IN ATTENDANCE: Chairman Ken Swayze, Vice Chairman George Holt, Secretary Chuck Frost, Alison Vallieres, Brian Pike, Jeff Crosby, Ex-Officio Mike Kaminski, P/Z/B Department Administrator Donna White

BUSINESS: Secretary Chuck Frost stated that meeting notices were posted on the Town’s bulletin board and website.

1. Approval of Minutes: Brian Pike made a motion to approve the minutes of the November 20, 2019 meeting and December 4, 2019 workshop as presented; Chuck Frost seconded the motion. There was no discussion. All were in favor.

2. Correspondence: None

3. Selectmen’s Office Report: Mike Kaminski reported the following: 1) The department’s budget was presented, basically level funded. 2) Report and as-built plan received for the Botnick project; will address this later in the meeting.

4. Planning/Building Department Report: Donna informed board members of the passing of one of Mike Cumings’ sons on Monday.

OLD BUSINESS:

Application #2019-PB-003, Falcon Heights Properties, LLC – Four-lot subdivision of Map E3, Block 03, Lot 09 at 20 Stark Highway South.

Jeff Crosby recused himself from this case as an abutter to the property and moved to the audience.

Donna updated board members on the application: 1) the boundary line between lot 9 and proposed lot 9-1 was adjusted; 2) a draft Declaration of Easement and Driveway Maintenance Agreement was submitted for the proposed shared driveway; and 3) application for subdivision approval has been submitted to the state. Ken Swayze and George Holt reported doing a site walk and having no questions. Chuck Frost said he walked the site also, noting an old well on proposed lot 9-2 that isn’t shown on the plan.

The chair turned the hearing over to Jacques Belanger, as the applicant’s agent. Mr. Belanger pointed out the change in the lot line, explaining this was done to leave more of the field with proposed lot 9-1. He also pointed out the location of existing dug wells, confirming with the owner that these could be filled in if of concern. Mr. Belanger stated they are waiting on DOT permits. The chairman asked if there were any questions from the Board; hearing none, he opened the hearing to the public.

Deborah Foster, 11 Stark Highway South, stated the Tucker Hill development required a tree
buffer. She asked if there are any allowances to require the same at the front of this subdivision. The chair stated that is not the general practice. Mrs. Foster asked why they wouldn't want to preserve the trees, noting how the trees have been left behind the stone walls along that section of road in many instances. There was general discussion about the Tucker Hill buffer and others being project specific, open space buffers, owners having the option to decide, and the rights of property owners. Mrs. Foster then asked if the newly updated Master Plan addresses light pollution, such as lighting of driveways and other outdoor lighting. George Holt explained that the dark sky concept is mentioned in the Master Plan. He noted that lighting is also addressed in the site plan regulations for business development. Mrs. Foster suggested the board might want to address the matter with residential development as well.

Janet Casey, 19 Stark Highway South, asked to have the driveway locations pointed out. Mr. Belanger outlined each driveway of the subdivision in relation to the driveways on the west side of the road. The chair pointed out that driveway jurisdiction is with NH Department of Transportation.

Jeff Crosby, 17 Stark Highway South, asked for the number of lots on the west side of Route 13 in the area of this subdivision. Mr. Belanger pointed out four lots. Mr. Crosby noted that is the same number as in this new subdivision and looking from one side to the other would be the same view of houses and light pollution. He gave an overview of the variety of house designs along that stretch of road, stating that some owners have chosen to cut trees to provide a view from their lot and how they can’t have it both ways.

Hearing no further comments from the public, the chair closed the hearing and brought it back to the Board.

George Holt asked if the steel pins are being replaced. Mr. Belanger said they would be if abutting owners are in agreement, otherwise offset monuments will be done. Mr. Holt said he feels the proposed subdivision is consistent with the Village District, where other parcels in the area have had similar geometric issues and were resolved in similar fashion. He noted there was discussion throughout the process of updating the Master Plan about this being a nuclear area in town and increasing the density. There were no other questions from the Board.

George Holt made a motion to approve the application as follows: Move to approve the proposed subdivision of Falcon Heights Properties, LLC of Tax Lot #E3-09-09 consisting of a four-lot subdivision on 8.87 acres, located on Stark Highway South in the Village and Medium-Density Districts.

