

Town of Farmington
Planning Board Meeting Minutes
Wednesday, April 20, 2022
356 Main Street-Farmington, NH

Board Members Present:

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

Board Members Absent:

Bruce Bridges, excused

Others Present:

Kyle Pimntal, Planning Director
Scott Lawler, Norway Plains
Constance Stevenson, Stephanie
Sawyer, Richard Cilley, Howard
Champagne, Donna Tremblay

BUSINESS BEFORE THE BOARD:

Call to Order:

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

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

CONTINUED CASES:

Public Hearing and Possible Vote on a Major Subdivision for New Style Homes, Tax Map R-61, Lots 10 and 19-1. The applicant is proposing a 7 lot major subdivision with a 900 foot long cul-de-sac with associated driveways and drainage facilities, on-site wells and individual sewage disposal systems. In addition, a Special Use Permit is required due to impacts within the Wetlands Conservation Overlay District, creating 2,950 square feet of permanent impact to a wetland because of fill in connection with road construction and additional disturbance within the wetland buffer associated with the remainder of the development. This project was reviewed by the Technical Review Committee on January 11, 2022.

Mr. Pelkey said that the applicant has asked to continue the public hearing for the possible vote on the minor subdivision for New Style Homes. He said there were folks present wishing to speak to this development and that he would allow them to make statements but the board can't have a discussion on it because the applicant is not present to discuss it. We will let you put your concerns into the record and make sure the applicant is informed of those concerns and give him a copy of what is said and then the board will discuss the continuance he said. Mr. Pelkey then opened the meeting for public comment.

Fox Trot Drive resident Richard Cilley said his concerns were more for some of the other people who live on the street and it pertains to the state the road is in. He said it is in poor shape and a lot of people are concerned with the extra construction and the extra traffic that the road is not going to hold up.

He said their concern is especially for the culverts on the street where the water flows continuously through them all the time whether it is the dry of summer or the rains we've had recently and they are concerned because of the age of them which to his knowledge is greater than 40 years old. He said the 8" or 10" culverts are pretty old and the residents are concerned they will cave-in and that some of the properties where the water is coming from and flowing through will get flooded. He said the residents asked him to convey their concerns to the board because they feel the current state of the road won't be able to take the extra traffic.

Chairman Pelkey asked if there were any more comments and hearing none asked the board to take up the application for the minor subdivision on Fox Trot Drive. He said the applicant has asked to have the case continued to May 18 and asked Mr. Pimental if he had any updates.

Mr. Pimental said they have an agreement for a third party review with Norway Plains and the scope of work has been signed by both parties. He said the hope is that will get done over the next 2 weeks so he will be able to look at it before he leaves but if not he will have another staff member take a look at the comments. He said the comments made by Norway Plains would be given to TRITECH Engineering to incorporate into their next draft revisions if there are any that the board will see at the May 18th meeting. The rest of the review for the site has been completed and depending on what they hear from the public at the meeting on the 18th it will be before the board to potentially vote on making a decision on the application he said.

Mr. King asked if there is a disagreement or an impasse regarding their recommendations they would bring it to the board for them to arbitrate or make a decision.

Mr. Pimental said in the scope of work the third party reviewer will be at the May 18 meeting along with TRITECH so if there are any disagreements both parties can have that discussion with the board.

He then suggested that Chairman Pelkey seat Mr. Mains if he was sitting in for Mr. Bridges. Chairman Pelkey said Bruce Bridges is excused for tonight and seated alternate Roger Mains to the board.

Motion: (Pelkey, second Henry) to continue this case to May 18 passed 6-0-1 (Mains abstained).

Mr. Pelkey asked Mr. Pimental if he would be present at the May 18.

Mr. Pimental said he will be here for that meeting.

Public Hearing and Possible Vote on a Minor Subdivision for Jean Rozwadowski, Tax Map U-12, Lot 5. The applicant is proposing to subdivide the property into two lots. The parent lot is 7.9 acres and will be subdivided into two lots, 1 acre and 6.9 acres respectively. An existing

single family home and barn sit on the property and the new lot creation will not change this.
As a minor subdivision, this application did not appear before the Technical Review Committee.

Land Surveyor Paul Zuzgo said they are taking a 7.89 acre lot with an existing house and subdividing the house off into a 1 acre lot and the remaining land will be vacant. He gave the board and the abutters present copies of the existing conditions plan and the subdivision plan without the topography.

Mr. Zuzgo said he did the calculations on the house lot and it meets the state's subdivision requirements but he not gotten the state subdivision approval yet. He said he didn't like to send it out until he gets the Town's approval because things change and the Town can approve it with the condition that they get the state subdivision approval and you usually get it back from the state within a week now.

Chairman Pelkey noted the circle on the proposed plan and that Lot 5-1 will be what he is subdividing off and asked if the circle for the well is within the bounds of the existing lot.

Mr. Zuzgo said that is an existing well and it does go over Tax Map U-12, Lot 6 but it still falls within the 10' septic setback. He said the proposed well is totally on the lot.

Mr. Pimental said the board could accept the application as complete first and then hear his comments and recommended that they do so.

Motion: (King, second Squires) to accept the application as substantially complete passed 7-0.

Mr. Pimental said they've gone back and forth on a couple of revisions to this plan to meet all of the requirements and the big one was moving the well around. He said there are 2 waiver requests, one is to allow the applicant to receive their NH DES subsurface permit at the time they get a building permit as opposed to at approval and the other is to not fully delineate the wetlands on the property. He said initially there wasn't any shown on the plan but they're now showing the wetlands as delineated from the National Wetlands Inventory with the 50' marker. Their justification is the wetlands on the property are in the back portion of the lot that has a building on it and it was felt as though there's not a need he said.

He said originally his concern was to have something to ensure that the septic system and the well radius were not going to be within that 50' buffer but they're showing where the existing NWI is from GRANIT (statewide geographic data base) and the 50' buffer and it's on the opposite property that already has a house on it. He said everything else meets the Town's regulations so if the board wants to determine that this has no regional impact and then open the public hearing they could do that. He said the one comment he didn't include is to add obtaining the NH DES subdivision approval as a potential condition of approval for the plan. Mr. Pelkey asked the board to take up determining if this application for development would have regional impact. He said he didn't think this meets any of the criteria and asked if that would require a formal vote of the board. He then made the following motion:

Motion: (Pelkey, second Henry) that this application is not a development of regional impact;

Discussion: Mr. King asked if they need this because it abuts a neighboring town.

Mr. Pimental said it doesn't and something they should do as best practice for every application that comes before the board is to determine if it does/does not have regional impact.

Mr. King said in the past they have only done this when it abuts other municipalities.

Mr. Pimental said new guidance is saying every board should do this for every project.

Vote: The motion passed 7-0.

Chairman Pelkey then opened the hearing to public comments.

Milton Road resident/abutter Howard Champagne said if anything is going to be constructed towards the back end of the property he would like to know where the road or driveway going to the back is because his property runs the entire length of that and his house is only about 30' from the border. He said that he and his wife are concerned that there will be a road right next to their property.

Mr. Zuzgo pointed out the location of the proposed driveway on the plan and where it would end and there would just be a house there and no big development that would happen there.

Mr. Champagne asked about the proposed location of the house.

Mr. Zuzgo said the house could be almost anywhere and again pointed out the proposed driveway and that it would be 100' from his corner. He said he didn't know where the house would be located and if someone buys the lot they can put it wherever.

Mr. Champagne said they were concerned that there would a house placed so if they look out their window they're looking right into their neighbor's house.

Mr. Zuzgo asked the (unidentified) property owner about her plans for the lot and if she intended to sell it right away.

She said no and that it would be vacant for a while.

Charles Street resident/abutter Stephanie Sawyer asked if the larger subdivision was going to be the part that is staying with the existing house.

Mr. Zuzgo showed her the boundary line for the house and the remaining land.

Ms. Sawyer asked about the general location of the new building.

Mr. Zuzgo showed her the section where it would probably go.

Ms. Sawyer said they were concerned about their well and showed its location to Mr. Zuzgo.

Mr. Zuzgo said he didn't think they needed to worry about their well.

Ms. Sawyer said they have a dug well and were concerned about any septic system or other well that could affect their well.

Mr. Zuzgo said nothing would happen up there and pointed out the wetlands in that area.

Ms. Sawyer asked if anything would ever be built in that area and Mr. Zuzgo said no.

Mr. Pimental added that this lot will not be able to ever be subdivided again.

Ms. Sawyer asked if that could ever be filled in and be used to build on.

Mr. Zuzgo said no.

Ms. Sawyer said then no septic or well could have an impact on their dug well.

Mr. Zuzgo said no not at all.

Mr. Pimental said the area where the wetlands are is not buildable.

Mr. Pelkey said he understood the concern of the property owners but as long as the applicant meets the setback requirements and sites their well and septic in the right place it's on their property and they can do that. He said they understand that you might not want to see their house and you think it might be too close to something on your property but if it's within the bounds of their property then they are following all of our rules.

