

Town of Farmington  
Planning Board Meeting Minutes  
Tuesday, June 1, 2021

**Board Members Present:**

Charlie King, Chairman  
Rick Pelkey, Vice Chairman  
Gerry Vachon, Selectmen's Rep.  
Bruce Bridges  
Stephen Henry  
Bill Fisher, Secretary

**Board Members Absent:**

Jeremy Squires

**Others Present:**

Kyle Pimental, Planning Director  
Diana Johnson, applicant  
Nicholas Johnson, Jr. applicant  
Neil Gosselin, abutter  
Bob Stowell, Tri-Tech Engineering  
Dennis Allfrey, applicant

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

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

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**Review of Minutes:**

May 4, 2021 – Public Meeting Minutes – No errors or omissions

**Motion:** (Henry, second Fisher) to accept the minutes as written passed 6-0.

May 18, 2021 – Public Meeting Minutes – No errors or omissions

**Motion:** (Vachon, second Pelkey) to accept the minutes as written passed 5-0-1 (Fisher abstained).

**PUBLIC HEARINGS**

**Consideration and Possible Vote on Amended Minor Subdivision Plan Review for Diana Johnson, Tax Map R-60, Lot 18-1.** The applicant is proposing to amend the existing subdivision plan, which was originally approved by the Planning Board in February 2006, to separate the shared driveway between Tax Map R-60, Lot 18-1 and Tax Map R-60, Lot 18-2 into two individual driveways. The proposed project is located at 176 Bay Road and is within the Suburban Residential (SR) Zoning District.

Mr. Bridges told the board that Nick Johnson worked with him for one summer but he did not feel that it would be a conflict of interest for him to participate in this hearing. Diana and Nicholas Johnson, Jr. came forward to discuss their proposal with the board.

Mrs. Johnson said they are the first lot in the section of the subdivision on Bay Road that had to have shared driveways and Mr. Gosselin owns lot #2. She said their driveway is fully on their property already and Mr. Gosselin's driveway goes off their driveway and into his lot.

She said DPW Director Gary Rogers is okay with the plan and they want their deeds to no longer say there's a shared driveway so they don't have to have a shared driveway anymore.

Mr. King said in 2006 it was part of the conditions of approval for developer Newdam Partnership because of the lack of sufficient street frontage and that that requirement has changed now and asked Mr. Pimental if he had more information on that.

Mr. Pimental said at that time the minimum street frontage required was 200 feet in this zone.

Mr. King asked what the lot frontages are.

Mr. Pimental said the Johnson's lot is 150 ft. and all of the 150's have shared driveways and the lots that have 200 ft. have single driveways.

Mr. King asked if they got a variance for that and if one would be required to put in the subdivision because they couldn't meet the street frontage.

Mr. Pimental said he couldn't find one. He said the subdivision was approved in 2006 and the zoning has changed in that district to require 150 ft. of frontage so an individual driveway for both of these lots would now meet the bulk standards for that zone.

Mr. Pelkey said the board didn't receive copies of the subdivision map in their meeting packets.

Mr. Pimental said the only map they could find from the Registry is 24" x 36" and they don't have the ability to reduce the size so it could be copied and sent to the members.

Mr. King asked how many other lots in this subdivision have shared accesses points.

Mr. Pimental said there are 3 other lots with shared accesses.

Mrs. Johnson said they didn't finish because originally they were going to have 11 lots all the way down Bay Road and they haven't built them and they were going to do a big subdivision out in back.

Mr. King asked if all of the lots were created but just haven't been sold.

Mrs. Johnson said that is correct.

Mr. Johnson pointed out on the map that lots #3 and #4 have a shared driveway and lots #5, #8 and #9 have single driveways.

Mrs. Johnson said that their lot and 2 other lots are the only double driveways that have been built so far.

Mr. Pelkey asked if all of the lots in the subdivision meet the minimum requirement of the current zoning.

Mr. Pimental said they do and there is nothing smaller than 150 ft.

Mr. Bridges said he was familiar with the driveway and the only one this will affect is their neighbor and the Johnson's driveway would stay pretty much as it is.

