

Town of Farmington  
Planning Board Meeting Minutes  
Tuesday, September 1, 2020

**Board Members Present:**

Charlie King, Chairman  
Bill Fisher, secretary  
Gerry Vachon, Selectmen's Rep.  
Bruce Bridges

**Others Present:**

Kyle Pimental, Interim Planner

**Board Members Absent:**

Rick Pelkey, Vice Chairman, excused  
Stephen Henry, excused  
Ann Titus, excused

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

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

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**Review of Minutes:**

August 4, 2020 –Public Meeting Minutes – No errors or omissions

**Motion:** (Fisher, second King) to accept the minutes as written passed 4-0.

August 18, 2020 –Public Meeting Minutes – No errors or omissions

**Motion:** (Fisher, second Bridges) to accept the minutes as written passed 4-0.

**Review Potential Zoning Amendment Revisions:**

Mr. Pimental provided the following draft list of potential zoning amendment revisions:

1). Add Provisions to Allow Certain Change of Uses to be reviewed by the Planning Dept.

Mr. Pimental said this approach would allow smaller projects to be reviewed by the Planning Dept. and not need Planning Board approval. He said examples of proposed developments that would require site plan approval in Dover would be any development which causes a residential structure to be converted so that it consists of 5 or more units or proposals that change the use of an existing structure containing 25,000 square feet or more of gross floor space. So if the structure didn't have 25,000 sq. ft. of gross floor space or was not adding 5 or more units then the Planning Dept. would review that change of use he said.

Mr. King said that is if the new use is permitted in the Table of Permitted Uses.

Mr. Pimental said if the board decides to go in this direction they need to think about the criteria they want to set, the threshold for the proposals they want to come before the board

and where to put it in the zoning ordinance. He gave an example of a change of use where a flower shop is changing to a hair salon and asked why it would need to come before the board when the Planning Dept. staff can handle it. It will streamline things and make it a little easier for the applicant and let this board focus on larger projects and not just change of uses he said.

## 2). Clarify Administration and Enforcement Inconsistencies-

Mr. Pimental said there was some discussion about clarifying administration and enforcement inconsistencies in the zoning and pulled out 2 inconsistencies that he found. He said under Section 1.00 Administrative Requirements, Section 1.08 (I) Housing Maintenance and Occupancy Code it talks about the power and duties of the Code Enforcement Administrator where the **Code Enforcement Officer** shall enforce the ordinance and is authorized to make inspections in response to a complaint of an alleged violation of the ordinance.

He said in section 1.10 it says pursuant to RSA 673:1 the town authorizes the Selectmen to establish a Dept. of Planning and Community Development with the authority to interpret, administer and enforce the ordinance, local codes, Planning Board and **Zoning Board of Adjustment (ZBA)** decisions. There is a need to clarify who is responsible for what and to make sure that the roles and responsibilities are clearly distinguished he said.

Mr. King asked if the ordinance states that the CEO is the interpreter of the zoning ordinance.

Mr. Pimental said it is stated in Section 1.08 (I) where it says "the CEO shall enforce the provisions of this ordinance..." He said that in section 1.10 A (a) it talks about the authority to interpret the ordinance but it refers to the Dept. of Planning and Community Development and he didn't know if it means decisions should be made by committee and it should be clarified. Section 1.08 falls under Housing Maintenance and Occupancy Code and Section 1.10 is Interpretation, Administration and Enforcement and seems like it is talking about the zoning in totality and the CEO was the intended staff person to administer the zoning but now I'm questioning that he said.

He said he will do more research to find out where interpretation, administration and enforcement are called out throughout the zoning and pull those out so they can look at them and make sure that there aren't any inconsistencies.

## 3). Amendments to Storage Units (Section 3.23) –

Mr. Pimental said this is largely based on the memo put together by the Land Use Assistant where she clearly laid out what the process is but he didn't think it translates exactly to the process in the ordinance. He said if that process is what they're doing right now he made the necessary changes to it in the memo so now item A reads instead of just a "written" permit from the Planning and Community Development Dept. it would say that temporary storage units require a "temporary" permit "which is a one-sheet building permit style document issued by the CEO prior to placing a unit on a property to verify that the unit will meet the zoning setbacks for the district within which it will be located". He said it was confusing when it just said a written permit from the Planning Dept. and it didn't say why and she explained it is to

verify the setbacks.

