

Town of Farmington
Planning Board Meeting Minutes
Wednesday, January 4, 2023
Selectmen's Chambers
356 Main Street-Farmington, NH 03835

Board Members Present:

Rick Pelkey, Chairman
Bill Fisher, Vice Chairman
Stephen Henry, Secretary
Charlie King, Selectmen's Rep
Mike Day
Rebecca Patton-Sanderson

Others Present:

Kyle Pimental, Planning Director

Board Members Absent:

Jeremy Squires, excused

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman Pelkey called the meeting to order at 6 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

December 21, 2022- Public Meeting Minutes- No errors or omissions

Motion: (Henry, second Fisher) to approve the minutes as written passed 6-0.

Public Comment:

No members of the public were present.

PUBLIC HEARING

Public Hearing to Present and Discuss Proposed Amendments to the Farmington Zoning Ordinance. Proposed amendments include:

1. To amend Section 1.04, Lots Split by Zoning District Boundaries, to clarify the process and to provide provisions that allow for commercial uses to extend into residential areas.
2. To amend Section 1.08, Housing Maintenance and Occupancy Code and Section 1.10, Interpretation, Administration and Enforcement to address challenges with enforcement issues and improve compliance with changes in the state building code.
3. To amend Section 2.00 (E) Principal Uses to allow additional flexibility for multiple uses on a single lot.

4. To amend Section 3.01 Relationship of Buildings to Lots to clarify the process and to provide additional flexibility to allow multiple buildings on a single lot.
5. To amend Section 1.02 Authority (C) Amendments to add a house-keeping clause to allow the Planning Board to make technical corrections (e.g. pagination problems, spelling errors and formatting issues) without Town Meeting vote. These would (add “not”) include any substantive changes.
6. To amend Section 1.14 Definitions to add definitions to provide clarity for uses listed elsewhere in the zoning ordinance.
7. To amend Section 2.00 (C) Table of Permitted Uses to add and clarify new principal uses and revise which uses are permitted in the base zoning districts.

Mr. Pelkey read aloud the proposed amendments as shown above. He said copies of the full text are available for review in the Planning and Community Development Dept. located in the Municipal Town Office Building or online. He said they have 2 meetings to discuss these before they go to the warrant for the March ballot so this is the first opportunity for any feedback from the public and for the board to discuss them and move them forward.

He then turned the discussion over to Mr. Pimental.

Mr. Pimental said if the board is open to this they can briefly talk through each one of these and then open up the public hearing if folks do show up for that. He said then it is up to board on whether or not they have a second public hearing and they don't have to have a second public hearing if they don't want to. He said if there is discussion that comes up or anything needs to be changed on this he would recommend that and they are also within their authority to hold one anyway if they want to offer that as an opportunity and it will fall within the timeline they have. We couldn't go into Feb. but we do have time to hold one more at your regular scheduled meeting if the board so chooses he said.

He said he would walk the board through the 7 amendments pretty quickly as they have been hashing a lot of this out since August and did so as follows:

Amendment #1-Lots Split by Zoning Districts- He said the attempt here was to clarify the language that was already there to make it clear that if you're moving something into a different zone whatever the smaller area of the lot is that's what will govern that except in cases where the lot falls into the business district and into any residential district. He said the thought was in the commercial areas because of some of the larger lots extending into residential areas this will allow those commercial uses to expand into those areas but have some additional oversight from the Planning Board through a **Conditional Use Permit**. He said things like making sure it won't endanger any public health, the 50 ft. vegetative buffer or some form of landscaping to ensure that there is a natural transition between the commercial and the residential but offering more flexibility in that you won't need a variance if you want to expand commercial uses further off of Rt. 11 into some of those residential areas. This is intended to promote or encourage commercial development further back into some of those

larger lots and to clarify if there are situations where it may be something else that is elsewhere in the zoning not commercial. That is a little more straightforward than what was currently written about if the land could be subdivided or not and the greatest street frontage it was just a little bit complicated the way it was written before so this is an attempt to clarify those 2 points he said.

Chairman Pelkey opened the public hearing for public comment at 6:08 p.m. He said that will meet their requirement to allow the public to come in and comment on all of these and if anybody comes while they are going through it that will be fine.

He said the board has gone through these at length over the course of several months and asked if there was any discussion on this from the board.

Mrs. Patton-Sanderson asked about definition #41(e) in Amendment #2.

Mr. Pelkey clarified he would like them to go through them one at a time and asked if there was anything further on Amendment #1. There was no further discussion on Amendment #1.

Amendment #2- Housing Maintenance and Occupancy Code- Mr. Pimental said he didn't think they needed to go through every one of these and a lot of it was definitions providing clarity to some of these, adding in definitions where needed including what the building code is, what a hazardous building is and public nuisance which is referenced elsewhere in the ordinance. He said they tried to provide what those definitions are specifically if they are going to be referenced elsewhere. This is an attempt to provide additional clarity to the **Code Enforcement Officer** when enforcement issues arise so the more we have spelled out and be as specific as possible it is always better he said.

He said they also added definitions for utility and ventilation and Section (C) Responsibilities of Owners and Occupants connects some of this language to the definitions on the safety side of things and ensuring that if there are any compliance issues with the building code that the CEO has the authority that is spelled out specifically in the zoning to make his job a little easier.

He said that is sort of the same theme throughout the rest of the amendments is ensuring accordance with state and federal guidelines. He said they hashed out a number of these items over the course several meetings on ensuring that they balanced a pragmatic approach with enforcement but also ensuring this is not going to have necessarily a burdensome impact on property owners. This was intended to clean this up and help out the CEO to make sure he has what he needs when it comes to enforcement issues he said.

Mrs. Patton-Sanderson said she thought they were getting rid of definition #41 Public Nuisance (e) (any premises where the plumbing, heating and/or utilities required have been removed) because it is pretty much covered in (f) (any premises where the utilities have been disconnected, destroyed, removed or rendered ineffective and precautions against trespassers have not been provided).

Mr. Pelkey said it is redundant.

Mr. Fisher asked if utilities would be water and electrical coming from an outside source

whereas (e) would be internal plumbing, heating or facilities required have been removed and that would be your boilers, heating units, oil units, toilets and indoor plumbing.

Mr. Henry said he sees them as different things and maybe it could be combined into one but if you're on septic you're not connected to a utility.

Mr. Fisher said sewer could be considered a utility but when somebody has gone inside and gutted a house and has taken everything out we need something to cover that instance.

Mr. Pimental said utility is defined as providing electric, gas, water and sewer including equipment that may provide a comparable service. He said he could see this either being combined or kept separate but there is a little bit of a difference between what the intent of the utilities were compared to the other ones.

Mr. Pelkey said he was okay with that just understanding that one has to do with the external stuff and one is internal to the building.

Mrs. Patton-Sanderson said that is not clear to her and they look like the same thing to her.

Mr. Henry said a wood stove is not a utility but it is a heating appliance.

Mr. Pimental asked if there is something they can add to this that would make it clearer.

Mr. Fisher suggested in (e) any premises from which the internal plumbing, heating or facilities required in this chapter have been removed and then in (f) any premises from which the outside utilities have been disconnected.