Mr. King asked what the dashed line is on the plan.

Mr. Zuzgo said it is a soil line depicting the different soils from the Natural Resources Conservation Service.

Mr. King said in the request for a waiver he stated that there are no wetlands on the lot.

Mr. Zuzgo said there is and he showed it from NWI.

Mr. King asked what year the NWI was done.

Mr. Zuzgo said he got it off GRANIT and he'd have to look at it. He said if they look at the topo they could see that it follows that where it really flattens out on the existing conditions plan.

Mr. Pimental said according to GRANIT's data the NH NWI was done in 1979.

Mr. Zuzgo said it hasn't changed much since then.

Mr. Pimental said the only other information they are requesting is a letter or some insurance that the existing septic system on the parent lot is in good working order.

Mr. Zuzgo said he got a letter from the septic designer that did the test pits but he just found out today the state has changed their rules and you can't use a septic designer to inspect a septic system you have to have a septic inspector. He said Greg Vachon who did the test pit said there was no seepage or smell from the existing system and the tank is pumped every 2 years.

Mr. Pelkey asked what would satisfy our requirement for that.

Mr. Pimental said he thought the letter from the septic designer would do.

Mr. Zuzgo gave him a copy of the letter.

Mr. Henry said the zone line goes right through the property and asked what zone rules apply to the development on the new lot.

Mr. Pimental said they added it to the plan Notes under #4 and they used the Rural Residential zone as that's where the frontage is and where the building is for the first lot and most likely the new building would be in that zone.

Mr. Zuzgo said he noticed he had it on the existing conditions plan notes but not on the subdivision plan notes so he will have to add it.

Mr. Pelkey said they need to add it to the subdivision plan so they know what the assumptions are on the plan and those require the larger footage.

Mr. Henry asked if the RR zone is more restrictive than the Urban Residential zone.

Mr. Pelkey said he'd say so as it requires 150' of street frontage as opposed to 75'.

Mr. Pimntal said they were going to apply whatever was closest to the street frontage but in this case it actually is more restrictive than the UR.

Chairman Pelkey asked if there any other public comments and hearing none closed the public comment portion of the hearing. He asked the board to take up the 2 waiver requests and that one is requesting a waiver from Section 8 H (19) of the Subdivision Regulations and they requested a waiver to not delineate the existing wetlands but he did show some delineation of the wetlands.

Mr. Henry said the delineation is not done by a wetlands scientist.

Mr. Pelkey said because they have a large enough portion of contiguous upland for the house and the wetlands they are talking about are at the rear of the lot he didn't have an issue with the request for this waiver.

Mr. Pimental said it's at the rear of the parent lot and is not even the lot that they're creating. There were no other comments/questions on this waiver.

Motion: (Pelkey, second Henry) to accept the waiver passed 6-1 (King-opposed).

Mr. King said he did not wish to speak to his opposition to the motion.

Chairman Pelkey said the second waiver request is for Section 9, I (4) c (requesting that a DES subsurface disposal permit is obtained prior to the issuance of a building permit instead of at the time of the plan signing).

Motion: (Henry, second King) to accept the waiver request to require the subsurface disposal permit with the building permit not with subdivision approval passed 7-0.

Chairman Pelkey asked about any conditions of approval for this application.

Mr. Pimental said seeing that the plan is consistent with the Town's subdivision regulations the Planning Dept. recommends that the Planning Board vote to approve the subdivision with the following conditions:

1). Conditions to be met prior to the signing of the plans:

- a). Provide copies of the final plan set with a stamp and signature of the LLS
- b). Submit a certificate of monumentation form ensuring all monumentation referenced on the subdivision plan have been accurately installed
- c). Demonstrate to the satisfaction of the board that the existing septic system is in good working order in the form of a letter from a licensed septic designer (removed as the letter was received at this meeting)
- d). Changes to the plat as detailed in the minutes and this report:
 - i). the applicant shall add a note stating which waivers were approved and the date of approval
 - ii). The applicant shall add a note stating the standards are being used for the Rural Residential district on the subdivision plan
 - iii). The applicant shall ensure that they receive a NHDES Subdivision permit

2). Conditions to be met prior to the issuance of a building permit:

- a). The applicant shall provide an approved driveway permit
 - b). The applicant shall provide a NHDES subsurface disposal permit for the newly created lot
- Mr. King said the applicant is showing a proposed driveway and asked what happens if based

upon the concerns of an abutter if they sell the lot and the owner wants to put it right on the edge of the property.

Mr. Pimental said he would have to see if the Town has regulations on the distance between driveways. He said they do for speed for on Rt. 11 but he didn't know if they do for Town roads. He said he didn't know if there's anything the board could do if the applicant decides to move the driveway.

Mr. King said they could impose a condition that it's a certain number of feet away based on the concerns about screening from the abutter.

Mr. Pimental said if they decide to do that they would have to come back for an amended plan if they decide they want to move it. He said if the board wants to say that that proposed location is essentially where they want it or that it's "x" amount of feet off the property line they could put that as a condition. Whether or not you want to be that specific I don't know if technically the regulations say that he said.

Mr. King said they could have that as a condition. He said there is 150' of frontage and they're showing it over within the first 50' and his concern was getting too close to the abutter's property line and that may happen 5 or 10 years from now. He said he didn't know if it would be reasonable to add a minimum distance from the property line for R47, Lot 3 like a minimum of 40' or 50' giving them 100' to 110' of placement for that on the frontage.

Mr. King asked about the area on the upper portion of the topo plan.

Mr. Zuzgo said that is 75' from the pond.

Mr. King asked if that is still considered good uplands.

Mr. Zuzgo said yes and it is just the setback from the pond for septic basically.

Mr. King asked if there was an existing tow road shown on the plan.

Mr. Zuzgo said there is a tow road out there and it is just an old farm road.

Mr. King asked if that road comes out to Milton Road.

Mr. Zuzgo said no and it just goes out to the field in the back.

Mr. Pelkey asked if it is being used or if would be left to fill in eventually.

Mr. Zuzgo said it is not being used and would be left to fill in.

Mr. Pelkey said he was not comfortable putting constraints on where property owners could put their driveway within the bounds of their property. He said he understood that people have concerns but he was hesitant to tell somebody where they can build on their land as long as they are doing it within the rules we have.

Mr. Henry said given the other factors of plowing, visibility, etc. he was not inclined to look at a plan and say this is where your driveway goes.

Mr. Fisher said until he could figure out what the regulations say he was leery of telling them where they can or can't put a driveway.

Mr. Squires said he recalled reading that there is a setback off of the property line and that he thought it was 25'.

Mr. King said they do have some setbacks but a lot of it is on corners and intersections of lots that abut two streets.

Mr. Pelkey said they should look at this for down the road and if the number they have there is not sufficient they could change the regulations so they have a leg to stand on when they try to tell people what to do.

Mr. Pimental said the driveway access requirements state they have to be located at least 25' from the intersection of a street and the separation distance is 20'.

Mr. Pelkey asked if that is specific to a zone.

Mr. Pimental said no. He said that is in the zoning ordinance and is a requirement. He said something he has seen in other communities that might make this easier is they could accept the application with the staff comments.

Mr. King clarified it should be to accept it with staff recommendations not staff comments because their comments could be anything.

Motion: (Pelkey, second Squires) to accept this application with the recommendations from staff with exception of recommendation 1 c because they received something on the existing septic system and add a note for the waivers that were approved to the final drawing, a note that the Rural Residential district which is being used for the subdivision and require a NH DES subdivision approval as all conditions of approval passed 7-0.

Review of Minutes:

April 6, 2022- Public Meeting Minutes- No errors or omissions

Motion: (Fisher, second Henry) to accept the minutes as written passed 7-0.

Vote to Accept Excavation Application as Complete:

Mr. Pimental clarified that this is not a hearing for the excavation.

Mr. Pelkey said they are here to review the application and if they determine to accept it as complete they will set a public hearing on it.

Norway Plains Project Engineer Scott Lawler said he was representing Lounes Yacoub for a proposed excavation permit application that was submitted on behalf of his property located at 291 NH Route 11, Tax Map R14, Lot 1. He said it is a 1.1 acre parcel that is located in the Commercial Business zone.

Mr. Lawler said it was formally developed as a residential house and the house and the barn were torn down a couple of years ago after Mr. Yacoub purchased it and wasn't able to find a good use for it. He said Mr. Yacoub approached the Town Planning Dept. last Dec. because he was interested in being able to remove the over burden soil on the lot to make it more desirable to sell it for commercial development given that it's located in the CB zone.

He said at that time Mr. Yacoub was instructed that he either needed to submit an application for earth removal or a site design depicting how it was going to be developed. He said where he has no interest in developing it himself he hired Norway Plains to assist him through the earth

removal application process.

