

**FARMINGTON PLANNING BOARD**

**153 Farmington Falls Road  
October 16, 2017 – 6:00 P.M.**

Regular Planning Board members present were Lloyd Smith; Donna Tracy; Craig Jordan; Jeff Wright; Gloria McGraw; and Chairman, Clayton King, Jr.

Planning Board member absent: Dr. Tom Eastler

Alternate Planning Board members present were and Bill Marceau, and Mike Otley

Others present were: Town Manager Richard Davis, Code Enforcement Officer J. Stevens Kaiser, Code Enforcement Assistant Robin Zagorodny, Police Chief Jack Peck, Luke Sirois, Robert Sirois, David Horn, abutter Mary McFarland, and applicants Gilbert and Kimberly Miller and Zachery and Lisa Dulac

Chairman, Mr. King opened the meeting at 6:00 pm.

1. Designate alternate member. Chairman King designated Mr. Marceau as a voting member in place of Dr. Eastler.

2. Review minutes of September 11, 2017.

Mrs. Tracy made a motion to approve the minutes of September 11, 2017 as submitted. Mr. Smith seconded the motion.

VOTE: 6 – Affirmative 1 – Abstentions  
Motion carried.

3. **17-SS-05 (ATF)**  
**Zachery Dulac**  
**Full Bloom**  
**Expansion of existing parking lot**  
**502 Wilton Rd**  
**Farmington, ME 04938**  
**U36-002**

Chairman King read the after-the-fact application description of approximately 700 CY of material that was removed in order to expand the parking lot. He asked for a representative to explain how this happened.

Mr. Dulac stated that he spoke with several contractors for quotes on the lot expansion and settled on Fenwick Construction from Kingfield. He said they never mentioned needing a permit from the Town and he thought they were taking care of everything. Mr. Dulac did not realize he needed a Soil Erosion and Storm Water application until the end of the work.

Mr. Kaiser stated that the work was well done resulting in no water drainage onto the highway, since it is pitched correctly and drains out back into existing field drains done by Butch Haggan which are connected to public storm water facilities.

Mr. Jordan wanted to get the word out to everyone that soil removal falls under the Town's Soil and Erosion Ordinance. He suggested it be put in the paper a couple of times per year as a reminder.

Chairman King stated contractors should know enough to check with the Town Office, and responsibility ultimately rests with the property owner.

Mr. Smith made a motion to accept the application as read.  
Mrs. Tracy seconded the motion.

VOTE: 6 – Affirmative      0- Absent      1- Abstain  
Motion carried.

Dr. Eastler came in and joined the Board at 6:07 pm

Chairman King stated that Mr. Marceau would now go back to being an alternate, adding that both alternates can ask questions but not vote.

**4. 17-SR--07**  
**Gilbert & Kimberly Miller**  
**Convert a 2-unit rental bldg. to a 3-unit rental bldg.**  
**145 Middle St**  
**Farmington, ME 04938**  
**U13-039**

Chairman King read the description for the application and asked if there was a representative to speak on behalf of this request.

Mr. Miller stated that they purchased the property and felt that it was large enough to add a third apartment on the second floor while still maintaining two apartments on the first floor, adding that they were expanding their parking to accommodate the extra rental unit.

Chairman King made a motion to accept application as read.  
Dr. Eastler second the motion.

Mr. Jordan stated Mr. Miller discussed his project with him and he directed him to contact Mr. Kaiser at the Code Office. He added that Capt. T.D. Hardy of Fire Rescue has also consulted with the owner.

Ms. McFarland, an abutter at 149 Middle Street, commented on issues with a prior owner of the property and their tenants. She stated that a while back there was a lot of noise with lots of college kids hanging out. She asked if the Gilberts lived close as the prior owners did not and therefore could not monitor the property, and whether there would be rules since she was concerned about numerous large parties - which previously lasted from 10 pm to 3 am.

Mr. Miller stated they live right in Wilton, have owned other rental properties here for over ten years, and intend to have a strict lease and tenant screening process.

Ms. McFarland would like a discussion on fencing at a later date if possible.

Dr. Eastler made a motion to accept the application as stated.

Mr. Jordan seconded the motion.

VOTE: 7– Affirmative            0-Absent            0- Abstain

Motion carried.

## 5. Draft Marijuana Ordinance Discussion

Mr. Kaiser explained the changes with the latest draft Adult Use Marijuana Ordinance and draft Application dated October 13, 2017, and the proposed changes in the State Adult Use Marijuana law. He said once the State law is approved by the legislature, it still needs to be signed by the Governor, and our ordinance will be reviewed by the Planning and Zoning Boards and then go to the Board of Selectmen for hearing and Town Meeting warrant article. Mr. Kaiser said the process has been gradual, allowing time for ordinance draft changes, and it looks like the State may start accepting Adult Use Marijuana Testing Facility applications early 2018 and Adult Use Marijuana Store applications by the middle of next year.