Mrs. Patton-Sanderson asked if they could put it together in one sentence to read that any premises from which plumbing, heating and utilities required in this chapter have been removed. She said that key is just the precautions against trespassers has not been provided. She said they had a long discussion about it could be a composting toilet or it could be off the grid.

Mr. Henry said that's where they got the comparable services added over in the utilities definition.

Mr. Pelkey said those are all building code items that are there as part of the Certificate of Occupancy so if anything that is required for the CO has been removed that would be what they're talking about he believes.

Mr. Henry said they address some of that with the comparable services under the utility definition #56 because they did talk about that quite a bit.

Mr. Pimental said if it makes it easier to understand they can combine them into one bullet where it would say "any premises from which the plumbing, heating and/or facilities..." and then add something like "and/or utilities that have been disconnected..." He asked if that would make it easier so it doesn't look like those 2 are the same.

Board members nodded in agreement with his suggestion.

Mrs. Patton-Sanderson then said she thought they also talked about #41 (h) that says any premises which are unsanitary or littered with rubbish or garbage or which have uncontrolled

vegetative growth that is causing additional safety hazards and asked if they solve that by adding causing additional safety hazards.

Mr. Pelkey said that was the thing because of the trees blocking entrance and access.

Mr. King said it's not just tall grass or unsightly bushes.

Mr. Henry said what they wanted to address was vegetation over a door or an egress but the way it was worded was too broad. He said he was comfortable with this wording.

Mrs. Patton-Sanderson turned to Section C Responsibilities of Owners and Occupants #1 and said she thought they talked about this too "unless it and the premises are clean, sanitary does not constitute a public nuisance" and that clean and sanitary is kind of broad and subjective. She said she thought they were going to take that part out in favor of just constituting a public nuisance portion.

Mr. Henry said sanitary is not vague and is more concrete but there are different ideas about clean and it's a little more subjective.

Mr. Pelkey said they talked to sanitary "any premises which have unsanitary sewerage or plumbing facilities" in #41 C. He said #41 is a definition and Section C 1 is a rule.

Mrs. Patton-Sanderson said so we won't occupy it ourselves or permit another to occupy a dwelling unit unless the premises are clean and sanitary and asked if she was a hoarder and a pig if she wouldn't be allowed to live in her house.

Mr. Henry said houses do get condemned in those conditions.

Mrs. Patton-Sanderson asked where the line is.

Mr. Henry said when it's to the point where the rafters and the floor are buckling.

Mrs. Patton-Sanderson said that's addressed elsewhere.

Mr. Pelkey said that's never going to be something they would have the final word on and all they can do is put in provisions and rules and if the CEO says they believe it's unsanitary the person owning it will have to have that argument.

Mr. King asked if they need to strike the word "clean" and just have "sanitary".

Mr. Pimental said the definition of public nuisance uses the term unsanitary but it is tied to sewage or plumbing facilities so it's specific to that.

Mr. Pelkey said they want to have something in there for sanitary because some folks have allowed their animals to just run wild in their house and that has created some unsanitary conditions.

Mrs. Patton-Sanderson said it's sort of subjective and if it's in there already under public nuisance which is the second half of that sentence that would cover it.

Mr. Pimental said unsanitary is mentioned more than once so he thought it was just sewage and plumbing facilities but it also says any premises which are unsanitary or littered with rubbish or garbage or have uncontrolled vegetative growth so he can see public nuisance covering clean and sanitary. He said he thought it would be okay to tie it to a definition alone and it would be okay either way.

Mr. Pelkey suggested striking the words clean and sanitary and just have it read the premises does not constitute a public nuisance and complies with all applicable provisions of this code.

Mrs. Patton-Sanderson said that is where she was going.

Mr. Pimental said he thought they would be covered and if it does meet the public nuisance definition someone would be hard pressed to say that it was clean.

Mr. King said but public nuisance implies it's available to the public and asked if the door is shut on his house how it is a public nuisance. He said they're addressing it in the definition but a public nuisance is...

Mrs. Patton-Sanderson asked if there is another hazardous definition that covers that too.

Mr. Pimental said it talks about the premises and the structure within public nuisance so if you're talking about the premises that would include a private home with the door closed or when it says any structure too.

Mr. Day asked why they couldn't just get rid of sanitary and just put clean.

Some members said because clean is subjective.

Mr. Henry said sanitary is less subjective.

Mr. Day said his lawn is not sanitary for him to eat off of but it's clean enough for him to lie on and they're just picking how the words come out.

Mr. Pelkey said his idea of what a clean house is and somebody else's idea is two completely different things.

Mrs. Patton-Sanderson said definition #23 says a hazardous building means any building which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health and they could also reference that as well as public nuisance.

Mr. Henry said if you're a landlord and you rent a clean apartment to somebody you don't know that person is a complete slob and is going to pile up the dirty diapers and if they do it can take quite some time to evict somebody. He said they're going after the landlords for things that are out of their control with the courts and they want this filthy pig out of here too but the court is giving them 6 months.

Mr. Day said the point is they have to clean that place so they can let somebody else walk into it and say "This is nice". He said they're not going to make it sanitary that is the perspective of a person to go in and make sure the counters have been bleached to their quality of life.

Mrs. Patton-Sanderson said this is not just about landlords because it says persons that own or occupy so it's the home owner's fault.

Mr. Henry said we have control over our homes but as a landlord you don't have control over the tenant in the apartment that creates an unsanitary condition.

Mr. King said you do have control but your recourse to remove them could be lengthy.

Mr. Pelkey said you could be incurring additional damage while you're going through the process of getting rid of them but you still have recourse.

Mrs. Patton-Sanderson asked if they could get rid of clean and sanitary and also reference them at hazardous building.

Mr. Pimental said he was fine with whatever the board decides to do so long as the last provision (complies with all applicable provisions of this code) stays because that is going to be their umbrella if there are any issues. He said if they say does not constitute a public nuisance or a hazardous building that makes it where those two things are defined and it's pretty clear what those are as opposed to clean and sanitary that you all have said means something a little bit different to you.

Mr. Pelkey asked if he had done the word-smithing on how it would read.

Mr. Pimental said he thought it would say "a person shall not occupy, permit another to occupy or let to another person any dwelling or dwelling unit unless it and the premises does not constitute a public nuisance, is not a hazardous building and complies with all applicable provisions of this code". He then read the definition of hazardous building (definition #23) and said if they have that and public nuisance and it complies with (the provisions of the code) they're probably covered.

Mr. King said in Section C 2 it talks about clean and sanitary condition in the shared and public areas of the dwelling and asked if they would be removed from C 2 also and put the language they have in C 1.

Mr. Henry said that talks about how they have to maintain the public areas of the building and asked if they tell the stores in town how often they have to mop their floors or if the customers determine that by whether or not they continue to shop there.

Mr. Pelkey said if the customers complained to the CEO that it wasn't clean they would go take a look at it.

Mr. King said he thought they should same language they did in C 1 as far as not to create a public hazard instead of clean and sanitary.

Mrs. Patton-Sanderson asked if C 2 could be covered by C 1 because generically C1 is talking about...

Mr. Henry said no because C1 could be a single family unit.

Mr. Fisher said C1 could be just the place where the person lives but in C2 it could 2 apartments connected by a breezeway and he would use does not constitute a public nuisance or is hazardous and get rid of clean and sanitary out of there also. That way you're covered for a single family unit or a duplex he said.