Subject to the following conditions:
1. Submittal of a final, technically accurate, and graphically correct plan-set in full compliance with all current subdivision regulations and incorporating any and all additional requirements established during deliberations with the Board (per minutes of November 20, 2019 and December 18, 2019).
2. Approval and receipt of all other required local, state and federal permits. There shall be no change(s) to the base plan(s) without re-consultation with the Board, as a result of such other permit approvals. 1. State subdivision approval from NH Department of Environmental Services. 2. Driveway permit approval from NH Department of Transportation.
3. Payment of all fees and costs associated with the Dunbarton Planning Board application process.
4. That all specified work and improvements at the site, as specified by the Land Subdivision Regulations, be completed prior to the signing and filing of the mylar (i.e. survey...
monumentation and related); or a surety be posted in favor of the Town, in an amount adequate to complete such work as required.

5. Preparation, submittal, and filing of all Deeds, legal instruments, and/or documents required or intended to be filed at the Merrimack Country Registry of Deeds; in such content and form acceptable to the Town.

Alison Vallieres seconded the motion. There was no discussion. Majority were in favor; Brian Pike abstained.

Jeff Crosby returned to the table.

NEW BUSINESS: None

OTHER BUSINESS:

Zoning Ordinance Review – Chuck Frost reported that the committee has provided board members with three lists of items to be reviewed, one for recommended revisions, one for recommended amendments, and one for further discussion and consideration. He did a page-by-page overview of the recommended revisions, noting that most were simply clarifying definitions and RSA references.

1. Definitions: Abutter – add see RSA 672:3 for complete definition

2. Definitions: Agriculture – add definition as follows: Means all operations of a farm, including, but not limited to, a) the cultivation, conservation, and tillage of the soil; b) the raising and sale of livestock; c) the breeding, boarding, training, riding instruction, and selling of equines; d) the production of greenhouse crops; e) any practice on the farm incident to, or in conjunction with, such farming operations. (see RSA 21:34-a, II for complete definition)

3. Definitions: Day Care Center – a) change to Group Child Day Care Center; b) revise definition to read as follows: Means a child day care agency in which daily child day care is provided for preschool children and up to five school-age children whether or not the services is known as day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.; and c) correct statutory reference to RSA 170-E:2, IV (c).

4. Definitions: Dwelling, Duplex (Two-Family) - delete [Note reference of “Duplex (two-family)” in “Multi-Family” definition as it pertains to two-family unit tract development.]

5. Definitions: Dwelling, Multi-Family - delete “For the purposes of this ordinance, the definition of “Multi-Family” shall apply to the condition of a single building lot having more than one single-family dwelling building/structure, more than one two-family (duplex) building/structure, or any combination thereof. Add (See Article 9 for Multi-Family Residential Housing District requirements.)

7. Definitions: Family Day Care Center – a) change to Family Day Care Home; b) Revise definition to read as follows: Means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to six children from one or more unrelated families. (see RSA 170-E:2 IV (a) for complete definition)

8. Definitions: Farm – update the definition: means any land, buildings, or structures on or in which agricultural and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. (see RSA 21:34-a, I for complete definition)

9. Definitions: General service establishments – add definition as follows: A commercial establishment where the primary purpose is the rendering of service and repair activities rather than the sale of goods. (examples include, but not limited to, upholstery/furniture repair, bicycle shop, caterer, small appliance repair, taxidermist, locksmith, computers, dance/art/music/gymnastics/wellness instruction, etc.) (This will be an amendment)

10. Definitions: Personal service establishments – add definition as follows: A commercial establishment where the primary purpose is the rendering of a service to individuals rather than the sale of goods. (examples: barber/beauty shop, shoe repair, dry-cleaning/laundry services, tailoring/dressmaking, massage, tattooing, tanning, etc.) (This will be an amendment)

Board members discussed the best way to address numbers 9 and 10. Donna explained she was looking for clarification of the two uses should anyone contact the office for such. Because the two new definitions are not referenced by NH statute, it was felt they should be amendments rather than in-house changes. It was also suggested that they could be used for internal reference instead of presenting them to voters as amendments. In the end, it was agreed to put the two definitions on the ballot as zoning amendments.

11. Article 3, B, 2, Interpretation of District Boundaries: revise (e) by clarifying with “may continue”, section to read: “Where a district boundary line divides a lot, the use in either zoning district “may continue” into the adjoining district a distance of not more than 20 feet.; delete (g) as it duplicates (f); change (h) to (g) due to the deletion; and add “For the” at the beginning of the first sentence of (g).”

George Holt asked to clarify that this is wordsmithing, not changing the intent. Mr. Frost said that was correct. Mr. Holt thought it would be best to propose an amendment and fix the confusion associated with split district lots. He said it could be as simple as the frontage of the zone applying to the entire lot. The group discussed the possibility of the scenario presenting itself again, noting there is only one large parcel left in the Village District that might be affected. There was also discussion about creating verbiage of the majority percentage of acreage being in one district, the entire parcel would be considered that district. Ken Swayze recommended leaving the existing wording for now. Mike Kaminski said timing is key if it is to go to the voters. Discussion continued about outlining Village District lots, widening the district, and using the frontage to determine the district. George Holt said he would rough out some verbiage. Mike Kaminski suggested that the subject be tabled for now as
the risk is minimal with only one property that could come before the Board.

