

Town of Farmington
Planning Board Meeting Minutes
Tuesday, March 1, 2022
356 Main Street, Farmington, NH

Board Members Present:

Charlie King, Chairman
Rick Pelkey, Vice Chairman
Gerry Vachon, Selectmen's Rep
Stephen Henry
Jeremy Squires

Board Members Absent:

Bruce Bridges, excused
Bill Fisher, Secretary, excused

Others Present:

Kyle Pimental, Planning Director
Nick Corstatzes, Lewis Tree Service
Permissions Facilitator for Eversource
Energy

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman King called the meeting to order at 6:03 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

February 15, 2022- No errors or omissions

Motion: (Henry, second Pelkey) to approve the minutes as written passed 4-0-1 (Squires abstained).

Public Comment: None

PUBLIC HEARING:

Public Hearing at which the Planning Board will review and may act upon a request for scenic road cutting. Eversource Energy proposes to trim and remove trees and brush adjacent to and beneath some of its power lines along the following designated scenic roads in town: River Road, Reservoir Road and Poor Farm Road. This is part of Eversource's scheduled maintenance where once every four years this work is conducted to ensure the safe distribution of power and to improve the reliability of electric service for its customers.

Mr. Corstatzes said he is employed by Lewis Tree Service who is contracted by Eversource. He said these particular trees they're seeing, especially on Poor Farm Road and Reservoir Road, if you look at the list the majority of the ash trees have been affected by the Emerald Ash Borer and you can see that the damage is already done. That's what the bulk of these are but we also

identified trees with rot and decay he said.

Mr. King said the minimum size they're looking at is 6 inches or bigger.

Mr. Corstatzes said anything 4 inches and under is considered brush.

Mr. King asked if all of these trees have been flagged and if so how long ago they were flagged.

Mr. Corstatzes said yes and they contact property owners and get signed consent and stay as far ahead as possible. He said a lot of these trees were permissioned almost a year ago.

Mr. King asked if they have any trees that were disputed over whether they should be taken down or not.

Mr. Corstatzes said no and anything that isn't agreed upon they don't touch and there is one location on River Road that he never got a response from.

Mr. King asked if the one on River Road is an extreme hazard.

Mr. Corstatzes said yes because it is rotten and has cavities. He said Eversource requires 3 attempts to contact the land owner and they document the attempts and any refusals they get.

Mr. King asked if they got no refusals and just one non-response.

Mr. Corstatzes said that is correct.

Mr. Pelkey asked if they usually have the consents before they come before the board.

Mr. Corstatzes said not all the time and it depends on when the hearing is and where they are at with the permissions. He said he likes to remind people when they have scheduled maintenance trimming on a given circuit coming up that's what a lot of people get the mailer for and throw it out thinking its junk mail. Any tree removals require face to face contact to get a signed form he said.

Mr. King asked how long this will take.

Mr. Corstatzes said it would take about 2 weeks.

Chairman King opened the public portion of the hearing at 6:09 p.m.

Mr. Pimental said they didn't receive any correspondence from any residents posing any concerns. He advised the board to make a motion to approve the tree trimming for those scenic roads so they have it in the minutes.

Mr. Squires asked what the tree number (with no response) is on River Road and what they would do about it.

Mr. Corstatzes said he did not have the house number where that tree is located. He said they have a form they fill out making Eversource aware that they attempted to contact them and they weren't able to get a response and until they do they won't touch that tree.

Mr. King asked if these trees are in or out of the right-of-way or a little bit of both.

Mr. Corstatzes said most of the trees are roadside right by the wires.

Mr. King said depending on the road they are probably in the r-o-w.

Mr. Corstatzes said yes. He said regardless of the r-o-w he has property maps and he contacts everybody.

Mr. Pelkey said they are looking for big leaners that are off the road that might bring down

some wires.

