

Town of Farmington  
Planning Board Meeting Minutes  
Tuesday, May 16, 2017

**Board Members Present:**

David Kestner, Chairman  
Martin Laferte, Vice Chairman  
Jim Horgan, Selectmen's Rep.  
Bill Fisher  
Sylvia Arcouette  
Stephen Henry  
Richard Pelkey  
Lisa Capone, Alternate  
Brandy Sanger, Alternate  
Matt Stormann, Alternate

**Others Present:**

Arthur Capello, Town Administrator  
Keriann Roman, Attorney  
George Sacco, ACM Specialized  
Materials, LLC

**BUSINESS BEFORE THE BOARD:**

**Call to Order/Pledge of Allegiance:**

Chairman Kestner called the meeting to order at 6:05 p.m. All present stood for the Pledge of Allegiance.

**Review of Minutes:**

May 2, 2017- Page 1, Review of Draft Guidance, 2<sup>nd</sup> sentence; strike the "d" from "used"  
Motion: (Arcouette, second Henry) to approve the minutes as amended passed 6-0-1 (Horgan abstained).

**Consultation with Town Counsel:**

Chairman Kestner asked the board to remain seated and for the public to leave the room to allow the board to hold a brief discussion with Attorney Roman.

Motion: (Horgan, second Kestner) to take a recess to consult with the Town Attorney passed 7-0 at 6:15 p.m. The public meeting reconvened at 6:40 p.m.

**PUBLIC HEARING:**

**Application for Site Plan Review by Cormier Movers, Inc. (Tax Map R20, Lot 10):** The applicant proposes to construct an 11,200 sq. ft. building for the moving company Cormier Movers, Inc. The building will be used for servicing company vehicles, transient storage and general warehousing of goods. The parcel is owned by Elaine C. Blaney and is located at 359 NH Route 11 in the Commercial Business District. – *Hearing continued from April 18, 2017.*

**Application for Conditional Use Permit by Cormier Movers, Inc. (Tax Map R20, Lot 10):**

The applicant proposes to construct an 11,200 sq. ft. building with associated parking and

loading zones for the moving company Cormier Movers, Inc. This renders the lot with more than 15% impervious coverage within the Groundwater Protection Overlay District. The parcel is owned by Elaine C. Blaney and is located at 359 NH Route 11 in the Commercial Business District. - Hearing continued from April 18, 2017

**Application for Special Use Permit by Cormier Movers, Inc. (Tax Map R20, Lot 10):** The applicant proposes to construct an 11,200 sq. ft. building with associated parking and loading zones for the moving company Cormier Movers, Inc. The Special Use Permit is requested to allow for construction of storm water management system and minor site grading and the removal of a shed and concrete pad within the Wetlands Conservation Overlay District. The parcel is owned by Elaine C. Blaney and is located at 359 NH Route 11 in the Commercial Business District. Hearing continued from April 18, 2017

Chairman Kestner told the board that the applicant has withdrawn the application for Site Plan Review and read aloud the letter from Scott Lawler, Norway Plains Associates, Inc. The May 12<sup>th</sup> letter stated that the withdrawal of the application for a proposed warehouse and moving company is due to the potential construction cost and is not indicative of the support and assistance received from the boards and dept. staff.

Motion: (Horgan, second Laferte) to accept the withdrawal of the application for the Site Plan Review for Cormier Movers passed 7-0.

### **PUBLIC HEARING:**

**Application for Amended Minor Site Plan Review by ACM Specialized Materials, LLC, Applicant, NH Custodial Trust, Property Owner (Tax Map R31, Lot 34):** To allow the operation of a metals and automotive parts recycling facility in an existing structure. Parcel is located at NH Route 11 and Paulson Road in the Industrial Business Zoning District.

George Sacco told the board that he went before the board several years ago with a professionally prepared site plan but apparently there are issues with the plan and the Town now wants a more accurate overview of the site.

Chairman Kestner noted the amended site plan before the board is dated March 7, 2017.