Mrs. Patton-Sanderson said C1 covers any type of property it just doesn't specify the common areas.

Mr. Henry said C1 talks about the actual living area and C2 talks about any common areas.

Mr. King said C2 also talks about exterior roofs and weatherproofing.

Mr. Henry said as for the "neat in appearance" of the walls-he would rather end it at weatherproof.

Mrs. Patton-Sanderson said she gets the difference but it seems like C1 is an umbrella that covers the property in general which would include common areas. She said as far as specifying maintenance of exterior walls and roofs so as to be weatherproof that also falls under hazardous buildings or public nuisances but if they want to be more specific they could leave that its 2 or more dwelling units and common areas and get rid of clean and sanitary. But again it seems a little more redundant she said.

Mr. King said he would say to take out the clean and sanitary make it the same as C1 and he would agree to strike "neat in appearance" and end it at "weatherproof".

Mr. Pelkey asked Mr. Pimental to read that back because when they get ready to vote with the changes he'll have heard them.

Mr. Pimental said it will now read the owner of a dwelling containing 2 or more dwelling units shall not constitute a public nuisance or hazardous building...

Mr. Pelkey suggested it should read ...2 or more dwelling units shall maintain the shared or public areas of the dwelling and all associated real estate.

Mr. Pimental said what is throwing him off is because the intent of this was keeping something in a clean and sanitary condition it's hard to put in the hazardous building into that. He said not constituting a public nuisance works but then the hazardous building...

Mr. Fisher suggested he leave out building and just say a hazard.

Mr. King said they could put it at the end and the owner of a dwelling containing 2 or more units shall maintain the condition of the shared or public areas of the dwelling and all associated real estate to not constitute a public nuisance or hazardous condition.

Mr. Pelkey said he cut out starting at "in a clean and sanitary condition" to read "shall maintain the shared or public areas of the dwelling and all associated real estate so as not to constitute a public nuisance or a hazard".

Mr. Henry added "including the maintenance of all exterior walls and roofs so as to be weatherproof".

Mr. Pimental read back the following to the board: "The owner of a dwelling containing 2 or more dwelling units shall maintain the shared or public areas of dwelling and all associated real estate so as to not constitute a public nuisance or a hazard including the maintenance of all exterior walls so as to be weatherproof".

Consensus of the board was to accept the revision as stated by Mr. Pimental.

Amendment #3-Principal Uses-Mr. Pimental said this is to help address one of the issues they were running into that was the statement in the ordinance that was pretty specific that said all lots are only allowed one principal use and this is an attempt to provide some additional flexibility. He said now what they are suggesting is that more than one principal use is allowed by Special Exception on lots that are in the **Agricultural Residential**, the **Suburban Residential**, the **Rural Residential** and the **Urban Residential** districts so instead of needing a variance you would just need a SE which makes it a little bit easier to accomplish the 2 principal uses so long

as that use is allowed within the Table of Permitted Uses. He said on the commercial side more than 1 principal use is allowed by right in the **Village Center**, the **Commercial Business** and the **Industrial Business** districts provided that the use is allowed in the Table of Permitted Uses. He said they are trying to be more permissive instead of just saying all lots are only allowed one, we're now allowing more than one by right in those 3 districts and by SE in the residential districts.

Mr. Henry asked if they are setting a limit of 2 uses.

Mr. Pimental said no.

Mr. Henry said and if you have a big enough parcel you could have 5 principal uses.

Mr. Pimental said something like that may trigger something else like a site review.

Mr. Fisher said speaking as a member of the Zoning Board of Adjustment this makes it a lot easier to do what the ZBA has been trying to do for several years with the SE rather than a variance. He said it will make it easier for people to create new businesses for the town or even just to improve their living situations without through the variance and in particular the hardship clause which can kill the best of dreams. So I like this he said.

Amendment #4-Relationship of Buildings to Lots- Mr. Pimental said amendment #4 is similar and what they are trying to do here is allow for more than one principal building to be placed on a lot so they are proposing that in the CB and IB more than 1 principal building may be placed in those zones and more than one building may also be placed in other districts with Planning Board approval through a CUP and that is for non-residential, mixed use and multi-family developments proposed within that underlying zoning. He said the CUP criteria that they are setting for this would be that the proposed building and/or use shall be compatible with abutting uses and the surrounding neighborhood, that it shall not create undo traffic congestion or unduly impair pedestrian safety and will not result in objectionable noise or odor which could constitute a public nuisance.

He said all they did with the third piece was to remove the language that had sufficient street frontage and different distances between principal structures as that is already covered in it must meet the dimensional requirements for a subdivision. He said all they need to say to allow for 2 single family homes is they need to meet the dimensional requirements and when he read that it makes it sound like you only have to accomplish #1, #2 and #3 but you have to meet all the dimensional requirements not just street frontage.

He said that just clarifies that and it doesn't really change anything and they have been interpreting this a little bit differently than how this was written so this clarifies how they actually have been doing this at the staff level. Again we're trying to be more permissive with allowing for more principal buildings in commercial area and even allowing more than 1 principal building for residential but with a CUP he said.

Amendment #5-Authority- Mr. Pimental said this is a housekeeping clause and he will make the change to this as well as this does not include substantive changes. He said this just gives the

board the authority to make those types of changes that you don't need to have a Town Meeting for however any of those changes would have to have a public hearing so there is an opportunity for the public to attend if they want to.

Mr. King said this is getting revised to say these would not include any substantial changes but that is a substantial change.

Mr. Pimental said that would be in the warrant article and with the changes that were made to the code his recommendation would be to have a second public hearing. He agreed that even though 'would include' and 'would not include' is a typo it changes the entire dynamic of that sentence.

Mr. Pelkey said he was leaning toward doing it whether they required it or not to give the public an opportunity as they have time to do it.

Amendment #6-Definitions- Mr. Pimental said these are new definitions that were not in the previous zoning and began with Certified Recovery Home. He said this is a family-like substance-free living environment and what they're attempting to do here is require that these homes be a certified recovery home and shall not include court-ordered housing or any other facility requiring a license pursuant to RSA 151. He said they shall be registered by the state of NH and shall adhere to all safety and recovery standards as referenced by RSA 172-B: 2 and enforced by the Dept. of Health and Human Services or its designee. A certified recovery home shall function as a single family residence he said.

He said this definition was based on feedback from this board as well as other colleagues that are dealing with this in other places and we have been advised to treat this as a single family residence to avoid any Fair Housing law or Americans with Disabilities Act compliance issues.

Congregate Living Facilities- Mr. Pimental said this one was in the Table of Permitted Uses but they didn't have a definition. He said that's already defined by state statute so that's public housing providing congregate services as defined in RSA 161-F: 36.

Detoxification Facilities- Mr. Pimental said are defined by the NH State Building Code and those are facilities to provide treatment for substance abuse.

Group Home- He said group home is also defined in the 2018 NH State Building Code and is a facility for social rehabilitation, substance abuse, or mental health problems.

Hospitals and Psychiatric Hospitals- He said these are facilities that provide care or treatment for medical, psychiatric, surgical care of recipients that are incapable of self-preservation which is also defined in the State Building Code.