Mr. Corstatzes said yes and that a lot of it is preventative and he tells people that anything they see that needs to be addressed immediately they will get someone there right off the bat. He said a lot of the decay and decline might not be an issue now but could be in the future.

Mr. Pelkey said it in their best interests to help keep the lights on during the next storm.

Mr. Corstatzes said it seems to have improved to where with the storms we had this year they did not have to send out one crew.

Mr. King said the cutting back seems to be more extensive than it used to be.

Mr. Corstatzes recalled there was a storm where all the utilities dropped the ball and it was right before Christmas and that's when things changed. It's definitely more aggressive he said. Chairman King asked if there any more questions from the public. Hearing none he closed the public portion of the hearing at 6:13 p.m.

Motion: (Henry, second Squires) to approve the list of tree trimming and removal on the scenic roads listed passed 5-0.

Discussion of Planning Board Term Limits:

Mr. Pimental said he gave the members copies of RSA 673:5 in reference to the conversation they had at their last meeting when they talked about changes to the board and the board had questions about when you could have appointments and if you could do that prior to that date. He said they don't have to worry too much about having new members appointed prior to their 03/15/22 meeting because the law states if no successor has been appointed and qualified at the expiration of the appointed member's term the member shall be entitled to remain in office until a successor has been appointed and qualified.

Mr. King said the member is entitled but not required to remain on the board.

Mr. Pimental said that's correct and in the case of Mr. Pelkey and Mr. Bridges when their terms expire they can be appointed to another 3 year term. He said he didn't know how the one year terms came to be or how that started but it needs to be a 3 year term.

Mr. Henry said he thought it was because the application has a 1 year or 3 year choice.

Mr. Pelkey recalled being given one year terms.

Mr. Pimental said if that is part of the application that needs to be changed and they can deal with that moving forward. He said Mr. Pelkey and Mr. Bridges have the options of being appointed to another 3 year term, staying on until they fill their spot or leaving the board.

He said if they were to be reappointed they must commit to a 3 year term and the only time a member can serve for less than that is when they are stepping in to fill someone else's term.

Mr. Pimental said if Mr. Pelkey or Mr. Bridges decides to stay on for whatever period of time after their term expires until they find someone to fill that role everything is legal and they would still have all their voting rights.

Mr. Pelkey said there was concern the board wouldn't be able to meet in time before the cut-off date after Town Meeting and that was the Genesis of that discussion.

Mr. Henry said as he reads it the terms are for 3 years from you are appointed and there is no filling out a term if somebody had two years left. He said there is somewhat of a conflict because they're supposed to have no more than 3 appointments a year for a 7 or 9 member board but the term is 3 years so if you stepped in for somebody that had 6 months left your new term is 3 years.

Mr. Pelkey said the exception in Section II says "except when required to fill vacancies".

Mr. Henry said that is at the end of a sentence talking about how many people can be appointed in a year and that appointment would be for 3 years.

Mr. Squires said the terms are naturally staggered as it is right now.

Mr. King said the Selectmen appoint the members and this applies to how they appoint and it needs to be for 3 year terms.

Mr. Henry said knowing it's a 3 year term may change someone's mind about giving it a try.

Mr. Pimental said that he reads that as the member's appointment begins on that date and shall end 3 years after that date so even if they don't make it someone filling in for that appointment would still go to the end of that 3 year seat. He said the Town Clerk's office had advised that the only time someone could be on for less than 3 years is when they are filling in for someone.

Mr. Squires asked if this only applies to members and not to alternates.

Mr. Henry said the statute doesn't speak to alternates.

Mr. Pimental said their bylaws state that an alternate's term is for 3 years.

Mr. Henry said they need to fix the application and remove the 1 year term option.

Mr. Pelkey said it is a combination application that has several different positions on it.

Mr. Pimental said he has not seen the application and he will look into it.

