

**Town of Fitzwilliam
Planning Board
Meeting Minutes
February 5, 2019**

Member's Present: Suzanne Gray, Chairman; Paul Haynes, Vice Chair; A Robin Peard Blais, Secretary; Matt Buonomano; Terry Silverman; Barbara Young; Alternate Karen Craig and Charley Kenison, Selectman's Rep.

Member's Not Present:

Others Present: Jon Le Claire, contractor; Trevor Fletcher, Surveyor for Graz Engineering; Martin Nolan, interested party; John Gravel, TRC employee working as agent for NextEra on the Chinook Solar project; Dan Scheerer, President of PLP Composites; and Laurie Hayward, Land Use Administrative Assistant (LUA).

Call to Order: The Chair Called the meeting to order at 7:04 PM.

Minutes: Meeting of January 15, 2019. Amendments to the minutes were discussed and agreed upon. **The Chair moved to approve the minutes as amended; Young seconded and it was voted unanimously.**

Meeting: Spicer, Request by Planning Board that David Spicer and/or his Agent(s) meet with the Planning Board. Blais recused herself. Jon Le Claire and Trevor Fletcher, both speaking in favor of the David Spicer proposed expansion of a dwelling in the Wetlands Protection Overlay District, stepped forward. Le Claire and Fletcher explained that they were at the meeting in the place of Paul Grasewicz. Fletcher explained that Grasewicz assumed that the process for the expansion of the dwelling at 12 Spicer Point on Tax Map 21, Lot 19-1 would be the same as the process for the other dwelling located on the same lot and which is known as 10 Spicer Point. That dwelling at 10 Spicer Point was approved for tear-down and re-build by an application for Special Exception to the Zoning Board of Adjustment only. Le Claire explained that he did the construction of the new dwelling at 10 Spicer Point and that dwelling was built a bit back from the original and so was less encroaching on the wetland. Fletcher explained that his understanding is that because the replacement dwelling was further from the water and because the Zoning Ordinance specifically exempts additions from any requirements other than an approved Special Exception from the ZBA that was all they needed this time. He added that there was no involvement with the Planning Board or the Conservation Commission then and so there should not be now.

Zoning Ordinance language. There ensued a detailed discussion about the Zoning Ordinance language and the application of various sections of the Ordinance.

- Fletcher stated that Grasewicz had pointed out language under section 127:19.F which states: “All reduction to dimension in the Table of Standard Dimensional Regulations for porches or building additions to be by Special Exception.”
- The Chair explained that the Board is concerned about impact and the protection of the lake. She asked members if they wished to address questions or comments to Le Claire and Fletcher.
- Buonomano spoke about the town Ordinance that includes a Wetlands Protection Overlay District (WPOD). Buonomano pointed out that the wording in the WPOD section specifies that there must be application to the Planning Board and consultation with the Conservation Commission.
- Buonomano also pointed out requirements in the state statute which under the Shoreland Protection Act requires application to the New Hampshire Department of Environmental Services (DES) for approval of any expansion of an already existing structure which is “non-conforming”, in this case because the dwelling at 12 Spicer Point is in the Shoreland Buffer. Fletcher stated that he believes that Grasewicz plans to submit an application to DES after he has Fitzwilliam town approval.

Fletcher quoted from the Ordinance, stating that he feels this adds to his sense that they should not need anything beyond a ZBA Special Exception:

”127.16.7(e) Notwithstanding any other provisions of this section, the construction of additions and extensions to existing structures shall be permitted within the WPOD, provided that:

- (1) The structure lawfully existed prior to the effective date of this section;
- (2) The proposed construction conforms to all other applicable town ordinances and regulations; and
- (3) The construction is not in a wetland.”

- Buonomano countered that he sees the requirements under “provided that” as not met in this case. Buonomano added that under the WPOD Code there is language that explains the process of seeking a determination from the Conservation Commission of whether Planning Board review is required and quoted:

”127.16.D (2) “If the proposed activity is in the WPOD, the applicant shall meet with the Conservation Commission to determine the extent and location of the wetlands area(s). The Conservation Commission may request that the applicant provide on-site studies or other information necessary to make their determination. If the Conservation Commission determines that no wetlands will be affected, no further WPOD regulations shall apply to the application. If the Conservation Commission determines that wetlands will be affected, they

shall refer the applicant to the Planning Board and may make recommendations to the Planning Board regarding the application.”