Mrs. Johnson said there is a single lane that goes down the middle and splits at the end.

Mr. King said that as part of the subdivision it was a requirement so they would have it in their

deed that's listed as a deed restriction.

Mrs. Johnson said it doesn't say restriction and that it says shared driveway.

Mr. Pimental read that the deed says it is "subject to and together with a common driveway between Lot 1 and Lot 2 as shown on the referenced plan" and that is what needs to be amended.

Mr. Pelkey said he has also not seen an application for this amended subdivision plan.

Mr. King said the application and required noticing may not have gone out in their packets.

Mr. Pimental said they have it and everything in terms of the application is not applicable and they are not doing any designs, etc.

Mr. Pelkey said the wording in the application would be what the board is approving so he was curious to see the wording they want approved.

Mr. Pimental said a possible vote on an Amended Minor Subdivision Plan is what the notice was for.

Mr. Bridges asked if it would be giving the neighbor a new driveway.

Mr. Pimental said they are not approving that and the neighbor must get a driveway permit from the **Code Enforcement Officer (CEO)** and the **Dept. of Public Works (DPW)**.

He said because of the original approval there was no way for them to move forward without involving the Planning Board and the only way they could accomplish this was with an amended minor subdivision.

Mr. King said the only way they would change the deed is if the plan was amended.

Mr. Pimental said that is correct and they need a **Notice of Decision (NOD)** from this board saying that they're okay with that.

Mr. King said they are removing the requirement for a shared driveway on Lot #1 and #2.

Mr. Henry said the site plan is for all of the lots so they would be amending a plan for all the lots but just addressing 2 lots.

Mr. King said the approval is for all of the lots.

Mr. Pelkey asked who submitted the original subdivision plan.

Mr. Pimental said it was submitted by Newdam Partnership in 2006.

Mr. King said he was on the board at the time and sat on this application. He said he brought up his concern about if this applicant has standing to bring a change to someone else's approval earlier in the day with Mr. Pimental and he brought the question to the attorney.

Mr. Pelkey said they have already transferred property to the current owners.

Mr. Pimental gave the board a revised memo and read aloud the piece that he and the Town attorney worked through which is as follows:

"The application tonight seeks to amend a condition of approval of subdivision matter on a plan of land entitled "Subdivision Plat, Waldron Woods, Phase 1, Farmington, Strafford County, New Hampshire prepared for Newdam Partnership, LLP", which was approved by the Planning Board on February 7, 2006 with several conditions, one of which was that due in part to lack of

sufficient frontage (at the time it was 250 ft.), those lots with insufficient frontage had to install shared driveways. The applicant, Diana Johnson of 176 Bay Road and their abutter, Neil Gosselin, Jr. of 178 Bay Road seek to reverse the condition of approval as to their lots so as to allow separate driveways. As owners of these lots, they have the right to request this relief. Since the shared driveway was a condition of approval of a subdivision, the Planning Board has jurisdiction under RSA 674: 35 to hear this request, which is being treated as a limited Amendment to Subdivision Approval.”

Mr. Pelkey said he agreed with what they are trying to do he just wanted to make sure that when they leave here that they give them what they need to be able to get their deeds changed and not have to come back because they didn’t get the right words from the Planning Board. Mr. King said the attorney is saying that as owners of these lots they have the right to be the applicant.

Mr. Pelkey asked when they go to get their deeds changed what words they need from the board that says they can do this.

Mr. Pimental said that will be what they put into the NOD and that is the only thing that will be recorded and they’re not recording any new subdivision plan. He said the NOD will reference the original 2006 plan and the condition that was set in 2006 is amended just for those 2 lots.

Mr. Pelkey explained they have had a lot of discussions about shared driveways recently and asked why they were requesting this change.

Mrs. Johnson listed convenience, privacy and safety as some of their reasons.

Abutter Neil Gosselin said they happen to have children that are all the same age and they all got their driver’s license at the same time. He said they’re backing into the driveway at 5 a.m. when Mr. Johnson is out walking his dog and they don’t see him and just the inconvenience of that traffic going back and forth. He said when he came in to discuss it with them he was told they don’t violate the rule anymore.