Discussion of Warrant Articles and Potential Outreach:

Mr. Pimental said the board asked him to include this (final zoning amendments and warrant articles) in their packets for this week because this board is not going to meet again until after Town Meeting so this is an opportunity for them to go through each article again so folks watching can hear it one more time before they vote.

Mr. King said they have 4 warrant articles before the town as follows:

Article 2: Amendment #1: to amend Section 1.14 to add definitions for electric vehicle charging stations, health/fitness club, laundry services, motor vehicle repair, services and sales facility, site preparation contractors, small equipment repair, specialized contractors, vehicle refueling/recharging station and to amend the definitions for heavy equipment sales and services and major/minor manufacturing to provide clarity on the scope of allowable uses. He said the first section lists all the new definitions they are adding to the Table of Permitted Uses and they are amending 4 uses to better clarify them.

Mr. Squires asked after "Motor Vehicle Repair, Services..." what the "Services" was referring to.

Mr. Pimental said initially it was 3 different things-motor vehicle repair facilities, motor vehicle

sales and service and motor vehicle service facility so it got grouped into one use.

Mr. Pelkey said they wanted to clarify what they were allowing and what they encompassed so that there was less ambiguity about what they are talking about.

Mr. Pimental said they spent quite a bit of time on the definitions that were pulled from a variety of different places, the Land Use Codes and how other municipalities defined them and then the Planning Board tailored it to how they wanted it to spell out. He said these definitions were flushed out with a lot of feedback from the board and they didn't just copy and paste it from one place it went through multiple rounds of editing to incorporate what this board wanted for this community.

Mr. Pelkey said that process is true for all 4 of these articles and they took their genesis back in Sept. and they talked it through to Dec. when they finally finished them into their current form.

Article 3: Amendment #2: to amend Section 2.00 (C) Table of Permitted Uses to reflect clearer use definitions and to add to and revise the commercial and industrial uses allowed in various zoning districts.

Mr. King said they made the industrial business area similar or the same as far as permitted uses as the commercial business section. He said this will allow more co-mingling of businesses on Rt. 11 similar to the way it is now. He said this amendment is less restrictive for businesses starting or moving into the Rt. 11 corridor and they did not increase any restriction of a permitted use or eliminate a use in either zone.

Mr. Pelkey said they did this in conjunction with the idea of getting rid of the **Commercial Industrial Business Overlay** which was kind of confusing and they felt the uses would work themselves out in that area as long as they were less restrictive and allowed for them in both the commercial and industrial areas. We didn't change everything and allowed most of the things in both sections he said.

Mr. Pimental said about 95% of the changes that were made were less restrictive but there are a few cases where they were more restrictive such as small equipment repair in the **Urban Residential** and **Village Center** zones that went from **Permitted** to **Special Exception** and the vehicle refueling station which went from **P** to **SE** in the **VC**.

He said this change to marrying the commercial/industrial business uses is only for Section 6 in the Table of Permitted Uses and they did not make that change for residential, institutional or recreational uses.

Mr. Pelkey said they did this because they heard people want to see expansion along the Rt. 11 corridor and they are trying to make it as permitted as possible so someone trying to come in there doesn't have to go to the Zoning Board to get there. He said it is already a mixed bag of uses there and the market will sort out the value of the property and what it can be used for.

Article 4: Amendment #3: to amend Sections 2.07 (D) and 2.08 (E) to remove the **CIBO District** to simplify the application process and promote more opportunities for commercial and industrial development along the Rt. 11 and Rt. 153 corridors.

Mr. King said they are doing this because it added confusion but it is not removing any rights because they made all the permitted rights changes in Article #3. He said if Article #3 fails and Article #4 passes the zone would be eliminated but those uses would not be changed. Article #3: Amendment #2 has to pass to make it less restrictive he said.

Mr. Henry said if Article #3 fails and Article #4 passes Rt. 11 just got more restrictive.

Mr. Pimental said it (CIBO) doesn't really do anything it's just something not needed in the zoning anymore.

