

# TOWN OF FITZWILLIAM

## PLANNING BOARD

### Meeting Minutes

August 18, 2020

*Note: Due to the COVID-19 pandemic, members of the Planning Board met remotely via phone/video conferencing, as allowed under NH Executive Order 2020-04, Emergency Order #12.*

**Members Present:** Chairman Suzanne Gray, Vice Chair Terry Silverman, Secretary Robin Peard Blais, Paul Haynes, Karen Craig, Barbara Young, and Charley Kenison, Selectman representative.

**Members Absent:**

**Staff Present:** Land Use Coordinator Lori Nolan

**Others Present:**

Shaun and Tania Curley, Chris Guida, Paul Grasewicz, Dan Baker, Barbara and Rolf Briggs, Jeff DeLuca, Dana Pinney, Mike Leone, Ron Olsen, Darlene Rossi, Dan Sheerer, and Phil Dunn

Chairman Suzanne Gray called the meeting to order at 7:00 pm and held roll call.

#### Review of Minutes

After a brief discussion, **Robin Peard Blais motioned to accept the minutes of July 21, 2020 with one amendment. Barbara Young seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

**Paul Haynes motioned to accept the site walk notes of July 28, 2020 as written. Terry Silverman seconded. Motion passed unanimously.**

Yes: 6 [Gray, Silverman, Peard Blais, Haynes, Young, and Kenison]; No: 0; Abstained: 1 [Craig]

#### **Preliminary Consultation: Shaun and Tania Curley – Site Plan Review for Home Business at 347 Rhododendron Road. [Map 14, Lot 16.2 – Rural District]**

Gray welcomed Shaun and Tania Curley to the meeting. Shaun Curley described the project, which includes consolidating storage locations for both his home and business. He is looking to build a large metal garage to store items. There will be no customers at this location and the building will be multi-purpose (storage of both personal and business materials). In the future, he would like this to be the location of toy town but that is not yet planned.

Peard Blais asked if they are building a house. The Curley's responded in the affirmative, but added that they are renting a storage unit currently and want to get rid of that unit. They will also work on trucks in the garage.

Peard Blais asked if there is a company logo on the vehicles. S. Curley replied that each truck has "Curley and Sons" on the side. The trucks only park at the property overnight. The garage is a metal building and will be blue and white to match the house.

Charley Kenison asked if they had obtained a building permit for the house. S. Curley responded that they did receive a building permit and permission to use a mobile home while the house is being built. At first, they proposed a smaller garage, but decided instead to build the larger garage.

Gray asked if there is a foundation. S. Curley said there is.

Gray said the Board needed to determine if this is a home business or a home occupation. Karen Craig commented that a home occupation does not involve vehicular traffic. This situation does not include any traffic and therefore she felt this is a home occupation.

Gray asked if employees come to the property. S. Curley said 1-2 employees come to pick-up and return trucks each morning and evening. Kenison commented that 5-6 trucks are in the yard and other trucks come and go all day. He felt this is a home business as there is traffic. S. Curley countered that it is not customer traffic. T. Curley added that some employees are friends/family and therefore are on property for personal reasons. S. Curley also said there is never more than one truck running at any given time, unless there is a special event which is seldom.

Young asked if there was an office. S. Curley said their company is based out of Brockton and the office is at 506 N. Warren Ave. Gray commented that home occupation is typically consultants, computer based jobs, etc with no traffic involved. S. Curley said there is no foot traffic at all out of the building. There is one mechanic on site, but the building will be used mostly for storage to consolidate everything in one place.

Peard Blais asked if there are plans to expand the business. T. Curley replied that this will be used for personal storage in the future. S. Curley said he has no plans to expand the business and does not want the business at his house as he wants separation between personal and work.

Paul Haynes commented that he felt this is a home occupation. The traffic level is consistent with residential vehicular traffic.

Terry Silverman commented that this may become a home occupation, but currently it is a business. He would like to see details dealing with safety and storage.

