

Town of Farmington  
Planning Board Meeting Minutes  
Wednesday, November 2, 2022  
356 Main Street-Farmington, NH 03835

**Board Members Present:**

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

**Others Present:**

Kyle Pimental, Planning Director  
Samuel and Amber Hall

**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.

**Conceptual Consultation with Amber Hall:**

Mr. Pelkey said the applicant is seeking guidance from the Planning Board to determine if a site plan review is required for a proposed event venue on their property. He said the request is based on a provision in the Town's Site Plan Regulations that states the board can decide the criteria found in the regulations are not applicable for temporary events which require no permanent alterations to the site and will function safely within the configuration of the site as determined by the board.

He said this is a chance for them to talk with a possible applicant concerning what they would like to see or how they feel about some of the stuff. He said its non-binding and they can't get too specific about what the site plan is going to be and asked the applicants to come forward.

Mr. Pimental said Section 4 of the Site Plan Regulations talks about applicability and there are 4 different possible applications and one of them is not applicable. He said not applicable in terms of what is written into the regulations can be determined by the board and it means no site plan approval is necessary although other types of approvals or permits may be necessary to comply with other municipal codes and the application shall be kept on file.

He said with this being a temporary event that requires no permanent alterations to the site in which function safely within the approved configuration of the site as determined by the board he was looking for guidance as well as the applicant on how the board wants to handle this. He said his biggest concern was if there's no site plan processed where is the opportunity to

involve the abutters in some capacity. He said because of the type of proposal for weddings and other things it makes sense that there is some form of public hearing where they can involve the abutters to come and participate.

He said it somewhat meets the criteria of the Site Plan Regulations but how they want to handle that is maybe much less as it doesn't need to be engineered, it doesn't need a storm water management plan and maybe there are other things that the board would waive but there is specific criteria they might want to see on a site sketch and they could host that at a public hearing to go over where those things were. He said he mentioned to the applicants showing where the tent would be, where the Porta-Potties would be, where the stage or DJ booth and those types of things would be and sketch that out so you could see that. I wanted to open that up to the board to have that conversation with the applicants he said.

Mr. Pelkey said it says no permanent alterations to the site which function safely within the approved configuration of the site and asked how they make that determination without seeing the configuration.

Mr. Pimental said the way that is written it says a site plan is not needed but an approved configuration of the site is needed so that is why he suggested there be some form of a site sketch or a lesser version of what the Site Plan Regulations require and maybe there are only certain things the board would like to see. He said it is unclear what that approved configuration of the site is because it's prefaced by saying a site plan is not required.

Mr. King said if he was going to have a Jeep Jamboree on his property based on our zoning he should get a zoning permit to do it one time, this one year and he would have 400 Jeeps on the property. He said if that is a requirement in some instances for large one time uses and this is going to be multiple events then it should have some Town oversight as far as a permitting process even though people don't always follow that.

Mr. Pimental said the temporary events are a little bit larger than what the applicants are proposing and it's typically for things like community or non-profit festivals, fairs, carnivals and similar events so long as that use is not contrary to the objectives of the ordinance. He said that is actually under the Selectmen who can allow that temporary use so it's a little bit different.

Mr. King asked in this case because it's somewhere in between maybe a smaller scale but more frequent if it would fall under staff review or if it would need to come to this board. He asked if the board felt that it was not applicable based upon there are no permanent alterations and there is no permanent change that needs to be met if it would it meet the level of a staff review to address those concerns at a minimum and if they would do an abutter notification through that staff review.

Mr. Pimental said not necessarily.

Mr. Pelkey said he didn't know how they would get abutter input at the staff level. He said they wouldn't want the abutters just coming into the staff and they would want to have some sort of a coordinated effort to do it so there could be a little give and take on it.

Mr. Pimental said there will have to be a plan submitted that the Fire Dept. and Code Enforcement Officer would review for individual events. He said they are looking for some guidance on the configuration of the site and whether or not the board feels they can get that and host it at a public hearing to approve that configuration of the site to see if they have any concerns with that.

Mr. Squires asked what zone the property is located in and for the lot size.

Mr. Hall said it is a 12.5 acre lot.

Mr. Pimental said the property is in the Rural Residential District on Silver Street on the right before Curtis Road and the rear of the parcel borders Milton and it's a relatively rural area.

Mr. Fisher said they did an abbreviated site plan for the events that were going to go on at the Thayer house and that way they had a document where they could put in their conditions of approval such as the hours, days of the week and seasonal or year round operation. He said they also had to go before the ZBA to get a Variance and a Special Exception and both were granted.