Mr. King said this could be a precursor to things they may change this year and put forth to the voters as far as trying to continue to move to some different zoning and considering some other areas for development.

Article 5: Amendment #4: to amend Section 3.23 to clarify the definition of and requirements for temporary storage units, to clarify the process for obtaining a permit and provide criteria for permanent storage units.

Mr. Pelkey said they spent a lot of time on this last year and they wanted to re-visit it this year because they didn't feel it was clearly stated on last year's warrant. He said they wanted to codify the ability for people to have temporary/permanent storage units at their homes, how to take a temporary unit and make it permanent and identify the requirements for those because when this first became an issue there was no permission to do it and people were told they had to remove them. He said some folks have had temporary/permanent storage units on their property for a long time and they wanted to put in some zoning to allow them and to show them how to be permitted and be within the code with reasonable requirements.

Mr. King said about 5 or 6 years ago there was a warrant article put forth recommended by the previous staff that zoned them out and the enforcement/interpretation of the new ordinance that didn't allow them led to issues with Code Enforcement, residents and this board. He said that's why last year they drafted an amendment to fix it but it didn't pass because most of the taxpayers didn't understand it because it was too verbose and didn't explain it clearly. This year will be our last attempt and if they still don't want it that's okay. This matches what the Planning Dept. and Code Enforcement are doing for permitting and handling this and is consistent with how it's been handled over the last year he said.

Mr. Pimental said the permit process is already in place and this is codifying the process and what they don't have is the requirements on some criteria for having permanent storage. He said the changes made in Section 1 (A) are the way the Code Enforcement Officer has been dealing with getting a permit for temporary storage units now and it's just to clarify it so someone can understand what they have to do. It's the permanent storage units and making sure they are screened and kept in good condition so you don't have permanent units that become a hazard or a nuisance and have some form of control over that he said.

Mr. Pelkey said they got a lot of feedback on this over the last few years from unhappy citizens who were being told their storage would have to be removed because it wasn't allowed. He

said this is response to that feedback and being responsive to the public comments.

Mr. Henry said it's important to note that if this passes any existing containers are allowed and can stay. If it doesn't pass-who knows he said.

Mr. Pelkey said what could happen is somebody decides to enforce that there's no permanent storage and they'll be hearing from people again that they need to do something about it.

Mr. King said he didn't think that's currently happening but enforcement is not under the board's jurisdiction.

Mr. Henry said if this fails and then a neighbor complains and says it's not allowed and make them move it they might have to start enforcing it. But if it passes they can complain all they want he said.

Mr. King said they have a temporary permit process which is more lax as far as the location and visibility than for a permanent unit. He said in the permanent they have more requirements for not being located within the front setback and visibility from the front of the lot and if it is it has to be screened so it is not a visual nuisance to people driving by or abutters.

He said there is no screening requirement for a temporary unit so if someone is building a house and needs to store their equipment/materials temporarily they can put it there and do it.

Mr. Pelkey said they tried to be as permissible as possible without blurring the line between what is permanent and what is temporary.

Mr. Pimental said you can get a permit for a temporary storage unit for 6 months and get a renewal for another 6 months so you could have a temporary storage unit for 1 year.

Mr. Vachon said if this doesn't pass people who've had containers on their property for longer than people on this board have been alive will lose their farm because they can't afford to move it, the Town is going to fine them and win the property because they can't pay the fine.

Mr. King said if the enforcement were to come back into play at a later date based on things out of the board's control.

Mr. Pimental said it's not being done that way now but with staff changes someone could think of it differently than we are currently handling it.

Mr. King said if anybody has any questions to contact Mr. Pimental or him and his phone number and e-mail address are on the Town website.

Mr. Pelkey said he will be at the Town Hall on Election Day and if anyone has any questions concerning the Planning Board they can speak to him at the Supervisors of the Checklist table.

Mr. King said he will also be there too but outside the building as he is a candidate for office.