Mr. Gosselin said he was the Chairman of ZBA in 2006 when this was approved. He said at the time it was an agricultural district when they gave the builders a variance to allow them to put in shared driveways for those lots. Now it’s been rezoned as a residential area which reduces it to 150 ft. which they meet he said.

He said he discussed this with Mr. and Mrs. Johnson and they decided to come in and see if they could get this changed and that he has no problem putting in a driveway. He said he contacted the DPW Director and he likes where the proposed new driveway would go but he won’t approve it until the Planning Board gives him notification that they are allowing them to go against the deed.

Mr. Henry said the board would be asked to accept an application that is substantially complete and then approve a plan that they haven’t seen and that is hard for him to do. I can’t vote that’s it’s complete without seeing it he said.

Mr. King asked if the application was in the Planning Office.

Mr. Pimental said yes and that he was surprised it didn't make it into their packets. He said the applicant did submit their application so the Town does have it.

Mr. King asked if all the abutters have been notified.

Mr. Pimental said yes and it was in the newspaper.

Mrs. Johnson said she has a receipt for paying for all of that.

Mr. Gosselin said he received a certified letter from the Town.

Mr. Henry asked if they could get copies made because he can't vote on something he can't see.

Mr. Pimental said there is not a lot of information there because it is mostly not applicable and the pages are essentially blank outside of the applicant's information such as their address, etc. He said he would be happy to make copies if they would recess the meeting to allow him to do so.

Mr. King said he didn't think he necessarily needed to make copies but the board would like to see them. He said if he was asking them to accept it as substantially complete he would have to say "accept what?" because they haven't been furnished with anything.

**Motion:** (King, second Henry) to take a five minute recess passed 6-0 at 6:19 p.m.

Chairman King reconvened the meeting at 6:33 p.m.

Mr. Pimental said that without talking with the Executive Asst. he was not able to track down the application and the best he could do for now was the Legal Notice. He suggested they could conditionally approve it or he can get it for the June 15 meeting.

Mr. King asked if he was attesting as staff that everything has been met in the application.

Mr. Pimental said he filled it out with the applicant so he knows that the Town has it.

**Motion:** (King, second Bridges) to accept the application as substantially complete based upon the minimum requirements that it would require;

**Discussion:** Mr. Fisher said he was here when they were filling it out so he saw the application but did not read it.

Mr. Henry asked then how did he know it was complete.

Mr. King said it was attested to by staff and (joked) if not they will take him out back and flog him to within an inch of his life.

Mr. Bridges said he didn't think the staff would steer them in the wrong direction and hold them up for something like that.

Mr. Pimental said this is his fault and he thought they had made copies of the materials. He said he could ensure that he did sit down with the applicant and go through it and help them fill it out and a lot of it is not applicable.

Mr. Pelkey said he was willing to accept Mr. Pimental's word on this.

**Vote:** The motion passed 5-0-1 (Henry abstained).

Chairman King opened the hearing for public comments or questions.

He asked Mr. Pimental for his thoughts on what the motion to approve the amended

subdivision should be.

Mr. Pimental suggested it should say:

Motion to approve the Amended Subdivision Plan to rescind the condition of a shared driveway for Tax Map R-60, Lot 18-1 and R-60, Lot 18-2 with the following conditions: 1). Submitting a letter to the Planning and Community Development Dept. acknowledging that both property owners agree to separate the driveway; 2). The property owner at Tax Map R-60, Lot 18-2 must obtain a driveway permit from the Code Enforcement Officer and 3). That both property owners must amend their deeds to strike the language that states "Subject to and together with a common driveway between Lot 1 and Lot 2 as shown on the above referenced plan".

Mr. Pimental said he didn't think they need to make it as a condition but he would advise both property owners to use a land use attorney when they have their deeds amended.

He said the NOD from the board should be enough for the CEO to issue a driveway permit (with input from the DPW) and for the Registry of Deeds to allow them to amend their deeds.

