

Town of Farmington  
Planning Board Meeting Minutes  
Tuesday, December 18, 2018

**Board Members Present:**

David Kestner, Chairman  
Martin Laferte, Vice Chairman  
Bill Fisher, Secretary  
Stephen Henry  
Charlie King  
Rick Pelkey  
TJ Place, Selectmen's Rep.

**Others Present:**

Dan DeSantis, Town Planner  
Diana Proulx, Planning/Codes Secretary  
Stuart Arnett, Patrick Attwater, Paula  
Bonine, Bruce Bridges, Keith Brown,  
Allen Funk, Steven Luger, Chris  
Nadeau, Mike Seraikas

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

Chairman Kestner called the meeting to order at 6:10 p.m.

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**Review of Minutes:**

November 27, 2018 – Special Meeting Minutes - the minutes were received just prior to the start of the meeting.

**Motion:** (King, second Henry) to table the minutes to the next available meeting passed 6-0-1 (Laferte abstained).

**Correspondence:** None

**Any Other Business before the Board:**

**Welcome Back** – Mr. DeSantis welcomed Planning/Codes Dept. Secretary Diana Proulx who recently returned to the position she held about a year and half ago.

Chairman Kestner welcomed Mrs. Proulx on behalf of the board.

**Proposed Village Center (VC) District Zoning Revisions (Draft 3):**

Mr. Henry asked what has changed in the proposed Village Center District zoning.

Mr. DeSantis said they propose to remove the current Section 2.05 V C District zoning and replace it with the draft presented to the board. He called the proposal Form Based Code "Light" and said it is a hybrid of what we have now and what he previously proposed.

He said the changes include a more detailed purpose for the ordinance, the minimum lot size allowed would be reduced from 10,000 sq. ft. to 5,000 sq. ft. and a Special Exception and Special Use permit which allows for flexible site review requirements for new site development of one-half acre or more allowing for mixed uses.

Untitled attachment 00032  
Mr. DeSantis asked the board to pay attention to the Special Use permit requirements Section 2 (d) which says the character of the area shall not be adversely affected in the context of architecture, transportation, scale of coverage, scale of building size and consistency of use.

The Special Use permit will expire 2 years from the date of decision he said.

Mr. DeSantis said the proposed revision to Section 2.00 Base Zoning Districts Table of Permitted Uses includes the current uses and the proposed uses. He said they tried to make it simpler and not to burden the Planning Board on these cases.

He asked the board to move the proposed revisions forward to the Public Hearings.

Mr. Laferte said the Proposed Revisions to Section 2.00 Base Zoning Districts is the second draft and asked if the board had voted on or approved any of the changes.

Chairman Kestner said the board has not voted on or approved the proposed revisions.

Mr. Laferte read the notation at the top of the page which states the revisions to the Table of Permitted Uses are based on discussions with Mr. DeSantis and is specific to the Village Center District only. He said the proposed revisions are Mr. DeSantis' ideas and that he talked to the consultants and put out the proposal without having talked with the board.

Mr. Laferte said he was really "ticked off" about the statement under Residential Use that states "Residential units only above the ground floor of mixed-use structures" because that would mean that on the ground floor of any building an apartment would not be allowed.

Mr. DeSantis said it applies only to mixed-use projects and it doesn't say of any building. Mixed use means both commercial and residential and that is what it says he said.

Mr. Laferte said a building owner in the Village District is paying taxes, making payments to a bank and for utilities, etc. and that under this proposal he can't have apartments downstairs.

Mr. DeSantis said if there are apartments from the first to the top floor it's not a mixed use.

Mr. King asked if this is what the current zoning ordinance says now.

Mr. DeSantis said the zoning does not say this currently.

Mr. King said this has been an area of concern because the interpretation of the ordinance hasn't been clear and some people have been told they had to apply for a variance to have an apartment and others have not. He said he didn't see the proposed revision as a significant change to the current zoning.

Mr. DeSantis said he thought about what are the logical things that are in a Village Center and put a "P" (Permitted) there. The current zoning ordinance of permitted uses for the VC was onerous and that this simplifies it he said.

Mr. King said the issues could be hammered out in a Public Hearing and that he assumed Mr. DeSantis' recommendations were to make the ordinance more user-friendly and less restrictive.

**Motion:** (King, second Pelkey) to forward the proposed revisions for Public Hearing;

**Discussion:** Mr. King said they could straighten out anything they don't agree on at the Public Hearing or the board can pull this off the table if they could not reach a consensus.

Mr. Henry asked why the board did not want to spend some time to discuss it among themselves first.

Chairman Kestner said they are running out of time to get in 2 Public Hearings between now and the Feb. 19 deadline for submittal to the Town Meeting warrant.