Incapable of Self-Preservation- Mr. Pimental said that's mentioned in other definitions so it needed its own definition which persons who because of age, physical limitations, mental limitations, chemical dependency, or medical treatment cannot respond as an individual to an emergency situation as defined in the NH State Building Code.

Nursing Home- He said this is in the Table of Permitted Uses but is not defined. He said this is a facility that provides care including both intermediate care facilities and skilled nursing facilities

where any of the persons are incapable of self-preservation as defined in the State Building Code.

Court Ordered Housing- Mr. Pimental said they went back and forth on naming this court ordered housing, halfway house, sober living and they decided to call it court ordered housing to make it as clear as possible and make it a clear distinction because some of this language is being used interchangeably if you search on the internet and to try to avoid confusion they're separating this out as court ordered housing. He said this is sometimes referred to as a sober house and is a supervised facility where 2 or more offenders sentenced by a court to a period of incarceration reside for the purpose of rehabilitation, behavioral modification or therapeutic counseling. This type of housing may provide for the care and supervision of delinquent youth, persons with mental health illness or substance abuse issues or for the care of persons being aided in reintegration to society following a period of incarceration or institutional treatment. Mr. Henry asked if that is not in the Building Code.

Mr. Pimental said it is not.

Mr. Henry asked if in all the ones that reference the 2018 Building Code if they want to pick a year's building code or if they want to say the current building code. He said the building code may change the definitions and they don't want to automatically adopt them or if they want to reference the current building code and if they change the definitions ours are automatically changed.

Mr. Pimental said they do have "or as amended" after that.

Mr. Henry said he would read that as however the 2018 code was amended so if there's a new code in 2023 that's not the 2018 code.

Mrs. Patton-Sanderson said there was somewhere else in here where they did that and took the year out and said current.

Mr. Pelkey said to take the year out and say the NH State Building Code as amended.

Mr. Henry said he would just say the current State Building Code because if its amended that becomes current but if you throw a year in there...

Mr. Pelkey asked if you said current when it passed would it freeze it as the current one or if you would have to put the provision for as amended in there. He said he thought if you didn't put as amended in there it would lock it in from whenever you did it.

Mr. Pimental said he would recommend that it stay in the 2018 because these definitions literally came from the 2018 code and he didn't know if they were in any of the prior versions. He said there is a building code out now that's more current than 2018 but that hasn't been the one that the state has adopted yet.

Mr. Pelkey said and when they do we will be beholden to it as well.

Mr. Pimental said if they say the most current they actually could be referring to the 2021 code even though the state of NH hasn't adopted that yet.

Mr. King said to just say as defined in the adopted NH State Building Code.

Mr. Henry added the “most recently adopted” State Building Code. He said the Building Code could change these definitions and they don’t like the new definitions so that is why he is asking if they want to just ride with the building code or do they want to stick to an archived definition.

Mrs. Patton-Sanderson said definition #6 says Building Code means the most current adopted State Building Code including the most current State Fire Code pursuant to Chapter 155-A: 1, IV, IV-a or as amended.

Mr. Pelkey said that sounds like the answer to him and they could take the date out of it and just say NH State Building Code.

Mr. Henry said we define it as Building Code.

Mrs. Patton-Sanderson noted that it says adopted State Building Code so meaning if 2018 is the current adopted one by NH that definition covers it and you could just say building code and maybe reference that definition.

Mr. Henry said he was fine either way he just wanted to make sure they are making the decision on purpose.

Mr. Pimental said he raised an interesting point and they can say as defined in the building code pursuant to and then he could point to where it is in the definitions or if they are okay with the definition as written you could get as defined and strike it completely out. He said they don’t have to say this is what’s in the building code you can we like this definition we’re just going to use it. Stephen makes a good point which is if they change Detoxification Facility in 2021 but you dislike that and like this old one you are automatically going to change to that he said.

Mr. Pelkey asked since we are required to comply with the State Building Code by law if they change the definition don’t we have to change our definition as well.

Mr. Pimental said if they don’t say a Detoxification Facility is as defined in 2018 or as amended and they just strike that out this is their definition. He said it would be the same thing to say we’re using a definition from the City of Dover they don’t have to say as defined by the City of Dover they’ve made that their own. I think you’re okay with doing that if you’re comfortable with the definition itself. If someone asked us we could say these came from the State Building Code in 2018 he said.

Mrs. Patton-Sanderson said they lost her as to what they are actually saying here.

Mr. Pelkey said he is saying if the State Building Code changes the definition and we’re not pointing to the current version of it we have our own cut and dried definition and the state changes it, it will be subservient to the State Building Code and if somebody were to bring legal action they would just hold up the State Building Code and say this is what you’re required to follow.

Mrs. Patton-Sanderson asked if that is the case or if they could say the 2018 State Building Code and keep it at that.

Mr. Henry asked if we're beholden to the State Building Code why we have to have these definitions at all.

Mr. Pelkey said because they speak to them in other places in the document.

Mr. Pimental said and because they're making these uses.

Mr. King said it's their definition and suggested they strike "as defined in the 2018 NH State Building Code".

Mrs. Patton-Sanderson said she didn't like that because it gives it some weight as to where these definitions are from. She said that gives them more of a "gavel".

Mr. Pelkey said if you take out the "or as amended" you've locked it into that definition which came from the 2018 Building Code and that would his suggestion.

Mr. Pimental said they could do that and that would be the other way to do it. He said if they want to hold it to the weight of it being that it came from this and they don't put as amended then that's the definition and it stays.

Mr. Henry said in 10 years that gives somebody a reason to come argue with them and say that definition is old.

Mrs. Patton-Sanderson said later down the road it gives you the opportunity to just change it to current or change it to meet the definition in building code. She said if changes and they are alright with that they could change it to the current and this way you're covered.

Mr. Henry said they are not going to get a memo that says they just changed the definition of Detoxification Facility.

Mrs. Patton-Sanderson said she was not saying they have to she was saying it gives them the opportunity to.

Mr. Henry said his preference is to strike "as defined in the 2018 NH State Building Code" and he could live with striking "or as amended".

Consensus of the board was to strike "or as amended" from all of these definitions.

Mr. King said the definition will be locked in and referencing the 2018 State Building Code.

Mr. Pimental said "or as amended" would be stricken from the definitions of Detoxification Facility, Group Home, Hospitals and Psychiatric Hospitals, Incapable of Self-Preservation and Nursing Homes.

Amendment #7-Table of Permitted Uses- Mr. Pimental said last year they ensured there was consistency between the CB and the IB for those uses that fall within those zones but they only concentrated on the commercial and industrial uses. He said one of the first things they did was to reconcile that for the remaining agricultural, residential, institutional, recreational and utility uses. He said everything that is allowed in one is allowed in the other by the same categories so it's either allowed by right, allowed by SE or not permitted.

He said the other things they did was allowing for multi-family units in the SR by right so that would now be the SR, UR and the VC and would not be allowed in the AR and the RR which is how it is now.

He said they made a small edit to Congregate Living Facilities to clarify it to tie it to what the definition is.

He said they added Detoxification Facilities which would be allowed only by SE in the AR, RR, CB and the IB. He said Group Homes would be the same thing as the Detoxification Facilities.