Young commented that the home business description says there is to be no other location. But they have employees and a mechanic coming to the site. S. Curley replied saying they want to consolidate their storage units. He may visit the storage unit once a week. There are no customers and only one employee on site.

Peard Blais commented that she felt this is a home occupation that may become a business.

Kenison added that he agreed with Silverman. He felt a Site Plan Review is needed due to the increase in traffic. T. Curley commented that the last few weeks there has been higher traffic due to two trucks being repaired from accidents. There is one truck in the yard that is used for parts (not driven). They have five trucks in total with two on site but one doesn't move much. Silverman said a Site Plan Review does not

hinder you or the business but instead protects you from neighbors and future disputes. It is to make sure you and the land remain safe. Gray added she felt a Site Plan Review was needed.

The Board then unanimously agreed that a Site Plan Review was needed. Gray instructed the Curley's to work with the LUC to prepare for the SPR.

**Case # 20-5 Public Hearing: Jeffrey and Barbara DeLuca – Constructing of a second floor and repair of existing deck within the WPOD at 50 Hemlock Drive. [Map 35, Lot 18 – Rural District]**

Gray summarized that case saying a public hearing has started with ZBA for a variance and the Conservation Commission has begun their consultation. Construction of the deck has already been completed but the Planning Board will decide to approve or deny a Conditional Use Permit for construction within the WPOD.

**Gray motioned that the Conditional Use Permit application is complete. Peard Blais seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Jeff DeLuca explained to the Board that the existing deck had to be removed as the sill was rotted. Gray asked if work was completed. DeLuca replied saying that the finish work inside is not done. Gray asked if they added a second floor. DeLuca replied in the affirmative. Gray asked the distance from the pond. DeLuca indicated around 50 feet.

Peard Blais asked about obtaining a building permit. DeLuca explained that he is a licensed contractor in MA. He and his contractor both thought the other one had obtained a permit, though neither had. Silverman commented that an approved building permit must be prominently displayed. DeLuca said because he is licensed in MA, he was not aware of the rules within NH.

Craig asked if the footprint had changed. DeLuca replied no.

Gray asked if the Conservation Commission had been consulted. DeLuca said yes and that both ZBA and CC will hold a site walk the next day.

**Silverman motioned to table the public hearing until the Board heard the outcome from ZBA and Conservation Commission. Kenison seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Gray asked if the Board should schedule a site walk while waiting in ZBA and CC. The Board then agreed to conduct a site walk on August 27 at 5:30pm.

**Case # 20-7 Public Hearing: Ronald Olsen – Expansion of front and rear deck, and roof line change within the WPOD at 183 Forest Drive. [Map 42, Lot 2-83 – Rural District]**

Gray welcomed Ron Olsen to the meeting.

**Gray motioned that the Conditional Use Permit application is complete. Peard Blais seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Olsen explained that the property currently has a trailer on cinder blocks. The front of the house has a 5x5 foot entry deck. He is proposing a 12x6 foot deck with overhead covering. For the rear of the house (pond side), he is proposing extending the deck by 2x10 feet with no overhead covering.

Gray asked how far the rear deck is to the pond. Olsen said about 35 feet to the edge of the marsh.

Silverman asked if this has gone before the Conservation Commission yet. Olsen said yes. Gray added that the Conservation Commission would like to join the Planning Board if they decide a site walk is needed. Both Silverman and Craig felt a site walk was needed.

**Peard Blais motioned to conduct a site walk in conjunction with the Conservation Commission on August 27 at 4:30pm and continue hearing to next meeting. Gray seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

**Case # 20-6 Public Hearing: Edith Monteverde – Minor Subdivision (2 lots) at 89 NH Route 12 South. [Map 15, Lot 61 – General Business and Rural Districts]**

**Gray motioned that the Minor Subdivision application is complete. Peard Blais seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Paul Grasewicz explained this is the same plan from the preliminary consultation. They are looking to create a 7 acre lot, with the remainder of the land to sell. Both lots have legal frontage and area. Two easements are being created by Bill Prigge – one for Lorraine Dubois and one for Edith C. Monteverde.