Mr. Pimental said he made no suggested changes to items b and c.

He suggested striking provision d requiring the units to be maintained in good condition and asked if the temporary storage units are intended to be there for 6 months if the board cares about what condition they are kept in for 6 months.

He said in provision e he recommends striking the sentence requiring the units to meet the setbacks for the zone it is located in because it was moved to provision a and to add a sentence stating the unit must be on the property and not in the Town's right-of-way.

There were no recommended changes to provision f.

Mr. Pimental said in provision g instead of saying after 1 renewal the CEO shall reevaluate the need to classify the unit as permanent (the person who owns the property is making that evaluation) he changed it to "once the temporary permit expires" or after 1 renewal "a minor building permit is required" to reclassify the unit as permanent "and taxable or the unit must be removed entirely". He said once the temporary permit is done they can get a renewal and asked what the time frame is for the renewal. Once the permit expires they will need a building permit to reclassify it as permanent or it has to be completely removed he said.

Mr. Bridges asked if it could be worded to say the property owner can have it classified as a permanent structure right from the start.

Mr. Pimental said you can do that and that he asked if they need to clarify the process for a storage unit already on a property that did not get a temporary permit in his notes in the his memo. He said someone with a unit on his property instead of getting a temporary permit could go right to get a minor building permit and be done with it.

Mr. Bridges said he was talking about someone wanting to buy a new unit and asked if he could skip the temporary permit and go right to the permanent classification.

Mr. Pimental said with the way that this is written they define temporary storage units up front and if they are going to make that change that is something for the board to decide.

Mr. King said if somebody were considering that a unit would be permanent there would be more considerations such as where it is placed, if it is visible from the road and if it will be allowed in the Village Center. He said as long as it meets the setbacks someone could put one on their front lawn on a temporary basis but it wouldn't be allowed there permanently. The section needs to have temporary requirements and permanent requirements he said.

Mr. Bridges asked with the size of the lots in the VC if they should allow permanent units there.

Mr. King said they may not want to do that and they may want to add to the Table of Permitted Uses where permanent units are permitted (P) or permitted by Special Exception (SE).

Mr. Pimental said in his notes he also asked if the board is comfortable with the current definition of temporary storage unit or if it needs to be changed.

He said he added provision h that says all permanent storage units must be maintained in good condition as an additional requirement for permanent units and agreed that they should break

it out into one section for temporary units and a section on the process to become permanent and the additional requirements for permanent classification.

Mr. King said if the units are permitted with review (PR) it must go before the Planning Board and they may not need to do that and could just say it's permitted and let them go through the permit process. He said if they are permitted by SE/Variance they must go before the ZBA and the ZBA could determine the requirements/restrictions to allow the unit.

Mr. Pimental said they will have to think about how they want to craft the language and agreed that adding additional criteria for permanent units is a good idea.

#### 4). Amendments to the Table of Permitted Uses -

Mr. Pimental said they had discussed possibly changing some of the SE's to conditional use permits and he wanted to have a conversation with the board about the current approach Farmington is taking in implementing the table and what some other communities do and the pro's and con's of each method.

He said Farmington currently has a fairly lengthy and specific Table of Permitted Uses to the point where it breaks down the difference between a dog kennel and a doggy daycare. The pro's of that approach is its pretty black and white-they can do it or they can't and there isn't a whole lot to be interpreted. The con's to that is that it can be relatively restrictive with the way it is interpreted because it is so narrowly focused he said.

He turned to the examples of residential and commercial permitted uses from Dover and Wilton in his memo and said the Dover Table of Permitted Uses is set up in a narrative form and is very open ended. They describe what the intent of the district, its character and design, the lot sizes and some of the non-residential uses that are compatible in a residential district such as churches, hospitals, schools and childcare facilities. They don't list all the other uses that could potentially go into a rural residential district and leave it up to the staff and the Planning Board to determine if the use would be a good fit for the district and the same for non-residential districts he said.