- The Chair added that despite the general language about additions to existing dwelling and the intent of the WPOD language is clear. In this specific case, the Applicant wishes to expand a non-conforming use to make it a significantly more non-conforming use in the WPOD.
- Silverman spoke regarding his desire to see this come through as a Site Plan Review. He mentioned that he is concerned about all of conditions DES placed on the previous building, 10 Spicer Point.
- Le Claire told the Planning Board Members that Grasewicz has already started with the state and he suggested that the Planning Board send a letter to Grasewicz explaining their understanding. Gray asked the LUA to write a letter to the owner and the surveyor.

Preliminary Consultation: Gibson, Minor Subdivision Fletcher again stepped forward. He showed Members a plan for a three-lot subdivision which is a Minor Subdivision.

- **Future subdivision possibilities.** Silverman asked if there were plans to further subdivide the property at some future time. Fletcher stated that he did not know of any plan to further subdivide. Silverman said that the plan shown would require the ZBA to address issues with the frontage requirements.
- **Boundaries and stone walls.** There was a question about the fact that the rear boundaries do not follow already existent stone walls and that can create problems with future neighbors. She questioned the logic, explaining that owners would have to go over walls to get to a small part of their property. The Chair noted that using the stone wall as a boundary is a tradition, is visually pleasing, and doing that in this case makes sense. Young pointed out it can minimize confusion about boundaries.
- **Non-conforming subdivision and possible changes to better conform.** Buonomano commented that his concern is that the plan is to do a three-lot subdivision where there is not enough frontage to do a three-lot subdivision. Buonomano stated that he does not recall the Planning Board permitting such a subdivision before. There was a brief discussion about whether that would allow for the development of a back lot with inadequate frontage at some point in the future. There was also consideration of whether Lot Line Adjustment was needed and/or whether it could be done as a two Lot Subdivision for now.

- **Need for Applicant to appeal to the Zoning Board of Adjustment.** In the end, it was agreed that they would need to go before the ZBA for relief from the frontage requirements of the Zoning Ordinance if the plan in hand becomes the route they plan to take.
- **Wetlands.** Buonomano asked about wetlands on the property. It was noted that there is a stream on the property; but the stream is not in the area of the two lots with adequate frontage.

The Chair called for additional comments and noted that this is just a Preliminary Consultation. There were none and Fletcher stated that they would go to the ZBA and then return to the Planning Board for the final approval. The Chair asked the Applicant to schedule for the next ZBA meeting. The LUA, stated that there is not an application at this point and asked if the Planning Board wished to do their work concurrent with the ZBA. Silverman suggested that the Applicant go to the ZBA first. The LUA stated that she needs the application for the ZBA before she can set a date for a Public Hearing.

At this point, Fletcher left the meeting.

NextEra/Chinook Solar. The LUA pointed out that there was a representative of NextEra present. The Chair explained that she knows that NextEra sent communications and Board Members just received copies of those; but, they did not arrive in time to be addressed at the meeting. The Chair stated the policy that has been previously stated to NextEra representatives, that the Board does not take up issues/communications that were not provided at least four business day prior to a meeting. Gravel indicated that he would simply stay and listen.

Chinook Solar Meeting: Monday Chinook Solar will be in to see the Select Board and the Select Board has asked the Planning Board and the Conservation Commission to the meeting.

Old Business: There was a brief discussion about the need for a Fitzwilliam Ordinance for shoreland protection and that this might be the time to take that up. LUA offered to email members the most recent file that she can find that has draft language for a new town Shoreland Protection Ordinance.

New Business: Scheerer explained that he recently purchased the PLP property and is looking at possibilities for the property and for the business. He asked about possible zoning changes and what issues might exist if he wished to expand the building. Silverman spoke, noting that his pottery works are in the Depot area, he feels that area is zoned light industrial and is likely to stay there. Silverman and Blais agreed that there is not much room for expansion in the current PLP location. Blais did tell him that there was a time when she complained about fumes. It was pointed out that the stack was raised at some point and that may have mitigated the fumes. There was a brief discussion about other commercial properties, including the larger Concord Industries property.

Correspondence/Announcements:

Young spoke briefly about the school budget and the impact of the 50/50 decision. Fitzwilliam will pay an additional amount, increasing by \$2.5 Million each year for the next 5 years. Currently Fitzwilliam pays \$5 Million per year. It will increase to \$7.5 Million this year and then go up.

The representative from NextEra did not leave until the end of the meeting.

There being no additional business to conduct, the meeting was adjourned at 8:43 PM. **The next meeting is scheduled for February 19, 2019.**

Respectfully Submitted,

Laurie Hayward
Land Use Administrative Assistant