

Approved January 8, 2019

**Town of Fitzwilliam
Planning Board
Meeting Minutes
December 18, 2018**

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

Member's Not Present:

Others Present: Debbie Favreau, applicant; Darnel Favreau; Paul Grasewicz, Surveyor; Robin Crowe, applicant; George Wright, interested party; Heather Peterson, Realtor for the Niemelas, Owners; and Laurie Hayward, Land Use Administrative Assistant (LUA).

Call to Order: The Chair called the meeting to order at 7:05 PM.

Public Hearings:

7:00 PM. The Chair opened the Public Hearing for the Debbie Favreau and Robert Favreau Application for Boundary Line Adjustment.

"You are hereby notified that the Planning Board will hold the following public hearing in the Town Hall at 13 Templeton Turnpike in Fitzwilliam, NH on Tuesday, December 18, 2018 at 7:00 PM.

7:00 PM. Public Hearing. Debbie Favreau and Robert Favreau application for Boundary Line Adjustment of Map 10, Lots 41,50 & 50-1 located on Royalston Road, in the Rural District, to grant a parcel from Robert Favreau to Debbie Favreau and adjust at the driveway so that the drive is on the proper lot."

Paul Grasewicz stepped forward and showed the Members a color-coded map which showed the Boundary changes. Grasewicz explained that the frontage was originally non-conforming and remains non-conforming. It was noted that the change does place the Robert Favreau driveway on the correct lot. **Silverman moved to approve the Adjustment; Tourigny seconded and it was voted unanimously.**

Minutes: Meeting of December 4, 2018. A correction was suggested to change a single word. Buonomano moved to accept the minutes as written. Tourigny seconded and it was voted unanimously.

The Chair took up other agenda items while waiting for the appointed time, 7:30 PM, for the next Public Hearing.

Old Business: Prime Wetlands

The Chair updated Members regarding the meeting of the Select Board and the Conservation Commission Members at the Conservation Commission meeting held the evening before regarding Prime Wetlands. Members discussed the following:

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- The Board of Selectmen plan to have Rick Van de Poll, the wetlands Scientist who worked on the Prime Wetlands DES application for Prime Wetlands designation meet with them to discuss the status of the Prime Wetlands project. Kenison stated that a letter will go out from the Selectmen to request that Van de Poll meet with the Select Board and the Conservation Commission.
- The Chair stated that she will keep in touch with the Town Administrative Assistant and keep the Planning Board informed of the timing of such a meeting.
- The Chair noted that this is a joint effort amongst the two Boards and the Conservation Commission.
- Two questions were discussed as open issues: 1. addressing hydric soils and 2. possibly redrawing the maps so that they do not include 50-foot pinch points. The Chair noted that the Conservation Commission the LUA to look into those two issues and contact DES.
- Members had copies of the email in their folders that explained that the soils are not a problem. It also seems that the town could reapply to DES for acceptance of the designation of Prime Wetlands for the redrawn maps that did not include under 50-foot pinch points.
- Blais suggested that the Board wait until Van de Poll comes in before doing anything else and the Chair agreed.

New Business: Code Books. There was a discussion about Code Books and whether/how to update them.

- Board Members discussed that it has been a few years since the Code Books have been updated.
- Blais explained that historically, it was the LUA that did the updating.
- The LUA explained that with a gap in annual updating and the time and effort required for updating is significantly increased.
- The LUA asked whether it made sense to put that time into updating code books when the information that Planning Board Members generally use is in separate documents, the Zoning Ordinance; and the Subdivision and Site Plan Review Regulations. These documents can easily be provided to the Members anytime on request.
- The LUA also explained that she had checked with the Town Administrative Assistant and asked whether they could have reprints of the entire Code Book done for the Planning Board Members and was told that would be too expensive.
- There was discussion about how many people actually use the Code Book. Silverman indicated that his book is up-to-date and he uses it and thinks it is important even though some of it is unrelated. The Chair further stated that if members are using their books, they can have them updated by the LUA; but, she does not see a reason to have all 10 books updated when some members may not use them. Kenison suggested that they update one Land Use Code Book. It was agreed to do that and going forward, the LUA would update Blais; and Silverman's Code Books. Blais will bring her book in next meeting.

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7:30 PM. The Chair opened the Public Hearing Continuance for the Robin Crowe application for Site Plan Review regarding the request to be permitted to use the commercial building on the property currently owned by Ralph and Helen Niemela at 705 NH Route 12 South, Tax Map 8, Lot 46, in the Rural District, for a business related to creating and selling ceramic works and where elements of the proposed business may involve a studio/workshop, a retail store, making various crafts, and teaching others to create ceramic works and other crafts.

The Chair noted that members have now had some time to review the inspection reports. A list items of concern that was developed by Planning Board Member Tourigny was passed to Crowe. The issue of the septic system was discussed and Peterson explained that the owners' grandson will work on the septic system and that Carl Hagstrom is working on the design. It will take some time to get the design approved.

Tourigny went through the list with Crowe, addressing the following: structural issues; plumbing and electrical issues; ADA compliance; fire and life safety compliance; and failed septic system. The Chair went through some of the items that had previously been discussed including lighting, egress, and parking. Buonomano discussed his concerns regarding traffic and his concern regarding lighting at the junction of the driveway to the high traffic and higher speed area of NH Route 12. Barbara Young told Crowe that she has lighting through Eversource that is effective and for which she pays monthly and Crowe could check that. The Chair asked Silverman for his thoughts and he asked Crowe if she had a specific plan for resolving problems. She stated that she does not as she is waiting for their decision.