Mr. Pimental said Health Service Facility was already defined but wasn't in the Table of Permitted Uses. He said Health Service Facilities are dentists' and doctors' offices and would be allowed by SE in the SR, by right in the UR, VC, CB and the IB.

He said they made a change to Libraries and are allowing them by right in the IB and Museums is changing from SE to Permitted by right in the IB.

He said Nursing Homes just got moved from a different section and is P in all districts and the Court Ordered Housing is allowed by SE in the AR, RR, CB and the IB.

Mr. Henry noted that under Court Ordered Housing in the AR the SE has a lower case e. He said there was a lot of conversation about the AR zone and they talked about the farming environment for some of these facilities and they have minimum lot sizes in the AR and asked if they can have a minimum lot size for these facilities.

Mr. King said the minimum lot size is 3 acres.

Mr. Henry asked if they could say for this use the minimum lot size is 20 acres or 10 acres.

Mr. Pimental said no and that he didn't think they could treat a particular use differently in terms of the dimensional standards. He said the lot size is the lot size and if someone had a lot that is 3.5 acres and they wanted to put in something that's allowed you can't require them to have more than that if it's already allowed.

Mr. King said you would have to create a dedicated zone and put a new lot size.

Mr. Pimental said that's correct.

Mr. Henry asked if you could have an overlay district.

Mr. Pelkey asked if he was talking about for a commercial use or for a private use.

Mr. Henry said he was thinking of a commercial use.

Mr. Pelkey said any commercial use has to come before the board and they have to look at it and determine the zone it's in, if they have all of the adequate requirements to make it viable as well so there is some opportunity for them to look at what they're proposing.

Mr. Pimental said where they would handle this because some of these are allowed by SE the SE general standards would give the ZBA some leeway. He said he didn't think they could necessarily require that their lot has to be a certain size but it needs to be consistent and they could go a little bit further than what this board could do in ensuring those general standards are met. He said for example "no hazard shall be created to the public or adjacent property" they could make the case that the size of that building is going to be too close to an abutting property and their lot isn't large enough to handle what they are proposing. You couldn't say you need 10 more acres but you could say your proposed development doesn't fit within our general standards for approving a SE and the give and take would be with the ZBA he said.

Mr. Henry said they discussed farms in that zone that were work farms for people that were in court ordered housing and somebody who wanted to set up that environment would be a good use in the AR but something put on one of the older 2 acre lots wouldn't be a working farm necessarily it would be a building on a 2 acre lot that is probably close to other 2 acre lots. He said he questioned it because they could make sure that it really is just the farming environment that gets built in that zone for those uses.

Mr. Fisher said adult daycare is allowed everywhere except in the AR and is out of homes so he assumed it isn't a giant commercial adult daycare and the same thing goes for daycare centers and nursery schools with less than 12 children which is not permitted in the AR. He said daycare centers aren't permitted in the AR whether it's 12 or more children but we approve it everywhere else and asked why they keep them out of agricultural areas where usually that's more land than the other places and shouldn't have an effect on the surrounding properties. He said they could make it by SE but if they are going to permit everywhere else why aren't they permitting in the AR.

He said the daycare centers are not permitted in the AR, SR or RR, permitted by SE in the UR but are permitted everywhere else but if the size changes, less than 12 children is permitted in the SR and the RR but not in... It doesn't make sense to me either permit them or don't permit them he said.

Mr. Pelkey asked him which one he thinks it should be.

Mr. Fisher said he thinks it should be permitted in the AR for all of them and permitted in the SR and RR for 12 or more children or make it by SE.

Mr. Pelkey asked if he thought there should be no SE for any of them.

Mr. Fisher said it could be SE's and then let it go before the ZBA. He said he couldn't see why they are discriminating on a business, daycare centers just because they have 12 or less children or 12 or more children. He said we say we can't treat other things differently such as different lot sizes for different types of businesses in the same district and asked why we are differentiating just based on the number of children.

Mr. Henry said the number of children would impact traffic. He said the childcare center services a lot of families so there are a lot of cars in and out a couple of times a day so that in your neighborhood would be a substantial impact.

Mr. Pelkey said if it's being run as a business they would have to show that it wasn't going to have a substantial impact.

Mr. Fisher then suggested making them allowed by SE everywhere instead of permitted.

Mr. Pelkey said if it's a commercial use it's coming to this board for site plan review.

Mr. Pimental said he didn't think there should be a difference and that a daycare or nursery school should be the use and they shouldn't dictate between the number of children and where they want to regulate that and allow it in certain zones could be the board's discussion as well. He said if they allow it by right they still have to come before the board and if their proposal is

for 35 kids they can require a traffic analysis as part of the site plan review as it's written into the regulations that they can require that. He said in some of the projects they have seen the use has not generated a ton of traffic so they haven't needed a traffic analysis. He said based on the proposal the board would have the flexibility where if they say we're 6 kids max they could say we don't need a traffic analysis but if its 35 or 40 they have the authority to do that. He said depending on the proposal it would be what part of the site plan regulations would apply and the traffic analysis is an optional piece. He said to simplify it he would look at it as a daycare is a daycare and if they come in they would be able to deal with it through site plan but that's the board's choice.

Mrs. Patton-Sanderson said she is probably a little bit more stringent on some of these things but if she is in a residential neighborhood and she is there working remotely or wanting to happily live her life and next door moves in some place that's going to host a bunch of screaming children running around all day she is not going to be really excited about that.

Mr. King asked what the difference is if that person moves in and has 5 dogs. He asked what the difference is between 5 barking dogs and 5 barking kids.

Mrs. Patton-Sanderson said they can't limit people from having a dog or 2 dogs and they're talking about something they have some semblance of control over.

Mr. Day said the daycare center or nursery school with less than 12 they should permit in the AR because if a stay at home wife wants to have a daycare in their house it would be fine and it wouldn't bother him up there if he couldn't see it but the 12 or more he sees as a SE for all those like Mr. Fisher said.

Mr. Henry said home daycares are separate and on page 14 under accessory use to single family residential we've got child daycare. He said this doesn't apply to home daycares.

Mr. King asked if it says anything about the number of kids in a home daycare.

Mr. Henry said it does not address that. He read aloud the accessory uses listed, accessory apartments, child daycare family, child daycare family group and his concern was the home daycare is covered someplace else.

Mr. Pimental said child daycare is the supervision of any child under the age of 18 away from the child's home and apart from the child's parents. He said it gets further broken down to child daycare family is an occupied residence in which child daycare is provided for less than 24 hours a day except in emergencies for up to 6 children for one or more unrelated families. He said the 6 children shall include any foster children residing in the home and all children that are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children up to 3 children attending a full day school program may also be cared for up to 5 hours per day.

He said the family group is the same sort of thing but that goes from 7 to 12 children from one or more unrelated families and goes on to say something very similar. He said those are operating out of a residence.

Mr. Pelkey said he thought that is why it says daycare center.

Mrs. Patton-Sanderson said that probably explains why the daycare centers are not permitted where they're not permitted because they are covered by the child daycare.

Mr. Henry said with the childcare center there is likely nobody there at night.

Mr. Pelkey said that's what it sounds like to him and he didn't know that they have daycare centers defined at all.

Mr. Fisher returned to adult daycare and asked if they were going to allow adult daycare in the AR we allow it every place else and they can kill that one real quick and go back to daycare centers.