Mr. Henry asked if the board wanted to be pressured time-wise in that way or if the board should set the schedule. He suggested there is always next year.

Chairman Kestner advised Mr. Henry could vote against moving it forward to Public Hearing and then to continue the discussion in Jan.

Mr. DeSantis said there is a concern that it will be difficult to develop the fire house with the existing zoning ordinance. He said that part of the reason for the Special Use and Special Exception standards was to allow a simpler, more creative way to develop the fire house site. Stuart Arnett of Arnett Development Group arrived and Mr. Kestner explained that some members had issues with some of the proposed changes and the timing.

Mr. Arnett said that this was intended for those frontages that are commercial and visible so if it is street in back of the main commercial section someone could live in a house but you don't want your Main Street to be where people walking by can look into someone's living room.

Mr. King said the board could also consider only keeping those portions of the proposal they considered to be an improvement over what is currently in the zoning ordinance.

Mr. Pelkey said he would like to continue to move it forward so if the board has an opportunity to make any changes and get this on the warrant for next year that is an important thing to try to do. He said they could also schedule an additional meeting if needed to meet the deadline.

Mr. DeSantis said the Town Attorney reviewed and made some changes to the proposal.

**Vote:** The motion passed unanimously.

Mr. Henry said there are no retail uses in the Table of Permitted Uses other than gasoline which was moved from Permitted with Review (PR) to by Special Exception (SE).

Mr. King said the draft shows the proposed changes and the retail uses already exist in the current Table.

Mr. Henry asked Mr. DeSantis to provide the board with a complete Table of Permitted Uses.

Mr. Arnett said the board will receive a complete package of materials with additional explanation of the proposed changes.

Mr. Arnett added that they have made some progress with the revision of the Master Plan and he will provide an update to the board in Jan.

Chairman Kestner reminded everyone that there is only 1 board meeting in January (Jan. 15).

### **PUBLIC HEARINGS – 6:30 P.M.**

#### **CONTINUED CASES:**

**Application for Minor Subdivision by: Doris Bernadette Labbe (Steven Luger, Agent) to subdivide a 15.38 acre lot into four lots, one with an existing house, Lot 2-1 1.904 acres; Lot 2-2**

Page 1

Untitled Attachment 00007  
1.329 acres; Lot 2-3 10.651 acres and Lot 2-4 1.495 acres. Property located at 139 Governor's Road, Map 16, Lot 002-0001; Rural Residential zone.

Chairman Kestner thanked the applicant for listening to the board's suggestion to create a 3 lot subdivision instead of a 4 lot subdivision and conforming to the Town's design criteria.

Surveyor Steven Luger said the new plan eliminates the previous issues with the configuration of one of the lots and the well easement issues. He said they also added additional wetlands locations and topography designations to the plan.

He then introduced Mike Seraikas, owner of Beaver Brook Planning & Design, LLC to the board. Mr. Luger said that Lot 2-1 was the parent tract consisting of 15.38 acres and they are proposing a 3 lot subdivision with Lot 2-1 consisting of 5.35 acres, the existing house and incorporating the triangular shaped lot on the previous plan. He said they extended the lot lines from Lots 2-1 and 2-2 straight back to the Milton/Farmington town line so Lot 2-2 will be 3.05 acres and Lot 2-3 will be 6.98 acres.

Mr. Luger said Mr. Seraikas located some upland at the rear of Lot 2-3 that slopes mostly downhill. He said there was a concern about any future building on this lot but there wasn't much chance of that happening with all of the wetland areas shown on the plan.

Mr. King said the soil types are listed on the plan and that 0-8% slopes is listed there and asked if that is the slope of the land.

Mr. Seraikas said the soil/slope designations are lumped into groups so the area would have that soil type and the slope shown as defined by the Natural Resources Conservation Service/U.S. Dept. of Agriculture (NRCS/USDA).

Mr. King said that the upland at the back of the largest lot (2-3) does not exceed 8% slope so it is not that steep.

Mr. Seraikas said the land out there consists of poorly drained soils, is flat as a pancake and has some small useless upland areas. He said there was some concern about putting a road through to the back parcel but the land on the other side of the parcel is owned by the Town of Milton so there is no place for a road to go and no development potential for the back of the property.

Mr. King said one of the subdivision requirements is to provide the topography for the entire parcel unless a waiver is requested and that the board would question the size of the parcel and makeup of the land before they would consider granting a waiver.

Mr. Henry asked if waiver requests were received for the lots since they are not rectangular. Chairman Kestner said there were no waiver requests but based on what the board was previously presented with it is a far better situation.