Mr. Pimental said that Wilton's method is set up with their residential district and what they have and then they list the different types of non-residential uses allowed by SE. Their downtown commercial district has a good amount of commercial uses and the same with the industrial and mixed uses but they do not get into the level of detail that Farmington provides. He asked if the board wants to continue with what Farmington has or have more back and forth with an applicant and leave things up to a little more interpretation and that currently if a use is not listed in the table it is prohibited and it would need to go for a variance.

Mr. King asked what happens in Dover if it's a commercial use but it's not on their list of permitted uses.

Mr. Pimental said that it is up to the Planning Dept. and the Planning Board to decide if the proposed use would be in character with that neighborhood and what they want to see. He said

he didn't think the Dover approach is necessarily good for all of Farmington.

Mr. King asked what Dover would do if he proposed bringing a drug re-hab/half-way house into a rural residential district because it is similar to a hospital in that it offers medical care and beds for short term care.

Mr. Pimental said he didn't know what they would do but they might have a lot of people from that neighborhood come and speak at the public hearing and that the Planning Board would take that feedback and make a decision.

Mr. Fisher recalled when the smoke shop wanted to come to town there was nothing in the table that prevents that. He said when they came before the board even though the people didn't like it, it was within the rules and the board had to say "go for it". I can see where it would give a greater voice to the people the way that Dover does it and if the Planning Board says no he has the option to go to the ZBA he said.

Mr. King said in Dover if the applicant makes a good argument to the people there about how he is crafting his drug re-hab. application to make it look like it's a hospital and they say based upon that argument- because its 3 pages long and pretty, it seems alright to put it in a residential area and they say he's all set.

Mr. Pimental said that would not necessarily be the process and he didn't want to speak for their Planning Board but he would bet their Planning Dept. staff would list their concerns and arguments they would have against something like that in a residential neighborhood. If the Planning Board were to deny that application there is probably a strong enough argument that could be made so if the Town were to be sued they would win that suit he said.

He said that Mr. King raises a good point in that the Wilton approach also puts more pressure on this Planning Board and the boards to follow as everything that comes before you now is most likely going to be approved with the processes we have set up and the applicant is not going to come here if it's not in the Table of Permitted Uses.

Mr. King said someone who is committed to coming here may go through the hoops to ask those questions but somebody with a "drive-by" review would say it's not permitted so I'm not stopping.

Mr. Pimental said since he has been working with the Town the board has only denied 1 application and that was because the application had hand drawn plans and had nothing to do with the intended use. He said these 2 approaches open the door for when we have public hearings to hear more from the public and he is not advocating for either way. The Table of Permitted Uses as it stands now is complex and very narrow but it does provide clarity and is helpful in that regard.

Mr. King said the dog kennel with overnight stay is a "hot button" issue here and asked how they would structure it.

Mr. Pimental said it would probably come under the veterinary clinic use which may include overnight boarding or caring of animals as in the Wilton method.

Mr. King read that the provision goes on to say that the facility will be designed, constructed and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor and asked how they would accomplish that.

Mr. Pimental said he didn't know how Dover would accomplish that and that he is scheduled to meet with a Dover Planner for more discussion on this and to ask those types of questions.

Mr. King said he has been on the board for a long time and kennels with overnight stays will get more people here except for the smoke shop. He said he is a big supporter of people who need help with drugs or alcohol but they have to figure out how to deal with the potential impact on the neighborhood community. Like opening a night club in a residential area with the noise and traffic or the restaurant that turns into a bar and these things can morph into issues that we don't anticipate he said.

Mr. Pimental said he is not advocating for them to go as extreme as Dover or Wilton but is advocating for the board to think about allowing for a little more flexibility. He said this would add additional review time at the staff level as well as for this board and the board would need to be prepared to review these applications with more consideration and they may have a lot more public input at the public hearings. Cases may take a little longer because instead of it being a public hearing and a vote it may happen over a series of meetings because they have to make changes to things the board is not comfortable with.

