

Town of Farmington
Planning Board Meeting Minutes
Tuesday, November 6, 2018

Board Members Present:

David Kestner, Chairman
Martin Laferte, Vice Chairman
Stephen Henry
Charlie King
Bill Fisher

Board Members Absent:

TJ Place, Selectmen's Rep.- excused
Rick Pelkey – excused

Others Present:

Dan DeSantis, Town Planner
Stuart Arnett, ADG
Bill Parker, ADG

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman Kestner called the meeting to order at 6:05 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

October 16, 2018 – Page 2, 6th line from the bottom- change "stet-up" to "set-up"

Page 6, 16th line-add "the" after "said"; 4th line from the bottom- add "a" before "lighting"; last line- strike "with" and replace with "to"

Page 7, 14th line from the bottom- add "the" before "trailers"

Page 9, 19th line-add "to" after "due"

Page 12, 8th line-strike "keep" and replace with "clean"

Motion: (Laferte, second Henry) to accept the minutes as corrected passed 5-0.

Stuart Arnett and Bill Parker of ADG:

Update on Proposed Ordinance Changes- Mr. Arnett introduced Mr. Parker to the board and said they are still looking at ways to accomplish the changes to the zoning which would allow more of what was displayed in the three conceptual drawings- a mixture of commercial, housing and pedestrian uses without opening the door to other things you don't want to see. He said they have been corresponding with the Town Attorney on the proposed changes and they plan to get back in touch with her when she is available so they can provide the board with the agreed upon language at the December board meeting.

Mr. Laferte said he spoke with the Police Chief and that the Chief and he are very concerned about the visibility at the end of Garfield Street and that the issue needs to be dealt with.

Mr. Arnett said all three of conceptual drawings show Garfield Street being used more and that 2 of the drawings depict Garfield Street as the only access (to old fire station lot). He said if the

Town is successful with the grant application that street will change a lot with significant traffic improvement and that he appreciated Mr. Laferte bringing it back up.

Master Plan Update: Mr. Parker passed out copies of the schedule for review and adoption of the revised Master Plan along with examples of the proposed format and topics for the plan. Mr. Arnett said at last month's meeting he presented an example of a Master Plan developed for Berlin, Vermont that has a more visual and prioritized format and that the board seemed to have a favorable opinion of the style.

The handout included 2 pages depicting the Transportation and Utilities and Facilities chapters in the Berlin, Vermont plan. Mr. Arnett noted the sheets are 8.5" x 11" in size and set up in the same format with the objectives, policies and actions in the left column, the narrative/summary in the middle and the visual component on the right side of the pages. The last page of the packet shows the placement of the information on the page in a box form he said.

Mr. Arnett said at the last meeting the board requested a schedule of steps in the process to revise the Master Plan and referred them to the calendar on the first page of the handout. He said some of the chapter topics are required by law and that some of items can be combined into one chapter.

Step 1 on the calendar for November is to discuss the format, schedule and chapters with the board. In December Mr. Parker will return to the board with an extraction from 8-10 categories in the existing Master Plan with the objectives that are still relevant to the Town for review.

Mr. Arnett said in January/February the next step will be to prioritize the policies and that the action steps, including the timelines and who will be responsible for carrying out the actions, will be prepared and reviewed during March/April/May.

He said once those items are completed they will draft the narrative for each chapter, conduct any necessary "word-smithing" of the text and determine which maps, charts and graphics will be used in May/June/July.

Mr. Laferte said the schedule states "March Town Meeting vote to continue the funding, or not" and asked if he was saying this project could "crash" if it is not approved at Town Meeting.

Mr. Arnett explained that they proposed a contract for the Master Plan revision and the Town broke it into 2 parts and the vote in March is to approve the second half of the funding for the contract. He said he planned to meet with the Selectmen in 2 weeks as they are the ones who will vote on whether to put the funding warrant article on the Town Meeting warrant.

Mr. DeSantis said the warrant article will be on the warrant.

Mr. Laferte asked Mr. King for his opinion on the fate of the warrant article at Town Meeting.

Mr. King asked for the dollar value of the second part of the funding for the contract.

Mr. Arnett said it was split at roughly \$20,000 each for the first and second parts of the funding.

Mr. King said he thought the warrant article would pass at Town Meeting.

Mr. Kestner said the Master Plan is past due for an update and that the revision is a 2 year process. He said it is a very good idea to reformat it and that he is open to options on how to

make it more palatable for users. He asked how many of the items on the list of the proposed chapters are required by state law.