Mr. Henry said it says "out of home" next to adult daycare and asked what that means.

Mr. Pimental said these are things they haven't discussed yet so he doesn't have a ton of background information on some of these.

Mr. Fisher said he thought out of home means you are providing that care out of your home.

Mr. Pimental said it's more of a commercial than residential use.

Mr. Pelkey said they have to have time to go through this, determine what the definitions are and look at what the impacts are and at this point they are probably beyond that timeframe because they are getting ready to put this to the voters.

Mr. Henry said this is not operating out of a home it's under the institutional heading.

Mr. Fisher said it's not operating out of a home it's somebody leaving their home to go seek care at another place and he can go with that definition. He asked why we don't allow it in the AR but allow it in more confined areas. We allow it in the VC where everybody is on top of each other but we don't allow it in an agricultural area where there may be 50, 15 or even a couple of acres between houses he said.

Mrs. Patton-Sanderson asked if they wanted to limit themselves to the blue updates they have now and then maybe pick some they want to come back to for the next round.

Mr. King said he has heard enough discussion that he is ready to make an opinion. He said they should be a bit more lenient for the adult daycare and the daycare centers 12 over and 12 under by changing those from dashes (not permitted) to SE which is saying if there's a situation let the ZBA apply some requirements to it.

Mrs. Patton-Sanderson asked for clarification.

Mr. King said he was talking about the 2 daycare centers and the adult daycare and instead of going into the AR for adult daycare go to SE which is one step less restrictive and also under the daycares because it would come before site plan review after it goes to the ZBA.

Mr. Fisher said even if it's not allowed they can still go to the ZBA.

Mr. King said but they would need a variance.

Mr. Fisher said if they wanted to make it by SE in the AR although he can't see why they don't just permit it as they do every place else he is fine with it and he is fine with SE's in the other areas for nursery schools with 12 or more or 12 or less children.

Mrs. Patton-Sanderson said she could agree with SE for the AR but asked if they wanted to address the SR and RR for those two and if they want that to be SE.

Mr. King said under daycares with 12 or more he could go with making permitted in the SR and the RR just like it is with 12 or less children.

Mrs. Patton-Sanderson said she would go the other way with SE with all 3 for both of them.

Mr. King said he was okay with that because it's less restrictive than what it was.

Mr. Pimental asked if they still wanted to break out the number of children.

Mr. Henry said yes and Mr. King said that's the way it is right now.

Mrs. Paton-Sanderson said if they make them the same they don't need to break out the number.

Mr. Pimental said that's the way he was leaning and asked if they're that similar if it really makes that much of a difference if they break these out and let the proposal flush it out.

Mr. Pelkey said that would take away the fluidity and make it more restrictive on the 12 or less.

Mr. Henry said he did not want to go more restrictive on 12 or fewer.

Mr. Pelkey said if they wanted to go with SE for the currently not permitted sections for daycare centers he is okay with that but he would not want to make the 12 or less ones more restrictive so he thought they should leave them split out.

Mrs. Patton-Sanderson said she did not agree but that's okay.

Mr. Fisher again asked if adult daycare would be by SE in the AR.

Consensus of the board was that adult daycare would be allowed by SE in the AR and where the daycare centers are currently not permitted they would be allowed by SE.

Mr. Pimental said the only other thing he wanted to cover with this is the information that was provided by the Farmington Police Dept. in regards to the certified recovery homes. He said there is information about certain areas throughout NH on whether or not there was increased call volume and the registry that has been updated. He said he just saw this today but it looks like there are about 70 houses/agencies listed on these 3 pages.

He said there is also information about the standards at the federal level and what those include. He said there is some good information in here that the board should read through and because they're having a second public hearing anyway he would advise the board to look through this and be ready to have a more detailed discussion about any additional concerns they may have.

He said in reading between the lines a lot of the folks the Chief reached out to said they wanted to be anonymous and that's a clear indicator to him that this is a tough topic and you don't want to be on the wrong side or say the wrong thing. He said there's going to be people that don't like this and that's part of the decision that the board is going to have to accept and they are trying their best to alleviate as many concerns as they can by requiring that it be certified but they also have to follow other federal laws and there may be an increased volume of calls

to the Police Dept. as a result of some of these. He said because they just got this information tonight he would advise the board to table this discussion until their next meeting.

Mr. Pelkey asked if all of this came from Chief Orlando.

Mr. King said yes this is all his research.

Mr. Pelkey said he appreciated the Chief's time and effort to help them understand what is going on with this stuff.

Mr. Pimental advised the board at the next meeting whatever they decide that's it and that is what is going to go to the voters so if there are any major concerns about anything they talked about tonight he would get that out now because what they move forward with at the next meeting is going to be what decides what goes to the voters.

Mr. Pelkey said there is a great need for a lot of this stuff in communities and there is a great need in our community so it may be uncomfortable for some people but we have got to be able to provide some help to our own citizens.

Mr. Pimental said what the board has decided to do with including some of those other facilities by SE in certain areas is seeking to address some of those concerns in allowing the ZBA to apply those general standards.

Mr. Henry said looking at some of the anonymous comments makes him think of the definitions and things they just changed for Code Enforcement. He said the call volume will depend on who runs or manages the facility some organizations run a tighter ship than others. He said they deal with the same thing with property managers and landlords and they adjusted some definitions and so forth to address some problems there so they may be looking at doing the same in the future.

Mr. Pelkey said they are trying to make provisions to do this and they're all a little concerned that they're not going open up the public to a lot of problems. He said they are trying to help people but they also want to find a balance where they have the ability to control unwanted outcomes if they can.

Mrs. Patton-Sanderson said she doesn't see certified recovery home specified in our permitted uses and asked if she missed it.

Mr. Pimental said it won't be because the way that they define it is a single family home so essentially any zoning district that allows for single family homes would allow for a certified recovery home.

Mr. King said if it's a single family dwelling but if it's a motel/hotel no. He said the Chief mentioned in some of these areas some of the departments stated that treatment facilities are being established in motels and hotels within the community and that would not fall under a single family dwelling and would have to go to site plan review.

Mr. Pelkey said that is a commercial enterprise.

Mrs. Patton-Sanderson said but he is calling it a certified recovery home.

Mr. Henry said they're saying if it's a certified recovery home it's treated as a single family residence and asked if they would certify a former motel.

Mr. King said it doesn't meet the definition under where it would be permitted in all zones because it has to be a single family dwelling.

Mr. Pimental said it's treated like a single family home.

Mr. King said it says when it's treated it's a single family residence it's not a motel or hotel or multi-unit building.

Mr. Henry said that is how our rules treat it and we have to treat it as a single family residence in our rules but it could be huge.

Mrs. Patton-Sanderson said they are not specifically saying okay or not okay all they've done is written the definition.

Mr. King said they defined it in the Table of Permitted Uses where it would be allowed if it was a multi-unit building such as a hotel converted to a Detox facility or a group home it would only be allowed in the AR, RR, CB and IB under SE. He said if it was a certified recovery home that was in a converted single family house that could be permitted in every zone.

Mr. Pimental added every zone that allows for single family residences.

Mrs. Patton-Sanderson said they are specifically talking about certified recovery homes in this and we have given it a definition and called it a residence but in this table nowhere does it say certified recovery home.