**Motion:** So moved by Mr. Pelkey and seconded by Mr. Fisher.

**Discussion:** Mr. King asked if Mr. Pimental was sure the last condition (to amend their deeds) was required. He said they could not do it and it would be irrelevant to the board but it would be advisable to correct it if they might want to sell it.

Mr. Pimental said for future title searches both property owners should do that whether it is a formal condition of approval or not. He said he could put that under his additional Planner comments that it's highly suggested that both property owners amend their deeds to not deal with any title issues later on if the board was not comfortable with making that a part of their approval process.

Mr. King said one of the owners could say they're okay with the previous plan and the amended site plan that shows they don't need it and they have a driveway permit so why should they go through the additional expense to change the deed when they may never move. If it's a requirement they have to do it he said.

Mr. Pimental said the reason he put it in there as a requirement was he could the CEO potentially not issuing the final permit until their deeds have been changed.

Mr. Henry said that would give the property two driveways.

Mr. Pelkey said that would be averse to the people who had already severed their driveway. He said if they sold it the next thing you know the neighbor says that's my driveway too. I think it would be to everybody's benefit to do that and the aim is to create quality lots he said.

Mr. Henry said he didn't think they want a lot to have 2 driveways and if they don't amend the deeds one lot would have two driveways.

Mr. King said it would put it in a gray area and it is part of Mr. Pelkey's motion.

Mr. King asked for any final comments from the public and hearing none called for the vote.

**Vote:** The motion passed 4-0-2 (King, Henry abstained).

Mr. King said the motion is approved and that Mr. Pimental will draft the NOD for him to sign.

Mrs. Johnson asked about the procedure after that and asked if once they have the approval from the board if they would be able to go to the Registry of Deeds.

Mr. King advised her to have her attorney draft the amended deed and submit it with the NOD to the Registry of Deeds to have it recorded.

Mr. Pimental asked if the board had any questions or comments on draft letter for both of them to sign.

Mr. Pelkey asked to have both property owners' names listed on the letter and to have the letter notarized.

Mr. Henry asked if the driveway permit could be conditionally approved on the change in the deed restriction. He asked if they created a situation where they've got their driveway permit but now they don't have to change the deed.

Mr. Pelkey said they have to do it now because it is part of the conditions of approval.

Mr. Henry asked if both parties are on the application.

Mr. Pimental said the application was just one person.

Mr. Henry asked if party A's application can bind party B.

Mr. Pimental said both parties are going to sign the letter (agreeing to separate the shared driveway) and they can't have a joint subdivision application.

Mr. King said Mr. Gosselin is here and was in agreement with making the change as a matter of public record. He asked Mr. Gosselin if he would like to say something.

Mr. Gosselin asked if he could apply for the driveway permit through the CEO once they get their NOD or if he has to go to Registry of Deeds first.

Mr. Pelkey said he can go apply for the driveway permit with the NOD because the board has said that it's good.

Mr. Pimental said the 3 things that are left are: both parties to sign the letter and return it to the Planning Dept. apply for the driveway permit and then both property owners will have to amend their deeds. He said they will need to bring the NOD to the Registry as it is the Planning Board's authority to amend the subdivision and the letter is just for the Town's records showing both property owners agree to separate the shared driveway.

Mr. Henry said that is taking rights from the abutter and asked if the Registry would need to know the abutter is agreeing to give up the rights to that shared driveway.

Mr. Pimental said that will be in the NOD. He said they would add the signed letter and the minutes as part of the NOD.

Mr. Henry said he would expect the Registry to be very strict about taking somebody else's property rights and that you would need substantial documentation.

Mr. King noted the minutes would not be recorded at the Registry.

Mr. Henry suggested they call the Registry and ask them what they want for documentation so they don't have to go there any more than they have to.

**Preliminary Design Consultation with Dennis Allfrey and Tri-Tech Engineering:**

Bob Stowell told the board that they paid attention and tried to address the board's concerns from last month's discussion. He pointed out on a map that they had a shared driveway on the proposed plan but they were able to reconfigure it to have 3 separate driveways for those lots that would impact the wetland buffer but are not within the wetland itself.

