

**Town of Fitzwilliam
Planning Board
Meeting Minutes
August 21, 2018**

Member's Present: Ross Tourigny, Chairman; Terry Silverman; Robin Peard Blais, Secretary; Paul Haynes, Vice Chair; Suzanne Gray; Matt Buonomano; Charlie Kenison, Selectman's Rep; and Laurie Hayward, Land Use Administrative Assistant (LUA).

Members Absent: Robert Young, Alternate; Carlotta Pini, Alternate

Others Present: Trevor Fletcher, Surveyor for Paul Grasewicz; Debbie Favreau; Tim Goddard, Helen and Ralph Niemla's grandson and agent; Heather Peterson, Peterson realtors; and Daniel Baker, Selectman. Robin Crowe joined the meeting after it began.

Call to Order: 7:15

Preliminary Consultations:

Debbie Favreau and Robert Favreau /Paul Grasewicz, Boundary Adjustment, in Rural District, M10-L41 & M10-L50-1

The Chair opened the meeting with the Preliminary Consultation regarding two Boundary Agreements involving lots owned by Robert Favreau. Trevor Fletcher stepped forward and explained to the Board that he was at the meeting in place of Paul Grasewicz, the surveyor, who had to be elsewhere. Fletcher showed new maps and explained there were three lots involved. He pointed out on the maps Lot A and, newly drawn, Lot B. Fletcher told the Board Lot B would be merged with Debbie Favreau's current adjoining property.

Fletcher also showed on the map, the small Property line adjustment that Robert Favreau wished to make on to two adjoining parcels, both owned by Robert Favreau. This would result in a small expansion to Lot A and place entire driveway on lot A. Fletcher noted that both lots are non-conforming with road frontage under the 300 foot minimum. With the proposed adjustment, Lot A will be less non-conforming.

Gray asked if a shed shown on property line would be moved and the answer was yes it would be moved. There is also a question regarding the access to the Debbie Favreau property. Fletcher stated that there was a two rod Right of Way with the existing driveway for the Debbie Favreau parcel. Their questions answered, the Board thanked Fletcher and Debbie Favreau and Darnel Favreau. Fletcher and both Favreaus left the meeting at this point.

The Chair then opened the Preliminary Consultation regarding Robin Crowe, Site Plan Review, Property of Ralph & Helen Niemela, Ceramic Artist Studio, Workshop, and Retail store, in Rural District, M8-L46

Heather Peterson, realtor, presented for Robin Crowe. Peterson explained the Crowe wants to have a retail shop. She does not plan to make physical changes to the property. Peterson showed photos of the property. She explained that Crowe currently has a business in Troy and she would like to transfer her business to this property in Fitzwilliam. Peterson showed photos of Crowe's wares which are ceramic pieces. [By this point in time, Crowe had joined the meeting]. The Chair asked how long since there was business at the property in question. Tim Goddard answered that a couple of months ago he cleaned up and stopped the auto work that was actively done at that location up to that point. Crowe pointed out that she already understands they would need a Special Exception from the Zoning Board of Adjustment. Silverman told Crowe that she would definitely need to come to the Planning Board for Site Plan Review. Silverman noted that the kiln would need to be discussed as well as lighting, septic, and other items that Planning Board Checklist shows.

The Chair pointed out that there are various non-conforming uses that the applicant seems to be considering such as a retail operation, a studio, a workshop. Buonomano explained to the applicant that there is a checklist that she should review and answer because that is for important information that both applicant and the Board must consider as issues important to the welfare of the town.

There was some discussion about lighting and it was noted that Fitzwilliam has a "dark skies" lighting ordinance that would come into play. Again board members recommended that Crowe use the checklist to decide how to put together the application. Gray suggested that they follow the checklist and ask the LUA for assistance if there are questions. Crowe was referred to the LUA for checklists and applications and said she would visit the Land Use Office the next day.

The question came up whether there needs to be Planning Board approval before the Zoning Board of Adjustment takes up the appeal for Special Exception. Silverman offered that they did not need to go to the Planning Board first. The LUC stated that she believes that she found something in procedures of the Planning and/or Zoning Boards that requires Planning Board first; but, the Board could ask the two Boards take this one up concurrently. Silverman stated that he did not believe there was anything in Planning Board procedures that called for that. The LUA stated that she would find the reference and follow up with the Board. She said she would work with the Zoning Board of Adjustments to see if they could take up this case in September and before the Planning Board takes up the Site Plan Review. This ended the Preliminary Consultation and the applicant, the agent, and the realtor left the meeting at this point.