Mr. Pimental said they were advised not to call it out as a specific use.

Mrs. Patton-Sanderson said all they have done is define it and talk about it.

Mr. Pelkey said which is to say that it's a single family home so don't try to set up your certified recovery home in a hotel because that's not what it is.

Mrs. Patton-Sanderson asked how they would talk about this at a hearing. She said it could have been there before below the surface they wouldn't know and now all they've really done is made a definition.

Mr. Pimental said and we're requiring that they be certified and that's the big difference. He said if there ones functioning right now that the Town is unaware of and they become aware of them they can enable that they have to go through this process to be certified and it will add in those additional standards. The hole in this is it's not going to come before this board as we don't have any authority over single family homes so it's going to be interesting to see how this all plays out he said.

Mrs. Patton-Sanderson asked what the perception of the public would be and they may never have heard of any of these any more than some of them have before this and it might be a non-starter for them.

Mr. Pimental said at the public hearing he would say if this doesn't pass and we don't have this definition it will make it harder for staff to interpret what is and what is not one of these. He

said they could make the case that by not allowing it that we're breaking federal laws and the Town could get sued.

He said and they could not require them to be certified and they'd have to allow it and we would lose that ability. He said the case he would make to a member of the public that is asking why we want to allow this, this is actually giving the Town more protection than it has right now and that someone could try to put this use into something that exists in the Table of Permitted Uses such as a commercial use not specified which is allowed by SE in all zoning districts so this is giving the Town more coverage and more of an opportunity to guide this and make a determination of what is and it's actually protecting the Town more than having nothing. He said it's a good step in the right direction and the uncertainty of how this is all going to play out and when the Town would be made aware of this we're going to have to wait and see. Sometimes that's the case with zoning amendments you're not going to see the full effect of this for a couple of years he said.

Mrs. Patton-Sanderson said some areas have a lot of them and she wondered if that just happened or if they specified they can have a certified recovery home in this zone. She said she wanted to keep the spotlight on it down and if they said "Hey, welcome!"

Mr. Pimental said no, they did not and some of the other municipalities did themselves a disservice by digging in their heels because they ended up getting into trouble which caused a lot more focus on it. He said for example there are multiple lawsuits happening in Manchester because they tried to stop it completely and there was a lot of spotlight, lawyers got involved and all of the different advocacy groups flocked towards that because they were breaking ADA and federal housing laws so it was a big deal.

He agreed they don't necessarily have to advertise this and this is providing coverage for the Town when this may arise. I think this approach that Farmington is taking is a better one than what some of the larger cities, granted they are dealing with a different population than a small town like Farmington is but this approach is better suited for a town like Farmington he said.

Mrs. Patton-Sanderson asked when they do the public hearing if he was going to step through it like he did with the board and say these are the changes.

Some members pointed out that this is a public hearing.

Mrs. Patton-Sanderson said she thought people would show up for a public hearing.

Mr. Pelkey said sometimes they do and 2 years ago they had somebody show up.

Mr. Pimental said 2 years ago they were making changes in the VC and because of the size they were required by state law to send mail out to business owners because there was going to be a zoning change so that got people in the door.

Mrs. Patton-Sanderson asked if they told them they were going to be talking about zoning changes.

Mr. Pelkey said it is in the published agenda (for this meeting).

Mr. King said he was on the board one time when they had a public hearing and people came

down and resident David Kestner came ready to put the board on the BBQ and he later became the Planning Board Chairman. He said the issue was in his zone and based upon the feedback from him and other residents they pulled it and it didn't go before the voters because it was over reaching.

Mr. Pelkey said one year they also had a warrant article that wasn't well written and it failed on the ballot and it had to come back to the board for more discussion, clarify it and put it back on the next Town Meeting warrant.

Mr. Henry asked if he was running a recovery home today and the ordinance passes that says recovery homes have to be certified if his existing operation would be a non-conforming use or if they would be placing a new burden on existing operations that they may not be aware of.

Mr. Fisher asked if they would be grandfathered.

Mr. Pimental said that is tricky and he would want to consult with legal counsel but what they have said before with something like this is if you're silent on it then it's not necessarily allowed but in this case because you have to treat them as single family homes with an existing recovery home we probably can't force them to be a certified recovery home unless they expand or do something that triggers that. If they're operating right now and nothing has changed and we find out about it I don't think there's much we can do about that because that's an existing non-conformity he said.

Mr. Henry said in 2 years when you find my recovery home it's "I've been doing this since 2020"

Mr. Pimental said it's a loophole and they'll have to do their best with that. He said if all of a sudden they are getting multiple complaints about that they may have some legal standing to do something about that or at the very least we could ask them to voluntarily go into the program which is a lot of what happens now but we're forcing it for new ones. My gut is saying if it already exists and this goes into effect in March 2023 I don't know how we can treat them any differently than anybody else that was a pre-existing non-conformity he said.

Mr. Henry said the former TD Bank building is in the VC where single family residences are allowed and as he understands it that could be converted to a recovery home.

Mr. King said it wouldn't qualify as a single family residence.

Mr. Henry said single family residences are permitted down there.

Mr. Henry said single family residences are permitted by right in the VC.

Mr. Pimental said not on the first floor.

Mr. Henry said the dentist office and the RW Real Estate building on Central Street just converted and that he told them a single family residence was permitted in the VC by right.

Mr. Pimental said it says it specifically in the zoning if it's commercial on the bottom floor you can't convert that to residences.

Mr. Henry said it has happened twice in the last 2 years.

Mr. Fisher said where the real estate company was it previously was a single family home.

Mr. King said he didn't agree with that interpretation and once it's converted you can't go back to it used to be a dentist's office 400 years ago.

Mr. Fisher said 4 or 5 years ago they let Manny Krasner go back to residential where his law office used to be but he didn't recall if it was approved by the Planning Board or the ZBA.

Mr. Henry said he thought that was before the zoning change but since that was passed 2 commercial ranch style buildings have converted from commercial to residential and Mr. Pimental explained to them that single family home are permitted by right.

Mr. Pimental said a single family is allowed but the conversion is not so that shouldn't have happened and if it happened that's an enforcement issue. He said in the VC you cannot convert an existing commercial to residential, you can still have a single family home in the VC and that is a distinction.

Mr. Henry said it happened twice so somebody else would have a case to say they're being picked on.

Mr. Pimental said the intent of the zoning change that was made a couple of years ago was to reduce losing businesses in the downtown and not allow them to convert to residential and put the residential on top and keep the commercial on the bottom. He said that has worked in some cases and if it hasn't worked in other cases he didn't know why it's not being triggered at the enforcement level but it should not be allowed.

Mr. Henry said so far the Palmer's building has residential on the first floor and he knew they got a variance, the dentist's office was converted to residential, the RW Real Estate building was converted to residential and maybe the World Path has too but they talked about this when they were being converted and Mr. Pimental said single family is permitted by right and he brought that up with the old Green's building when they were looking at what they could do with that.

Mr. Pimental said there may be a loophole or it could have moved forward because someone made the case that the commercial space was no longer commercial and that for whatever reason it was acting as storage for 5 years and was no longer commercial.

Mr. King asked who they would have made the case to.

Mr. Pimental said he didn't know and that he would follow up on it.

Mr. Henry said based on that practice he would say the TD Bank building could be converted to a single family residence.