Mr. Horgan asked Mr. Sacco to describe the changes that have taken place starting from one side of the property to the other side of the property.

Mr. Sacco then listed the following changes:

Paulson Road side- additional snow storage area, additional parking

Rear of the building- additional snow storage areas, the concrete pad will become the oversize items storage zone, the area surrounding the LP tanks would become the white goods storage zone, the space currently filled with roll off containers/usable items would be for that purpose or for additional parking as needed along the side of the building.

Mr. Sacco then told the board that he submitted an application a few months ago for permission to run an indoor auction arena on the Paulson Road side of the building so additional parking and

space to put antique vehicles and special interest items will be needed.

Mr. Sacco said that in the original plan, "somehow" a bunch of storage containers got laid out in the ferrous sorting and loading zone which was originally intended to be the area where the iron materials were dropped and sorted but it just wasn't written on the plan.

He said that on the 2012 plan, the area marked "proposed material drop off area" is too skinny so the area had to be widened to handle more than 1 vehicle at a time. The truck parking area next to proposed material drop off area was reduced from 4 spaces to 2 truck parking spaces to accommodate the expansion of material drop off area he said.

He said the number of 20 yard roll off containers located behind the truck parking would be reduced from 5 to 3 and will sometimes house large metal crates in that space.

Center of the Plan- the proposed fabric shelter for front end loader parking would become the usable rebar steel stock storage.

Mr. Kestner noted the word "and" between rebar and steel stock area was omitted from the plan. The 500 to 1,000 gallon diesel fuel storage tank area will be kept on the new site plan.

The overhead or drive-in door was never added due to the cost of moving all of the three-phase electrical service wiring installed there.

The existing loading dock is still at the site.

An additional snow storage area was added to also be used for parking when not needed for snow storage.

The area labeled as car or trailer parking across from the usable rebar/steel stock area will also be used for roll off containers. "Trailer" parking refers to trailers designed to be pulled by cars that are for sale.

There are no changes planned for the scale house area. Customers are allowed to park in front the scale to receive payment for items sold.

Mr. Kestner asked if the location of the scale house is in the access right-of-way into the lot.

Mr. Sacco said that the scale is in the right-of-way and that is why he did not want to make any changes there.

He estimated the amended site plan contains about 10% in changes from the original plan.

Mr. Sacco said the Conditions of Approval on the 2012 Site Plan requires that containers stored outdoors be covered with a tarp. He said that he tried to put a tarp on the containers but the wind blows them, they fill with water creating a pond or someone forgets to tarp a container before leaving so it just does not work. He said that instead he double protected the drains with the use of eliminator hoods and temporary below grate catch basin filters known as "Silt Sacks". He then asked the board to remove the requirement for tarps and said that in return he will always maintain the Silt Sacks.

Mr. Kestner asked how many catch basins there are on the site.

Mr. Sacco said there are 2 catch basins- one in the usable rebar/steel stock area and one in the parking lot. He said the catch basin (shown on the 2012 plan) under the current excavator earth ramp between the proposed ferrous sorting and loading zone and the proposed material drop off area on the 2017 plan has been filled in and eliminated.

Mr. Kestner said the earth ramp with excavator parking is a new item on the 2017 plan.

Mr. Sacco said the area was miss-marked on the old plan as it states "proposed material drop off" but that was supposed to be where the ramp is located. He added the mistake was due to everyone rushing to push the plan through the process.

Mr. Kestner said the issue before the board is the amended site plan and said Mr. Sacco has already stated he made some changes as the containers are no longer covered, he is proposing open storage areas and there are more concerns involving drainage issues. He said there was extreme concern in 2012 when the plan was granted approval and the conditions were set forth due to the issue of the Super Fund Site in this area.