He said they will still need a special use permit from the Town for the wetland impact for the work they're doing for the roadway and a permit from NH Dept. of Environmental Services.

He said there were 4 lots proposed coming into one section of the property and they eliminated one of those lots and kept all three of the lots proposed for the rear of the property. He said the well radiuses are now fully contained on each lot so that issue is squared away.

Mr. Stowell said they discussed asking for a waiver to narrow the road width but with six lots they would be in compliance with the road design standards.

Mr. King said the standard with 6 lots is 18 ft. wide.

Mr. Stowell said the reconfiguration they did to deal with the driveways helped with some of the "buildable boxes" but there is a spot where they don't quite make it on lot #3 where there is a 5 ft. overlap into one of the wetland areas.

Mr. King asked what they have for area on lot #1.

Mr. Stowell said they have 75,000 sf. so it approaches a two acre lot size. He said the buildable area in that zone is 30,000 sf.

Mr. King asked about the wetlands on that lot.

Mr. Stowell said it is not a lot of wet area but is more about the buffer zone. He said there is 30,000 contiguous sf. outside of the building setbacks to meet the zoning requirement.

Mr. King asked what the area of wetlands is for that lot.

Mr. Stowell shaded in one corner of that lot on the map and estimated the area is 5,000 to 10,000 sf. tops.

Mr. King asked if the lot was bisected by wetland fingers or if it was segregated to one corner of the lot.

Mr. Stowell said it is an odd one and if they follow the boundary line they will see that it comes down to the dog-leg piece of property left over from the original lot. He said the dog-leg piece was originally part of one of the lots on Fox Trot Drive and when they put the proposed road in for access to the new lots it came out on the other side of that road. He said they considered adding it to the lot Mr. Allfrey owns in front of the proposed subdivision but he didn't want to bring that lot into the application and hold things up

Mr. King said that is problematic for that lot and suggested that he could come in with a proposal for a subdivision and a lot line adjustment and put that piece with the other lot as part of that application. He said it is of no use to lot #1 and it has enough area without it.

Mr. Pimental said they could package them together for one public hearing.

Mr. Henry asked if he would pay extra for lot line adjustment because the board wants it.



Mr. Pimental said there would be a cost for the lot line application but not for the legal notice because they would be on the same notice.

Mr. King said the applicant does not have to request the lot line adjustment and this is just a conceptual discussion. He asked for the width of the dog-leg strip of land.

Mr. Stowell said it is about 40 ft. wide.

Mr. King said that owner would only have access from the roadway.

Mr. Stowell said the buildable area for that front lot is close to Waldron Road and the owner would have to come back approx. 1,000 ft. through wetlands to get to the dog leg so he would never get any functionality out of it if they did attach it to that lot.

Mr. Fisher asked who owns the abutting three lots with frontage on Fox Trot Drive.

Mr. Stowell said they are owned by individual home owners.

Mr. Henry asked if it would be more advantageous for those lots to have the "bacon strip".

Mr. Stowell said they never know if the people would want the extra land and sometimes people are afraid it will make their taxes go up or they will have to pay to rewrite their deeds.

Mr. King said they addressed a lot of the board's issues and concerns and they met the spirit and intent for usable space for the circular lot.

Mr. Henry asked for the acreage of the lot with the circular buildable area (lot #3).

Mr. Stowell said it is 81,000 ft. (approx. 2 acres) and has 44,000 sf. of contiguous usable land.

Mr. Pelkey said he was pleased they listened to what the board said and have come back and addressed his concerns.

Mr. King asked for the diameter of the cul-de-sac.

Mr. Stowell said he did not remember.

Mr. King advised them when submitting their application to be sure it's sized appropriately for delivery trucks.

Mr. Fisher suggested they check with the Fire Dept. for the proper turning radius needed for emergency vehicles.

Mr. King said that should be in the Town's road specifications.

Mr. Henry advised them to be very familiar with the Town's road specifications if they are looking to have the road adopted as a Town road and follow it to the "T" to improve their chances of that happening.

Mr. King said the road construction process involves monitoring and inspections and advised them to make sure they get copies of all that information and to keep their copies.

