

FINAL 8/5/24 MEETING MINUTES

APPROVED ON OCTOBER 21, 2024

On 10/21/24, Dan Pipes moved to approve the 8/5/24 minutes as amended, and Peter Burns seconded. On 10/21/24, the Board unanimously approved the minutes as amended. On 10/21/24, Melissa Manson signed the 8/5/24 minutes as amended and submitted them to the clerk for publication.

TOWN OF FAIRFIELD PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT MEETING MINUTES August 5, 2024, 7:00 PM

Members Present: Aaron Forbes, Demetrius Bolduc, Dan Pipes, Peter Burns, Melissa Manson (Chair), Vanessa Kittell

Members Present via Zoom: Don Wells

Minute Taker: Vanessa Kittell

Public Present: Cathy & Rusty Branon, Dawn Menard, Albert Menard, Michael Menard, John Schreindorfer, Lynda Ulrich, Sara Toof, Richard & Georgette Hale, Luke Willey, Ken and Mary Bond, Mike L'Esperance, Jim McMillan, Josh Menard, Chole Longe, Emily Biron, Isaac Jiwatram, Sorel Chaput

Zoom: Julia Callan, Liesl Ulrich-Verderber Rick Plesh, Caleb Menard, Chuck Verderber, Julia Callan, Martha Manning, Caleb Menard, Collin & Lexie Menard.

1. **At 7:06 PM:** Chair opened meeting and established that a quorum was present.
2. **Adjustments to and adoption of the agenda:**
 - a. Dan Pipes moved to adjust agenda to permit Hale hearing to be undertaken at outset of meeting. Vanessa Kittell seconded. Board agreed.
 - b. Vanessa Kittell moved to amend the agenda's (Labor Day) Sept. 2, 2024, date to Sept. 9, 2024. Dan Pipes seconded and Board agreed.
3. **PUBLIC HEARING Application: #24-016**, Boundary Lot Adjustment at 355 Boot Hill Road submitted by Richard & Georgette Hale and Marvin Hale, parcel ID's 065-033000 & 065-167000, Uplands District.
 - a. Chair, Melissa Manson opened hearing, reviewed the order of events, swore in Luke Wiley (engineer) and Richard and Georgette Hale, petitioners, and invited any member of the public that wished to be heard on the petition to be sworn. None came forward. Melissa Manson confirmed no *ex parte* communications, and no conflict of interest arose.
 - b. Luke Willey testified that the petition sought to adjust a 77-acre parcel down to 2.87 acres (Lot 1) and increased Lot 2 to 132 acres after adjustment. Wiley testified that both parcels are exempt from wastewater permitting.
 - c. Zoning Admin., Steve True, stated that each parcel meets all of zoning requirement and identified petition application as Ex. 1 and boundary survey as Ex. 2. Steve
 - d. Aaron Forbes moved to approve, seconded by Demetrius Bolduc. Board unanimously approved.
4. **Public Comment Not Related to Agenda:** None

5. **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. Continued from July 3, 2024.
- a. Chair Melissa Manson, resumed hearing, reviewed the order of events, confirmed no *ex parte* communications since hearing opened on July 3, 2024. Melissa Manson reiterated the definition of interested person and swore in all persons that self-identified as “interested persons.” This included:
 - Lynda Ulrich
 - Leisel Verderber
 - Kathy Branon
 - Chuck Verderber
 - Sarah Toof
 - John Schreindorfer
 - Julia Calla
 - Collin Menard
 - Michael Menard
 - Alexis Combs
 - Paul Biron
 - b. Paul Biron testified that he owned equal interest in the petitioning LLC and raised concern regarding the financial and organizational viability of the LLC to complete the proposed project stating that the LLC did not have a track record to undertake a project of this size. Paul Biron testified that the proposed project was in contradiction to the agricultural activities in the area and would be disruptive to Fairfield’s way of life. Paul Biron testified that the LLC did not have a plan follow sale of last house lot. He testified that the LLC would be unlikely to obtain bonding in an amount of \$3 million or more. He requested that the hearing be continued to permit him to provide further information to the Board. The Board did not grant this request.
 - c. Emily Biron disputed that Paul Biron held any interest in 837 Church Road, LLC, Paul Biron disputed this, indicating that he had a claim against the LLC.
 - d. Lynda Ulrich testified that the public opposes the project on the basis that the project’s proposal to drill (7) created substantial risk of deleterious impact upon area and village water supply on the basis that the information the petitioner’s hydrologist relied upon for information regarding water supply was outdated. She stated that no citizen other than petitioner’s paid witnesses had testified or supplied support for the petition since the initial proposal came before the Board in 2023. She stated that the proposed septic that overshadowed the Menards’ properties was objectionable and in contradiction to Fairfield’s tradition of neighborliness. She requested that the Board require the project be adequately bonded to cover potential losses to Don & Albert Menard’s property and Micheal Menard’s farming activity and lands caused by any septic failure from the proposed project. Lynda Ulrich testified that the testimony provided by the petitioner was

insufficient to show that the LLC had sufficient assets to provide surety against risks. She testified that the proposal was objectionable due to its inconsistency with the Town Plan, the proximity of the project to the agricultural landscape and the density of buildings in that area and requested that the Board consider permitting fewer houses. Lynda Ulrich presented and testified to Exhibit 16, indicating that the exhibit showed that petitioner had a wetlands delineation from an engineer prior to the conditional permit being granted by the Board in Feb. 2024, indicating that the petitioner acted in bad faith by failing to provide this information to the Board's grant of conditional permit. Lynda Ulrich submitted her written testimony at Exhibit 17.