Mr. Parker said all of the items listed are required except for the Village Center chapter and they are considering incorporating it into the Economic Development chapter.

Mr. DeSantis said the Natural Resources chapter be re-named the Natural Resources and Conservation chapter as there is a strong conservation ethic in town that should be included.

Mr. King asked why the "Village Center" chapter is at the end of the list instead of following "Community Facilities and Services" and said that "Transportation" should come before "Recreation" in the plan.

Mr. Parker said the Village Center is not currently a chapter in the existing Master Plan so it could be easily moved and placed wherever the board would like it to be.

Mr. Arnett suggested that the UNH Village Center report could be included in the Appendix or Resources section of the plan.

Mr. Fisher asked where the Tax Increment Financing (TIF) District would fall in the plan.

Mr. Arnett said they would reference it under Economic Development as it is not a land use issue per se. He added that a statement should be included about looking at a TIF District in the downtown area.

Mr. DeSantis said they know what they have to do if the policy to expand the TIF to the downtown area gets approved so they don't have to have it written down in the Master Plan.

Mr. Kestner said that a 79-e District was also approved for the Village Center.

Mr. Arnett said they are 2 different tools in the same vein and both programs can be in the same place but you have to figure out which one comes first because one of the programs defers the new revenue and the other program uses the new revenue.

Mr. Henry asked for a definition of 79-e.

Mr. Arnett said it refers to RSA 79-e where if someone makes improvements to an in-town property they can defer up to 100% of the increase in their property tax for a period of 5, 7 or 9 years depending on what the use is. It takes away the disincentive to upgrade in-town properties because of the taxes he said.

Mr. King said to do that they must follow all of the rules and regulations of the 79-e.

Mr. Arnett said the criterion is not high as most of rules require them to show a community benefit from the improvement project.

Mr. DeSantis said the program also has a minimum dollar amount and it must be a substantial improvement to the property. He said the program could be mentioned in a chapter and clarified in the appendix.

Mr. Arnett said that an online link to further information would be included in the text and they would not have to worry about updating the information every 6 months.

Mr. DeSantis asked if the board agreed with the time schedule as presented.

Chairman Kestner said that overall he agreed with the timeline but noted that some of the

chapters need to be presented to the board for their December meeting so they could move on to the prioritized policies step in January.

Mr. Arnett said they planned to bring the zoning proposals to the board in December so they may be a little behind with the Master Plan which doesn't have the same timeline issues as the proposed zoning ordinances.

Chairman Kestner said the redevelopment of the old fire house parcel has a higher priority than the Master Plan so the zoning ordinance proposals should come first.

Mr. Arnett said a Master Plan can be adopted at any time after they have completed the update process. He thanked the board for their patience and wished everyone a Happy Thanksgiving.

Correspondence:

Voluntary Lot Mergers – The board reviewed a memo from Assessing Clerk Kelly Heon requesting that the board not accept Voluntary Lot Merger Applications from April 1 through December 1 and to clarify on the application that it can't be approved unless the taxes are up to date and paid through the current tax year (2nd billing).

Mr. Kestner said Mrs. Heon was asking the board to take 7 months off from accepting the applications and that he didn't think they were allowed to take a vacation from accepting them by state law because she was having an issue with how to set up the tax bills.

Mr. DeSantis said Mrs. Heon was having an issue with applicants wanting to know why their tax bill hasn't been adjusted because of the Voluntary Lot Merger. He agreed with Mr. Kestner that they have to do business when business comes forth and suggested the board reject the memo.

Mr. Fisher said currently if a person has 2 pieces of property adjacent to each other and they are subdivided and the owner wishes to build a storage shed on property B he can't do it because there is no home on that property. To tell the owner to wait until after December when April to December is prime building time is not fair to the taxpayer he said.

Chairman Kestner said that nowhere in RSA 674:39-a does it state "Please do not apply between April 1 and December 1". The Voluntary Lot Merger form states the Assessing Clerks need to sign off in regards to the taxation issue and they have to sign the application as long as the taxes are current so the voluntary merger can move forward he said.

Mr. King said that he did not think the request was reasonable for the residents. The taxes need to be current when it's approved and recorded and if it can't take change officially then it won't be effective until April 1. He suggested they may need to give the applicant more notice on the application form that if the merger takes place after April 1 that the assessment and taxes will remain the same until the following April 1.