Mr. Henry agreed but said they were there to ensure that all of the "red tape" was done.

Mr. Luger said there was a waiver included with the original application for Lot 2-4.

Mr. Henry asked if that waiver would still qualify now that the lots have been reconfigured and renumbered and questioned if the lot with the "crook" in it was considered generally rectangular or not.

Mr. King said the issues could be easily addressed by submitting a waiver request for consideration by the board and making it a Condition of Approval for the subdivision. James D. Reinert, Chief of Department, asked what waivers the applicant still needs to submit.

James D. Reinert  
Chief of Department  
Farmington Fire & Rescue

Chairman Kestner said the only waiver needed is for the irregular shape of the lots as the original waiver was specifically for Lot 2-4.

Mr. Pelkey asked if the board has a changed application to accept other than the drawings that were submitted.

Mr. DeSantis said the board asked to continue the hearing and to come back with an acceptable plan but did not ask for a new application.

Mr. Pelkey said in order to accept the application as substantially complete the application should have the verbiage that it needs to have for us to accept it for the plan that we have been given.

**Motion:** (King, second Pelkey) to accept the application as substantially complete;

**Discussion:** Mr. King said the plan is substantially complete and whatever final details the board negotiates would be in addition to that. We're not accepting it at 100%- we're saying they completed the application enough to consider it and open it up for public hearing he said.

Mr. Henry said he could not vote in favor of the motion because the plan doesn't match the application.

Chairman Kestner said the board could make it a Condition of Approval for the subdivision that the applicant must submit a revised site plan and they already had their subdivision application in front of the board.

Mr. King said the hearing was duly noticed and that it would be different if the plan went from a minor to a major subdivision or something drastically different than what was posted.

**Vote:** The motion passed unanimously.

Chairman Kestner opened the hearing to public comment at 6:50 p.m.

Mr. King asked if Mr. DeSantis included any recommendations for waivers in his memo to the board.

Mr. DeSantis said he didn't prepare a memo on the continued application.

Mr. Kestner said Mr. DeSantis provided a memo with the original application and noted the issues with the triangular shaped lot, the overlapping well easement and flipping the well easement from one lot to another which have been addressed by re-drawing the lot lines.

Mr. Henry asked if that caused any complications with part of the lot being in Milton.

Mr. Luger said the Town of Milton was notified as an abutter.

Mr. King asked who owns the small triangular strip of land running along the back of the 3 lots on the Milton side of the Town line.

Ms. Labbe said she still owns it and gets a tax bill for \$2 which she paid in full. She said it was attached to the original lot currently known as 139 Governors Road.

Mr. Luger said that the Town line was run and that part of the original deed was in Milton.



Mr. Henry asked which lot the sliver of land will be attached to. Unfiled attachment 00010

Mr. Luger said it will not be attached to any of the 3 lots as it is in the Town of Milton and they don't have any jurisdiction over it.

Ms. Labbe said the strip of land is not big enough to do anything with, you can't get to it and the property abutting it is owned by the Town of Milton.

There were no questions or comments from the public present.

Chairman Kestner closed the hearing to public comments at 6:58 p.m.

**Motion:** (Fisher, Henry) to approve the subdivision application with the following Conditions of Approval:

- 1). Submission of a revised subdivision application to show the new lot designations to match the revised plan;
- 2). A waiver request for the irregular shaped lots submitted in writing by the applicant

**Vote:** The motion passed unanimously.

**Recess: Motion:** (Laferte, second King) to take a 5 minute recess passed unanimously at 7 p.m. The meeting reconvened at 7:05 p.m.

#### **NEW CASES:**

**Application for Minor Subdivision by: Blue Planet Funding (Tax Map R19, Lot 12 NH Custodial Trust, Owner); for property located at Cocheco Road. The applicant proposes to subdivide the existing 26.5 acre parcel into 2 lots. Proposed Lot 12 to be 10.85 acres; Lot 12-1 to be 15.67 acres. The parcel is located in the Rural Residential (RR) District.**

Chris Nadeau of Nobis Engineering said they propose to construct a 2 megawatt solar array on the Cardinal landfill cap. He said the Public Utilities' Net Metering rules say that only 1 MW is allowed per parcel so they need to subdivide the land into 2 parcels in order to use the entire site and get 2 MW's.

Mr. Nadeau said they received a Variance from the ZBA for road frontage because the existing parcel only has 45 feet of frontage. He said a Variance was granted for both the front lot which has the 45 feet of frontage and the proposed second lot which will have no frontage. He said the Variance was contingent upon that the 2 lots will be used for solar power generation only. Chairman Kestner confirmed the applicant received a Variance from the street frontage requirement and a Special Exception for the use under Utility Uses Not Specified in the Rural Residential (RR) District from the ZBA on Dec. 6, 2018.