Mr. Pimental said it met the criteria for a Variance and the Special Exception approval was more important because that is where some of the stipulations are. He said its operating year round Thursday through Sunday, music will end by 10 p.m., events will end by 11 p.m. on Fridays and Saturdays, all music will end by 7 p.m. and the event will end by 8 p.m. on Sundays, on-street parking is not allowed on Silver St. and these conditions apply for the first year of operation. After the first year of operation the Planning Dept. will review and if there are any nuisance complaints from residents or Police activity it will come back to the board with recommendations to change or relax the conditions.

Mr. King said it sounds like they need to come under site review it's just whether they need to bring enough information that addresses some of the basic things like entering and exiting the site, where the parking will be located, where the events will be held so they can show they can accomplish what they're trying to do.

Mr. Pelkey said they are trying to figure out where all of this falls in the rules so they have a better idea of what they will need. He said he would like hear their proposal and let them tell the board what they want to do and maybe that will give them a better idea of what they need to hear.

Samuel Hall introduced himself and his wife Amber to the board and said they are not looking to avoid public notification but they are asking if they can avoid having to hire an engineer to do professional drawings and a storm water management plan and all these more in-depth and costly steps that could total thousands of dollars to present a package to the board that goes above and beyond what is required which sounds like it may be less because they are not making permanent alterations to the property. He said they came to see if they don't need that package drawn up by a professional engineer what they do want so when they come to the board and there is notification to the abutters that they can bring whatever that simplified plan

might be and then the public hearing and discussion can take place where everyone can express their concerns.

Amber Hall said they are looking to host weddings occasionally throughout the year and their intent is for a few events per year. She said they are not looking for a full time operation and they are not proposing any pavement, no structures and no improvements beyond just beautifying the property with landscaping.

She said their thought was to rent out their fields and property for weddings or birthdays and things like that and to use the exterior of their property and they wouldn't be using their structures (the house or the barn).

Mr. Pelkey asked if this is strictly going to be providing a place where people could do that bringing in their own tents, etc.

Mrs. Hall said yes and they would suggest local businesses they could rent from and they would be responsible for bringing in the things that they need.

Mr. King said in the Special Use Permit there was a condition that after a 1 year period it would be reviewed and asked who it would be reviewed by.

Mr. Pimental said it would be reviewed by the Planning Dept.

Mr. King said that is a good thing that's happening and he would be more comfortable with less because based upon that first year because if some issue were to arise they would have to address it. He said instead of the board anticipating what could happen with that requirement they'll be reviewing it and saying these are the issues that came up or there are no issues.

He advised the applicants not to narrow their scope too much because they don't know what people may want or need. He said for example they said they won't be using their structures but they may need to put refreshments in the barn and there may be other things on the property they may need and they may not want to restrict that on their permit. Some basic information on the layout for how you envision this working on your site and when we have allowed hand drawn sketches done by the applicant we have allowed marked up tax maps and you could combine that with photos of the topography if the board will accept that he said.

Mr. Pelkey said this sounds like a low impact use for their property and it doesn't sound like it will bring impact to the abutters. He said he would want to know how they are going to provide water, waste facilities and parking for the people that will be there, the set up for the power and what it will support, the expected crowd size and if it rises to a certain point then it becomes a much bigger impact to the neighborhood, the road and to traffic.

Mr. King said one of the conditions was no on-street parking and that is going to be a management issue for them because some people don't want to get pigeon-holed in somewhere and park on the street because when they want to leave they want to leave. He said that may be one of the biggest things their abutters will balk about if there are too many vehicles on the street whether it's a safety concern or getting in or out of their property.

Mr. Pelkey said he didn't think they need an engineered drawing for this specific use but they

want to have an understanding of it to say they don't need it because when they come before the board formally it will be more binding than this is just a discussion right now.

Mrs. Patton-Sanderson asked what information they would lose by not having a formal site plan package.

Mr. Pelkey said there will be a package but they won't have everything on the checklist in the Site Plan Review Regulations. He said the biggest one would be not requiring engineered drawings and they would accept the hand drawings. He asked if there would be an exception or waiver required for that because it's an exception to the regulations.

Mr. Pimental said the board needs to determine if they're saying they don't need a site plan then they don't need a waiver. He said if they are saying they need a site sketch to approve their configuration they should list out the exact things they're looking for them to put on it. He said the site plan regulations are pretty specific about the types of things you need so you need the existing grading, drainage systems, the shape, size and height of all existing structures, all natural and manmade features, an existing conditions plan and proposed conditions plan. He said he didn't think a traffic impact analysis is needed for this but there are other things that come up like lighting, waste disposal and all of those are usually provided by an engineering firm on a multi-page plan set the board will approve. That's what we're not going to have for this because what they're proposing doesn't necessarily meet the criteria of a typical non-residential use that the board would want to see all of that information he said.