- e. Mike Menard testified as a farmer with land that he used adjacent to the project. Noting that he has lived in Fairfield for his life, he testified that the present proposal wastes prime agricultural lands, a short-sighted practice that is in violation of the Town plan. He testified that putting up six (6) new houses in that area was a direct contradiction to nearby farming activity at his and Ben Williams' farms. He asked the Board to consider that the proposal raised substantial risk of harming the amount and quality of water that is used on his farm and in the village, a problem that could have unintended consequences for his farming operation and the village as a whole.
- f. Albert Menard testified that he objected to the present proposal on the basis that the septic proposed overshadowed his land, amounting to an unfair taking and the density of the proposed lots. He testified that petitioner had other options to site the septic system. Albert Menard testified that if the petitioner agreed to move the septic to an uphill site place, that he would not oppose the petition. Albert Menard testified that the proposal would adversely affect the value of his property and the quality of his land.
- g. Leisel Verderber testified that she opposed the petition on the basis that petitioner failed to show that it has adequate means to bond against the risk of septic failure and harm to water and land resources in the area. She testified that the proposal should not be approved on the basis that the proposal contradicted the Town plan by proposing an inappropriate number of lots for the site, failed to follow by-law rules regarding conservation of resources by failing to follow existing structures, and petitioner was disrespectful to Board by failing to comply with the conditional permit in February 2024. She requested that the Board consider the future health and viability of Town resources such as prime ag soils and rural character -- the values prioritized by the Town Plan -- and reject the present proposal.
- h. Chuck Verderber former Fairfield Planning Commission and Zoning Board member testified that the Board, having authority to ask petitioner to have the septic system proposal reassessed, should consider risk of the failure of the proposed septic. He testified that failure would harm Albert and Michael Menard's properties and businesses.

- i. Rusty Branon testified as a farmer he opposed granting the petition on the basis that it was proposed on prime ag soil and that the proposal did not fit with area land uses or the Town Plan's priorities to maintain its character as a farming community and to protect prime agricultural soil. He submitted his testimony in writing at Exhibit 15.
- j. Luke Willey testified that no mechanism exists for an adjacent property owner to appeal the wastewater permit granted to petitioner. He testified that the proposal meets all requirements of State's waste request requirements. He testified that the developable land on westerly half of lot is approx. 3 acres though is landlocked by wetland. He testified that the present proposal best meets the spirit of Fairfield's by-laws for conservation of resources. He testified that concern about the risks to the village water supply and area water quality posed by the petition had been addressed by the wastewater permit and the Hoffer analysis previously submitted by petitioner and any further concern was beyond the scope of the Board's authority. He requested that the Board close the hearing.
- k. Demetrius Bolduc moved to close hearing, Aaron Forbes seconded, and the Board approved.

6. PUBLIC HEARING Application: #24-015, Final Plat hearing for a Four (4) - Lot subdivision at 525 Swamp Road submitted by Fieldstone, LLC represented by Isaac Jiwatram for Parcel #055-0525, Fairfield Pond and Swamp District.

- a. Melissa Manson opened hearing, confirmed no *ex parte* communications or conflicts of interest. Melissa Manson reiterated the definition of interested person and swore in all persons that self-identified as "interested persons" as well as the petitioner, Isaac Jiwatram, including:
 - Mike L'Esperance
 - Jim McMillan
 - Ken Bond
 - Lesiel Verderber
 - Lynda Ulrich
- b. Steve True ZA identified the exhibits for the petition as follows:
 - Ex. 1 _____;
 - Ex. 2 Subdivision application;
 - Ex. 3 Wastewater permit;
 - Ex. 4. Correspondence regarding approval of wastewater permit;
 - Ex. 5 Site Plan;
 - Ex. 6 Boundary survey;
- c. Steve True stated that petitioner complied with conditions of the preliminary permit state that email from Kristal Sewell notes that no Wetland permit is required. Steve confirmed with the applicant that the Site Plan submitted contains recommendations raised by Sewell.

Steve True confirmed that the property has eleven adjoining properties, all of whom were notified of this the hearing within the statutory time frame.

- d. Steve True raised that the Board may want to consider a permitting condition where the curb cut number is reduced as this would be the only opportunity for the board to address this issue should the petition for subdivision be granted.
 - e. Issac Jiwitaram testified that he had no plans to personally add buildings within next 5 years. He acknowledged concern about light shining in L'Esperances's home, a residence across the street from his proposed subdivision lots for building but did not have any present proposal for screening.
 - f. Vanessa Kittell moves to conduct a site visit prior to closing hearing and Dan Pipes seconded. The motion did not carry.
 - g. Lynda Ulrich testified that a site visit was important for Board to see location of property and she supported.
 - h. Jim McMillan testified that he lived on the road adjacent to the proposed subdivision and he had concerns about the project as there was no indication of the proposed building(s) permitting would permit. He testified that given the scale and size of the project that the Board should undertake a site visit before closing the hearing.
 - i. Demetrius Bolduc moved to close hearing, Aaaron Forbes seconded, and the motion carried. Vanessa Kittell opposed.
- 7. Confirmation of next regular meeting and events of interest:**
- a. The next By-Law Review & Planning meeting is on **August 19th at 7:00 P.M.**
 - b. **The next regular monthly Dev. Review Board & Planning Committee meeting is Sept. 9, 2024.**
- 8. MOTION:** to adjourn is made by Peter Burns and seconded by Dan Pipes at **9:54 P.M.**