12. Article 4, Table of Uses: To be consistent with RSAs, change Day Care to Group Child Day Care Center and change Family Day Care to Family Day Care Home.

13. Article 4, A, 6 (a), Home Occupations: (1) change “dwelling unit” to “residence”, to read: “There shall not be more than one home occupation carried out in a residence.” Last paragraph: delete “i.e. a business conducted out of the home that cannot meet the above criteria. Such development shall adhere to the Dunbarton Sign Ordinance requirements.” (These will be added to an amendment listed later in the minutes.)

14. Article 4, C, Nonconforming Lots: 1 (d) – change “boundary line survey and site plan, certified by a land surveyor licensed by the State of New Hampshire” to “certified plot plan”. Delete [Note: whereas this plan requirement and procedure is commonly referred to as a “certified plot plan”, any submittal must be in conformance as specified herein.] 2. Delete [except for lot-line adjustments, See Definition.] This exception conflicts with the definition. Last sentence, revise reference from Section 4.II.C to Section 4.C.1.c.

15. Article 4, D, Nonconforming Structures: 1 (d) – change “must be accompanied by a boundary line survey and site plan. The survey and plan must be certified by a land surveyor licensed by the State of New Hampshire” to read: “must be accompanied by a certified plot plan. The certified plot plan must detail existing natural features....” Delete [Note: whereas this plan requirement and procedure is commonly referred to as a “certified plot plan”, any submittal must be in conformance as specified herein.]

16. Article 4, B, Table of Dimensional Regulations: (highlighted sections are changes) Brian Pike pointed out that footnotes 7-10 are not on the table; there is no connection to the table. He suggested those items be put on the revisions page of the Ordinance. Ken Swayze noted they give a history of changes. There was discussion about where to place the revisions. It was agreed to put the footnote number by the corresponding item. Jeff Crosby asked why the septic system setback is 100’ for the multi-family district. George Holt thought it might be relative to the 100’ buffer/setback. Mr. Crosby noted the well setback is 75’ so it might not have anything to do with the setback. It was agreed this requires further research.

<table>
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<tr>
<th>District</th>
<th>Minimum Lot Size (1)(2)</th>
<th>Minimum Frontage</th>
<th>Building Setbacks</th>
<th>Septic System Setback (7)</th>
<th>Well Setback (8)</th>
<th>Max Building Height</th>
<th>Max Lot Coverage</th>
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<tr>
<td></td>
<td>(acres)</td>
<td>(feet)</td>
<td>Front Yard</td>
<td>Rear Yard</td>
<td>Side Yard</td>
<td></td>
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<tr>
<td>Low Density</td>
<td>5 (3)</td>
<td>300</td>
<td>50</td>
<td>50</td>
<td>50</td>
<td>75</td>
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</table>

TABLE OF DIMENSIONAL REGULATIONS
Refer to footnotes (1), (2), (3), (7), (8), (9), and (10) below table.
Mr. Frost then gave an overview of the recommended zoning amendments.

1. Article 4, A, 6 (a) Home Occupations: (5) Add “and accessory buildings”, to read: “No more than 33% of the existing gross floor area of the principal dwelling unit and accessory buildings shall be used for business purposes; and no more than 10,000 square feet of land shall be used for outside purposes.” Last paragraph: Add “special exception and”, to read: “A project that is not solely residential in nature and/or does not meet the requirements of this section shall require a special exception and site plan review in accordance with the Dunbarton Site Plan Regulations, as amended.” (Two related sections from earlier in the minutes will be combined with this amendment.)

Alison Vallieres said she wasn’t in favor of adding accessory structures when discussed at the committee meeting. Members discussed the types of home occupations that might come up, the possibilities of large accessory structures being built for such uses but not being solely residential in nature, and what outside purposes might mean. Alison recommended at the last workshop that those uses not solely residential in nature should be required to get a special exception prior to going for site plan review. It was agreed to include that in the amendment.
2. Article 4, C, Nonconforming Lots: 1(d) Add at the end of the paragraph: The Building Department may, if certified plot plan is deemed unnecessary, waive this requirement for existing, grandfathered, large lots of record that are non-conforming due to having less than the required frontage, providing the required building setbacks can be met.