Mr. Henry said that this is just the technicalities involved in making this land useable for anything other than grazing goats. There's no harm done to anybody by it and it will generate revenue for the Town he said.

Chairman Kestner asked if the NH Custodial Trust would still be the end owner of the property. Mr. Nadeau said the Trust will still own the land and they have a lease agreement with Blue Planet to operate the solar arrays on the landfill.

Chairman Kestner asked how Blue Planet would "come back" to the Town other than by taxes.

Patrick Attwater of One80 Solar said his company will engineer and construct the solar power plant and introduced Allen Funk of Blue Planet Funding to the board. Mr. Attwater said the project will generate revenue for the Town with a Payment In Lieu of Taxes (PILOT) and the Town will purchase discounted power from one of the sites.

Mr. Pelkey asked if they will sell the power directly to the Town.

Mr. Attwater said they will sell the power back to Eversource. Eversource wants to make sure there is a subscriber that will purchase that power so when the Town signs up to buy the power they will get a rebate making it a little cheaper power he said.

Mr. Fisher said he learned at the previous Selectmen's meeting that the solar power company sells the power to Eversource who sells it back to the Town at the current rate. At the end of year the Town receives a rebate based on a contracted rate of 9.5 cents per KWh he said.

Mr. Pelkey said this setup is different from the residential Net Metering program as it is not based on multiple residential users.

Mr. Attwater said with residential Net Metering they are sending the power back during the day and getting credit for it. He said this is more of a contractual Net Metering and it is not Net Metered back to person who owns the array but to the subscriber who purchases the power.

Mr. Pelkey asked if there are any state requirements for doing work on a capped landfill.

Mr. Nadeau said the Cardinal landfill is not a permitted facility with the state but is recognized at the state Hazardous Waste Management Bureau (HWMB). He said they were told to file the necessary documents as they would for a state permit and they will review and approve the plans. They will not actually obtain a state permit but will get permission from the HWMB to do the work on the landfill site he said.

Mr. Attwater said the arrays that go on top of a landfill cap are ballasted instead of pile driven and won't penetrate the landfill cap.

Mr. Henry clarified that they were discussing the Cardinal landfill which will generate a lease payment for the Trust and will not generate a lease payment for the Town. The solar farm at the Town landfill will generate a lease payment for the Town he said.

Allen Funk of Blue Planet said both parcels will generate PILOT payments in identical amounts so each MW has a PILOT payment associated with it and there will be 2 on the Cardinal landfill.

Mr. Funk said the Town will get the difference between the Eversource rate and the guaranteed 9.5 cent rate rebated back at the end of the year. He said the utility's rate for default service is 9.4 cents so if it tracks at that rate it won't be some enormous savings but the Town will be enabling the project from which it will get other payments.

Mr. Henry asked if the 9.5 cent rate is fixed for the term or if an escalator included in the agreement.

Mr. Funk said he understood that there is an escalator included on the rate agreement.

Mr. DeSantis said he walked the site in the area of the abutting mobile home park to the north and there is tree line there and he couldn't see the mobile homes. He said an abutter came to

see him and said the tree line is empty in the area of her house so he called Nobis Engineering who said they would be happy to plant trees there.

Mr. Nadeau said it is common for solar fields to be screened from surrounding residences. He said as long as they are respectful of the landfill cap and avoid shading the solar field they would be happy to put in whatever is required to match the character of the area he said.

He said the surveyor did pick up the gaps in the tree line and it is depicted on the site plan so they know exactly where the gaps are located. The aerial photo was done with the leaves off the trees and one of the gaps has vegetation but it is not evergreen he said.

Chairman Kestner said the solar panels don't get up and leave during the fall and they will still be there for the fall and winter so the abutter will need to have some type of conifers placed in that area to lessen the affect of the solar panels and the development of the site.

Mr. King suggested the best way to handle it would be to require additional screening as a Condition of Approval and delegate the responsibility for the screening to the Planning Dept. He asked if the panels would face south and any glare that could affect the mobile home park.

Mr. Attwater said the panels will face south, be angled to 30 degrees and don't reflect light.

Chairman Kestner said the screening is an issue for discussion during the Site Plan review.

Mr. King asked if there any issues that were not addressed by the Variance or by the application.

Mr. Pelkey said there is a picture of the road to be installed for construction vehicles and asked where the access will be for emergency vehicles after the construction is complete.

Mr. Nadeau said the access will be the same as the construction access shown on the site plan.

Mr. Pelkey said the construction access is buried by the panels which go all over the road.