Member Comments:

Mr. Pelkey urged residents to come out and vote on Tuesday, March 8 from 8 a.m. to 7 p.m. and same day registration is available the polls with proof of age, citizenship and residency.

Mr. King said Town Meeting is on Wednesday, March 9 beginning at 7 p.m.

Mr. Henry said usually they wait until fall before starting to discuss zoning changes and asked if they want to start earlier if they plan to discuss zoning changes for the gravel pits on Rt. 11.

Mr. Pelkey said they should start earlier because there are a lot of questions the board had about how that would be done.

Mr. King said they should consider scheduling some time for people to come in and speak with the board about their thoughts on what they're considering doing and some areas they've seen that have been successful and some of the hurdles they have with the river, existing roadways, topographical and wetlands issues. He said they should start this sooner rather than later and if they can get somebody to help them with their thought process the sooner the better.

Mr. Henry asked if they want to notify the landowners that they're going to start talking about this. He asked if every landowner comes in and says they want it to stay the way it is if they would continue.

Mr. King said that should be something they discuss when they reconvene after Town Meeting.

Mr. Pelkey said they should make a trail to follow through the process and first identify the areas they are talking about, the possibilities and the approaches they can take to doing it and to make sure the property owners are apprised of what they are thinking about doing.

Mr. King said there should be some written public notice to landowners in this area when they have these discussions and that the board would like to hear their thoughts.

Mr. Pelkey said the steering committee for the Master Plan should be talking about this too because there is a piece of that in the Master Plan regarding development along that corridor and they may be able to get public input through their process as well.

Mr. Henry said there could be some big potential changes they don't want to cram into a couple of months.

Any Other Business before the Board:

Excused Absences-Mr. King said Mr. Fisher contacted him and said he would not be here for this meeting and is excused. He said the board motioned for a leave from the board for medical reasons for Mr. Bridges and that he contacted him to request his e-mail address.

Mr. Pimental said they received his contact information and everybody is getting their meeting packets electronically and the hard copies will be available the night of the meeting.

Bylaws-He said the bylaws the board voted on at the Feb. 15 meeting have been finalized and is now on the Town website.

2022 Meeting Schedule-He said the Planning Board Public Hearing and Workshop Meeting Schedule has been revised to show the switch to the first and third Wednesday of the month. He said March 15 is the last Tuesday meeting and they will start meeting on Wednesday nights starting on April 6. Any new applications we take on between now and the end of the month are being pushed out to the Wednesday meetings he said.

Mr. Pimental said there wasn't much conflict with the new schedule and he flagged July 6 as it is close to the July 4th holiday and the board has taken that week off in the past 2 years. He said he also flagged Sept. 7 as the Monday of that week is Labor Day and that can sometimes be an extended holiday time. He said he starred both meetings and noted that they could be subject

to rescheduling due to the holiday.

Mr. King said as they get to those dates and a portion of the board has plans they may have to deal with them on a case by case basis.

Mr. Pimental said he will not be at the May 4 meeting because he is getting married that day and will be out of the country but aside from that his schedule is open but it may change. He said he will try to make as many Wednesday night meetings as possible. The new meeting schedule is also posted to the website he said.

Next Meeting Agenda-He said the March 15 meeting has a full agenda with a 2 lot subdivision, the 6 lot subdivision off of Fox Trot Drive and potentially the continued case for Richard Ellis.

Mr. King asked if he was aware of any progress on Mr. Ellis' application.

Mr. Pimental said he e-mailed him today asking if they were going to have any designs and if so to get them to him by next Tuesday so they could go out in the board's packets. He said because he has not seen anything at this point it's likely he will not have any feedback on it and would not have as much of a review on it as he normally would.

Adjournment:

Motion: (Vachon, second Pelkey) to adjourn the meeting passed 5-0 at 6:55 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary


Bill Fisher, Acting Chairman