Drafting Minutes: The Chair opened the discussion about minutes by noting that there had been some questions regarding the preparation of Minutes. He said that there was a question regarding minutes and the way that LUA was preparing the draft minutes. The Chair explained that one concern seemed

to be that the LUA was asking members for information in the course of preparation and the question arose is that making amendments before the minutes were reviewed by the Board Members. The LUA explained that, yes, in her first few weeks on the job, she had contacted the chairmen of the Boards she works with in order to get accurate names, for example in writing the Conservation Commission minutes, she went to the Commission Chair to get clear on the two entities Monadnock Advisory Commission and Monadnock Conservancy and make sure she had the names correct. The LUA explained that when the Planning Board Chair approached her with the concern, she contacted the New Hampshire Municipal Association (NHMA) legal department to make sure there was no problem with the process she was using. Based on the conversation it is the LUA's understanding that there was nothing wrong with contacting the Chair or a specific member about something referenced in order to clarify a name or a date or a similar fact mentioned at a meeting. What should never be done in preparing minutes is to change the intent or gist of a discussion or vote. The LUA stated that a draft is a summary of what happened in a meeting to the best of the preparer's understanding. The draft minutes go to Board members in advance and they approve or amend the draft.

The LUA told members that, pursuant to Silverman's concerns from the last meeting, she did ask Margaret Burns, staff attorney for NHMA, about using electronic recording instruments during meetings as an aid to preparing draft minutes. The LUA was told that it was more common than not for there to be recordings and those recordings are never a "second set of minutes" although they are discoverable until deleted. The LUA further noted that the Planning Board Rules of Procedure do include a statement that recordings must be deleted when the Minutes are approved which is consistent with New Hampshire statutes on the subject. The LUA stated that she likely would not have needed to contact anyone, if she had a recording to refer to when her typed notes taken at the meeting were not clear. Buonomano commented that he saw this as comparable to a manager in business making sure that employees had the tools they needed to do their job. If it helps the LUA efficiently prepare draft minutes, then he is in favor. After some further discussion, it was agreed that the LUA could use a recording device as an aid to preparation of minutes. The LUA thanked the Board and at that point the LUA placed a digital recorder on the table and started the device.

Minutes: The Chair took up the Minutes of the Meeting of July 17, 2018. Silverman asked that on line 61 of the draft, where it reads "Silverman abstained", that his name be deleted and the minutes be amended to read that there was one abstention. The LUA mentioned that she would do that if the Board voted to make that amendment. The LUA noted that she thinks there might be a place in New Hampshire statutes that provide a basis for giving the votes cast by name, at a minimum on case decisions. She will research that.

Old Business: Buonomano asked if last meeting there was any discussion regarding Xtreme Auto. He added that the Xtreme Auto case gives an example of what can go wrong when something that is represented in a Preliminary Consultation doesn't happen and there is nothing to bind the individual to the promises. Buonomano asks for a revisit of that case and that the Board determine how to handle the situation going forward.

Approved as Amended September 4, 2018

Chair offered that it might be the right time to take up Rules of Procedure and clarify the process, especially about Preliminary Consultations. Buonomano said his concern is that the Preliminary Consultation is not being used correctly and can be abused. Gray agreed that the Board should take up Xtreme Auto and added that there were multiple visits to the Board by the principles of Xtreme Auto; but, those same people have not kept to agreements.

New Business

The Chair stated that he is selling his house and moving to Rindge and that he expects that move to come very soon. He began looking at how this is handled and he found that there really isn't a clear process for handling the opening when the Chair must leave. He added that he feels that there are some holes in the Planning Board's Rules. There was a brief discussion about whether the Vice Chair should simply take the Chair. Paul Haynes, the current Vice Chair indicated that he is not interested. The Chair went on to explain that he spent time looking at the residency requirement and can't see how he could qualify to stay on.

Selectman Baker explained that he feels that if the Rules require residency, then members should be residents. The Chair offered his thought that he feels he should step down as Chair and he is willing to act as a member until he moves out of town. Robin Blais stated that she is not currently living in town; but, she is planning to move back and could move to a trailer this weekend if that would work for the Board. Buonomano noted the importance of continuity and Gray confirmed that continuity is important. There ensued a discussion about the difficulties finding members and alternates. Members agreed that, at this point, as long as Blais actually physically lives in Fitzwilliam this weekend, it makes sense that she stay on the Board.

The question was raised regarding the lack of clear direction in The Rules of Procedure for filling an Officer Vacancy when it does not occur near the Town Vote which is when officers are chosen -- the meeting after town vote which happens in March or April. The LUA noted that she does not believe there is any direction at all in state statute regarding mid-term officer vacancies. Board members decided that they want to vote at this meeting and would use pieces of paper to each write his/her choice for Chairman of the Planning Board. Seven members voted and the LUA counted the votes. Suzanne Gray won four votes to take the chair. It was agreed that Tourigny will take a member seat until he moves.

Correspondence/Announcements: The just elected Chair announced that the town is holding a Back-To-School Backpack drive and packs and supplies are needed by Friday, August 24th.

There being no additional business to conduct, it was moved; seconded, and it was unanimously voted to adjourn at 8:45 PM. The next meeting is scheduled for September 4, 2018.

Respectfully Submitted,

Approved as Amended September 4, 2018

Laurie Hayward
Land Use Administrative Assistant