

FINAL 7/3/24 MEETING MINUTES

APPROVED ON OCTOBER 21, 2024

On 10/21/24, Vanessa Kittell moved to approve the 7/3/24 minutes as drafted and Peter Burns seconded. The Board unanimously approved. On 10/21/24, Melissa Manson signed the 7/3/24 minutes as drafted and submitted them to the clerk for publication.

TOWN OF FAIRFIELD

PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

MEETING MINUTES

Wednesday, July 3, 2024, 7:00 PM

Members Present: Aaron Forbes, Demetrius Bolduc, Dan Pipes, Don Wells, Vanessa Kittell, Peter Burns, Melissa Manson

Minute Taker: Vanessa Kittell

Town Staff Present: Steven True, Zoning Administrator

Applicants Present: Emily Biron

Public Present: Isaac Jiwatram, Dawn Menard, Albert Menard, Josh Menard, Rusty Branon, Cathy Branon, Michael Menard, Tim Corey, Julia Callan, Cathy Ainsworth (Zoom), Bradley Wheeler (Zoom), Colin and Lexie Menard (Zoom), Andrew Wallace (Zoom), Alexis Combs (Zoom), Torrey Crossman, (Zoom)

Meeting, Called to Order, 7:10 p.m.

1. Adjustments to Agenda:

- a. None raised.
- b. Demetrius Bolduc moved to accept agenda as drafted, and Dan Pipes seconded. The Board unanimously approved.

2. Public Comment:[Unrelated to Public Hearing Noticed for 7/3/24]

None

3. PUBLIC HEARING: Application: #24-014, Final Plat Hearing for an Eight Lot (8) Lot Subdivision, submitted by 837 Church Road, LLC, for Parcel ID#26-0837, Agricultural District

- a. The Chair, Melissa Manson, opened the hearing, reviewed the order of events, stated that members of the public who wished to testify should direct all questions and statements to the Board, and read the definition of interested persons as set forth under 24. V.S.A. § 4465(b), and asked that any person that identified themselves as an “interested person,”

as defined by the statute, be sworn. Melissa Manson swore in all persons that identified as an "interested person" and any whom anticipated testifying at the hearing. Applicant Emily Biron and Luke Wiley undertook this oath and were sworn along with members of the public identifying as interested persons.

- b. Steve True, Zoning Administrator, offered printed copies of the applicant's Site Plan and Plan Narrative, and stated that hearing notice had been timely warned and that the application was complete for purposes of final hearing. Melissa Manson requested disclosures of conflict(s) of interest and *ex parte* communications.
 - Emily Biron stated that Dan Pipes signed on as an interested person in the appeal of the Board's 2/29/24 conditional permit decision.
 - Dan Pipes stated that he did not sign on to the appeal of the Boards February 29, 2024 decision.
 - Steve True stated that prior to the hearing, on 7/2/24, all Board members received a copy of the testimony for hearing submitted by Lynda Ulrich. This testimony is marked as Exhibit 14 and admitted as testimony taken at hearing.
- c. Steve True noted that the Board admitted the following pre-marked Exhibits into evidence:

Exhibits:

1	Application Form	<i>837 Final Major Subdivision Application.pdf</i>
2	Project Narrative	<i>837 Church Rd LLC - Project Narrative June 2024</i>
3	Draft HOA Bylaws	<i>Draft Bylaws.pdf</i>
4	Draft Road Maintenance Agreement	<i>Draft Road Maintenance Agreement.pdf</i>
5	Hoffer Report Evaluation	<i>Hoffer Report Evaluation, re 837 Church project - C.Heindel</i>
6	GMP ability to serve letter	<i>Ability to Serve - GMP - Church Road Development.pdf</i>
7	Correspondence by District Wetland Ecologist	<i>Krystal Seward Correspondance.pdf</i>
8	Boundary Survey	<i>22160.8 LOT SUB.6.7.24.Final.pdf</i>
9	C-1 Existing Conditions	<i>22111 - 837 Church LLC, C-1 Existing Conditions Plan 06-07-24</i>
10	C-2 Site Plan	<i>22111 - 837 Church LLC, C-2 Site Plan 06-07-24</i>
11	C-3 Wastewater Plan	<i>22111 - 837 Church LLC, C-3 Wastewater Plan 06-07-24</i>
12	Notice of Hearing	<i>24-014 Notice for Print.pdf</i>
13	Certificate of Mailing	<i>24-014 Certificate of Mailing.pdf</i>
14	Correspondence	<i>TESTIMONY By Lynda Ulrich: "Bylaw Violations 837 Church Rd</i>