Mr. Pimental said there are parts of that that make a lot of sense that they should need. He said he created something he sent Mrs. Hall that was more geared to what a site plan looked at things like the parking layout, the access, the reception layout where they think the tent, stage, chairs, tables, lights, the fire pit, the portable toilets will go and the power set up. That is what I have so far as the minimum requirements of what this board would like to see on that site sketch he said.

Mr. Pelkey said part of it is also what the intended uses are and you can't go carte blanche and say they can have 3,000 people on their property that is not going to work without considerably more infrastructure, more impact to the neighborhood. I would want to see more if I knew that is the kind of events we're talking about and I don't know what you envision for that he said.

Mrs. Hall said for their wedding last year they planned on about 100 people and their field can accommodate vehicles for that amount of people.

Mr. Hall said the number of people would be in that ballpark and they are not looking to tie them down to this is exactly what they're going to do. He said this is their house and their yard and he doesn't want 3,000 people in his yard. We're looking to host events for 100 people and it may spill over to 120 or 150 and if they each show up in their own car that is pushing the capacity for what we have room for he said.

Mr. Pelkey said the applicants could set a cap for events at this amount and that would give the board a good idea of what it's going to be. He said if they set the cap above where they think

it's going to be by a little bit then they give themselves a little room.

Mr. Fisher said there was a big discussion at the ZBA on how many people would be there and it went back and forth for about a ½ hour. He said the ZBA decided that they as a Town weren't going to tell them how many people they could have at an event. He said they told us 100-200 people and they would leave that between them and the people who were getting married or whatever to discuss. We weren't going to tell them they couldn't have 201 people he said.

Mrs. Patton-Sanderson said that would be a concern to her because that's an impact on the abutters if they've got 500 people vs. 100 people and traffic control, noise and exactly where on the property they plan to do this stuff. If they plan to do it in the middle and there are trees everywhere that's one thing as opposed to being up against a side and the neighbor is 25 ft. away with some trees she said.

Mr. Fisher said the impression they got at the ZBA was there was going to be plenty of setback all the way around so they won't be up on the neighbors.

Mr. Pelkey said that is a good reason to have a sketch.

Mr. Fisher said they had a basic sketch showing where the tent and Porta-Potties would be, the power would be supplied by generators provided by the customer and they were not providing anything other than the land for parking and places to set things up and they would oversee it to make sure things didn't get out of hand.

Mrs. Patton-Sanderson asked who is responsible for the parking or if they were just leaving that as a free-for-all for the people who rent it or if the property owners were the responsible parties.

Mrs. Hall said they live there so they're not leaving when events happen so they'll be there to oversee and make sure nothing gets out of hand.

Mr. Hall said their presence there is dual purpose-they want the events to go smoothly and the people to enjoy the event and also they are mindful that this is their property and he didn't want a campfire turning into a forest fire that burnt down his entire lot just like he doesn't want a party turning into a drunken rage that causes the windows getting broken in their house so they will be supervising the parking, help monitor traffic flow in and out of the property and generally supervise things like the fire pit so it is compliance with the Town fire codes.

He said those are all things that if the board is willing to see not an engineered plan but a reduced plan that they can address formally when they come back for the actual meeting with the board. He said they are making a list of those types of things so if it's decided that a reduced plan is acceptable then those things could be addressed formally.

Mrs. Patton-Sanderson asked if there would be somebody there to direct people in to the parking area to make sure it's orderly or maybe they would have valet parking. She said its one thing to be your house and make sure everything is going good out there as opposed to directing where the cars are going.

Mr. Henry said he had some questions about temporary events and asked Mr. King if he wanted

to have a Jeep Fest at his house if he has to get a permit.

Mr. King said depending on how big it is.

Mr. Pimental said the temporary one that is in the zoning goes beyond that and that was non-profits and Town/community events like fairs, carnivals so he didn't think that applies here for something like Mr. King described. He said this is like a commercial enterprise which is a little bit separate.

Mr. Henry said this is a business and if there was a business out on Rt. 11 that was building a wedding venue they wouldn't make them get a permit every time they had a wedding.

Mr. King said because they would come in for a formal site plan review.

Mr. Henry said he sees this the same way and he doesn't look at this as a temporary event this is a business.

Mr. King said they do have requirements for large events even if it's just one time, larger than what they are proposing.

Mr. Henry asked if the Fire Marshall has to check the tent every time it's set up.