Mr. Sacco told the new members that when he first came to town he talked to the Planning Director and Planning Board and asked them if they were interested in having a metal recycling facility in town at the former Davidson Rubber site. He said the Planner was receptive to the idea so he obtained Dept. of Environmental Services (NH DES) approval for the plan with a license for up to 10,000 tons of material with up to 200 tons received each day at the site. He said he is doing this in a heavy industrial zoned property and was trained by NH DES in how to run a solid waste facility.

Mr. Kestner asked if there any additional changes that Mr. Sacco would like to notify the board about.

Mr. Sacco said he is requesting approval to handle antique and special interest vehicles such as a '57 Chevy, jet-ski, boat or heavy equipment to get the auction arena off the ground. He added that he has been to Missouri Auction School and has a long history as an Auctioneer.

Mr. Kestner said the applicant is before the board is to discuss the amended site plan not to discuss auctioneering.

Attorney Roman advised that an auction or sale of the items along the side of the building would require a variance for those uses in an industrial zone and suggested the board may want to counsel Mr. Sacco to go before the Zoning Board of Adjustment first or to put those uses aside until the ZBA makes a determination.

Mr. Kestner said he was not going to advise the board to make any determinations regarding those 2 uses at this meeting.

Mr. Sacco said whole sale of items is allowed in the zone.

Attorney Roman agreed that wholesaling is allowed but retail sales are not allowed there and he would need to describe what he is wholesaling. She said auctioneering is not permitted without a variance.

Mr. Sacco said the auctions would be a way marketing the items for wholesaling.

Attorney Roman said she was concerned about the sale of vehicles there.

Mr. Capello advised the board could not address the auction/sale of vehicles at this meeting.

Mr. Kestner said the purpose of the hearing was to inform the board about how Mr. Sacco is operating the business with the existing conditions.

Mr. Kestner asked if the amended site plan is what currently exists at the site.

Mr. Sacco said the amended site plan is how it was supposed to look from day one and that it is

not his fault that the professionals he hired to do the original site plan did not do a good job.

Mr. Kestner said that adding additional uses that are not included on the application is outside of the board's realm and would require an additional request before the board.

Mr. Sacco said auction sales are wholesale sales and asked who goes to an auction to pay retail.

Mr. Kestner asked Mr. Sacco to return to discussing the application before the board and when the appropriate paperwork is filed for the additional uses the board will discuss them at a future date. He then asked if there were any other changes made from the original plan.

Mr. Sacco said he thought they had covered all of the changes and then "rested his case".

Mr. Kestner opened the hearing for questions from the board to the applicant regarding the information presented pertaining to the amended site plan.

Mr. Laferte said he was concerned about the Town's set back requirements and that the plan shows materials right up against the lot line. He asked if there is a fence there.

Mr. Sacco said there is no fence there.

Mr. Laferte asked how the board would know that he will not go over the boundary line onto the abutting property even if by accident. He said it is Mr. Sacco's responsibility to stay on his own land.

Mr. Sacco replied that he does not care if he crosses over the property line and it is the other property owner's responsibility to see that he doesn't cross over the line.

Mr. Laferte said that Mr. Sacco brought up a lot of information about changes that the board was unaware of.

Motion: (Laferte,) for the board to take a site walk of the property.

Mr. Kestner suggested the board first ask their questions and then work out a time for a site walk of the lot.

Mr. Sacco said with the original site plan there was no issue with anything being on the lot line. He said the boundary line is depicted on the plan as being straight across but it is not a straight line. He said the line is actually at a 10 degree angle to the left as it goes up the hill to the cement wall.

Mr. Laferte said the only thing the board knows is what is shown on the plan. The board does not know what is on the property until they do a site walk he said.

Mr. Sacco said if you walk on the hill there is a pink marker on a tree where you can see that his stuff is not on the state's property. He said there is an optical illusion that makes it look as though a couple of his tires are on the state's property but they are not.

Mr. Laferte withdrew his motion.

Mr. Henry asked if they were still considering the specialty vehicle parking and asked if there is a legal definition of specialty vehicle.