Mr. Allfrey asked who monitors the road work- the road agent or if they have to hire an independent engineer.

Mr. King said it would be determined during their approval if they have Town staff with the skill needed and the time to do it or if outside engineering oversight is required that the applicant would pay for.

He said we have a procedure to get private roads adopted and part of that is a review and

comments by the board. He said there could also be a surety bond required and when the requirements are met they would sign off on releasing the bond.

Mr. Fisher asked about the classification of the wetlands such as if they are marshy or have standing water on site.

Mr. Stowell said it is a wet meadow and it doesn't have standing water with the exception of a few pockets of water.

Mr. King asked if it has been designated as a Class 3 wetland based on the Town's classification system.

Mr. Stowell said it was mapped and they found a small part of it is part of the National Wetlands Inventory through NH Fish & Game so the contiguous wetlands must have a buffer and that is how they arrived at the 50' buffer they used.

Mr. King said that sometimes when a wetland area is connected to a bigger wetland or one with a higher class status it takes on the classification of that wetland area and that is something they will have to address when they submit the application. He said to get the special use permit it will go to the Conservation Commission for comment.

Mr. Pimental said it would also go to the CEO for comment.

Mr. King asked for their estimated wetlands impact for the two crossings.

Mr. Stowell said the impact would be about 1,800 sq. ft.

Mr. King said that would be under the threshold for permit by notification but it does get reviewed in Concord.

Mr. Stowell pointed out the crossings on the map and they are under the 3,000 sf. threshold which they can do a permit by notification unless it's connected to a subdivision so they have to go through the normal process.

Mr. Vachon asked if they plan on putting a green area on the cul-de-sac.

Mr. Stowell said that seems like the likely thing to do with it and sometimes they incorporate the storm water drainage there but they haven't gotten that far with the plan. There will be some sort of landscaping there he said.

Mr. Vachon suggested they talk to the Fire Chief for the turn radius for the ladder truck and to the DPW Director for the turn radius for the 10 wheeled plow trucks.

Mr. Pimental said this application would eventually have to go through a review by the Technical Review Committee and the Police, Fire and DPW depts. would be part of that process.

#### **Any Other Business before the Board:**

**Master Plan Update** – Mr. Pimental said the public notice for the June 15 public hearing has been in the newspaper, it's highlighted on the front page of the Town website and the newest version is posted to the Planning and Community development page of the website.

**Traffic Counts** – He said the Strafford Regional Planning Commission has set 9 or 10 traffic counts throughout town so if the members saw any of the tubes that is what they are for.

Mr. King asked if there are any on Rte. 11.

Mr. Pimental said yes and there is one at the New Durham Town line and one at the Mad River Bridge. He said the only one that was not set was at River Road over the Mad River because it is closed.

He said he has offered other potential locations to the Police and Public Works and these are the ones they had to set for NH Dept. of Transportation. We have money in our budget to do supplemental counts so if there is an area that the Town is interested in getting more data on the SRPC can set those counts.

Mr. King said they have one at Lock Tite Storage which on Rt. 11 at the Mad River and asked why it isn't closer to the town line.

Mr. Pimental said these 9 locations rotate and are not the same locations every year. That could have been a location last year or the year before and they don't have a say where they go he said.

He said if the Planning Board ever wants more information about a larger development they can always request it so long as it's not during winter. He said the SRPC has interns every summer who go out and set the counts, collect the information and send it to the staff.

**Review Adam Giles Site Plan** – Mr. Pimental said he would like to sit down with Mr. King after the meeting and review the NOD and site plan for Adam Giles (MBG Enterprises, Tax Map R-32, Lot 22-8-1, Sarah Greenfield Way) and determine that everything has been met so he can sign the plan.

Mr. Fisher asked if they planned to further discuss the r-o-w dispute between the Town and Mr. Giles.

Mr. Pimental said he didn't have any update on the matter.

**Adjournment:**

**Motion:** (Bridges, second Fisher) to adjourn the meeting passed 6-0 at 7:14 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

  
Rick Pelkey, Vice-Chairman