Mr. King said it depends on the size of the tent.

Mr. Henry said if they are giving the board a site plan they shouldn't have to get permits every time because it's a business whether they have 2 a year or 20.

Mr. King said this would prevent them from needing to get a permit.

Mr. Henry said he is comfortable with using tax maps as the basis for the plans but he would like to see a map that includes the abutting properties so he can see what their property looks like in the middle with the setbacks and stuff. He said he wouldn't need to see exactly where the tent is going because it might go in a number of different areas but he would like to see the parking zone, the tent zone, etc. kind of thing.

Mr. King said it's really showing on a plan that you can and have addressed how everything is going to function. He said he wasn't saying that would be binding but they've shown that it can work on the site plan and this is initially how they propose to do it but his intent is it's not going to be a requirement for the placement of those items in the long term. You need to show that you can perform what you're proposing on this site with minimal impact he said.

Mr. Henry said if there's not only one little configuration of if we do it exactly this way we can eke it out and they have seen site plans like that.

Mr. Pimental said showed the board his computer screen so they could see what he put together to create a blank slate where they could draw in those areas. He said the highlighted areas are the fields, the impervious coverage, the house lot and he could zoom it out to show the abutting properties in more detail. He said his thought was to do something like this outside of the tax map because that is already busy with other features on it whereas this would be black and white where they could draw that on there and he wanted to make sure that was okay with the board.

Mr. Pelkey said some plan view that describes the boundaries of the property and the abutting

properties and where the major features of the property are is fine with him.

Mr. Henry said he would want to see the abutting houses on there and if there's a big vegetative buffer or not.

Mr. Pimental said suggested the sketch be accompanied by a narrative talking about the property owners' responsibilities they will be taking to address when people enter the site and when they leave what sort of things they will be doing.

Mr. Pelkey asked if that would give them the ability to add conditions that would be edited in to the document so when they have approval they have something that they can look at.

Mr. King said those conditions would just be on the Notice of Decision that is part of our record.

Mr. Pimental said this is a little bit of a gray area because this is not site plan they're approving the configuration and any back and forth that they have is going to be an agreement that they add those things that are then going to be filed with the Town. He said they could issue a Notice of Decision but it's not the same.

He suggested that they send a notice to the abutters that approving the configuration will be discussed at a public hearing but it's not a site plan review. He said if they go that route and they want it to be a site plan they are going to have to submit a bunch of waivers (requests).

Mr. Pelkey said they are hanging their hat on this "temporary events" that says they can do this without having a full site plan review.

Mr. Pimental said they can but the point was they wanted to involve the abutters in some way.

Mr. King said the problem he sees is they're creating another whole layer of approval that's not approved. He said they have permitted by right, they added staff review and then a site plan and they're talking about a layer in between there that doesn't exist.

He said he looked at it as everything is going to follow the notice to the abutters, it's going to get a formal site plan review and the applicants will have to request a waiver from fully engineered plans and any other waivers needed and they will have to help them with the waivers they have but he didn't see anywhere that it would come to this board unless it is under the site plan regulations. If it has to come under the site plan regulations and they need 15 waivers so be it but you can't create another layer between there that doesn't exist he said.

Mr. Pimental said the way in which the regulations are written the approved configuration of the site offers the flexibility that there can be but we have never done it before so he didn't know what that would look like.

Mr. King said if they are going to notify the abutters, make a formal decision to accept the application as substantially complete with the waivers, have a public hearing, then close the public portion and make a decision that's site plan review.

Mr. Pelkey said he didn't know how else they would do that because this is all about procedure right now and the Town's interest in this is to protect the abutters to make sure it's a safe and effective use of the property. He asked how they would record that and enforce it without doing a site plan, having a public meeting with abutter input and right thru the steps. He said if

it's one waiver request with all the conditions on it rather than 15 waivers that's okay too.

Mrs. Patton-Sanderson said they want to make sure that whatever they give us is a commitment and that it's recorded somewhere so in 10 years when they're all gone somebody knows where to go to find out what they agreed to and there's some record of it.

Mr. Squires asked if this was just temporary and good for 1 year per the ZBA.

Mrs. Patton-Sanderson said then they would review it again.

Mr. Fisher said the Zoning Board said after 1 year the Planning Dept. would review it and see if there are any complaints and if there isn't they can continue on with business as authorized until things get out of hand.

Mr. Pimental said that 1 year doesn't mean they have to come back to the board.

Mr. Fisher asked why they couldn't do a Memorandum of Agreement just like we did with the schools. He said they have a narrative with what they plan on doing and this is what they will abide by.