Mr. Nadeau said that vehicles would not fit between them and the state does not want any vehicles on top of the cap so the access will be from Cocheco Road into the site to a parking area inside the fence where the equipment needing yearly maintenance will be located. If emergency vehicles need to access the site they will come in off of Cocheco Road on the gravel drive and sit outside the panels as they can't drive in and around the panels he said.

Chairman Kestner said the temporary access driveway is shown on Sheet C-1 of the Site Plan and he assumed it would become the future access road for the Site Plan. He said the plan shows the proposed equipment area at the beginning of the panel area with a note for the gravel access drive and a cross section of a typical gravel driveway on Sheet C-3.

Mr. Pelkey noted that Sheet C-2 depicts that the panels will cover the access drive.

Chairman Kestner said that is an issue for the Site Plan Review discussion.

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

Chairman Kestner opened the hearing to public comments at 7:30 p.m.

Planning Dept. Secretary Diana Proulx spoke on behalf of a resident who said he was told when he purchased in the mobile home park that a strip of land abutting the north corner of the site (Map R19, Lot 7) would never be developed. He said he was told that the strip of land would



now become the new access road to the Cardinal site. 00013  
Untitled attachment

Chairman Kestner said that Lot 7 is owned by the NH Custodial Trust. He said the entrance to the solar field is going to be the existing gravel access drive beside the existing storage buildings which will be upgraded to 15 feet as shown on Sheet C-1 of the Site Plan.

Mr. Pelkey added that the existing access drive runs through Lot 11 to Lot 12 and there is nothing planned for Lot 7.

Chairman Kestner said the metering equipment, an equipment pad and the overhead riser to pole that takes the power back out to Cocheco Road will all be set up in Lots 11 and 12.

There were no other comments/questions from the public present.

Chairman Kestner closed the public comment portion of the hearing 7:35 p.m.

He asked the board if an easement between the 2 proposed parcels was needed because the subdivision will create a parcel in the back whose access would be based upon the new lot.

Mr. King said the owner owns the two lots so he did not think it should be required. If the owner were to sell the back lot in the future he would have to provide access to the lot at that time but it's probably never going to change hands he said.

Chairman Kestner agreed but said this is something they would usually ask for in this situation.

Mr. Henry said there were representatives of the people who want to lease the land present but that the property owner was not present. He asked if the Town received anything from the owner stating that he wants to subdivide the property.

Mr. Funk said the owner signed the application and provided a letter authorizing them to act as his agent.

**Motion:** (Henry, second Pelkey) to approve the Subdivision as proposed passed unanimously.

**Application for Major Site Plan Review by: Blue Planet Funding (Tax Map R19, Lot 12 NH Custodial Trust, Owner); for property located at Cocheco Road. The applicant proposes to construct a 2 MW photovoltaic solar panel array. The parcel is located in the Rural Residential (RR) District.**

Chairman Kestner said as per the previous discussion the site needs additional screening. He asked if there were any other issues that stand out immediately.

Mr. Pelkey said the application should be for Lots 12 and 12-1 and not just for Lot 12.

Chairman Kestner said the applicant will now need an amended Site Plan.

Mr. Fisher asked if the land would be surrounded by a chain link fence.

Mr. Funk said that it would be fenced for insurance and security reasons.

Mr. Fisher suggested that plastic privacy slats could be installed in the chain link fence as a possible solution to the screening requirement. He asked about the height of the solar panels.

Mr. Attwater said the fence is 7' tall but the panels will sit on top of the cap and the fencing will be lower than the cap.

Mr. Fisher said it might be easier to put in the slats than to plant trees and risk penetrating the cap membrane.

Chairman Kestner said the screening would be outside the cap's membrane area if the trees were planted along the property line.

Mr. Nadeau said there is currently a fence around the entire property. He said the cap on the Cardinal landfill is not a liner but is a soil cap made up of well drained materials and the long term solution is to allow water to percolate through the soil to mitigate the contaminants.

**Motion:** (Henry, second King) to accept the application as substantially complete passed 7-0. Mr. Henry said if the privacy slats are sufficient based on the angles he was comfortable with that over vegetation.

Mr. King said they should require it to be screened and that he was okay with using slats if it fits as the solution. They need to appoint someone from the Town to sign off on whatever they propose to do he said.

Discussion also included some technical data in the site plan, the maximum voltage capacity, the size and type of panels and inverter to be used, the retail cost per panel and balancing system costs with output.

Chairman Kestner opened the public comment portion of the hearing at 7:50 p.m.

Mr. Laferte asked how many panels would be installed at the site.

Mr. Attwater said there is usually 4,000 panels per MW so there will be about 8,000 panels at the site.