Mr. Kestner said he is not aware of a legal definition of specialty vehicle. He said the Conditions of Approval noted on the amended site plan are somewhat premature. The Conditions of Approval are determined by the board and not by the applicant so the conditions listed there can be altered, added to or removed. He added that the Conditions of Approval are typically found on the Notice of Decision not listed on the site plan.



Mr. Henry said he thought the list of Conditions of Approval on the amended plan were items that Mr. Sacco is asking for.

Mr. Sacco said that is correct.

Mr. Sacco said that a special interest vehicle is anything that is not a general car such as a World War II Jeep, jet- ski, a boat, an Army tank, antique cars, motorcycles or heavy equipment. He then asked what he should do if someone wants to consign a 4 door sedan to him for sale.

Mr. Henry said if the use is limited to specialty vehicles that Mr. Sacco would have to refuse to take the 4 door sedan.

Mr. Sacco suggested they use the definition of special interest vehicle as found in the Bargain Hunter's magazine.

Mr. Henry said the request to operate an auction arena will probably come back to the Planning Board after it goes to the ZBA and the board could work on the definition at that point.

Mr. Kestner also noted that there may be some additional site preparation work needed due to the potential for contaminants coming from the specialty vehicles.

Mr. Pelkey said the applicant is asking for a conditional approval for a use that he does not yet have approval for.

Mr. Fisher said the General Notes state the lot is served by Town water and septic system and asked if the tank shown on the hill at the rear of the property is town owned, filled in or existing.

Mr. Sacco said the parcel has Town water and the system on the hill has been shut down and is not in use. He then said the toilets are located on the Paulson Street side of the building and they drain to a catch tank with a pump that pumps the materials out to the leach field up on the hill.

Mr. Kestner said the General Notes #6 should be amended to read "The lot is serviced by Town water and a septic system".

Mr. Horgan said he needed to leave the meeting early and asked to share a few thoughts before he leaves. He said he agreed that the board should walk the property and should also consider requiring a canopy instead of tarps depending on what the site looks like. He said that after looking at the photos of the site provided by the Code Enforcement Officer he has concerns about the segregation of materials. Some of the items appear to be relatively organized and stacked while other items are in piles lying on the ground he said.

Mr. Sacco said that NH DES has approved it to be the way that it is and he is working in accordance to what DES has approved.

Mr. Horgan said the board would be better able to discuss these issues on site while they are looking at them. He then suggested if the schedule permits they should deal with the auction request.

Ms. Sanger asked about why the 2012 Planning Board wanted tarps to cover the metal materials. She speculated that it was because they were concerned about contamination coming from the metal and going into the ground.

Mr. Sacco said any vehicle driving down Route 11 has materials coming off the metals or brake dust from the brake pads which turns into a fine powder that is all over everything and asked her not to blame his scrap metal. He said the tarps were his idea and that the board did not suggest it.

Ms. Sanger said that DES must watch the runoff from the site particularly since the parcel is the site of the former Davidson Rubber Company.

Mr. Sacco that is why they have eliminator catch basins and why they use the silt sacks.

Ms. Sanger said she did not think it is feasible to tarp everything and that the water will just drain under the tarps and then wash over the abutting surfaces.

Mr. Kestner said he could not speak for all of the members of the 2012 Planning Board but that most of the concern was due to the potential for additional contamination to the site that had recently been announced as a Super Fund Site. He said that within one year of Mr. Sacco coming forward looking to occupy the space that the announcement was made about the Super Fund designation and they were waiting for funding from the appropriate governmental agencies to address the on- site contamination issue. They were trying to minimize the potential for additional problems at the site he said.

Mr. Sacco noted the problems at the site were not from the ground.

Mr. Kestner said the issue was caused by a chemical that was run through the septic system.

Mr. Sacco said the chemical was a legal chemical used to wash the floors that went into the drains and into the septic system. He added he didn't know how polluted the area was as there is still wildlife there and trees are still growing in the area.