Mr. Lawler said they prepared a site grading plan that shows the removal of approx. 13,000 cubic yards of material and some of that will be re-used as top soil to reclaim it upon completion. He said Mr. Yacoub has entered into a contract with Barron Bros. Development which is located within one-half mile of his property and they will be responsible for the earth removal. Most likely given that it's not a large area they'll end up removing all the material from the site and bring it down to their location on Rt. 11 for processing and for use on their projects as they see fit he said.

He said the access for the excavation will be located at the existing driveway on site and Barron Bros. anticipates it will be a process of need and when they need a bunch of material they will go to the site and remove it. He said they anticipate the removal to take between 1 and 2 years. If they had a large need to excavate a lot of material all at once they anticipate it would be somewhere between 2 to 4 trucks per hour over the work day so it's not a large trucking operation he said.

Mr. Lawler said the grading plan they provided shows the slopes on the excavation and the side slopes will be limited to no greater than 3:1 and although the Town ordinance does allow steeper up to 1:1 they've chosen to use 3:1 side slopes because that would be more conducive to a potential future development. He said they've graded the excavation such that the finish grade of the bottom of the area will be sloped towards a grass infiltration basin that they located in the SE corner of the property that allows the water to soak in and infiltrate back into the ground just to insure they don't have any issue with storm water leaving the site too quickly once it's under the excavation.

He said the plan also depicts a stabilized construction entrance that the contractors will maintain to ensure that the vehicles aren't tracking the material out onto Rt. 11 and they are also depicting a silt fence around the areas where there would be storm water runoff.

He said they did test pits in concurrence with the Town ordinance and those test pits were dug as deep as they could go but because of the terrain they weren't able to 6' below the finish bottom of the basin that's required by the ordinance so they added a note to the plan that the applicant will conduct additional test pits once they are able to remove some of the material to prove that the bottom of the basin adheres to the Town ordinance of 6' above the estimated seasonal high water table.

He said the NH DES only requires a 4' separation from the seasonal high water table so on some of the plans that were issued as part of their initial application they noted a 4' separation and in talking to Mr. Pimental they've revised that note to require it to be 6' below.

Mr. Lawler said once all the material is removed the site will be reclaimed with loam and seed and at that time the owner will consider selling it. He then asked if the board had any questions on their application.

Mr. Pelkey asked Mr. Pimental for his comments on the application.

Mr. Pimental said the reason that the Planning Dept. had requested that he submit a site plan was that he had originally applied for relief from construction.

Mr. Pelkey recalled that he came in and requested to remove 20,000 CY of material incidental to another project but they had no specific project.

Mr. Pimental said the board had advised him if he were to move forward with that they would consider it being incidental to construction if they had a site plan application.

Mr. Pelkey asked if their job for this evening is just to make sure that the application is complete not to discuss the merits of the application.

Mr. Pimental said once the board accepts the application as complete they should go through his comments to make sure that it's ready for the May 4th meeting. He advised the board to accept the application as complete and then he will go through his comments and have Mr. Lawler address them and then they can make sure that those are incorporated into the May 4th meeting. We need to notice this tomorrow morning because we're on a tight turn around and we've already done the abutters list and have it written up and we need that to happen so it can be on the May 4th meeting he said.

Motion: (Henry, second Fisher) to accept the application as substantially complete passed 7-0.

Mr. Pimental said Mr. Lawler addressed one of the staff comments about the 6' below the maximum proposed excavation depth and so long as that is on the revised version that is fine.

Mr. King said when they did their test pit the note said they were only going down to 6' which would be the highest change and asked if the test pit was only 12'.

Mr. Lawler said the narrative refers to the back bank and the maximum that will be left when they're done is about a 6' embankment and they are going down approx. 12' to the bottom.

Mr. King said that's where they feel the bottom is but they couldn't get to the seasonal high water table which potentially could be 18' or 20'.

Mr. Lawler said that is correct. He said they went down as far as the excavator could go with safety purposes with the walls caving in.

Mr. King asked if he knew what that was.

Mr. Lawler said they went about 10 or 12 ft. and the test pit logs are part of the application. He said they went down that far and encountered no seasonal high water table at all. He said the pit next door to this one goes down considerably further than what they are proposing so he thought it safe to say that even though they went down about 10-12 ft. with the test pit they feel the seasonal high water table is considerably further down and they don't anticipate there being a problem. If during excavation that becomes a different story then they'll stop and readjust the site grading and approach the Planning Board to amend the approval based upon any new found information he said.

Mr. Pimental asked on Sheet C-1 if it would make it easier to visualize the proposed conditions if the existing contour lines were removed.

Mr. Lawler said he didn't have a problem with it if the site contractor that is going to build it

understands what the proposed and existing contours are. He said the existing contour lines are dashed and the proposed contour lines are solid as noted in the legend. He said they don't typically provide a finished condition without the existing topo as it would look like "where did the contours go" if they just showed the proposed contours that don't go to anything.

Mr. Pimental said he was fine with it and that he understood the difference between the two. He said he thought it might be easier for the board to visualize if it only showed the proposed contours and he just brought it up for discussion.

He said Mr. Lawler spoke about the grading if exceeding 1:1 if a fence was going to be there and they're showing a 3:1 so that is already taken care of and they don't need to address that.

He said the Town's regulations state that no excavation can be permitted within 25 ft. of any river, stream or brook and it looks like the setback line where the stream is that's coming off of the lot to the south is showing 50 ft.

Mr. Lawler said they revised the plan since they saw his comments and the plan that is on the easel reflects a 25 ft. setback. He pointed to the lower right corner of the plan and said there is a cross culvert and a stream there but the excavation is well away from that and there is a little bit of grading between 25 and 50 ft. that's part of the infiltration basin.

Mr. Pimental said he just wanted to point out that they had a little more space to utilize.

He said the site reclamation standards should be discussed by the board because the intent of this excavation is to create a more desirable lot for future development and asked if it makes sense to enforce all of the site reclamation standards. He gave the example of the Town's regulations require in areas visible from the public way from which the trees have been removed shall be replanted with tree seedlings. If the short-term anticipated outcome is for a commercial development to occupy this site it may not be wise to require tree seedlings to be planted in areas that may be disturbed by future development he said.

He said he supported that all the exposed slopes and finished grades be re-vegetated with loam and seed ensuring that there is slope stabilization that reduces any impact from erosion but he didn't know if the board wanted to put in a reasonable time frame that every site reclamation standard be required. He said the regulations state it's within 12 months following the expiration of the permit or the completion of the excavation whichever occurs first and the board should have a discussion with the applicant on what is most appropriate because he didn't see the value of reclaiming this and planting trees and whatever else is in the reclamation standards if this is going to be commercially developed in the short term.

Mr. King said in the entire frontage there are no trees.

Mr. Lawler said there are no trees and there never has been any.

Mr. King asked if there were any trees in the excavation area that would be taken out.

Mr. Lawler said there would be a little bit taken out on one side of the site.

Mr. King said almost all of it is currently open.

Mr. Pelkey said part of the rear after you get past where the house was (is not open).

Mr. Lawler said there are some scrubs there that are not mature trees.

Mr. Pelkey said if they plan on excavating it over the course of a couple of years and in the meantime they hope to find a buyer for it so they may accelerate that based on that they have somebody interested in the property. He said at the end of 3-5 years in that area and the excavation is complete and they have no buyer they could talk about what should be done.

Mr. Henry said some sort of reclamation for erosion control is necessary but not necessarily trees and it could be grass.

Mr. Squires noted then it would be no different than it is now.

Mr. Pelkey asked if the lot would be more commercially viable as an open lot with grass on it as opposed to a lot with trees on it.

Mr. Henry said they would be baby trees. He said it's elevated now and from an erosion perspective they would be bringing it down so it's more likely to wash away but grass would prevent erosion.

Mr. Pelkey asked if there are any checks in the plan that requires follow-up by staff to monitor activity on the site.

Mr. Pimental said the board should have that discussion at the May 4th meeting. He suggested holding the reclamation standards to at least loam and seed for erosion control and to re-address this as part of the Notice of Decision at the May 4th meeting.

Mr. King asked if he was proposing that for the entire excavation site or just all the slopes leaving that flat area open.

Mr. Lawler said they are proposing to loam and seed the whole area including the area that would be redeveloped and the flat area of the basin for slope stabilization and for the general appearance of the lot.

Mr. Fisher said the Conservation Commission looked at this at their last meeting and they had no objections to what he plans to do but they wanted to make sure that silt fencing is put in place to prevent any wash out onto Rt. 11. He said most of it would be sloped down to a retention area to allow everything to soak in so hopefully any wash out would go in that direction and not get out on to Rt. 11 and cause an accident. That was our only comment and there is a letter attached here that we sent he said.

Mr. Henry asked if they get a buyer for the property if this could all become moot because it would become excavation incidental to construction. He asked if they get the permits and start the excavation all of this would go out the window.