Mr. King said they can't do that because they would be making another whole set of rules. He said the problem is they need an approval.

Mr. Fisher said it could be just like the Town did with the School District.

Mr. King said this is different because they are applying under zoning for a permit.

Mr. Fisher said it's not different they're going to be doing a business and they're applying with this is what they want to do and this is what we require of them. He said if it's in a MOA then it's a legal document and if we're just looking for a shortened...

Mr. King said the Planning Board doesn't give out MOA's they give site plan and subdivision approvals. He said it is in the applicant's best interest to have a site plan approval with whatever conditions because if they have an approval half way in between like Mr. Pimental is proposing an abutter could say they don't have site plan approval and challenge it because they don't have the authority to give them half of an approval. You either have approval or you don't have approval he said.

Mr. Fisher said according to Mr. Pimental there's a semi-loop-hole where they don't have to have a site plan review if we agree to it.

Mr. Henry said as he reads the approved configuration it's a residential lot they have a building permit it's configured for a house that was approved by the building permit. He said that is the approved configuration-there's a house there and they're legal to live there and do normal "house stuff" there.

He said where he takes issue is with the temporary events. He said the temporary is out the window because they want to operate a business and they plan to do this on a regular basis. I don't think this applies because I don't consider it temporary he said.

Mr. King said this brings up a good point for a future discussion about if they need to consider changing this to clarify it. He said with this case its simple, the only choice available that they can give is site plan approval and subdivision approval. He said they can't give MOA's or it

sounds good to us go do it and if they are going to notice abutters and have public hearings and make a decision it needs to fall under site plan or subdivision.

Mr. Pelkey said and they have the waiver process to address the rest of it.

Mr. Pimental said it sounds like if something is deemed not applicable then that's it it's not applicable and there's no in between. He said if something is not applicable that means it's been determined that no site plan is needed and there's not going to be a comeback to do a MOA or something else. It's either yes or no and no gray area is what I'm hearing from the board he said.

Mr. King said if he was to ask other planning professionals about this scenario that is somewhat not applicable but they want to have abutter comments and staff review they would say you can't have it both ways so they need to go through the process they are legally entitled to do by state statute and the voters or they don't need to come here at all.

Mr. Pelkey said because it is a commercial thing and they have abutters and they want to have their input they have to go through the process.

Mrs. Patton-Sanderson said the more they have nailed down and specified over time the better off they are because it's not going to leave any gray areas.

Mr. Squires said just because they're saying site plan review it doesn't mean they have to get \$50,000 engineered drawings.

Mr. King said when they give an approval for this it goes with the land not with the owner so if they sell their house in 2 years they have an approved site plan to do venues to this extent and if they needed to change something they could but that permitted use doesn't go away. He said if they only had a "kind-a sort-a" approval somebody could challenge it and if they weren't acting on their proper authority they could that's not valid and he didn't want that to happen. He said it's not that big of a deal and they need to check all the boxes with the things they don't feel are applicable and they want a waiver from and Mr. Pimental can help them with that.

Mr. Henry said they are setting precedence here too and there are a number of other properties with nice fields in this town that if this doesn't apply here we've opened the flood gates for everybody.

Mr. King said if they do their jobs correctly the next time this comes up we'd say this is the last time we did it, this is what we asked that applicant for and so far that process has gone well then that's all we need to do depending on how that application looks because the next person could want to do 3 events a week. In some ways this gets into the agritourism thing he said.

Mr. Fisher asked if a modified site plan review was done for the Thayer property when they had the event.

Mr. Pimental said that was where they were going but they never made formal application. He said they got their approval in 2019 and 2020 was going to be their first year and then COVID happened so they never moved forward with it.

Mr. Fisher asked if they still have a basic document that they went by.

Mr. Pimental said they never submitted anything but it was very similar to what the board is discussing now.

Mr. Fisher asked if there was anything kept in the files saying this is what they're looking for and this is where they need to go and if they were given any specific instructions because those instructions could apply to this case.

Mr. Pimental said he could go back and look through his e-mail and that he thought it would be very similar to what they have been talking about tonight.

Mr. Fisher said they didn't discuss snow removal because it was not a daily event and it would be removed as needed or placement/screening of the dumpsters because they would only be there temporarily and he didn't want to see them do a site plan that goes into that much detail because it's not really needed.

Mr. Day asked if they planned to do this 7 days a week.

Mr. Hall said no.

Mr. Pimental said the evens would be held on Thursday through Sunday.

Mr. Day said that's not commercial because commercial means its daily.

Mr. Fisher said they got kind of hung up on that at the ZBA and it was discussed that it's going to go for 12 months and there could be 24 weddings or maybe a couple a month if that many is what was determined.