- d. Luke Willey, petitioner Biron's engineer, testified on behalf of the applicant. Luke Willey provided a summary of the petition seeking a final plat sketch approval of an 8-lot subdivision at the location of a 21+ acre parcel at 837 Church Road, Fairfield. He stated that the petition warranted approval on the basis that it met all conditions set forth under

the February 29th, 2024 Letter of Decision by the Board. He stated that the application and the submitted exhibits demonstrated that:

1. The proposal requested approval for (6) new and one (1) existing home, with the eighth-lot remaining open.
 2. All (7) homes would share a septic system under a single mound system as submitted for wastewater approval application.
 3. All (6) new proposed homes would require drilled wells.
 4. The proposal would make a single curb cut and share a single road in the proposal set forth at Exhibit 8, Boundary Survey to provide access for all seven homes. Emily Biron stated that the Town fire chief told the applicant that the width of road and design was sufficient for safety purposes and access.
- e. Wiley stated that the proposed plan was responsive and compliant with the conditions found in the February 29th, 2024 Letter of Decision . Wiley testified that the Town's May 1, 2024, letter from Waite & Heindel reviewing the hydrological analysis previously submitted by applicant, the Dec. 1, 2023, letter from Hoffer Consulting, Inc., satisfied that the proposed project would have no effect on the Town's wells and water system(s).
- f. When asked whether applicant had requested any update from Hoffer in response to the May 1, 2024, analysis from Waite & Heindel that noted that Hoffer's study had "data gaps," and relied upon a Fairfield Fire Department 1993 pump test report, Wiley stated that there was no plan to have Hoffer address.
- g. When asked if the applicant had a letter or indication from the Town's fire department or water district representative about the proposal's impact on Town wells capacity, applicant and Wiley stated that they did not.
- h. Emily Biron testified that she had spoken with nearby property owners Mr. Playful and Issac Parent. She stated that the well on the Playful property did not provide water to a barn and that Parent told her that his well was unaffected by her proposed project. She testified that she did not ask whether Playful had sufficient water capacity from that source. Emily testified that she had not taken a water sample or pump test from the existing home at the parcel on 837 Church Road..
- i. Melisa Manson affirmed that she would provide a copy of the May 1, 2024, Waite & Heindel review to John Shriendorfer.
- j. Wiley stated that the proposed plan was responsive and compliant with the February 29th, 2024 Letter of Decision regarding moving proposed Lots #4 and #5 to the western portion of the parcel. Wiley stated that because the full wetland delineation set forth that the western portion of the parcel, Lot #8, was a wetland, it was unsuitable to site Lots #4 and #5 on the western portion. (See Exhibit 9.) Luke Wiley testified that moving lots #4 & #5 to western boundary of parcel was no longer tenable after wetland delineation and therefore there was no way for applicant to meet that condition set out in the February 29th, 2024 Letter of Decision.

- k. The applicant was asked why, upon discovery that the western portion of the parcel, Lot 8, could not accommodate Lot #4 and Lot #5, the applicant did not reduce the number of lots proposed. Luke Wiley stated that removal of this would be unduly burdensome to applicant and that the applicant is entitled to the density of lots as proposed at Exhibit 8 and that this proposal satisfies all standards.
- l. Peter Burns raised the issue that Lot #4 and #5 of proposal as submitted in the final application are located entirely on prime ag soil (Exhibit 8), and that this does not appear to minimize the impact on the prime ag land. Luke Wiley stated that because the wetland delineation showed that the western boundary was an untenable place to put #Lot 4 and Lot #5, that the applicant had sufficiently mitigated and therefore met all requirements.
- m. Luke Wiley testified that within this proposal there are no open space agreements. He stated that the proposal is a standard subdivision, not a PUD.
- n. Emily Biron testified that she had no plans for Lot #8.
- o. Luke Wiley testified that the western portion of the property, Lot #8 comprised approximately one half of the property, 10+ acres of the whole 21+ acre parcel.
- p. Luke Wiley testified that the building envelopes delineated at site plan would be monumented as set out in Exhibit 8 would be noted in the deeds transferred to future buyers of each new building lot. Emily Biron stated that the HOA agreement submitted (Exhibit 3), demonstrated sufficient assurance that the future buyers would have shared responsibility for road maintenance and would be responsive to future problems raised by nearby landowners. Emily Biron testified that she did not know what would happen to the LLC upon the sale of the last lot at the proposed parcel.
- q. Luke Wiley testified that the methodology to generate the wetland drawing from the field was conducted by GPS coordinates.
- r. Public Testimony:
 - Andrew Wallace asked whether the applicant would move the lots #4 and #5 to the western portion of the parcel or was refusing to do so because it was too financially challenging.
 - Micheal Menard testified that he was an adjacent landowner and dairy farmer. He testified that he farmed on the proposed parcel up until the time that the applicant purchased the property. He testified that while he farmed this parcel that he observed the there was a severe slope and the parcel was too wet to hay resulting in him being unable to drive a tractor on this land at times due to conditions. He testified that he and his neighbor Ben Williams continue to farm the land across the street from the parcel down to the village. He testified that the additional six (6) proposed homes at the parcel would not be in accord with the farming use occurring in the immediate region of the parcel. Micheal Menard stated that his neighbor, dairy farmer Ben Williams, raised concerns that the buyers of the new proposed six (6) homes would object to the manure spreading that Williams undertook in that area. Michael Menard