Mr. Laferte asked how long it will take to build the project.

Mr. Atwater said the goal is to have the solar projects completed by the end of next year.

Discussion also included the status of the cap on the Net Metering program, capacity of the grid in each area, growth of the industry and area transmission lines.

Peaceful Pines Mobile Home Park resident Paula Bonine said she brought photos from inside her house to show that the large gap in the screening.

Mr. Pelkey asked if she could see the fence from her house.

Ms. Bonine said she can see over to the big red barn at the Transfer Station from her home. She said the opening is so big she had to take 3 photos with her phone to get a picture of the entire opening. Her visibility goes all the way from the corner of Peaceful Pines Circle to the emergency access road going uphill into the newer section of the park.

Mr. Henry said to address her concerns, the board said there needs to be sufficient screening and that it will be up to the Planning Dept./Code Enforcement to make sure it is screened.

Chairman Kestner asked Ms. Bonine to show her pictures to each board member so they could get an idea of the height of the screening that may be needed.

He said the plans show the existing fence as 6' high and that 12' ft screening would be needed. The slat solution would not work and as the trees grow up the space would fill in he said.

Ms. Bonine expressed concern about the "bar code affect" where epileptic seizures could be triggered by flickering light, contrasting light and dark patterns or stripes with the way that the solar panels would be lined up and spaced in a pattern similar to a bar code on retail packaging.

Discussion then included the configuration of the panels, spaces between the rows of panels, the angle of view from Ms. Bonine's home and the angle of the panels.

Chairman Kestner said Ms. Bonine would be looking at the back of the panels because they would be angled south for maximum sunlight absorption. He said the board is going to require that trees be planted along the property line and that over time they will grow up to help block the view of the panels.

Mr. Pelkey asked for clarification of the concern from the public and a citation from some authority for more information about the bar code affect so he could look it up and inform himself.

Ms. Bonine suggested he look up photosensitivity and seizures to learn how different things can trigger seizures.

Chairman Kestner asked if putting conifer screening at 12 feet help address her concerns with filling in the gaps.

Ms. Bonine said that using slats in the fencing will not bring it up high enough to screen the view of the panels.

Chairman Kestner said he agreed 100% with what she brought down for a photo and thanked her for bringing it in. All we can do is to require the applicant to plant conifer trees along the property line and hope that they grow appropriately to facilitate your eventual non-view of the site he said.

Chairman Kestner said that he hoped the applicants listened to Ms. Bonine's concerns and that a minimum of 12 foot high trees would be needed to fill in the gap along the chain link fence.

Mr. Funk said this matter should be delegated to the Planning Dept. because the trees will need to be placed correctly and the appropriate species chosen for the site.

Chairman Kestner closed the public comment portion of the hearing at 8:10 p.m.

**Motion:** (Henry, second King) to accept the Site Plan application with the following Conditions of Approval: 1. Screening satisfactory to the Town staff is put in place;

**Friendly Amendment:** (by Mr. Kestner) to add 2). Amend the Site Plan to include Lot 12-1;

Mr. Henry and Mr. King accepted the friendly amendment to the motion.

**Vote:** The motion passed unanimously.

**Recess: Motion:** (Kestner, second Laferte) to take a 5 minute recess passed unanimously at 8:15 p.m. The meeting reconvened at 8:25 p.m.

**Application for Minor Subdivision by: Blue Planet Funding (Tax Map R19, Lot 13 Town of Farmington, Owner); for property located at 37 Cocheco Road. The applicant proposes to subdivide the existing 33 acre parcel into 2 lots. Proposed Lot 13 to be 16.05 acres; Lot 13-1 to be 16.95 acres. The parcel is located in the Rural Residential (RR) District.**

Chairman Kestner said the applicants were granted a Variance for the road frontage and a Special Exception for the use under Utility Uses Not Specified in the RR District from the ZBA. Mr. Nadeau said this parcel is the site of the Farmington municipal landfill. He said they are

proposing to generate 2 MW of power at the back portion of the site and subdividing the property into 2 separate parcels. One MW will be generated within the footprint of the existing landfill on top of the cap using ballast supported solar panels and the second MW will be generated in the "borrow" area which is really just a big sand pit. These panels will be post mounted on posts driven into the ground. The borrow area is a depressed area so all the water drains within and doesn't leave the site he said.

Mr. Nadeau said they consulted with NH Fish and Game who asked that the borrow area be kept as disturbed sand and not to re-vegetate it as it is a turtle nesting area. It will stay a sand pit after we are done building the arrays he said.