Mr. Laferte read the last sentence of the memo which says it is fine for the board to continue to accept subdivision applications through the entire year as long as the applicant understands that if approved after April 1 the changes won't take effect until the following tax year.

Mr. King said the law doesn't say the Planning Board "may" approve the voluntary lot merger

but that the board “shall” approve it. If an applicant wants to do it and meets the requirements we have to approve it and can’t hold off business he said.

Mr. DeSantis said because this was a formal memo from the Assessing Clerk he would like the board to make a motion to approve or reject her memo.

Mr. Kestner said because the RSA doesn’t mention any effective dates he did not think they could just stick in any dates when approving a voluntary lot merger. He said RSA 674:37-a does have a section on tax assessment and collection on subdivisions and does bring in the April 1 issue but doesn’t include anything about the 2nd tax billing.

Motion: (Henry, second King) to maintain the status quo on accepting voluntary lot mergers and subdivision applications;

Discussion: Mr. King said he doesn’t believe the board has the legal right to do as the Assessing Clerk requested and that he didn’t think it was in the best interest in the residents of Farmington to consider doing this. We’ve been working through this before and we need to find a reasonable way to put the applicant on notice of what is going to happen from a taxation point and we need to make sure what we are doing is legal. The taxation and assessment portion is out of our purview he said.

Mr. Kestner asked if the wording in the motion would be able to reject or approve the memo.

Mr. DeSantis said Mrs. Heon’s memo asks the board to change the procedure and if they keep the status quo it means they keep doing the same thing they have been doing.

Mr. Kestner asked if RSA’s for voluntary lot mergers (RSA 674:39-a) and for subdivision taxation (RSA 674:37-a) are included on the forms.

Mr. DeSantis it is not included but they can add them to the forms.

Vote: The motion passed 5-0.

TAP Grant Scoring – Chairman Kestner said the board received a memo from the Strafford Regional Planning Commission (SRPC) regarding the Transportation Alternatives Project (TAP) grant scoring indicating the score card for Mr. DeSantis’ presentation of the Farmington project. Mr. DeSantis said the Farmington proposal was rated number 1 and that he wanted the board to have a copy of the SRPC memo regarding the scoring process and the results for the project proposals submitted by Farmington, Rochester and Somersworth. He said they should know by the year end or beginning of next year who was awarded the \$440,000 grant.

Mr. Kestner thanked Mr. DeSantis for his presentation of the proposal on behalf of the town.

Construction Inspection Report – Mr. Kestner asked if the packet provided to the board indicated the paving on Richard’s Way (Subdivision Phase II) has been completed and if it was in reference to the release of the bond.

Mr. DeSantis said that is correct and that the documentation was provided as requested by the board during a previous discussion of the issue.

Mr. King said he was on the board at the time this application was presented and recalled that documentation that the work was completed was a Condition of Approval and that they

typically accepted staff recommendations that the conditions have addressed and then voted to release the bond based on those recommendations.

Mr. DeSantis said that he considered the memo (Construction Inspection Report conducted by Fay, Spofford & Thorndike (FST) on May 10, 2013) as a staff recommendation.

Chairman Kestner then called for a motion to approve the release of the escrow funds.

Motion: (Henry, second Laferte) to release the escrow account for the Richard's Way 23 Lot Subdivision off Governor's Road in Farmington;

Discussion: Mr. King asked if this is the final release for this project and for the total amount of funds remaining in escrow.

Mr. DeSantis said this is the final release of funds for this project and that he thought the total amount in escrow was \$53,000.

Friendly Amendment: by Mr. King to release the entire remaining amount in escrow;

Mr. Henry and Mr. Laferte accepted the amendment to the motion.

Vote: The motion passed 5-0.

Other – Proposed Zoning Amendments- Mr. DeSantis provided the board with the proposed amendments to Section 3.01 Relationship of Buildings to Lots, Section 1.14, Definition of Street Frontage and Definition of Accessory and Section 2.00 Base Zoning Districts. He said they explained why the proposed amendment was suggested, underlined the proposed new language and indicated the language to be deleted by a strikethrough.

Mr. King said that in Section 3.01 (C) there is one item missing from the list of the dimensional requirements for subdivisions. He said in the Town's Zoning Ordinance they added a quality of lot standard which is a minimum amount of contiguous uplands on the lot for subdivisions. For example it might have been that 1 acre of contiguous uplands is required but it may take 1.5 acres to achieve that even though a 1 acre lot is required in that zone he said.