Mr. Pimental said that is a board decision.

Mr. King said that is if whoever they sold it to put forward a site plan application. He said someone could buy it and take over the pit and the permit could be transferred to the new owner because the permit goes with the land.

Mr. Pimental said Mr. Henry's question was if someone was to come in with a site plan if they would not have to go through all of this because it was incidental.

Mr. Henry said once its complete all the rules they place on the pit operation are out the window when somebody goes to develop it.

Mr. King said if they come before site plan review and say they don't want to do this or that from the previous approval because they're doing this then yes. He said it would come under re-review before that was finished and he didn't see any issue with that.

Mr. Pimental said at that point all they would be doing is asking not to do the reclamation if all the material has been taken out of the pit and that would be a board decision. He said if someone had a site plan before the board in a month they probably wouldn't have them reclaim this as that doesn't make any sense other than the erosion control and they should keep that no matter what.

Mr. Henry said the erosion control could look completely different depending on the new development.

Mr. Pimental said he wouldn't be comfortable allowing for no reclamation with the expectation they will see something and approve it because that process could take a long time.

Mr. Pelkey said when they get into that discussion they would say whatever they bring them needs to show what they're doing with the slopes for stabilization, etc. They would know coming in there would be a continuation of making sure that's all set he said.

Mr. Henry asked if the act of taking the excess material off of the site if it's incidental to construction is more or less restrictive than taking material off the site as a gravel pit.

Mr. King said it's the same restriction because you're coming in with a site plan that's changing the topo and finishing all the grades so whether it's an office building or a manufacturing facility there are going to be conditions (re-sloping, grading, seeding, plants, driveways, drainage, etc.) that will have to be put into that site but they would just be different conditions. With this they're proposing to excavate it and loam and seed it upon reclamation and if somebody picks it up in the 4th quarter and comes in to get an approval before the reclamation starts then the requirements would change to that new approval he said.

Mr. Pelkey said there'd still be an approved site plan that has been reviewed by the board.

Mr. King said that either would be completed or would change on subsequent application. He said it's not like they would say they can't come before site plan review because they're going to make them do the reclamation and then come back in and tear it all up.

Mr. Henry said he wondered if the level of restriction would be easier because the state is involved with excavating gravel. He asked if they still get the taxes if the excavation is incidental to construction.

Mr. Lawler said it varies town to town and for example in Rochester if you excavate more than 1,000 CY as part of incidental to construction then the City of Rochester requires a tax on it.

Mr. Pimental asked if in the areas towards the back of the lot where the trees did come down if the board did not want to have them plant seedlings there and are offering relief from that part of the reclamation standards but would require everything else.

Mr. Pelkey said he was comfortable with that.

Mr. Henry asked if the “everything else” is the appropriate slopes and to seed and loam.

Mr. Pimental said yes. He said his next comment was to have a conversation that may involve the Town Attorney about making a recommendation to the Selectmen about the appropriate amount for the performance bond to guarantee the reclamation of the area, any compliance and any inspections. He said he didn’t know how this board has determined what that bond amount is in the past and asked Mr. Lawler what his experience has been with what other towns have done.

Mr. King said there may be some reasonable standards out there for them to tell us what this is going to cost and the Town could say that seems reasonable whatever the average is per sq. ft. for loam and seed after the re-sloping. I’m sure they could come up with an estimate for us to approve he said.

Mr. Pimental asked if he wanted to make that something for Norway Plains to provide.

Mr. King said he thought that would be the easiest. He said otherwise we have to find somebody to give us an estimate.

Mr. Henry said they already have a contractor for the job.

Mr. Pelkey asked if the cost for the compliance piece would come from this bond as well. He said there is a compliance piece they haven’t been doing and they discussed that there has been no compliance oversight of these pits at the excavation committee meeting the other day. He said part of the recommendation of the committee will be how they will start doing compliance inspections on these pits and how it gets paid because it shouldn’t be on the Town.

Mr. Squires said they are hiring someone for that.

Mr. Pimental agreed and asked Mr. Lawler if they have experience with compliance inspections and if not are they going to require a third party to do that. He said if so, they may want to separate the performance bond as being strictly for the reclamation and have some separate escrow for third party compliance inspections.

Mr. Pelkey said that sounds like a more reasonable way of doing it.

Mr. King said if this is projected at 2 years as what is in the paperwork if they do an inspection once a year that’s 2 and it may be reasonable because the size of the excavation is not that big to have Norway Plains do the compliance once a year.

Mr. Lawler said Norway Plains has not specifically done compliance inspections for a gravel pit. He said they do compliance inspections for site development as third party consultants for other towns and they do storm water pollution prevention and SWIP inspections for their own projects. We have the ability to do those inspections and provide the Town with a copy of the reports he said.

Mr. Henry said the board talked about going out to bid for a Town selected inspector for various uses.

Mr. King said that hasn’t happened yet.

Mr. Pimental said that is not going to happen by the time that this is going to get approved. He said as part of the Request for Quotes the hope is that whoever the Town hires will be able to do multiple things and to have somebody on retainer that could do this type of review.

Mr. Henry said his first choice would not be to have the applicant's do the inspections. He said given the size of this lot, the intended use and the purpose of the excavation he would be comfortable waiting 2 years before doing the first inspection.

Mr. Pelkey said they would talk about the compliance piece at the public meeting and he wanted to bring it up now because one of the things they don't have is good follow-up on compliance so they have some challenges to deal with now.

Mr. Pimental asked if the board was comfortable with him working with Mr. Lawler to get a number for the board to consider for the performance bond for the reclamation. He said the board is going to need to discuss some sort of escrow for the compliance and the applicant understands that if they decide the permit will last for 2 years which is likely what they're proposing to be done there would be 1 or 2 inspections whatever that might cost.

Mr. King said the second inspection depending on the closure could be the compliance for the reclamation. He said he wouldn't want to see a compliance inspection on the pit the first year and the second year and then 2 months later they have to have another inspection for compliance of the reclamation. He said if it's going for 2 years with annual inspections and if the reclamation is within 3-4 months of the second year inspection that inspection could be continued and to just have the one inspection potentially.

Mr. Squires asked if the permits are valid for one year.

Mr. Pelkey said they looked at one that was for 15 years.

Mr. Pimental said the regulations say one year but the board can...

Mr. Squires said they can make it what they want and they start a 1 year so the inspections should be annually if they're going greater than a 1 year permit.

Mr. Pelkey said that is a question the board needs to discuss and he would like to talk about it once they get through with this stuff.

Mr. Pimental recommended that for something this size aligning it with how long it will take for it to be done makes sense. He said they would want it done annually or every 2 years and no longer than that for the large excavations and that the excavations with 10 or 15 year permits has gotten the Town into trouble with compliance. For this I would be comfortable with recommending the 2 years and I think that's reasonable. You can discuss on May 4th whether you want to have the inspection once a year or at two years plus the closure, that's still only two and it's up to the board to decide how they want to do that he said.

Mr. Henry said he would like to know if they are taxing the material as they think about charging to inspect it. He asked if they are taxing them on it and then charging them again.

Mr. Pelkey said the number he got from the Assessing Clerk was 20 cents per cubic yard. He said there is staff time that has to go into it as well.

Mr. Lawler said that 20 cents was too high and that he heard it was 2 cents per cubic yard.

Mr. King said 2 cents would be \$240.

Mr. Pelkey said they are not taxing them hard so it shouldn't be incumbent on the Town to pay to make sure that they're doing the right thing when they're making their money.

Mr. Fisher said this is right in the open and the ones they are having trouble with are the ones that are hidden behind Rt. 11 way off the beaten path. He said one person encroached onto another person's property because there was no oversight on what he was doing.

Mr. Pelkey said it is not hard to get to those places to look at them. He said they may be out of sight but they're not places you can't get to.

Mr. Fisher said the Town just wasn't doing it and the person that was supposed to do it said he wasn't comfortable enough to do it and he didn't. He said he didn't see them digging on property that isn't theirs and this is leveling it off so it is sellable and it's a very small operation.

Mr. Pimental said in the regulations it requires that the elevation of the highest annual average ground water table is shown and asked Mr. Lawler if that could be put on the plan.

Mr. Lawler said no because they are unable to dig deep enough to determine that elevation at this time. He said the elevation is going to vary depending on where you are on the property because the property slopes toward the Cocheco River so the elevation line is going to be variable even if they were able to get to a certain depth. He said once they get a layer down they could do some more test pits as they are working into the next layer and provide that to the Town.

Mr. Pelkey said if that is not discovered during the excavation process that on some regular basis annually or by a certain amount of time they can dig a pit and see if they can find it.

Mr. King asked Mr. Lawler if he said the maximum height of the excavation is 12 ft.

Mr. Lawler said it is about that.

Mr. King said if they need to be 6 ft. high above the water table then those test pits should be done after 6 ft. is reached.