Mrs. Patton-Sanderson said that's still a business.

Mr. Henry said they said there would be no on street parking from the ZBA and asked if the Zoning Board has the authority to say you can't park on Silver Street.

Mr. Pimental said he thinks they do in this case.

Mr. Henry asked if that done by the Selectmen because it has to be enforced by the Police and they can't just put up signs in their front yard saying you can't park along the roadside.

Mr. King said that is why he said to the applicants it is going to be their challenge to manage it to the best of their ability. He said he doesn't believe the ZBA has the authority to tell people they can't park on the street but this venue cannot create a hazard on the street either.

Mr. Henry asked if they could have cars towed for parking on the side of a public road.

Mr. Squires said no because it's not posted for no parking.

Mr. Henry said that's right and they can't post it because they don't have that authority.

Mr. King said in this case they need to take the intent was to not have it impact excessively on the street and that's the way he looks at it and that's the way any reasonable person would enforce it and it's their job to manage it to the best of their ability because they may have tenants who will be there for 5 minutes and they park on the street and then leave.

He said they are not going to be able to manage it to 100% and he has no expectation of that and he does not believe that's possible.

Mr. Henry asked if people can approach the Selectmen and ask for zones to be made no parking zones.

Mr. King said they could ask but that doesn't mean it will be granted.

Mrs. Patton-Sanderson asked if this was outside the question here which is about whether they need a site plan review or not and not the specifics of that plan. She agreed that when they do come before the board that should be addressed.

Mr. King said that's part of their planning so they can provide parking for their guests on site. He said if they approve a plan that has parking for 10 and they're going to have 50 we know they are going to be on the street. He said if they approve parking for 100 and they have 80 it is a reasonable expectation they can get these people to not park on the street although he doubts they would get every last one of them.

Chairman Pelkey asked if there were any more questions for the applicants.

Mr. King said if they work with Mr. Pimental they can come through with everything they need.

Mr. Hall asked if they would work with Mr. Pimental to determine whatever waivers would be needed.

Mr. Pimental said based on the feedback from the board he would go through and highlight the ones where they would need relief and he liked the idea of doing one waiver listing all of them because the reasons are going to be the same for each one and it doesn't make sense to have 15 sheets of paper.

Mr. King said some of them are the minutia of the zoning that they don't need to understand and the essence is they require waivers to be in writing from the applicant so there is a written request and that we gave it to you.

Mr. Fisher said they may want to stipulate that if there are any future developments they may need engineered plans. He said they may find it's working out well and want to increase it to 10 events a month and put up a structure and they will need plans for that because that structure will create bigger issues such as water runoff, etc.

Mr. Hall summarized they will work with Mr. Pimental for the waivers assuming the waivers are approved they will prepare their plan along these lines and as long as the answers to these concerns are sufficient that should meet the requirements.

Mr. Pelkey said it's all done at the same meeting-the waivers, the site plan and the public input.

Mrs. Patton-Sanderson said they are going through a site plan review just not necessarily with every little nit.

Mr. Pelkey said from the discussion the consensus is they don't think this is going to be an impact and they don't see an issue with it but they can't make a promise to them until they actually come before the board.

Mr. King said the next applicant will say they waived all the requirements for them why won't you waive them for us and they will need to explain why they waived them and that their case is different and that's why they're requiring a hearing.

Mr. Pelkey said they have to give a reason why they are approving them so that goes into it as well.

Mr. Henry said one of the things they usually get from the engineers is the wetlands delineation and asked how they would know what the wetland situation is like on this property and if there are any federal maps of the area available.

Mrs. Hall said there are all uplands where those fields are.

Mrs. Patton-Sanderson asked if they would be using a topo map as a base.

Mrs. Hall nodded yes.

Mr. King said Mr. Pimental could look for jurisdictional wetlands on the state wetlands maps.

Mr. Pimental said they looked but there is nothing in the national wetlands inventory.

Mr. Henry said he wanted it on the record to show they considered without an engineer some good faith effort to show that it's dry.

Mr. Fisher asked if they would be sending anything to the Conservation Commission to have them look at that.

Mr. Pimental said not unless he pulls it up and there's a giant wetland but not from what he looked at on the property.

Mr. Pelkey said if there is he would clearly delineate that that area wouldn't be impacted or be in use as any part of this and they could say it wouldn't be impacted by it.

Mr. King said they may have to have the proximity delineated.

Mr. Pimental said they will take a look at it.

Mr. Pelkey then thanked Mr. & Mrs. Hall for meeting with the board.