He said that everything else will remain essentially the same with the access off of Cocheco Road. He said they will need to obtain a NH Shoreland permit because the access road is within the shoreland of the Cocheco River, a NH Alteration of Terrain (AOT) permit because the existing landfill has an AOT permit which is less than 10 years old and a modification of the existing solid waste permit showing the cap will be protected from the proposed project.

**Motion:** (Henry, second Laferte) to accept the subdivision application as substantially complete passed unanimously.

Chairman Kestner opened the hearing to public comments/questions at 8:30 p.m.

Mr. Fisher said the applicant stated they have made an agreement with the state to leave the sandpit area as a sandpit and noted that on Sheet C-3 of the Site Plan there is a

note that says "Permanently seed and mulch non-vegetated areas within limit of work" and asked if this means they plan to leave the area as is once the posts are put in.

Mr. Nadeau said they just received the comments from Fish and Game the previous day and they plan to submit updated plans to show that it is staying as a gravel pit.

Chairman Kestner closed the public comment portion of the hearing at 8:35 p.m.

**Motion:** (King, second Laferte) to approve the subdivision as presented passed unanimously.

**Application for Major Site Plan Review by: Blue Planet Funding (Tax Map R19, Lot 13 Town of Farmington, Owner); for property located at 37 Cocheco Road. The applicant proposes to construct a 2 MW photovoltaic solar panel array. The parcel is located in the Rural Residential (RR) District.**

Mr. Nadeau said he had nothing to add except to repeat the permits needed from the state as follows: Tech 1B Solid Waste Permit, an AOT Permit and a Shoreland Permit. He said they do not have these permits in hand as of yet.

**Motion:** (Henry, second King) to accept the Site Plan Review Application as substantially complete passed unanimously.

Chairman Kestner opened the hearing for public comments at 8:40 p.m.

Mr. Henry suggested the list of Conditions of Approval should contain that the applicants obtain all necessary state and federal permits and to strike the note stating to permanently

seed the area from the Site Plan.

Mr. DeSantis said the applicants have provided a Storm Water Management Plan.

Mr. Henry questioned whether it was necessary to reproduce another set of plans if everyone was in agreement that the sandpit area would not be grassed.

Chairman Kestner said Code Enforcement would be enforcing the set of plans that were approved. They will need to delete that note appropriately and that would require an updated plan to remove that note and for the gravel/sand area to stay in its natural condition he said.

Chairman Kestner said the Site Plan Review application will need to be amended to include the newly created Lot 13-1.

Mr. Henry asked what was needed for buffering the site.

Mr. Nadeau said they need to position the fence higher than the existing ground to let the turtles enter/exit the site per Fish and Game requirements.

There were no questions/comments from the public.

Chairman Kestner closed the public comment portion of the hearing at 8:45 p.m.

**Motion:** (Henry, second King) to approve the Site Plan with the following Conditions of Approval:

- 1) Acquire all state and federal permits as needed;
- 2). Amend the Site Plan to include the newly created Lot 13-1;
- 3). to remove the note regarding loaming and seeding in between the arrays from the Site Plan;
- 4). and to add any additional requirements NH Fish and Game may require per their permit requirements.

**Vote:** The motion passed unanimously.

#### **PROPOSED ZONING CHANGES:**

Chairman Kestner asked if any members had any issues with the amendments as presented.

Mr. DeSantis said this is the first Public Hearing on the proposed amendments.

#### **Amendment 1:**

To amend the Zoning Ordinance Section 1.14 Definitions. Amendment to definition of "Accessory" includes: modification of the language to change the word "primary" to the word "principal". Definition to read: "Accessory. A structure or use subordinate and customarily incidental to a principal structure or use on the same lot."

The board had no issues with this amendment as presented.

#### **Amendment 2:**

To amend Zoning Ordinance Section 1.14 Definitions. Amendment to modify definition of Street Frontage to match the Zoning Ordinance definition of street frontage with the definition of street frontage in the Subdivision Regulations. Definition to read: "Street Frontage: The horizontal distance between side lot lines measured along the street line. When a lot is



bounded by more than one street, only one shall be deemed the frontage street and that street frontage must provide sufficient frontage as required by the Zoning Ordinance."

Mr. King said this will make the Zoning Ordinance consistent with the Subdivision Regulations. The board had no issue with the amendment as presented.

**Amendment 3:**

To amend Zoning Ordinance Section 2.00 Base Zoning Districts to add new section F "Principal Uses". Section F to read: "Principal Uses. All lots are allowed only one principal use except as expressly provided otherwise in this Ordinance. Each lot requires a principal use in order to have an accessory use."

Mr. King asked if this is what the current ordinance says but is not clear.

Mr. DeSantis said that is correct and that is a clarification.

Mr. King said this means that if he owns a 10 acre parcel that abuts his house he can't put a barn on it because there is no principal use for that parcel.