Mr. Pimental suggested that a note could be put on the plan stating that.

Mr. Pelkey said Mr. King's math is right if you're going to excavate 12 ft. once you go 6 ft. down you'll be 6 ft. below the elevation you planned to excavate to and you will know if you're there. He said they could put a note in stating that if it's not done before, once 6 ft. is excavated test pits will be done then to see if it will impact the high water.

Mr. Henry said they don't have to find the high water line they just have to say they know it's below this point.

Mr. Pimental said in the regulations under the application submission items it says the application shall be signed and dated and shall contain at least the following information: the elevation of the highest annual average ground water table within or next to the proposed excavation. He said he didn't know if that was the same thing as was said earlier.

Mr. Pelkey asked if "next to" is on an adjacent property.

Mr. King said if they are going to say next to the excavation they need to define what that number is.

Mr. Pimental said that is what is in the Town's regulations and the elevation of the highest annual ground water table is the seasonal high water. He said this is asking you to say what it is.

Mr. Henry said if it's 40 ft. below where he wants to end if he has to say it's 40 ft. down.

Mr. King said if this was a huge excavation that was going to take 100 ft. they can't find that yet so they have to go incrementally. He said this is a much smaller scale but it's the same principle- if you can't get there you only need to dig 6 ft. below where you currently are working or where you define the floor.

Mr. Pimental said as long as there is a note on the plan that explains this it will be fine. He said they also need to add a signature block on the final plan set for the Planning Board Chairman's signature.

He said that prior to any excavation a copy of an approved Notice of Intent to Excavate from NH Dept. of Revenue Administration shall be filed with the Assessing Office. Per RSA 72-B: 8 the Assessing Official shall within 30 days of signing the notice notify the Tax Collector that the intent to excavate has been filed. Upon receipt of the notice from the Assessing official the NHDRA shall mail the owner a Report of Excavated Material form. This is a form not a permit and doesn't need to be a condition of approval but could be stated in the Notice of Decision to help guide the applicant on the next steps he said.

Mr. Pimental said a NH DOT permit will be required prior to the issuance of the excavation permit and asked what permit is needed and if it is for a temporary driveway.

Mr. Lawler said the driveway already exists, so Mr. Barron said he thinks it is a matter of coordinating with the DOT to inform them that he will have some trucks coming in and out of that location. He said he would follow up on this with the board at the May meeting after he has a conversation with DOT District 6 to confirm what they will need.

Mr. Pimental said he asked because he thought he remembered seeing it in the proposal.

Mr. Lawler said in his narrative he mentioned the potential need for a temporary DOT driveway permit. He said the DOT issues temporary driveway permits for logging purposes, etc. and where there is already a driveway here they just want the DOT to authorize the trucks going in and out. When a development goes in that is not a residential use they will have to apply for a permanent driveway permit based on that proposed use he said.

Mr. Pimental asked Mr. Lawler to bring that information to the May 4th meeting and the board should make sure that that's a condition of approval to have the DOT permit prior.

Mr. King asked what if they can't get that prior to the meeting and if they could just make it a condition of approval.

Mr. Lawler said he meant he would bring forth information at the May 4th meeting on what may or may not be required.

Mr. King said if they say they're working on it the board may have to make the start conditional

on receiving the temporary DOT permit and furnishing it to the Town.

Mr. Pimental said they could conditionally approve the plan set and they want it before excavation begins.

He said the Town's regulations state that the permit will be valid for 1 year and it is in the board's best interest to extend that to 2 years. If they're thinking that it will take 2 years I would just make the permit for 2 years he said.

He said they have already talked about the enforcement and inspections and asked how they want to handle that and what they want recommended be put in the escrow account. He said they may not have to come up with a dollar amount for the Notice of Decision but they want to make sure that some escrow has started.

Mr. King said the applicant is to furnish an estimate and Town staff will validate that and then they have to put in escrow or a bond for that amount.

Mr. Pimental said he was not as concerned with that as much as getting the information about the performance bond and the reclamation which is more what he would rely on Norway Plains to provide.

Mr. King said they could potentially provide that after the fact and staff has to agree that is a reasonable number and then that can be dealt with from a bond or some type of security after they get approval. He said if he brings an estimate to the board they would be asking if \$6 a foot good enough and they would have to ask somebody and that would be after the meeting. So whether we ask somebody or staff asks somebody if this is a reasonable number that will be after the potential approval but it needs to be a condition he said.

Mr. Pelkey asked Mr. Pimental if they have started thinking about who they are going to talk to about the inspection piece.

Mr. Pimental said no. He said Mr. Fisher covered the Con Com's comments and a letter is in the packets with their support for the project and the Planning Dept. supports it. He said making these changes and preparing some guidance on how they want to address some of those things they are all set to move forward on the May 4th meeting.

Motion: (Pelkey, second Fisher) to set a public hearing for the excavation permit for May 4;

Discussion: Mr. King asked if it should be contingent upon the applicant making that application. He asked if they have made application for that meeting yet.

Mr. Pimental said no and they have their original application but they don't have the revisions.

Mr. Pelkey said they made application and they are setting the hearing.

Mr. Henry said he thought they accepted the application as complete.

Mr. King said it's not binding because it's not been scheduled for a public hearing. He said they accepted information that's substantially complete but they haven't entered into the public hearing yet so they will have to do that again. This is basically like a conceptual meeting he said.

Mr. Henry said but they have an application.

Mr. Pelkey said the way the excavation rules are laid out they accept the application and set the

hearing date and they don't do it all at once.

Mr. Pimental said it's different from the way they do anything else.

Mr. King said the abutters haven't been notified yet.

Mr. Pelkey said the abutters get notified once they set the hearing date.

Mr. Henry asked if they do or don't accept the application.

Mr. Pimental said they accepted it as complete tonight and now they are setting the hearing date. He said they've already made application and just need to make these revisions so they have a couple of weeks to do that.

Mr. Pelkey said this is better than coming to the hearing and finding out these are the changes they need to make and have to set another date to continue it to and then they have to come back.

Mr. Pimental said that is why he wanted to go through his comments tonight so they could have it all ironed out for the May 4th meeting.

Vote: The motion passed 7-0.

Public Comment:

Donna Tremblay said she came in back in November regarding putting in a house lot for her daughter. She said they have an existing driveway and 2 dwellings-her mother's place and her place and they want put in a third dwelling and separate the land.

She said originally she was told that she could do a written driveway agreement instead of putting in a driveway and she could use their existing driveway but then with the surveyors, etc. that's not happening. She said then she considered buying the land next to her to put in the driveway in behind her mother and everyone is shutting her off so she is not really sure why she can't use her existing driveway. The narrowest part of my driveway is 22 ft. she said.

Mr. Pelkey asked if that was a conceptual meeting and there wasn't an application involved with this.

Mr. Pimental said no.

Mr. Henry asked if she did a subdivision.

Mr. Pimental said no. He said that originally in Nov. they advertised it as preliminary consultation, not a design review, that didn't need a public hearing.

Mr. Pelkey said this is conceptual in nature too and part of the conceptual process is they can't say what they will or won't accept. He said they call tell her what they think will work, what they think her problems might be but they can't say it's okay to do this or you can't do that.

Mr. King said he recalled from the previous conversation talking about a road agreement for the use of that property but now she is saying she is not able to do that.

Ms. Tremblay said that the surveyor won't do it for them. She said they have Norway Plains as well but they have had nothing but road blocks with them.

Mr. Pimental said the road agreement was just a piece of it and the driveway that exists now is servicing 3 homes and passes through to another property. He said the Town's driveway

standards state that driveways can only service 2 homes so as of right now the driveway is already non-conforming but there is nothing they are going to do about that. He said to have a 4th home being serviced by the same driveway kicks into a different standard and is no longer a driveway it becomes a private road.

Mr. Pelkey said which has to meet those minimum standards.

Ms. Tremblay said they put the road up to those standards.

Mr. Pimental said he understood that Norway Plains would come up with the design to have the road meet the standards but he didn't know if they would sign off that that road meets a private road standard. He said that's the only way to use that road for frontage and not Ten Rod Road.

Mr. Squires said one option was for them to subdivide off of Ten Rod Road.

Mr. Pimental said the suggestion was if they go off of Ten Rod Road there are not as many issues with that as it would be a one lot subdivision off of Ten Rod Rd. and there is plenty of road frontage there to do it that way and where they want it is problematic.

Mr. Pelkey said in order to accept the driveway for use with 4 homes she is going to have to have an engineer tell us they've looked at the design of the road and it's in accordance with the Town's engineering standards for driveways. He said an engineer has got to sign saying I've looked at this and it's good to go and that would be an acceptable document for the Town.

Mr. Pimental said Norway Plains wanted to design it to meet the specs but he didn't think they would go out and say whether or not this driveway meets all the specs. He said they had nothing to do with the existing driveway so they don't want to put their stamp on it.