#### **Proposed Zoning Amendments:**

Mr. Pimental said this is a consolidation of what they have been working on for the last few months and the only thing that is missing is the Housing Maintenance and Occupancy Code and they will see that at their next meeting. He said he would run through some of these again because they haven't seen some of them in a while.

**Amendment #1-Section 1.04-Lots Split by Zoning District Boundaries-** He said they have been talking a lot about how to address the split lot zoning district and the board felt comfortable with a lot of the language he had proposed at the beginning but made some small changes to ensure they were including both commercial and industrial which is highlighted.

He said there was a lot of discussion about reworking the 50 ft. vegetative buffer and from his notes and looking back at that discussion it sounded like if there was already a vegetative buffer on a proposed property that a 50 ft. vegetative buffer be maintained but if there was no existing buffer then the board has the authority to ask for additional landscaping or green space to ensure there is an adequate transition from residential to commercial. He said he reworked that language because before it stated that it had to be a vegetative buffer 50 ft. around at all times and that might not always be the case so that was a compromise that if it's already existing maintain it and if not the board can ask for some landscaping to address that.

Mr. Pimental said this is part of approving anyone that is moving into or spilling over into the residential district and this would be allowed by a conditional use permit. He said it takes the

ZBA piece out of it and keeps it within this board's hands as something that if they are trying to encourage more development along Rt. 11 that goes further back into some of those larger lots that is the intent of that amendment. He asked the board for feedback on D on whether or not that's a reasonable compromise from what the board was discussing the last time this was brought up.

Consensus of the board was that was what they came to agreement on.

Mr. Pimental asked the board to skip over to Articles 5, 6, 7 and 8.

Mr. Pelkey asked if they were seriously considering putting forth 13 warrants articles.

Mr. Pimental said he was just going to suggest that they remove Articles 5, 6, 7 & 8 from this year's ballot (March 2023) because they have a lot of amendments and this is overwhelming to the voters and he has not been able to give the amount of attention to these as he would liked. He said he planned to get into this later in the agenda but Farmington was selected for the housing navigator so the Town will have a professional at least 2 days a week for the next 2 years that could be working on these types of amendments in these districts. I think this is an opportunity to say we have thought about this a little bit but why don't we pull this for this year and have the housing navigator take a deeper dive into it he said.

He said that Mr. King had mentioned that the wetlands impact and the lot size calculations didn't make sense and that they needed to work through that language maybe even providing a graphic to show what that meant and he hasn't gotten around to that yet.

Mr. Pelkey said part of the reason they talked about these was because of the number of non-conforming lots we have.

Mr. Pimental said a lot of it had to do with the lot sizes being non-conforming and to allow for more density and flexibility but the housing navigator will be able to take an even closer look at this, make recommendations to address the things he has not been able to get to and their sole focus is going to be working on these exact types of issues. He said the other things they are proposing seem to be more on the economic development side of things that have risen higher in priority so as a way to reduce the number of articles these could be removed and concentrate on some of the other ones we think are higher priority in the short term.

Consensus of the board was to remove Warrant Articles 5 through 8.

Mr. Pimental then turned to the changes they have been making to the Table of Permitted Uses. He said they went thru an exercise aligning the **Commercial Business District** with the **Industrial Business District** and he has made other changes he wanted to talk to the board about and asked the board to move to the definitions in Article #12 Amendment #11.

He said there are a lot of uses they don't have definitions for and they are adding to them each year but there are a few that have come up in the last year that have the potential to cause issues if they are not clarified. He said one is under Residential Uses where they listed congregate care facilities and it's not defined.

He said the International Building Code defines a congregate living facility as a building or part

thereof that contains sleeping units where residents share a bathroom or kitchen facilities. He said some of these others are very different for example a group home is a facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care.

He said there are 4 others that are in a similar vein that are talking about outpatient clinics, hospitals and psychiatric hospitals, the definition of incapable of self-preservation and nursing homes. Some of them are already in the zoning and some of them need to be added because we have had people trying to couch some of things under existing uses where we don't necessarily agree with that. He suggested that it would be helpful if the board took some time to think about the definitions and how they fit into the Table of Permitted Uses.

Mr. King asked if he was proposing that all of these 6 definitions would be added to the Table of Permitted Uses or just some of them.

Mr. Pimental said "congregate care facilities" is already there and the ones that are not there are group home, outpatient clinic and nursing homes. He said nursing homes were included under convalescent, rest or nursing home as a residential use and they moved it to institutional uses as it is a better fit there. So really the only things being added here is the group home and the outpatient clinic and we're providing definitions for all 6 of them he said.