Mrs. McGraw asked where the information came from? Did the Board approve what was in the draft ordinance?

Mr. Kaiser said this is a draft based on information researched within Maine and other states with legal marijuana by an intern this summer. Maine's draft Adult Use Marijuana law has been a guide, is just being finalized, and we'll soon know - by the end of October - where things stand for municipal implementation of the law.

Dr. Eastler stated he would not be attending the next month's meeting due to a personal matter, but wanted to speak on Farm Land Trust properties. He said his concern was that under this program you turn the property over to a trust that is protected by State and Federal Laws, citing for example his property is under Farm Land Trust and to preserve the farmland. it cannot be subdivided. Dr. Eastler continued that you can sell it, bequeath it, but not subdivide it, and Farmland Trust activity allowed involves animals, husbandry, and plants. He wondered what might happen in the future to affect agriculture on the property when a marijuana grow is within 1000 feet of trust property - might these activities affect the property? Dr. Eastler said he had no issue with marijuana growers, and was interested in how many Farm Land Trust properties there are in Farmington.

Mr. Kaiser stated that the current draft would not allow Adult Use Marijuana Cultivation in the in Farm & Forest district, only in the General Purpose and Village Business districts, and only five as currently drafted. He said most of these grows will be inside as Adult Use, while personal use marijuana cultivation became legal everywhere last fall. Mr. Kaiser said the current draft ordinance has setbacks of 500 feet from churches, and recreational areas, and 1,000 feet from public and private schools.

Chairman King stated that it referenced schools but not colleges at 1000 feet. He said he thought there should be some setback - 1,000' or 500' - to cover the University of Maine at Farmington due to their having students under 21 years old attending.

Mr. King asked if there were any questions from the Board.

Mr. Smith stated he was still thinking about it.

Ms. Tracy stated she had concerns but would address at another meeting.

Mr. Jordan stated not tonight.

Mrs. McGraw stated that UMF has daycare/preschool programs with young children on campus, and wanted to confirm the current draft ordinance does not allow social clubs but does grandfather local [medical marijuana] caregivers that apply for [adult use] retail stores in their current locations.

Mr. Kaiser stated that the Town voted in last year's referendum in November to allow Adult Use Marijuana, and that is why the ordinance has been drafted. He said, like many Towns, our draft does not allow Adult Use Marijuana Social Clubs. Out of the dozen or so medical marijuana caregivers currently in town, there are only about three that might benefit from the setback exemption that Mrs. McGraw refers to as grandfathered - who would have to successfully apply for State and Town Adult Use licensing.

Mrs. McGraw stated those [caregivers] already there would maybe have a leg up, maybe an advantage, how do we even know when those facilities started as the Town has no input or say in caregivers.

Mr. Kaiser said Adult Use Marijuana law involves Towns in regulation unlike medical marijuana which was solely managed by the Department of Health and Human Services (DHHS). He said DHHS will not provide information on medical marijuana caregivers, but he added that we are aware of about twelve currently in town and when they started. Mr. Kaiser continued, saying the Code Office would review Adult Use applications to make sure they were complete, and then forward them to the Board of Selectmen for approval.

Mrs. McGraw stated concerns with people growing in apartment buildings like the fire incident in Lewiston.

Mr. Kaiser said this ordinance pertains to Adult Use Marijuana Businesses, and the personal grows Mrs. McGraw refers to are regulated under State law, and in such rental property it would be up to landlords to control of what goes on inside their apartment buildings.

Mrs. McGraw asked where the number five for each category came from.

Mr. Kaiser said this draft is meant to be a reasonable starting point for needed regulation in Farmington, to be reviewed and modified by the Planning Board at their meetings.

Chairman King said we can discuss and act on these items at subsequent meetings.

Mr. Kaiser said that we have local control over where these businesses go.

Mrs. McGraw stated that the Downtown Business Association does not want them [Adult Use Marijuana Stores] in the downtown.

Mr. Kaiser said the way the ordinance is drafted now there would be no such stores in the core downtown area, but there might be two on its fringes.

Mr. Wright asked if once the State law is enacted - will the medical caregivers will go away or stay separate.

Mr. Kaiser said that they will remain separate under State law, but this may change in time and morph into one.

Mr. Marceau asked about changes at the State level.