Buonomano asked the chair if she could walk through section 219-5 Site Plan Review. Buonomano went through the various items required with an application. Blais asked if the Fire Chief had inspected. She recommended that Crowe contact Fire Chief Carney and ask her to inspect the property. Tourigny told Crowe that she could go to an inspector for example the Town of Marlborough building inspector might be hired to complete any inspections that Carney doesn't do. Silverman stated that he would like to see a comprehensive plan before they give approval. Silverman reiterated that the Planning Board is charged with protecting the health and safety of the public and that is why they are asking for her plans to resolve problems highlighted in the inspection reports.

The Chair pointed out that it is not the Board's responsibility to give a list of every item that needs to be fixed. Tourigny suggested that Crowe could see whether she can hire someone who works with other local towns, for example Dublin, Mike Borden conducts inspections. The Chair pointed out that the work should be done by licensed professionals – the plumbing by a state certified plumber etc. The Chair suggested that the applicant keep records of the work done and provide them to the inspector. Kenison pointed out that the codes involved are not town codes; they are state codes. Inspections should find that the work is done according to code and those inspections are to be paid by the applicant. Buonomano suggested that the original inspection report gives specific and detailed recommendations, his thought is that the applicant needs to address the areas of concern and the work should be inspected. Silverman expressed a concern about the magnitude of items that are of concern. Haynes supported the idea of following the items laid out in the inspection report. Blais expressed that she is concerned for how long the process has been and hopes the Board can move this forward. Buonomano expressed that he is still concerned about the condition of the property. Buonomano's comment opened a brief discussion about using the items of concern pointed out in the inspection report the Board has been given to determine conditions to approval. Silverman reiterated that he still has serious concerns about the condition of the building and the magnitude of items that need to be addressed. Silverman clarified that

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no one is concerned about what the applicant is trying to do; but they are concerned about the possible health and safety issues that exist with the commercial building which will be open to the public.

Buonomano suggested that the application be conditionally approved with the conditions being that she address all the areas of concern identified in the reports regarding the septic system and the commercial building and these items include but are not limited to structural issues and that the property must be ADA compliant and that the septic system be replaced and get the state approval. The Chair noted that the application has been under review for 63 days. **The Chair pointed out that to get the language of the decision worked out, there should be a Continuance of the Public Hearing.** There was a brief discussion regarding holding one final meeting to approve the exact language on the Conditional Approval

There was additional discussion about Conditions and that the applicant must address all of the areas of concern identified in the Inspection Report dated November 28, 2018, done by Brandon Henderson, which was submitted to the Planning Board. Parking and lighting to be handled as documented in the application. All work on electrical, plumbing, and septic system to be done by licensed professional as appropriate: plumber, electrician, and septic installer. All work done to be inspected after completion by a professional working for the state of New Hampshire or by the Fitzwilliam Fire Chief and reports provided to the Planning Board. Kenison noted that the applicant cannot get an occupancy certificate without the Fire Chief's inspection anyway. Haynes and Tourigny expressed support for connecting the conditions to the inspection report's items of concern. It was agreed that the LUA will draft a Notice of Decision which gives the conditions and that the language will be taken up at the next meeting which would usually occur on the first the first Tuesday of the month; however, the first Tuesday in January is New Year's Day, a town holiday. Therefore, the next meeting will be held on Tuesday, January 8th (or the 7th if there is a scheduling issues caused by the holidays).

The LUA asked for confirmation that the applicant agrees to come back for a final Continuance Hearing in which the draft language is finalized and approved. The LUA stated that she can put together a draft which she can put out to members, although Board Members can't share, they can come back to the next meeting to finalize the language of the conditions. The Chair explained to the applicant that the Planning Board does not do the inspections. The applicant agreed to come back to the next meeting.

Buonomano moved that the application be conditionally approved with the conditions being that the Applicant address all the areas of concern identified in the Inspection Report dated November 28, 2018, done by Brandon Henderson, to include but not be limited to structural, plumbing, and electrical issues. The Planning Board places the condition that the property be ADA Compliant; meet all fire and life safety issues as determined by the Fitzwilliam Fire Department; that the Septic system be replaced and the Planning Board receive a copy of the state inspection and certification of the replaced septic system; and the Planning Board direct a certified inspector to return to the property to inspect the areas of concern identified. There is also a condition to be placed for lighting at the building and the pole at the street. The motion was seconded by Blais. The Chair inserted that inspections will be at the owner's expense. An additional meeting is required to finalize the language of the Conditional Approval. The Chair added there may be other issues that come up as work proceeds that cannot be foreseen at this time. It was voted unanimously to approve with conditions, language of the conditions to be determined and to continue to the next meeting.

Crowe asked if she can start looking for quotes on work and get the Fire Chief, Nancy Carney, to perform and inspection. It was agreed that she can do those things. Kenison asked for clarification whether the applicant

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can hire any inspector she wished. There was agreement that she is paying for the inspection and can hire the licensed inspector she wants.

Crowe and Peterson left at this point.

The Chair asked for any additional business that the Board wished to entertain. Silverman asked to discuss the process by which Prime Wetlands has been handled.

The Planning Board voted unanimously to go into a non-public session at approximately 8:45.

The Board went into non-public session.

Kenison moved to come out of the non-public meeting and to seal the minutes for 60 days; it was seconded and voted unanimously.

There being no additional business to conduct, the meeting was adjourned at 9:42 PM. The next meeting is scheduled for Tuesday, January 8, 2018.

Respectfully Submitted,

Laurie Hayward
Land Use Administrative Assistant