Mr. Kestner said that whatever the chemical was it caused the Town well near there to be taken out of service because the chemical has dissipated through the bedrock and encroached on the well. There was enough of a concern that they didn't want people drinking the water he said.

Mr. Pelkey asked if DES had approved the drainage system there so the groundwater is adequately protected.

Mr. Sacco said the entire drainage system has DES approval and it was set up from day one with DES' approval. There is no drainage off his property and any issues of concern were addressed with the eliminator catch basins and silt sacks he said.

Mr. Pelkey asked if the catch basins drain the entire property so that anything that is leaching from the materials is being captured.

Mr. Sacco said there are some puddles on the ground from the loader picking things up. He said for the most part anything leaching from the metals stays where the metals are located as they are sitting atop the approved type of gravel for that use.

Mr. Horgan then left the meeting.

Ms. Sanger said the biggest concern about this property is contamination. She asked if the DES does annual inspections of the property and if the board is privy to the reports of the inspections.

Mr. Capello said it is a different division of the DES that does the inspections of the Sacco property than does the inspection of the Super Fund Site. He said the division conducting inspections of Mr. Sacco's property are from the solid waste division.

Mr. Sacco said the original approval was from the solid waste division and that he has approval for 10,000 tons on the ground.

Ms. Sanger asked if the board was privy to know if Mr. Sacco is meeting the DES requirements.

Mr. Capello said the Planning Board can ask for any documents they need to help them make a decision. He said the Planning Board can request copies of the inspection reports.

Mr. Pelkey asked how often DES conducts inspections at the site.

Mr. Sacco said he thought it was every couple of years and that the state agency is short handed.

Mr. Kestner asked if the inspection reports are filed with the Town.

Mr. Capello said the reports go directly to Mr. Sacco.

There were no further questions from the board.

Motion: (Laferte, second Henry) to do a site walk of the property on Tuesday, June 6, 2017 at 6 p.m. passed 6-0.

Mr. Henry asked if the public was allowed to attend the site walk due to the fact that it a public meeting of the board.

Mr. Capello said the public is invited to attend.

Attorney Roman asked if the board was ready to accept the application as complete or if they wished to wait until after the site walk in case Mr. Sacco has anything more to submit during the visit.

Mr. Kestner said he was going to ask the board's pleasure regarding acceptance of the application as substantially complete.

Att. Roman suggested if there is anything the board wants submitted to them to tell Mr. Sacco now so he can have it for the June 6<sup>th</sup> site walk such as the DES inspection reports.

Mr. Sacco said he will have to contact DES for reports as all he has are the updated permits.

Mr. Kestner asked if it would be better to schedule the walk for 1 month from now to allow more time to hunt down the requested information.

Mr. Sacco said that would not be necessary.

Mr. Kestner asked if there is any other information board members would like Mr. Sacco to provide at the site walk.

Mr. Henry reiterated that the board would like to see the report of the last inspection conducted by DES not just the licenses or permits.

Mr. Sacco said he would call DES in the morning and ask for a copy of the report or ask a rep to attend the walk if the report is not available.

Attorney Roman suggested the applicant pull a caution tape or chalk line showing the property boundary line. She told Mr. Sacco that a copy of the inspection report should be available on the DES website.

Mr. Kestner noticed that General Notes #1 state that the purpose of the plan is to represent the site improvements as depicted on a sketch provided by the owner of Tax Map R31, Lot 34 and the proposed improvements were not designed by a professional licensed engineer. He asked if this was due to the change to the ferrous sorting/loading zone.

Mr. Sacco said that nothing on the plan was ever changed it was just not typed onto the plan. He said if he gets denied on anything in that area it will completely destroy his company and will wreck the contracts held with the various entities.

Mr. Kestner asked about the proposed additional parking areas on the Paulson Road side of the



lot and the potential for the elevated ground water from the site to go down the hill onto Paulson Road.

Mr. Sacco said there is a sewer in the middle of Paulson Road so nothing goes down the hill.

Mr. Kestner asked if the catch basin located there catches all of the run-off from that side of the site.