Mr. Kaiser said there is no way of knowing how the law will end up - with draft changes still being made, then to the legislature for vote, then signing by the governor and enactment. He said although we don't know when the State will start accepting applications, it appears we have the winter to keep working on it with the goal a Town Meeting vote in March.

Mr. Marceau asked about the setbacks.

Mr. Kaiser said the State lists a nominal setback for public and private schools at 1,000' that the Town can reduce to 500', and we started with a 500' setback from churches and designated recreational areas for children 18 and under.

Mr. Otley said he understands keeping the stores and manufacturing in the GP & VB zoning districts, but why are we opposed to testing facilities or grows in the Farm & Forest district. He understands trying to keep the stores concentrated and regulated where we can see them, but the grows and testing seem appropriate in Farm & Forest which is for agriculture.

Mr. Kaiser said we could modify the districts where certain Adult Use Marijuana businesses are allowed.

Dr Eastler stated that more than 50% of the students at UMF are enrolled in some sort of educational program which requires them to do practicum, on which they're graded, to prepare them to teach in a school system. He added that a large number of Teachers of the Year awardees have come from UMF due to its educational programs, and he feels UMF should therefore be classified as a school with a setback.

Mr. Davis referenced 28-A M.R.S. §701 regarding a nominal 300' setback for liquor sales near schools, with exemptions for post-secondary schools, and allowances for reducing setbacks.

Mr. Horn said the State defines a public school as being compulsory education, which is K-12, and the State had made a change that Towns can reduce the setback from public and private schools from 1,000' to 500'. He said there will be a 10% tax on cultivation and a 10% tax on retail sales, with Towns that allow stores getting a quarter or 5% of the total 20% collected, and Towns that allow cultivation getting an additional 1% of the total 20% collected. Mr. Horn said stores here would likely gross \$1,000,000 each annually, and the Town would likely garner \$250,000 in tax revenue and permit fees.

Dr. Eastler suggested we read article 9 sec. 8 of the Maine Constitution then read the lawsuit he brought against the State treasurer regarding a fire-suppression tax based on acreage v. value as applicable to taxation on marijuana regarding production cost v. sales value.

Mr. L. Sirois said the State has it set up for the Towns to collect all the taxes/fees up front, then take their portion and turn over balance to the State. He added that schools by the State's definition are K-12, that UMF received a grant to study cannabis – hemp usage, and that Adult Use Marijuana will be regulated more tightly than alcohol.

Chairman King stated that high school students take classes at UMF and some are under 18 years old.

Mr. Marceau said, regarding tax revenues, the State gives and then takes back like they have done with education funding.

Chief Peck thanked the Code Office staff for their work on getting things started with the ordinance draft, and he's familiar with a few of the medical marijuana caregivers in Farmington. He said had a few things for the Board to take into consideration and suggestions of what he'd like to see in this ordinance:

1. Criminal fingerprinting of owners and employees due to new people in the business that are unknown to the community; and
2. Need the property managers identified and their emergency phone numbers; and
3. Would like a 500' or 1,000' setback from licensed daycare facilities; and
4. Annual fire inspection of marijuana business premises by Farmington Fire Rescue.

Mr. R. Sirois brought up the possibility of State eliminating the 800,000 SF canopy limit and the cultivation license limits. He thinks limiting allowed grows in town to only five was too few, and cannot understand how monitoring was going to work - as not everyone will be honest of about the pounds that they harvest or the number of plants they are growing - suggesting a \$100 per flowering plant fee as a better solution.

Mr. Kaiser brought up policing this - we do not want that burden on the Town - mentioning the State law has a provision of special police just for Adult Use enforcement.

Chairman King said the State will not have any inspectors available to start policing the licensees until 2019.

Mr. Horn said the State will have a computerized tracking system - using RFID tags - so an Inspector can walk through the grow with a hand held scanner and collect the data from the tags in a matter of minutes. He recommends staying with the State framework for grows, where growers must keep records from the beginning to end of each plants life.

Chairman King brought the discussion to a close until the next meeting as it was getting late.

Other Business:

Mr. Kaiser said we are going through the office files and condensing things to make room for new projects. He said we're also going through the existing ordinances to correct typo and format issues.

Chairman King asked if there has been any more on the Solar Project.

Mr. Kaiser said he emailed Liz Peyton at NextEra, and there will be an informational meeting taking place at UMF on Wednesday, October 18<sup>th</sup> at 6:30 PM.

Chairman King made a motion to adjourn the meeting 7:15 PM.  
Mr. Jordan seconded the motion.

VOTE: 7– Affirmative      0-Absent      0- Abstain  
Motion carried.

Minutes respectfully submitted by Robin Zagorodny.

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Planning Board

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Date