He said if this is not included someone could have a 6 acre lot in the AR zone (3 acre min. lot size) that only has 1 acre of contiguous upland and that by this definition it would qualify for 2 houses when it shouldn't because it is not readily subdivide-able because it doesn't have enough minimum contiguous uplands.

Mr. King said another issue is how they will enforce the requirement and if something is questionable the burden of proof would fall to the applicant.

Mr. DeSantis said he hoped to meet with the Town Attorney next week and he would discuss Mr. King's addition to this section with her.

Mr. King said in Section 1.14 the definition of street frontage says the street frontage shall be deemed only on one street and can't be around a corner and asked if this is how most communities deal with this issue.

Mr. DeSantis recalled the "hammerhead" issue that recently came before the board and that there was a distinct difference in the definition of street frontage in the zoning ordinance and the subdivision regulations. The zoning ordinance definition was very clear so he took that

definition and is applying it to all of the regulations he said.

Mr. King said that particular application involved a Class V road and a private road and the owner planned to generate the street frontage on the private road. He said he was thinking about a situation where there is a corner lot on two Class V roads.

Mr. DeSantis said he had a sheet of paper that reduced street frontage and the "very astute" Planning Dept. Secretary pointed out that he wanted to stop sprawl and by reducing the street frontage it will really open up a Pandora's Box. He said he thought about it and checked it out on a map and found that she was right. That's why you don't have it now he said.

Mr. DeSantis then asked the board to read the proposals and discuss them at the next meeting.

Malcolm Bradsher Memo – Members received a copy of the memo from M. Bradsher Co.

Office Manager Michelle Jackson dated Sept. 17, 2018 regarding the excavation of Map R14, Lot 012 beyond the set back requirements to abutting properties. Chairman Kestner asked if there was anything else Mr. Bradsher needed to address involving the excavation.

Mr. DeSantis said he thought Mr. Bradsher did what he needed to do.

Mr. King said issue #1 is addressed by the agreement (between the landowners and Mr. Bradsher to allow excavation up to 10' from their shared boundary) but that issue #2 states they are in compliance by a new test pit and this is the date of supply. He said he didn't think he was qualified enough to say that he agreed with that assessment and asked who could look at item #2 and determine that they agree with it from a technical perspective.

Chairman Kestner said what was presented with the memo is what was presented to the board during the excavation application approval process in 2011. The letter is just making note that in 2011 test pit #5 was on the excavation plan and that sheet 3 of 5 notes ledge at 234.5 with no ground water found and ledge has increased in this area 10 to 15 feet in elevation. He is reiterating what is on the excavation permit for the engineered plans at that time for that test pit he said.

Mr. DeSantis said the purpose of a test pit is to identify ground water.

Mr. King said he understood that but on item #2 it says "Excavation during the seasonal high water table violating restrictions on depth of excavations" and asked if the Town said Mr. Bradsher was in violation of those restrictions.

Mr. DeSantis said Mr. Bradsher was in violation of the restrictions.

Mr. King said if the Town cited him for violations and he is saying that with the test pit data that he is not in violation then whoever said he was in violation has to agree that based upon this information he is not in violation.

Mr. DeSantis said he would have the information confirmed with NH Gravel Tax Appraiser Mary Pinkham Langer.

Mr. King said if the board receives a staff memo disagreeing/agreeing with both the points in the Bradsher Co. memo then the board can take some action.

Mr. DeSantis said he thought it was wise for the board to have an abundance of caution.

Any Other Business before the Board:

Planning Board Calendar – Chairman Kestner asked the board to review the calendar to see if there is anything that was missed or any conflicts that need to be addressed and to plan to approve it as presented or make changes at the next meeting.

Town Website Correction- Mr. Fisher said there is a page missing from the Subdivision application form posted on the website.

Mr. DeSantis said he would inform the person who takes care of the website on Thursday.

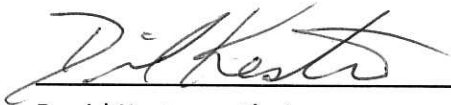
Adjournment:

Motion: (Laferte, second Fisher) to adjourn the meeting passed 5-0 at 7:18 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

A handwritten signature in cursive script, appearing to read "D. Kestner", is written over a horizontal line.

David Kestner, Chairman