and he has to make sure that all of the changes have been done or he can't sign it.

Clarify the statement "the building will not be most occupied" in the 4<sup>th</sup> paragraph, last line.

Mr. Stickles said it should say "the building will be mostly unoccupied". He said they arrive at the building, leave their vehicles there and take the company vehicles to go to work. The building will be used for repairs and storage during the winter he said.

Mrs. Titus asked if anyone would be staying there during the day.

Mr. Stickles said as it stands right now no one would be there during the day.

Remove any references to the portable toilet on the site. The original plan proposed a portable toilet but he revised the plan and provided an approved septic system design.

Mr. Pelkey said the portable toilet is referenced all over the plan and it will have to be modified as the drawings still show the port-a-potty.

Mr. Henry asked if because there is an approved septic design if they have to put in the plumbing for it.

Mr. Pelkey said they are putting in the septic system.

Mr. Vachon asked if it has to be shown on the plans.

Mr. Pelkey asked if the plan shows the location of the leach field.

Mr. Stickles said a concrete chamber clean out area will be paved over and located under the employee parking.

Mr. Henry said he didn't know there was a septic system that didn't have a leach field. He asked where the waste would be pumped to.

Mr. Vachon said it has a holding tank and pointed out the chambers in front of the building on the drawing.

**Revisions to the Site Plan Review application:**

Under Property Information #2- Describe any existing restrictive covenants, easements or rights-of-way and include recorded document- add "Town of Farmington Sarah Greenfield Business Park Regulations (Book 3697, Page 0537)" and "Quitclaim Covenants (Book 4587, Page 1)".

Mr. Pelkey said the applicant put N/A there and this information must be included.

Under Business Information #8 Solid Waste Disposal- should state that the proposed dumpster area will have a fence around it.

Mr. Pelkey said Mr. Stickles wrote that a dumpster area is proposed and he should include that it will have a fenced-in enclosure and describe what type of fencing it will be.

Mr. Stickles said he plans to install a cedar fence there and that he provided that information to Norway Plains.

**Revisions to the Plat Plans:**

Mr. Pelkey read through this list provided by the Planner and there were no comments or concerns raised by Mr. Stickles or the board (Page 5 of the Planner's 08/11/20 memo).

Mr. Pelkey said he did not see anything about maintenance of the silt sock and there is a requirement that the area must be inspected annually to make sure it is performing correctly.

Mr. Stickles said he didn't have any issues with the revisions as presented.

Mr. Pelkey said that these revisions will end up being the conditions of approval if the board approves it that way. He then opened the discussion to general concerns from the board.

Mr. Henry said the silt sock is a long snake-like thing and asked what its purpose is.

Mr. Pelkey said it is to stop contamination from the parcel from running off into the surrounding water. He said the manufacturer recommends an annual inspection and at 50% build-up you have to remove the sediment to keep it operating effectively.

Mr. Fisher said that any dirt build-up should be swept away from the sock so that a dam does not form causing any contaminants to wash around it and go down the street.

Mr. Pelkey asked if they planned to store any asphalt on the site.

Mr. Stickles said they did not plan to store asphalt there but if they have a little left over asphalt and Brox Industries is closed, they would clean out the truck and dump it on the ground and then the next morning it would be scooped up and brought to Brox for disposal.

Mr. Pelkey asked if there is a pile of asphalt sitting there and we get a rainstorm overnight what would happen to the runoff.

Mr. Stickles said they don't like to do that but it happens and obviously they have a silt fence for a reason and he didn't see the small amounts left over as being a big concern. He said water doesn't do anything to asphalt and anything contained in the asphalt isn't going to be removed by water.

Mr. Pelkey said it does have oils that could leach out of it. He asked if Mr. Stickles was saying the small amounts of asphalt wouldn't remain on site for more than a day or two.

Mr. Stickles said that is correct.

Mr. Pelkey said they could make this a condition of approval and asked how to define what a small amount would be.

Mr. Bridges said one ton is a small amount. He said they can't leave it in the truck because it becomes very difficult to remove and if they dump it on the ground they can scoop it up with a skid steer because it is already hard and dump it back in the truck and get rid of it.

Larry Stickles said the Town gave them permission to dump asphalt at the gravel pit off of Rte. 11 and when they get a big pile they grind it up and reuse it.

Mr. Pelkey suggested 2 nights as the maximum amount of time the asphalt will remain on site.

Mr. Vachon suggested limiting it to overnight during the week and if it's put there on a Friday they should be given until the following Tuesday to allow for Monday holidays.

Mr. Bridges suggested if it was going to be there longer than 24 hours to throw a tarp over it.

Mr. Fisher said to simply say it will remain on site no longer than 3 days whether it's a business day or a weekend.