Mr. Pelkey said that was because somebody is violating the rules that were set up and they don't just say that there aren't any rules anymore.

Mr. Pimental said he disagreed with Mr. Henry and that is not a single family home. He said they would have enough standing to say this does not meet our definition of what a single family home is and this building has operated as a commercial building and should be treated as such. He said he didn't think the staff would support something like that being treated as a single family home.

Any Other Business Before the Board:

RFQ for 3rd Party Engineering Services- Mr. Pimental said the Request for Qualifications for engineering services closed on Dec. 30 and 9 responses were received. He said his recommendation for the next step would be that a small committee goes through the applications, get this number down to how many they would like to interview and then make a formal recommendation to the Selectmen to enter into a contract agreement.

He said he asked the Building Inspector and the Town Administrator to participate in that and he recommended that Mr. King participate in his roles as a Planning Board member and a Selectman and one other Planning Board member if someone would like to participate as he thought 5 members would be a perfect number.

He said the committee members would go through the 9 applications, help develop some scoring criteria and some interview questions and take this process and come back to the full board and make a recommendation on who they think is the best candidate or two and then give that information to the Board of Selectmen.

Mr. Pelkey asked if anyone was interested in becoming part of the committee besides Mr. King who has been drafted.

Mr. Pimental said they didn't need 5 members but if someone is chomping at the bit to do this 5 would be the maximum number.

Mr. King suggested they narrow it down to 3 applicants and asked if they were going to interview those 3 at this board and then make a final recommendation.

Mr. Pimental said it's up to the board on how they want to proceed.

Mr. King said they may want to meet the applicants and ask questions to see what their reaction is. He said they need to find a firm that can supply a happy medium to this requirement and not bang the hours to review everything that's already been engineered. That is susceptible to happen and we don't want that to happen it's not fair to the applicant he said.

Mr. Pimental said once they whittle it down with this smaller group the whole board will have an opportunity to participate in that. He said this is for someone who wants to read thru all 9 and help with the scoring criteria it's more work but it's up to the rest of the committee.

Mr. Pelkey said if he is looking for a recommendation from the board the information they want used to make the selection needs to be available to everybody because they can't make a decision in the dark.

Mr. Pimental said that smaller group will be providing that to everybody.

Mr. King said the other stuff should be available for anybody that wants to look at it online. He said someone may ask what happened to x, y and z and this is why they scored them low and they may say they want them in the mix and the board could change the top 3 applicants.

Mr. Pimental said he thought this process should be largely driven by this board and even though the Selectmen make the ultimate decision it should be coming from us because the activities in the RFQ are in their purview so they should be driving the ship along with the staff.

Mrs. Patton-Sanderson asked to have the RFQ forwarded to the board.

Mr. Henry said they had a lot of different services they were looking for and asked if they got firms that could check all the boxes or if it was somebody could do some things and somebody else can do these other things.

Mr. Pimental said he hasn't opened the letters yet.

Mr. Pelkey said that would be part of what makes one firm more qualified than another firm.

Mr. Pimental said no costs were included as part of the RFQ its qualifications only for now but costs will probably be part of the discussion at some point.

Mr. King asked if they included any standard pricing for those services.

Mr. Pimental said no qualifications only.

Mrs. Patton-Sanderson asked if that would be a second phase.

Mr. King said it may be something the subcommittee requests for the different levels of services.

Mr. Pimental said cost would be a part of it at some point but they didn't want it to be at the first level and they wanted to make sure they were getting firms they felt were the ones that could best service the Town.

Mr. Henry said they are going to require applicants to pay and use the firm we specify so we have to be able to get a good price for our applicants and justify that price.

Mr. Fisher said he was interested in being a subcommittee member.

Mr. Pelkey said he would like to be informed on when the meetings are since it's under his purview and he would probably show up for some of them.

Planning Board Rep to the EDC- Mr. Pimental said Mr. Henry is the Planning Board rep to the Economic Development Committee but their meeting is in conflict with the School Board meetings.

Mr. Henry said they meet on Tuesdays and their meetings sometimes conflict and he did make their last meeting but he has obligations to the School Board as well.

Mr. Pelkey asked if anyone was interested in serving on the EDC and there were no volunteers.

Mr. Pimental said it is beneficial to have a Planning Board member participate as a lot of what the EDC and Planning Board do overlaps and they don't have to decide tonight.

He said he sent around their newsletter and they are taking on a couple of projects and they seem to have some momentum and hopefully that continues. He asked Mr. Henry to keep the board apprised if it continues to be a conflict and maybe going forward during member comments he could provide updates on what they're doing, if they need anything from staff or there's anything this board would be interested in.

Mr. Pelkey added he wanted to reconvene the committee that's studying the excavation sites.

Mrs. Patton-Sanderson asked what they are studying about them.

Mr. Pelkey said there are excavation sites that don't appear to be in compliance and the Town

is responsible for making sure they are in compliance by state law. He said they have been left to do what they're doing for a while and he would like to get a handle on that.

Housing Navigator Position- Mr. Pimental said they made someone an offer today and it was accepted. He said his Director is going to work on getting them on board and ready to go. He said he may invite her to the next Planning Board meeting or one in Feb.

Mr. Pelkey asked if she would be employed by the SRPC.

Mr. Pimental said the cost is paid from a grant and her laptop and work station will be at the SRPC office but she is a Town employee. He said they have talked about some of the initiatives they want to give this person to work on and they have to housing related but there is a lot in between there.

Mr. Pimental said we have this person for the next 2 years as the grant ends in Dec. 2024 and suggested that it may be worthwhile to meet her and ask any questions. He said all of the applications they received were similar in terms of experience and there was nobody that has 30 years of local planning or housing experience so there is going to be a learning curve for this person but he can provide some assistance with finding things on the server, what they want to look at in the zoning and give her more direction. He said they are going to have to help this person along a little bit but they liked that she is a go-getter and she knocked her interview out of the park by doing a lot of research and asking really good questions. She said she is committed to this position for 2 years which is one the biggest things we wanted and we did not want to go through this again in 6 months he said.

He asked the board to keep thinking about other planning related topics that have a housing component that they think are worthwhile and he will pass along that workload to this person. He said it's a 40 hour work week split between Farmington and New Durham so it's at least 20 hours a week of additional capacity for the Town and they should make the best use of it that they can.

Mrs. Patton-Sanderson said she would like to meet her.

Mr. Pimental said he would see if she is available for the Feb. meeting.

Rep to the SRPC – Mr. Fisher said his term as their rep to the Strafford Regional Planning Commission has come to an end and asked the board if they still wanted him to do it.

Motion: (Henry, second King) to nominate Bill Fisher as the rep to the SRPC passed 6-0.

Mr. Fisher said he wanted he wanted to continue and accepted the nomination.

Second Public Hearing- Mr. Pimental asked for a motion to hold the 2nd public hearing on the zoning amendments.

Motion: (Henry, second Day) to host a second public hearing on the zoning amendments on January 18 at 6 p.m. passed 6-0.

Adjournment:

Motion: (Henry, second King) to adjourn the meeting passed 6-0 at 8:02 p.m.

Kathleen Magoon
Recording Secretary

 1/18/23
Richard "Rick" Pelkey, Chairman