Mr. Frost explained the reasoning behind this proposed amendment. The committee had talked about large lots in town that may not have the frontage required of a district but would meet all other requirements. It was felt requiring a certified plot plan could be an unnecessary expense if there would be no encroachment on setbacks, etc., therefore, this proposal to allow the Building Department the ability to waive the requirement. Donna said the same could be considered for nonconforming structures. Board members agreed; Donna will draft similar language as a separate zoning amendment.

Brian Pike thanked Mr. Frost and his committee for their work on the review of the Zoning Ordinance, saying he appreciated their efforts.

Donna verified the items that will be presented as amendments on the ballot in March: general service establishments, personal service establishments, home occupations, nonconforming lots, and nonconforming structures. Once drafted, the amendments will be sent to town counsel for review.

The public hearing for the proposed amendments was scheduled for January 15, 2020 at 6:00 p.m., prior to the regular monthly meeting.

Botnick site plan – Mike Kaminski spoke about the recent as-built plan and report received from Mr. Botnick’s engineer and distributed to board members. He said this project has moved from the Planning Board to the Board of Selectmen for enforcement. Mr. Botnick has scoped the project down, deciding not to do the full site plan for commercial stables as approved by the Planning Board a couple of years ago. Mr. Kaminski said the Building Department has been in constant communication with Mr. Botnick, who has decided the stable will be for private use. He said he has talked with the road agent about his concerns of the drainage from the driveway; Mr. Crosby agrees with the berm proposed by the applicant’s engineer. Mr. Kaminski said he would like to call Mr. Botnick in to meet with himself, a Planning Board representative (preferably Jeff Crosby as the road agent), and Donna. He said there are several options, one being to go with the engineer’s recommendations of contacting the fire department about emergency vehicle access and creating the berm. Mr. Kaminski said the applicant does not have a certificate of use for the arena yet is reportedly using the building. He said he wants to finalize this project, wanting the Botnicks to be able to use the building and wanting to protect the town’s road. He said if Mr. Botnick decides to move forward with the commercial aspect of the project, additional site requirements could be addressed at that point. Jeff Crosby said he feels the applicant needs to adhere to the recorded plan or do a modified plan. He said down-scoping the job and decreasing the drainage requires the initial plan to be adjusted accordingly.

Donna told board members she spoke with Mike Kaminski earlier in the day and asked how the selectmen got involved in this project. There has been discussion at several Planning Board meetings about the matter and it has been stated each time that Mr. Botnick would be required to do a minor modification of the original plan. Alison Vallieres agreed that is what board members have been hearing all along. Mr. Kaminski said he feels the selectmen, as the enforcers, need to be involved because the building is being used without a certificate of use. He said he would like Jeff to meet with him and Mr. Botnick. Mr. Crosby said there have been enough meetings about the project as a whole and the drainage more recently. He said the next meeting should be with the Planning Board for plan
modification. Mr. Kaminski said he wants to ascertain the applicant’s intent. Donna asked if there was any reason she and the building inspector couldn’t continue the conversation they have been having with Mr. Botnick. Mr. Kaminski said he does not need it to go on for another month. Board members discussed the engineer’s report, the best solution to conclude the project, and who should be involved. Ken Swayze said a public hearing would not be necessary as the applicant is reducing the scope. Alison Vallieres asked Mr. Kaminski what his objection would be to the applicant coming back to the Planning Board. He said the applicant is non-compliant and it lies with the Board of Selectmen for enforcement. After further discussion, it was agreed that Mr. Kaminski would contact Mr. Botnick directly. There was additional discussion about the berm requirements, and the need for a plan and a bond. It was stated that the January meeting will be busy with new applications and the applicant would probably be looking at a spring completion because of the weather. Mike Kaminski will talk with the building inspector and Donna about issuing a conditional certificate of use.

Policies & Procedures committee – Mike Kaminski reported that Ken Swayze, Donna, and himself have been meeting to work on creating new and/or improved Planning Office documents. Copies of all documents created thus far were distributed to board members by email and in their meeting packets. One document was a procedural outline to be used for Planning applications. Mike noted that a required pre-application review was added to the process. He said this allows the applicant time to make changes/corrections before the application deadline date. A new subdivision application and checklist has been created from various forms located in the office, and an application has been created specifically for lot-line adjustments. Brian Pike said it would be good if the checklist headings could carry over from page to page. Donna will make this adjustment on both documents. Rules of Procedure were also created. Mr. Pike said he liked the document, mentioning the need to clarify disqualification/stepping down of board members. The adoption of the Rules of Procedure will be added to the public hearing scheduled for the proposed zoning amendments on January 15, 2020.

Brian Pike moved to adjourn the meeting at 9:00 p.m.; seconded by Chuck Frost. All in favor.

Respectfully submitted,
Donna White