Mr. Sacco said there is nothing on that side except for parking spaces. He said the previous owner of the site had 6,000 employees with 2,000-3,000 cars there during each shift every day so parking shouldn't even be an issue with this site.

Mr. Kestner said he was more concerned with making sure that what is being proposed for the amended site plan does not inadvertently over burden the catch basin which just happens to not have one of the silt sacks or a hood which was part of the 2012 application. He said the issue is that a profession engineer has not looked at the potential for additional run-off from the additional parking areas that are being proposed for use by antique or special interest vehicles if granted.

Mr. Sacco pointed out that there would be spaces for 15 vehicles on that side of the building and that the area use to be a rail pit where trains would enter the building through 2 rail doors and then cross Paulson Road and continue their route. He said about a dozen rail cars were parked there at one time and no one knows if they had chemicals in them. He said he is doing a lot less than what was previously approved for the site.

Mr. Laferte said these are the kind of issues that need to be discussed at the site walk. He said the board is only looking at a piece of paper but may look at things a little differently when viewed at the property.

Mr. Kestner said the board may end up coming back to him to address additional drainage issues there which would require a professional review.

Mr. Sacco said the elevations are included on the plan.

Mr. Kestner said he did not disagree but the amended site plan seeks approval to change from covered storage to open storage and that Mr. Sacco has admitted that one catch basin in the area of the earth ramp has been eliminated.

Mr. Sacco said there has been open storage there since 1995 and that the area was all open storage when Textron was there. He said he is not doing anything different except for the parking spaces and that he asked for open storage to begin with. He asked why he had to incur the expense of calling the engineer back to re-engineer something that was engineered by Textron who probably has some of the best engineers in the world.

Mr. Capello said they are rehashing things that happened in the past and suggested they look at current regulations, what the board will require and what the site walk will determine to be required. He said what happened with the rail cars or Textron is not material to this discussion.

Mr. Kestner said he will give Mr. Sacco the benefit of the doubt until the board takes the site walk and looks at how the water flows off the back side of the property.

Mr. Sacco said without being able to utilize my property the way it is the board is going to take his DES permit and shred it. He added that he is only proposing minor changes to the plan.

Mr. Kestner said if everything was “hunky dory” from the original 2012 application there would be no reason for them to meet with Mr. Sacco at this meeting. He said he did not believe that the site plan is at the point where the board can accept it as substantially complete because there is additional information pending.

Mr. Sacco said there should be a lot more leniency with planning issues for owner occupied properties.

Mr. Kestner suggested they wait until the site walk is conducted to see if anything needs to be changed based upon what is observed.

Mr. Sacco said Planning Boards across the country need to look at owner occupied properties differently than un-owner occupied properties.

Mr. Henry said that the board can’t consider whether the owner occupies the property or not. He said by state law the board is there to help him work within the laws and the rules. He said the board has not told him no and they have not made any decision yet. He said Mr. Sacco may be jumping to some conclusions he shouldn’t be jumping to yet.

Mr. Kestner then asked for a motion to continue the amended site plan review pending the site walk. He asked Mr. Sacco to forward a copy of the DES reports for the site to the Planning Dept. Secretary for the board to review.

Motion: (Arcouette, second Pelkey) to continue the amended site plan review pending the site walk on June 6, 2017 passed 6-0.

Mr. Kestner told Mr. Sacco the board will convene at the property on June 6 at 6 p.m.

Motion: (Laferte, second Pelkey) to take a 5 minute recess passed 7-0 at 8:15 p.m. The meeting reconvened at 8:25 p.m.

**Other Business to come before the Board:** Mr. Kestner said he will ask the Planning Board Secretary to include 2012 site plan/Notice of Decision for ACM Specialized Materials in their packets so members could review all of the information pertaining to the board’s decision before the site walk takes place.

**Adjournment:**

Motion: (Laferte, second Arcouette) to adjourn the meeting passed unanimously at 8:25 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary



David Kestner, Chairman