- expressed that the proposal adding six new homes on the parcel could create adversity between the homeowners and the neighboring farm use in the area.
- Julia Callan testified that up until the buyer purchased the property in 2023, the parcel had been in ag use.
 - Albert Menard testified that he is an adjacent landowner to the proposed project. He testified that the proposed mound septic system locates its one-acre exclusion zone onto his land. Albert Menard expressed concern about whether the applicant would be able pay for the damages he incurred should the proposed septic system fail. Emily Biron testified that the petitioner, 837 Church Road, LLC would be responsible should the septic fail.
 - Tim Corey requested that the Board consider requiring the proposal to locate proposed septic for the seven-housing unit to the middle of project, noting that the harm to adjacent property owners would reallocate the risk of failing septic away from adjacent landowners and place it on the petitioner.
 - Rusty Branon stated that the Board should raise questions such as the appropriate size and location of siting of the proposed lots as it was significant in size and that this would impact the Town in the future.
- s. Dan Pipes requested that the Board undertake a site visit. The Board agreed to undertake a site visit at 6:30 p.m. on Monday, July 15, 2024.
 - t. Don Wells raised a question regarding the petitioner's effort to protect the prime ag soils at the proposed location. Emily Biron stated that the protection of ag soils does not really apply in this application because the proposal is focused on providing clustered housing that cannot be located anywhere else on the 21+ acre parcel, except on the prime ag soil. Luke Wiley stated that the proposal minimizes land use conflicts because it is not a large tract of ag soil. Wiley stated that the petition should be granted on the basis that because no bar exists on building on prime ag lands, the applicant has the right to go forward.
 - u. Emily Biron testified stated that pursuant to 24 V.S.A. § 4464, the board cannot limit the density of dwelling units to below that allowed in the municipal bylaws
 - v. Emily Biron requested that the hearing be closed at the conclusion of the July 3, 2024, meeting. She stated that she was not given notice of the special meeting. Steve True stated that the June 26, 2024, meeting was properly noticed and addressed community concern that the original July 1, 2024, hearing date was moved to July 3, 2024 to accommodate Board member availability. The community raised concerns that members of the public that anticipated testifying at the hearing were not available on July 3, 2024 as many were away for the holiday.
 - w. Aaron Forbes made a MOTION to close the public hearing . No person seconded the motion and the motion did not carry. Vanessa Kittell made a MOTION to keep the hearing open to permit public comment and testimony and Dan Pipes seconded. The Board approved 6-1

3. Upcoming Issues:

- a. Steve True raised the issue that he had addressed a concern about a possible notice of violation and that there was no need to notice the putative violator if no violation was found. Steve clarified that in this instance upon review of the information that no violation existed.
- b. Vanessa Kittell requested that Steve continue to organize the next planning board process working group to help the Board become more familiar with the regulation by-laws.

4. Approval of Minutes:

- a. Don Wells move to approve the June 3, 2024, minutes and Melissa Manson approved. Board unanimously approved the June 3, 2024, minutes.
- b. Don Wells move to approve the June 24, 2024 minutes and Melissa Manson approved. Board unanimously approved the June 24, 2024 minutes.

5. Confirmation of next meeting. Chair confirmed that the next regular monthly meeting is on **Monday, August 5, 2024.**

6. Adjourn. Motion to adjourn raised by Peter Burns. Don Wells seconded. Time of adjournment 9:54 P.M. EST.