He said if this board wants to do this he would not recommend putting it on the 2021 Town Meeting warrant as he didn't think they could overhaul the Table of Permitted Uses into a different structure and be ready to present it to the voters in March and suggested they try to tackle some smaller things for next year.

Mr. King asked if it would make sense to take an incremental step with the Table of Permitted Uses to make it more generalized in commercial, residential and industrial uses.

Mr. Pimental said that is doable and the dog kennel/doggy daycare is an example of how something could be lumped into something all encompassing. He said simplifying the Table of Permitted Uses is something they could do this year to get ready for something like the Dover method the following year and avoid a drastic change from what has been done for a long time.

Mr. King said depending on the makeup of the board which can change from year to year the interpretations being applied could swing back and forth over time to where an application that was denied in 2006 was approved in 2012 and nothing about it was changed.

Mr. Pimental said this board and future boards would have to be consistent. Right now it is laid out in black and white for you but taking this new approach you would have to be very consistent with what you do and it would have to stay with future boards he said.

Mr. King said he would like to revisit this at the next meeting when more members are present.

#### **Proposed Master Plan Schedule for Adoption:**

Mr. Pimental said he requested the Arnett Development Group (ADG) provide the final draft of the Master Plan for the Sept. 15 board meeting and they should have received an e-mail the

previous day when the materials were sent in. He said he has not had a chance to read it yet and from ADG's e-mail it sounds like this is the plan and it doesn't sound like there's a lot of room for additional input. He said the plan has been posted on the Planning and Community Development page of the Town website. He recommended that the board read through it and come to the Sept. 15 meeting prepared to make a motion to set the public hearing date for Oct. Mr. King said they may still be having some discussion on edits.

Mr. Pimental said he did not know if there is going to be any other incorporation of comments. Mr. King said that Mr. Pimental was implying that the consultants may not be willing or able to assist them any further and they would be on their own.

Mr. Pimental said that may be the case. He said if there are any other changes the Planning Dept. may have to get a version that can be edited to make any changes and he thought the contract with ADG was done. We can have more discussion on this on the 15<sup>th</sup> he said.

#### **Review and Sign Declaration of Revocation:**

Mr. Pimental said the board received copies of the Declaration of Revocation (for the excavation permit owned by Malcolm Bradsher for Tax Map R 14, Lot 12) and asked the Chairman to sign it. He said he included it on the agenda because it was an interesting process that he had not experienced before. He said the revocation document is probably more detailed than really needed but because it is an odd circumstance that dates back to 1991 when this all started, he tried to provide a time line showing why the Planning Board made the decisions it did and all the backup documentation. This has been reviewed by legal counsel and will be recorded at the Registry of Deeds. We have the conditions Mr. Bradsher needs to adhere to and this is a documentation of everything we have done he said.

Mr. King said he signed the revocation document.

#### **Update on Recommended Revisions to Fee Schedule:**

Mr. Pimental said he thought the Selectmen were going to discuss the proposed changes to the fee schedule (at the August 31 meeting) but they didn't discuss it so he did not have an update on this matter at this time.

Mr. Vachon said he would make sure to bring it up at the next meeting (Monday, Sept. 7).

Mr. Pimental asked Mr. Vachon to update the board on the Selectmen's thoughts on the subject at the Planning Board's Sept. 15 meeting.

#### **Sign Notice of Decision:**

Mr. Pimental said the Notice of Decision for S & S Paving needs Mr. Pelkey's signature and that also he had a copy that Mr. King could sign. He said that Mr. King recused himself from the board during consideration of the application but he didn't know if there would be any legal issue with Mr. King signing the NOD.

Mr. King said Mr. Pelkey should sign it and he will contact him and ask him to come in to sign it.

Mr. Pimental said once it is signed it will be sent to the applicant and hopefully they will have the final site plans to sign at the Sept. 15 meeting.

**Adjournment:**

**Motion:** (Bridges, second Vachon) to adjourn the meeting passed 4-0 at 7 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

  

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Charlie King, Chairman