Mr. DeSantis said that is correct and that he could not put a barn on that lot unless he added that lot to his residential lot through a lot adjustment.

Mr. King said this issue has come periodically over the last 20 years and has depended on the interpretation of the ordinance. He said when he built his garage he was allowed to build it on separate lot adjacent to his house since that was the interpretation of the ordinance in 2003.

Resident Bruce Bridges said he plans to put a garage on the lot next to his house lot this summer.

Mr. DeSantis told Mr. Bridges he will have to get a lot line adjustment.

Mr. Bridges said his adjacent lot has a little building that was previously a residence and that he already did a lot line adjustment because he added some land to that lot.

Mr. King asked if there was still a residential use on the adjacent property.

Mr. Bridges said the building is still there but it is a one room shack and he didn't know how the Town would look at that.

Mr. King said the Code Enforcement Officer would have to determine that the building was a primary residence in order to allow the garage as an accessory use.

Mr. Henry joked that he couldn't just go using his property "willy-nilly" the way you want. We have rules against that he said.

Mr. Bridges said he didn't understand what the difference it makes to the Town as they are still getting tax revenue from both lots.

Chairman Kestner said the reason for the amendment was to clarify the ordinance but that obviously it's not been clarified.

Mr. Henry said it clarifies it to say "no".

Mr. DeSantis said this is the best the Town Attorney could do to clarify the ordinance and if voters at Town Meeting don't want it they can turn it down. He said he was only proposing that it be brought forward.

Mr. King said if the amendment is voted down it may be an indication that the board should consider allowing it.

Mr. DeSantis offered to call the Attorney to see if they could do better with the wording.

Mr. Fisher said the amendment is clear on what the intent of the ordinance is and the question is if this is a viable section of the zoning ordinance. He asked if they could tell someone who owns 2 adjoining properties that he cannot build an accessory unit on Lot B because there's no primary residential unit on it. In my opinion that is wrong he said.

Mr. DeSantis said it's about orderly growth and asked why you would want to put a non-principal use on the adjacent lot and that it would diminish the value of that lot.

Mr. Fisher cited examples of someone with 2 adjacent lots, with a home on Lot A and who wanted to put a barn for his cattle or a sawmill on Lot B which would increase the value of the Lot B because there would be a new structure on it which would in turn increase the amount of taxes owed for Lot B.

Mr. Bridges asked how it would diminish the value of the property if he put in a garage on his adjacent property because he could still sell the lot and someone could still build a house on it.

Mr. Henry asked if there is a mechanism for petitioned warrant articles for zoning issues.

Chairman Kestner said there is such a mechanism.

Mr. Henry said with 25 registered voters' signatures you can put a warrant article on the ballot to change this regulation so that you could do that.

Mr. Pelkey said if it violates any laws it couldn't be passed a warrant article.

Mr. Henry suggested Mr. Bridges get some help writing warrant article so that it is worded correctly and legally. He cautioned there is not a lot of time left to get it submitted.

Mr. Fisher asked if they could recommend that the last sentence in the amendment requiring that each lot must have a principal use in order to have an accessory use be deleted.

Mr. DeSantis said these amendments have been noticed in the newspapers.

Mr. Fisher asked if the purpose of the Public Hearing was to get the public's input.

Mr. DeSantis said he was not familiar with those laws.

Mr. Henry said the amendment is to clarify the rule and removing the rule is a separate thing.

Mr. Pelkey recalled that some of wording in the amendment was needed to support other items in regulations regarding principal and accessory uses.

Consensus of the board was to agree with the clarification of the definition of the existing rule.

#### **Amendment 4:**

To amend and rewrite Section 3.01 Relationship of Buildings to Lots. Proposed amendments clarify that only one residence is allowed per lot unless specifically allowed in the Zoning Ordinance; and further clarifies someone cannot obtain a variance to make use of exemption. Amendments also include organization of the section for clarity.

Mr. King said the current ordinance allows 2 houses on 1 lot if it can be subdivided. This just clarifies it to a greater degree to prevent unintentional abuse he said.

Mr. Henry asked if this would still allow 2 houses on 1 large enough lot.

Mr. King said that it does but the lot has to meet the other zoning requirements so if the lot was ever subdivided both lots would meet the zoning requirements.

Chairman Kestner said they will revisit the amendments at the second Public Hearing in Jan.

**Motion:** (King, second Fisher) to continue the discussion of the proposed amendments as written at the next Public Hearing passed unanimously.

**Adjournment:**

**Motion:** (Laferte, second Fisher) to adjourn the meeting passed unanimously at 9 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary

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

David Kestner, Chairman