Mr. Henry said Code Enforcement would have no idea when the clock started and asked how they would enforce the time limit on the asphalt remaining at the site. He said he is more concerned with water running off the asphalt if it rains than he is with how long it sits there. Twenty-four hours in a thunderstorm is a lot worse than two weeks in the weather we've been having he said.

Russ Stickles said they would tarp it the minute they dump it on the ground.

Mr. Pelkey said as a condition of approval the amount would be less than 1 ton, it will remain

on site no more than 3 days and it will be covered while it's on the ground. He then asked about what it takes to clean the equipment.

Russ Stickles said they just scrape it and don't use any chemicals and this is usually done on the job site before they start work.

Mr. Henry asked if they hose down the equipment to wash it.

Russ Stickles said they do not hose down the equipment.

Mr. Vachon asked about the anti-adhering products sprayed on the paver and the dump bodies and the practice of putting them up in air and then it rains. He said most of the products they are supposed to use are biodegradable but people use the old "tried and true" instead.

Russ Stickles said rocks do a good job too and they run gravel through their equipment which tends to clean it out and it is dangerous to leave the dump body up in the air. He said they spray the body before the asphalt is loaded into the truck and then most of the product comes out when the asphalt comes out.

Larry Stickles said if they know they will get 2-3 days of rain they would the cover all the equipment with a tarp.

Mr. Pelkey closed the public comment portion of the hearing at 7:17 p.m. and then asked the members for a motion on this application.

**Motion:** (Henry, second Titus) to approve the plan presented by Stickles Enterprises LLC with the following Conditions of Approval:

**The cover letter shall:**

Remove all references to the Conditional Use Permit;

Correct the inconsistent employee numbers between the plan and the narrative;

Clarify the statement "the building will not be most unoccupied" in the fourth paragraph, last sentence;

Remove all references to a portable toilet on the site;

**The site plan review application shall:**

Remove all references to the Groundwater Protection Overlay District;

Include the Town of Farmington Sarah Greenfield Business Park Regulations (Book 3697, Page 0537) and Quitclaim Covenants (Book 4587, Page 1);

State that the proposed dumpster area will have a fence enclosure;

Provide additional information on what the building will be used for;

Clarify that it is understood a storage yard will not constitute a permanent dumping site for excess paving materials;

**Sheet E-1 of the plat plans shall:**

Remove references to the Groundwater Protection Area (#2 and #6 in the Notes);

Correct to show "amended October 20, 2008 and recorded at S.C.R.D. Book 3697, Page 0537 (#10 in the Notes);

Add that the parcel is also subject to the Quitclaim Covenants recorded at S.C.R.D Book 4587,

Page 1 (#10 in the Notes);

Sheet C-1 of the plat plans shall:

Ensure all supplemental plan sheets be referenced by the title and latest date of revision somewhere on this sheet;

Add a signature block for the Planning Board approval;

Add location of the permanent easement shown on referenced plan "Proposed Subdivision of Land in the Town of Farmington-Tax Map R-32, Lot 22-3 – Route 153- Farmington, NH" approved on October 28, 2000 by Berry Surveying & Engineering;

Remove references to Groundwater Protection Area (#2 and #6 in the Notes);

Correct to say "amended October 20, 2008 and recorded at S.C.R.D. Book 3697, Page 0537 (#10 in Notes);

Add that the parcel is also subject to the Quitclaim Covenants recorded at S.C.R.D. Book 4587, Page 1 (#10 in the Notes);

Add a sentence that states the piling of snow in the snow storage location east of the building will not extend into the 50' wetland buffer (#15 in the Notes);

Correct impervious coverage calculations to match cover letter (20,715 SF or 15.85%) (#19 in the Notes);

Sheet C-2 of the plat plans shall:

Remove the proposed portable toilet from the plan;

Indicate on the plan or in a note more information on the location and type of material that will be used to screen the dumpster;

Sheet C-3 and C-4 of the plat plans shall:

Remove proposed portable toilet from the plan.

Any unused paving material left on the site will be immediately covered and shall not remain for more than 3 days.

**Vote:** The motion passed 6-0.

**Motion:** (Titus, second Vachon) to take a 5 minute recess passed 6-0 at 7:25 p.m.

The meeting reconvened at 7:30 p.m.

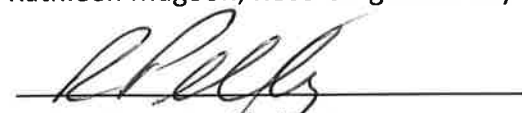
**Next Meeting:** September 1, 2020 at 6 p.m.

**Adjournment:**

**Motion:** (Henry, second Vachon) to adjourn the meeting passed 6-0 at 7:30 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary

  
Rick Pelkey, Vice Chairman