Gray asked about the path/access that is close to the Dubois. Grasewicz said he met with the state and obtaining permission to move the access is slim. It may take several months and \$40,000 to obtain another access. Silverman had concerns about access as it could become problematic for the Dubois'. Grasewicz commented that the access that currently exists is not on Dubois' lot.

Silverman motioned to add a stipulation stating that the access cannot be used for future development – only for access, not for a subdivision or housing – and if building on the back-lot, another access must be built. Peard Blais agreed, further stating one business or house only, as any development using the current access would affect the Dubois.

Gray asked where another access point would be. Grasewicz replied stating further south on the property but the chances the state granting it are slim.

Young asked if there is anything listed in the deed that would describe the existing path. Grasewicz replied in the negative, stating it says the state only grants this one access and that is the reason why the two easements are being proposed as it will define who has the rights and who maintains the areas.

Silverman would like only one house or business on the subdivided land. **He motioned for a continuance to work this issue out. Gray seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Gray further commented that she would like the Dubois' to either attend or decline attendance before a decision is made.

**Case # 20-4 Public Hearing: Rolf and Barbara Briggs – Replacement of an existing dwelling, shed addition, and stormwater drainage improvements at 46 Rantilla Lane [Map 38, Lot 9 – Rural District]**

Gray summarized the case so far stating the Board recently conducted a site walk and was able to obtain answers. She then asked where the easement began on the property. Chris Guida replied that there is a right-to-pass with no needs and bounds. The area is over the existing driveway. They are proposing shifting it about 5-10 feet to accommodate the new proposed house. The right-to-pass will still be open with no obstructions. Gray then asked if the proposed septic tank will be over the easement. Guida said yes.

Young asked if the septic system had been approved yet. Guida indicated no, but the application has been submitted. Carl Hagstrom is working on it and approval is expected imminently.

Gray asked if ZBA had decided on the variance. The LUC answered that they approved the variance conditioned on approval from Planning Board and Conservation Commission.

Gray commented that the road is a right-of-way and is more of a driveway than a road. RSA 674:41 prevents approval of a construction permit due to the criteria for road status. Silverman countered saying there is no issue with 674:41. There are about 35 conditions and this property meets one of them. The existing structure was being used over the years for access. Guida added that a surveyor had looked into this and viewed Rantilla Lane as a private road. He felt they met the conditions in the RSA.

**Silverman motioned to approve the expansion as proposed on application. They must follow the plans as reasonably as can be with the understanding this is a multi-year project over many years. Peard Blais seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

**Preliminary Consultation: Michael Leone – Conduct a composting business at 385 NH Route 12 South. [Map 12, Lot 2 – General Industrial District]**

Gray welcomed Mike Leone to the meeting. Leone explained the current property is a wood pellet business. He is looking to purchase the property and use it for wood recycling. Silverman asked if this is in addition to the pellet business. Leone replied stating no. This would be to make performance mulch, leaf mulch.

Silverman moved to proceed to a Site Plan Review. Haynes seconded.

Silverman added that this is a good reuse of the property. It is a safe product than in the past. The noise and activity will be similar and want to make sure it is conducive to the neighbors. Peard Blais agreed stating this is a better use of the property and would like to see a Site Plan Review. At this time, the entire Board agreed.

Gray advised Leone to come back before the Planning Board for a Site Plan Review.

**Preliminary Consultation: Randolph Burt – Major Subdivision (6-lots) at Fullam Hill Road and NH Route 119 East. [Map 12, Lot 34.1; Lot 34.2; and Lot 34.3 – Rural District]**

Gray welcomed Paul Grasewicz back to the meeting. Grasewicz explained that Randy Burt would like to subdivide this area into 6 lots. Three will have driveways on Fullam Hill and three on Rt 119. One lot would be a hammerhead lot. All lots would have 300 linear feet of road frontage, except for the hammerhead lot. Soil testing still must be done.