Mr. King said somebody has to audit/inspect the existing driveway to see if it meets the specs. He said somebody needs to go out and say they've inspected it, did test pits, checked the width, etc. and based upon that data they are saying that it meets the specs.

Mr. Pimental asked it would also include drainage.

Mr. King said the road standard is basically the cross section and the slopes that have to be verified or attested to be somebody that's qualified.

Ms. Tremblay said Gagnon Construction are the people that put in it and that is who they had come back and they put everything up to the Farmington specs but they are not licensed as an engineer.

Mr. King said an applicant could ask for a waiver for that in their application. He said if they have an independent engineering company that's going to oversee a 20 lot subdivision that engineering company would have to go out and verify that it was put in place correctly and that is the service she needs. We're not saying it needs to be a fully engineered road it needs to meet the specs and somebody has to audit that it meets the specs he said.

Mr. Pimental said Mr. King was right and Mr. Gagnon contacted the Planning Dept. and said he was not an engineer and he told him that is what they need because that is what the regulations say. He said whether or not the board wants to waive that and allow someone else

to inspect it is the board's decision but he didn't know if he would recommend that. He said if someone gives them the information from a stamped, licensed engineer that says that driveway meets the specs for a private road they could do it and this has to be a service that someone would provide.

Mr. King said somebody has to go out there and dig a hole 2 ft. deep to determine the base materials in 5 or 10 locations around the road to say yes this is the sub-grade, they didn't find any loam, there was adequate crushed gravel, here's the layout and it meets the frontage.

Mr. Pelkey said or tells you it doesn't pass for these reasons.

Ms. Tremblay asked if our Road Commissioner (DPW Director) is capable of doing that.

Mr. King said they could task him with that but he may not have the time or the expertise. He said he was familiar with the firm she used and he has used them and he is a qualified professional that can follow a print but she needs someone who can say it was done to print.

Ms. Tremblay said that no one wants to put their stamp on something they didn't do.

Mr. Pelkey said they can do an excavation on site and see if the materials they see are adequate and meet the requirements. He said they don't have to dig the whole road up to do that they just have to do a representative sample of the road and it's an engineering decision to say how much they need to do in order to say the road meets the requirements.

Ms. Tremblay asked what the person she would be looking for is called.

Mr. Pimental said it just says engineer so it could be a Civil Engineer.

Mr. Henry said the engineering firms design it but they don't do the site work so somebody else is still doing the site work.

Mr. King said he didn't know why there couldn't be a reasonable solution with a firm that says they can audit this that it's in compliance or there's no evidence of non-compliance. I'm not looking for a fully engineered road that's been attested to every foot along the way. Just like when people on a private road want it accepted at Town Meeting they pay a firm to do test pits to prove that it's good enough and that's all that we need he said.

Mr. Mains asked who issues the driveway permits for the Town.

Mr. Pimental said it is done in conjunction between the Road Agent and the Code Enforcement Officer.

Mr. Henry said that is more about the curb cut than construction.

Mr. Mains asked if they are issuing them why they aren't inspecting them.

Mr. Pimental said there is a difference between inspecting a small residential driveway and this one that is like a 1,200 ft. driveway that is more like a road.

Mr. Henry said it's not going to be a driveway anymore it's going to be a private road which is a different standard. He said a driveway permit is essentially a curb cut.

Ms. Tremblay said she was told that to go ahead with the engineer it would cost her \$15,000-\$20,000. She said the road is done and she just needs someone to say that it's good.

Mr. King asked who she is working with at Norway Plains.

Ms. Tremblay said she is working with Ashley (Rowe).

Mr. King said he would like Mr. Pimental to ask someone at Norway Plains if the board feels it needs an audit of this road who they would recommend to do that at a reasonable cost for the applicant.

Mr. Pelkey said Mr. King is into more details than he cares about and he wants a guy that's qualified to put his stamp on it saying it's good to go and he didn't care what he did to do it.

Mr. King said the problem is if they're going to put their stamp on it they're attesting that it's 100% complete from design to finish and they don't want to put their stamp on something they didn't engineer and oversee because it's their license on the line.

He said he wasn't asking for that and he was asking them to meet his satisfaction and he gave that detail because he wants somebody to do some work, provide the information on what they did and based on being a licensed professional to certify that all the data he gave them is correct. It's up to us to say it reasonably meets our specs he said.

Mr. Pelkey said they ought to say what it is they want to see so they don't spend money and then come back and they say that's not the information they were looking for.

Mr. Pimental asked if they were still saying this person or entity has to have their own stamp and be a licensed engineer.

Mr. King said he was okay with it but he doesn't have to engineer the road or attest that every inch of the road is correct. He said he needs to say this is a reasonable sampling and he attests that those samples meet the specs.

Mr. Pelkey agreed and that he wanted to throw in that a qualified person looks at it and says they did 1,500 ft. and did whatever the right number of pits is.

Mr. Pimental said he didn't think they would need to go all the way to the end of the road and this board has talked about cutting it off at the end of where it needs to be a private road. He said once it goes past the potential daughter's house it could back to where it was.

Mr. Henry said they want credentials of somebody they would consider a professional with a tape measure and an excavator and knows what kinds of dirt look like but it does not have to be an engineer.

Mr. Pelkey asked who is qualified if it's not an engineer.

Mr. Henry said lots of firms build roads and do site work that could provide credentials.

Mr. Pelkey said those folks are building them to engineered plans and they don't know what this was built to.

Mr. King said they have a policy for the adoption of a private road for review and comment and if a private road came in there was a mechanism to have it reviewed to consider that it's of reasonable quality to be considered and accepted and that procedure for acceptance may lead to some guidance here.

Mr. Day asked if the company that fixed the road is a licensed contractor and had to follow a procedure to build the road. He said he could tell you what he put in for the layers of gravel and

asked why he couldn't provide that information to the engineer or other firm.

Mr. Pelkey said it could have been his buddy Mike down the road who has a dump truck and they don't know.

Mr. Henry said he wouldn't be comfortable taking the word of the people that built the road because they weren't following engineered plans that have he would want a disinterested party.

Ms. Tremblay asked if it could be a different firm that's not engineered certified.

Mr. Henry said the discussion on the table is what determines qualifications, do they want to vet the firm before they do the work and they decide if this firm is trustworthy or not.

Mr. Pelkey said he would like to know if there is an engineering firm out there that would provide the service where they would go out and spec the road and come back and say they felt that it met the standards.

Mr. King said he thought the board would be willing to accept the caveat that this is based upon the sampling data they provided and they cannot test every inch of the road. We're looking for does this meet the test in a broad stroke he said.

Mr. Pimental said he didn't see the road acceptance criteria Mr. King requested.

Mr. King said they adopted it in 2012 and there should be a private road acceptance policy.

Mr. Henry said that's expecting a private road to be built to the Town specs.

Mr. King said this policy was devised for roads that did not have oversight during construction and in essence this driveway is the same thing.

Mr. Henry said he didn't think the plan here is to have it adopted so it doesn't need to be built to Town road specifications it needs to be built to private road specifications.

Mr. Pelkey said it might give them a road map for how to go about looking at them.

Mr. Fisher read the following from the Farmington Road Review Policy: "The Selectmen shall begin the road acceptance process after receiving an application from the owner or developer of a private road. This petition must include the following: owner or developer must have a deposit of \$500 in an escrow account to cover any costs; all supporting documents such as road construction specifications, construction inspection reports, approval subdivision plan, road association documents and documentation of easements, right-of-ways that are not on file with the Town, a certified signature list by the Tax Assessor of all land owners that have frontage on the roads and a review consisting of the process with associated costs assigning one person as a representative for the owner or developer and a inspection certificate by the Highway Dept. Road Agent and when applicable the Water/Sewer Director shall be completed and ordered certified that all roads and infrastructures are installed per the road and driveway regulations, design and construction standards and all other design requirements approved as part of an approved site plan or subdivision."

Mr. Fisher said it sounds like all they need to do is have our Road Agent go out and look at it.

Mr. King said they put that in there but their ability to do that is based on the Road Agent's

experience or availability and could potentially not happen. He asked Mr. Fisher to repeat what it says they would provide for test data.

Mr. Fisher said it says "an inspection certificate by the Highway Dept. Road Agent and when applicable the Water/Sewer Director".

Mr. King said in this case if they used that terminology they are looking for an inspection certificate saying somebody inspected it through test pit data and certified through a stamped certificate that that test data is in compliance.

Mr. Pimental said the pushback he has to using this is this is based on the road construction specifications was part of an approved subdivision plan with road association documents and everything else.

Mr. Squires said it already met the private road criteria.

Mr. King said this is a lower threshold because it's not going to Town Meeting but it's the same requirement of certified inspection data.

Mr. Fisher asked Ms. Tremblay if she had documents saying what they used to build her road.

Ms. Tremblay said she can get it from the person that did it as far as what materials were used.