Silverman asked how far from Rt 119 to the hammerhead. Grasewicz indicated around 100 feet. Silverman advised Grasewicz that according to Zoning Ordinance 127-19-D1, hammerhead lots are not allowed in this situation. Grasewicz acknowledged that and will revise the plan.

Peard Blais asked about the location of the pond and where a house could be built on that lot. Grasewicz replied the pond is within Lot 2 by Rt 119 and the house could be located in the back of the lot.

Gray asked if the stone walls could be used as boundary lines. Grasewicz indicated he will look into that.

**Preliminary Consultation: Scheerer Realty Trust, LLC – Site Plan Review for business structure expansion at 57 Creamery Road. [Map 28, Lot 6 – Light Industrial District]**

Gray welcomed Phil Dunn to the meeting. Dunn explained they are looking to bump out their employee break room by 8 feet to allow for more space. The proposed addition would be 8x25 feet, which would make the breakroom 16x25 feet. They have a 15 minute meeting once a week and require more space due to covid and socially distancing rules. Dan Sheerer added this area is the only non-manufacturing space in the facility.

Gray asked if the addition would affect parking as the expansion is into the parking area. Dunn replied no as there is plenty of room and should not interfere.

Silverman commented that a Site Plan Review is not needed as they have plenty of room to expand.

At this point, Gray advised them to continue to the Board of Selectmen to obtain a construction permit.

**Correspondence**

- 9 MW ground mounted solar voltaic tracker system at 801 Spring Street, Winchendon, MA.
- Major Site Plan Review and Major Subdivision review for 66 units with 16 of these units being workforce housing units (26 single family lots, 16 three-bedroom multi-family units in 4 four-unit buildings and 24 two-bedroom multi-family units in 4 six-unit buildings) at 581 NH Route 119, Rindge, NH.
- Town Hall Closed – Steeple
- DES letter from Caracappa

**Old Business**

**Chinook Solar update:** Gray asked to table the update. The Board agreed.

**Junk and Junky Yards:** Peard Blais asked to table this topic indefinitely as she was not in favor of an ordinance. She then asked when in-person meetings would be available. Gray said the issue is the people who dial-in cannot hear the people in the room. The LUC is currently looking into options. Peard Blais asked how the BoS conduct their meetings. Kenison indicated the hybrid model. Gray then commented that they have less people (3) and no one from the public attends in person.

Kenison requested a roll call vote on junky yards so he can respond to the Select Board's request for Planning Board view of junk yards and draft an ordinance.

Silverman commented that he had difficulties with this. We are in New Hampshire. He is not in favor of ordinances that other towns have, for example the ban on hanging laundry outside. He felt the BoS can handle this from a safety perspective.

Craig wanted to hear more before making a decision.

Peard Blais asked to move to the next meeting.

Young would like a discussion on this and what it includes. Kenison explained the BoS received multiple complaints about junky yards. They asked the LUC to do research. They then felt in order to take action, they needed Planning Board to draft an ordinance. He requested a roll call vote to bring back to the BoS.

Silverman would like the BoS to let the Board know what their needs are and if this is palatable in town or not. He felt this put in the Planning Board in the middle and does not feel it is solely in the Planning Board's area. The BoS has the ability to enforce. Gray asked Kenison to obtain more information from the BoS. At this time, Kenison requested a joint meeting with the BoS and Planning Board.

Young commented that the description of a home business and home occupation means all activity must be fully contained on the property. She did not feel Curley is a home business or occupation because the business is not entirely there. Silverman replied saying it must fit within the neighborhood. It is the Planning Board's call on what they feel is going on and the effect it has on the neighbors.

Craig asked to add the Wireless Communication Overlay District ordinance review and a Master Plan update to the future agenda.

With no further business to discuss, **Gray motioned to adjourn. Craig seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

The meeting was adjourned at 9:12pm.

Respectfully Submitted,

Lori Nolan

Land Use Coordinator

**Approved as amended on September 1, 2020.**