Mr. Fisher said then all they need is somebody to certify when they dig their test pits every 50' or 100' saying they dug down, this is what their document says should be here and this is what their core sample says is there. We can go through that and say based on these random core samples we feel the road is up to standards he said.

Mr. Pimental said the board needs to decide if the qualified person must be an engineer. He said the regulations for the periodic inspections required for the construction or alteration or anything with roadways in the subdivision regulations say an engineer designated by the board. He said in order to help the applicant they need to be clear on if they want this person to be a licensed engineer to sign off on the certified inspection data certificate so she has what she needs to move forward. He said if they decide to not use an engineer and are looking for something less than that they should require a waiver so they have it documented.

Mr. King said this is not a public hearing and this discussion is non-binding and based upon the people sitting here this is the opinion of the day.

Mr. Fisher said the regulations say existing private roads will be reviewed by an outside professional approved by the Highway Road Agent and the Selectmen.

Mr. King said that's for the road considering adoption but in that standard it says private roads should be inspected by a licensed professional.

Mr. Pelkey said he would accept a licensed professional but asked what the license is for.

Mr. King said there is no license for contractors so a licensed professional is someone who holds an engineering stamp.

Mr. Henry asked if it says "licensed professional" or "professional".

Mr. Fisher read it says "reviewed by an outside professional approved by the Highway Road Agent and the Board of Selectmen to evaluate the road and infrastructure construction as far as

its compliance with any existing approvals, required road design, construction standards or other applicable standards and requirements deemed necessary as determined by the Highway Road Agent and the Board of Selectmen. This review will include but is not limited to the following: basic road construction, pavement material and condition, existing and potential drainage issues, right-of-way and/or maintenance easements, sidewalks and pedestrian easements". He said several years ago there was a private road located off the center of town that came before Town Meeting one year for adoption, it was voted down and they were advised to have the Road Agent look at it and tell us what he thinks of the road and bring it back next year.

Mr. King said the Planning Board can't assign duties to the Road Agent.

Mr. Fisher said this board can make a recommendation to the Selectmen and Ms. Tremblay could request that the Road Agent look at it. We could recommend that the Road Agent send it to the Selectmen and let them make the final determination on if it's good enough he said.

Mr. Henry asked what if the Road Agent says it's unfair of the board to require that of her or if the Road Agent says no she's out of luck.

Mr. Fisher asked in reality how long it would take him to get out from behind his desk and go look at her road.

Ms. Tremblay said he has come down and that she has gone to the garage and talked with him.

Mr. Henry asked if the board would accept having the Road Agent's happiness.

Mr. Fisher said he works for us we have to have some kind of confidence in his abilities.

Mr. King said he would not accept "I walked out there and it seemed okay".

Mr. Fisher said he would have to bring his crew out and maybe do some drilling, some core samples and take a look at it.

Mr. King said now he just assigned the whole Highway Dept. crew which is shorthanded out to do road inspections at a cost to the taxpayers.

Mr. Fisher said they don't know if they can or can't do it and they don't know what their work schedule is.

Ms. Tremblay asked if the person that put the driveway in knows how to do the specs that they need if that would be kosher and have the Road Agent meet them out there after he has done the holes and maybe they could schedule it all together.

Mr. Henry said the goal is for this to be a private road and he was struggling with having a public employee inspect private roads to meet that standard.

Ms. Tremblay asked if he had a construction company he trusts and she could ask them.

Mr. Henry said he does have one personally but he didn't know if the whole board would necessarily trust that firm. He said that is why he floated the idea of having a firm present credentials and the board saying they would be comfortable with that firm that may not be a licensed engineer and they would take the word of this firm but he would want the board to vote on that before having that firm do the work.

Mr. Pelkey said the only way that would be appropriate would be if the plan was presented to them and they would make it a condition that they would have to go and do and continue until they come back with it.

Mr. King said instead of continuing to “beat this until they are blue in the face” Mr. Pimental could ask Randy Tetreault at Norway Plains if there is somebody that could provide this service for the applicant by sampling the road currently constructed and attest to what they sampled meets or doesn’t meet the specs. He said if nobody wants to do it then the board can consider other potential options for what they would accept.

Mr. Pimental asked if they were still saying for now that it has to be a licensed engineer.

Mr. Pelkey said he would prefer to have a licensed engineer do it and asked for a consensus of the board.

Mr. King said that is the requirement and if that can’t be met then the board could consider a waiver if it’s proven they can’t get somebody to do it.

Mr. Henry said they want to be convinced that an engineer is not available and that he is comfortable with that burden.

Mr. Squires said if Mr. Pimental presents it the way Mr. King just said it Mr. Tetreault might just tell his guys they’ll sign up for attesting to the hole they just dug and they measured the slopes and everything is good.

Mr. King said he wants the question to be very specific because they’re concerned that they would be certifying from the beginning of time and that’s not what he needs.

Mr. Pelkey said they could do a report based on their findings-what they did, their methods and based on what they found it appears to be built to the standards.

Mr. King asked how far apart the test pits should be, if it should be done in random pattern and the distance to the third dwelling.

Ms. Tremblay estimated the distance based on the distance between telephone poles (150’-200’) and said it would be between the second and third pole.

Mr. King said that would be about 600 ft.

Mr. Squires suggested that a test pit be done every 100 ft. and they should test from the proposed new house lot back to Ten Rod Road.

Mr. King said if they proposed that a test pit be done every 50 ft. in a random pattern that’s 12 holes plus the top measurements and the slopes that’s the spec. He said he was okay with the slope being checked every 100 ft.

Mr. Pimental asked how specific they want to be because it sounds like they’re developing a scope of work.

Mr. King said if that’s what it’s going to take and they could use this as the criteria-random sampling every 50’, road width and shoulder width every 100’ and that would be a reasonable minimum inspection.

Mr. Pelkey said they could come back and say the board is “all wet” we need to do this and

then they will sign it.

Mr. Pimental said he feared they will say it doesn't meet the Town specs and they can design it to meet the specs.

Mr. King said he didn't think that would be the case and it would be it meets the spec, needs improvement or is way out of spec. He said if Ms. Tremblay finds a firm and brings back the test data that shows 4 test holes are missing 4" of crushed gravel and they propose to bring it up to spec by adding 6" of crushed gravel to the roadway then that would bring it into compliance or if there was an area not wide enough by 2' and she said they are going to fix this area that was found to be deficient before they get a building permit or certificate of occupancy.

Mr. Squires asked how long the road has been there.

Ms. Tremblay said they've been there 20 years so that driveway has been there for 30 years and the company that put that road in is still working. She said her husband has been friends with him for years and he came in because they got the specs for the driveway, they hauled the material in and they put it in to the specs all the way up to her lot.

Mr. Pimental said he would propose this to Norway Plains and see if they will do it and if not he will if they would recommend somebody they think can do it and report back to the board.

Mr. Henry asked that Ms. Tremblay gets the scope of work so she can shop it around to other firms.

Mr. Pimental said the board is looking for an audit of the road ensuring through inspection data that it meets Town specs without necessarily needing a full licensed stamp, random test pits every 50' plus top measurements, profile data and road width every 100 ft.

Mr. Henry said he would like to change "ensuring that it meets Town specs" to "comparing it with the Town specs". He said if it is deficient by a half-inch they might handle that in such a way rather than just saying it doesn't meet Town spec.

Consensus of the board was to agree that Mr. Henry's suggested change was reasonable.

Mr. Pimental said he would send copies of the inquiry to Norway Plains and to Ms. Tremblay.

Ms. Tremblay asked if this has to be a licensed engineer.

Mr. Pimental said yes as of now and if no one will touch it the board will have to have another discussion on it.

Mr. Henry said the certified engineer gives them a level of confidence and trust because they're putting their license on the line that they're telling the truth. He said they're asking a different question than Ms. Tremblay originally asked and they may be willing to answer this one.

Ms. Tremblay asked if after all this goes through if she has to submit an application for this.

Mr. Pimental said yes because this would include a subdivision.

Ms. Tremblay then thanked the board for their help and left the meeting.

Motion: (Mains, second Henry) to take a 5 minute break passed 7-0 at 8:24 p.m.

The meeting reconvened at 8:29 p.m.

Any Other Business before the Board:

Electric Vehicle Infrastructure Grant Program- Mr. Pimental said he would like to move this discussion to a meeting in May or June as there is no rush on that. He said Mr. King brought this up at Monday's Selectmen's meeting and they supported the idea of tasking the Planning Board with coming up with the potential locations (for charging stations). He said they can workshop it when there is a lighter agenda maybe at one of the first of the month meetings.

Excavation Subcommittee- Mr. Pelkey said the committee met this week and discussed the issues they have with the excavations. He said there are 4 problematic excavations they are looking at and it appears the main issues are with compliance and monitoring compliance. He said these excavations have been going on for some time and one of them appears to be a grandfathered excavation that has exceeded their original permit so at some point they will have to go look at this and find out if that is true. He said they need to get a qualified person to look at these excavation sites and give us an accurate description of whether or not they are in compliance with their permits. The CEO is going to take a look at them with a list of attributes to review but he is not a qualified engineer so we are going to ask the Selectmen to provide funding for someone to survey these locations he said.

Mr. King asked if he had an estimate for that cost.

Mr. Pelkey said he did not and that the Planning Dept. would probably develop that for them.

Mr. Squires asked for the number of open permits we have right now.

Mr. Pimental said there are 2 owners of 7 pits.

Mr. Pelkey said they looked at 4 pits and said these are obvious issues they need to deal with.

Mr. Squires asked to have a list of the pits e-mailed to the board members.

Mr. Pimental said they plan to put together a 1 page document for each pit that will have the owner, the map and lot number and when the last permit was effective. He said there are some things the CEO can look at that are in the minimum standards and all but maybe one of those pits are grandfathered so they don't have the full set of requirements to follow in RSA 155-E and just have minimum controls. He said they will also include his notes on a one page document and provide them to this board and to the Selectmen.

Mr. Pelkey said they are building a folder on them starting with the basic information and then add to it and then ask for a professional to look at them and add to that because at some point we're going to have to get into compliance on the sites and make sure the owners/operators come into compliance. There may be additional permitting required and reclamation may or may not have been done on the sites so there is lot of stuff hanging out there and we're just getting started on it he said.

Mr. Pimental added that there was a request from the subcommittee to contact legal counsel to ask even if it's not in the Notice of Decision that the cost of a third party review would fall on the applicant and if the Town has any standing to require that from the applicant.

Mr. Pelkey said he didn't feel that it's incumbent on the Town to pay to do the engineering to

make sure that people that are making money off the site are in compliance.

Mr. King said if it wasn't a condition of approval they may not be able to retroactively do that.

Mr. Pelkey said the Town has to ensure compliance and asked who pays for the Town to ensure compliance.

Mr. Henry said if you turn that around they are requiring him to prove that he didn't break the law.

Mr. Pelkey said he wants them to prove that they are in compliance with the drawing they gave him that says this is what they are going to do.

Mr. Henry asked if he would have to prove his innocence.

Mr. Day asked if they contacted the pit owners to ask them if they know they have to renew their permits. He said maybe they were told 15 or 20 years ago they didn't have to do that.

Mr. Pelkey said the people operating the pits are required to do that in accordance with the law and they are required to know what they are.

Mr. Fisher said they are required yearly for tax purposes to say here's my permit and this is what I've done so we can tax them 2 cents per cubic yard of dirt. Their permits are only good for "x" amount of time so they have to come forth for that but we don't know what they've got he said.

Mr. Pelkey said there are some instances that are obviously not in compliance.

Mr. Henry asked how he could say that when he is not an engineer.

Mr. Pelkey said you don't need an engineer to measure the setback or to know that you've excavated on somebody else's property. He said there are some things going on out there and the person who created the situation should be the one paying for it.

Mr. Pimental said the subcommittee has tasked him with looking through the Town's regulations and potentially making recommendations to the subcommittee and then the subcommittee would make recommendations to this board. He said they need to look at the fees and the compliance on the third party review but for the most part the regulations are in good shape.

SRPC Policy Meeting- Mr. Fisher said at their last meeting they talked a lot about CEDS (Comprehensive Economic Development Strategy) for the area for 2021-2025 and the projects currently on-going. He said Farmington has 2 major projects that are in the works, one is the old fire station making sure that the property is not contaminated and is in phase 1 of the review of that property before any building can take place and seeing what the state will pay for doing those inspections or mitigation that may have to be done should we ever sell that property.

He said the other big thing is putting in and refurbishing some sidewalks that is before the Governor right now and if it gets approved it will probably start within the next 2 years. He said that's putting in a sidewalk from Lone Star Ave. up to Main St. so the kids can walk to school and well as on a couple of other streets north of here that he couldn't recall the names of.

He said it is still possible that they may put in a sidewalk from the Public Safety Building to Paulson Road for the children in that area that are within walking distance to the schools. He said so far that is a total of \$990,000 waiting for the final signature on that.

Land Donation-Mr. Fisher said that a family wants to donate land to the Town for outdoor nature type things for the people of Farmington and their donation is around 333.99 acres and that also connects with 18 acres we already have under conservation there. He said this will incorporate a great chunk of the Cocheco River and a small pond across Bay Road from Waldron's Pond.

He said that the Southeast Land Trust is looking at partnering with us to develop the property and they are excited about it because it's all pristine property and it's the kind of land they are looking to conserve. He said the next stage is getting with the lawyers for the Town and for the property owner and find out exactly what the family would like to have done with the property and coming up with a plan of attack. Hopefully in the next month or so we'll be having a meeting to get that done he said.

Mr. Squires asked if this is the piece they logged from Bay Road to Spring Street.

Mr. Fisher said they did some logging on the property and it doesn't look too bad along Bay Road but he didn't know how far back they went or how much was taken out.

Mr. Squires said it goes all the way across to Spring Street and they were there for months.

Mr. Fisher said on a positive note that would make it easier to mark the trails. He said he was hoping for several different hiking trails not just a loop trail and he is also looking at having bicycle trails, picnic areas, fishing areas maybe including a handicapped fishing area and see if the state will restock the Cocheco River with trout. He said they are looking to have 2 entrances to the area one off of Spring St. and one off of Bay Rd. and maybe some foot bridges across the river but that's going to cost a lot of money and that is what SELT is going to help us with.

Mr. Henry asked if SELT was putting any restrictions on the land.

Mr. Fisher said he didn't know and that was something they have to talk to them about. He said they are at the very beginning of this and they have to find out what restrictions can/can't be put on the land and work around them.

Mr. Henry asked if the donator, SELT or a combination of both sets the restrictions.

Mr. Fisher said they will have to see and that's why the lawyers will be involved.

Mr. Pimental said whoever holds the easement is likely to control the restrictions.

Mr. Fisher said the Conservation Commission will own the land and the easement may be held by SELT but he wasn't sure.

Mr. King said if the land is donated to the Town the Town should have the control to say what is acceptable for restrictions and if SELT put forth a restriction the Town doesn't like they could find some other conservation land trust to work with.

Mr. Henry asked why they need somebody else to hold the easement.

Mr. Pelkey said for funding for development.

Mr. Pimental said the reason to partner with SELT or some other land trust is they have the resources and capacity to do an extensive trail network, kiosks, parking, and signage and then maintain it. He said they typically write a management plan for how they will take care of it in perpetuity and without having something like that it would be hard to bring the property owner's vision forward with just the Town doing it on their own.

Mr. Fisher said they take care of that for the French conservation area which is only about 60 acres and they are looking at over 350 acres and that's going to cost big bucks and volunteers can't do it unless the Conservation Commission is with them for insurance purposes.

Mr. Pelkey said the state will provide non-profit trail maintenance groups with insurance for free.

Mr. Fisher said they will have to look into that. He said they have to have somebody sponsoring it with them that can come up with the money to do that unless the Selectmen are going to start giving a bigger budget to the Con Com other than \$2,000 a year they need people to join with them to get this stuff done.

Mr. King said the Con Com is funded through Current Use fees and it's not just the \$2,000.

Mr. Fisher said that money only comes in here and there and is not a set amount. He said there is currently approx. \$80,000 in that account but asked how much it would cost to maintain that 350 acres and if they were going to drain their accounts completely dry. We also use that money to sponsor other individuals putting land into conservation and the monitoring of the conservation areas comes out of those funds he said.

Mr. Mains asked if they planned to hook this in to the Moose Mountain Greenways.

Mr. Fisher said he didn't know.

Technical Review Committee Meetings-Mr. Pimental said the TRC met this week to review a commercial development on Route 11 near Joy's HVAC and there is another TRC meeting coming up next Thursday for the redevelopment project (the old hardware store) on the corner of Main St. and Acorn St. and the board should see those developments sometime in June.

Rt. 11 Property Update- He said the board has been asking about the property that has been clear cut and they have hired Norway Plains to do the Alteration of Terrain Permit application and Stony Ridge Environmental to provide engineering services and environmental materials submissions for the after the fact AOT permit and any potential wetlands reclamation plans.

Mr. Pelkey said all of those things are to be supplied to the state.

Mr. Pimental said that is correct and that property owner is not allowed to move forward without obtaining those state permits.

He said he would not be attending the next meeting and the only thing they will have is the minutes for this meeting and the excavation discussion.

Mr. Pelkey wished Mr. Pimental a happy vacation and to enjoy his honeymoon on behalf of the board. He joked he will return as a married man and can commiserate with the rest of them (!)

Adjournment:

Motion: (Fisher, second Squires) to adjourn the meeting passed 7-0 at 8:54 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary



Rick Pelkey, Chairman