He said he was looking for guidance from the board on what they want to allow based on those definitions in those zones. He said if congregate care facilities doesn't need to change based on that definition that's allowed in every zoning district but they may want to restrict the outpatient clinic and the group home.

Mr. Henry said under the definition of group home they need to add that it may serve people that are incapable of self-preservation because some people with physical and mental limitations live in a group home setting which this definition does not call out.

Mrs. Patton-Sanderson said that implies that there's medical support there.

Mr. Henry said it could be used in foster care for those that don't have a traditional foster home placement at the moment. He said it could be adults with physical or mental limitations where they need some level of supervision and can't live alone in their own apartment.

Mr. Pelkey said it's custodial care but not medical care so that kind of covers that.

Mr. Henry said incapable of self-preservation covers everybody else that might be in a group home. He said to him social rehabilitation means they wouldn't be there permanently.

Mr. King said a group home in some ways applies as temporary but in some cases it is more permanent based upon the custodial care they need.

Mr. Pimental asked for the will of the board in terms of making it an amendment and if they wanted to add after substance abuse, mental health problems "or those who are incapable of self-preservation..."

Mrs. Patton-Sanderson said she would add that as another category and say those people in those categories may be incapable of self-preservation.

Mr. Henry said there are people that are incapable of self-preservation that are not there for social rehab, substance abuse or mental health problems.

Mrs. Patton-Sanderson asked if they have experienced applicants that are trying to finagle something like that into a group home or if there has been a concern there.

Mr. Pimental said because congregate living has not been defined there could be a situation where someone is proposing something that would fall under a group home but couching it under another use that is already in the Table of Permitted Uses. He said by separating them out it makes it clearer to interpret what exactly they are looking to do and it falls under this category which is allowed in x, y and z (zones).

He said by not having this listed the closest they can get it to is "this" and that may be allowed in areas that was not the intent at time it was approved. He said once they define they will have to decide where they want to allow this use and he can see this coming up as an issue with it being moved into an existing area that it doesn't line up.

Mr. King said some of the people that would be defined as incapable of self-preservation may have limitations that are never going to change and in the first part of group home it appears that these are problems that can be solved.

Mrs. Patton-Sanderson said maybe the problem is with the definition of incapable of self-preservation but she didn't know what the answer would be.

Mr. King said there could be a high-functioning Downs' Syndrome person that would fit under needing some assistance.

Mr. Pelkey said as a disability but they don't require medical care that's what makes it a group home. He said he would lean toward adding social rehab, substance abuse and mental health or disability to it.

Mr. Henry said there are also group homes that house youth. He said if a teenager goes into foster care today the likelihood of that teenager finding a traditional home placement is pretty slim and that teenager is likely to end up in one of the few group homes in the state that will take teenagers. He said the teenager may stay there for a week or until they age out. That is a group home setting that person is not disabled but because of age can't take care of him/her self and is a ward of the state and there are group homes for those people he said.

Mrs. Patton-Sanderson said when she hears can't take care of themselves she thinks of they can't get themselves out of the building in case of a fire not that they're a minor.

Mr. King said maybe there needs to be multiple additions to that.

Mr. Henry said incapable of self preservation covers all of those situations and all of those people that a group home may serve. He said it's not going to be the same group home serving youth and foster care or limited adults that are serving people with substance abuse problems but it's still a group home.

Mr. Pimental said he was okay with adding it because if you're saying a facility for social rehab, substance abuse, mental health problems or those that are incapable that's a pretty big

umbrella. He said these definitions don't have to be perfect they just have to give us enough to go on for what is the intent of what you're trying to do and does it fit under one of these. He said they could wordsmith this to death but if they want to add that piece in there he didn't have an issue with it and it would be okay.

Mr. Henry said he didn't think it changes the intent of anything but if you have somebody that wants to have a group home for disabled adults where would they put them if that is not there.

Mr. Pimental said it's a safe sort of catch-all that is sometimes needed for where does this fit and if you have that language it gives us a leg to stand on saying this does make sense.

Consensus of the board was they were okay with adding incapable of self preservation.

Mr. Pimental asked if there were any other comments on any of the others because once they figure out the definition piece he wanted to go back to the other amendment for the Table of Permitted Uses to talk about group home and outpatient clinic.

Mr. King said he hoped he wasn't looking for a final answer on the placement of those in each of those zones tonight.

Mr. Pimental said congregate care facility is already in there as being allowed everywhere. He said he was looking for feedback on group homes and outpatient clinics and he was hopeful the board would vote to send this to legal review at their next meeting.

Mr. Pelkey said it does not provide medical care for your group homes and they are talking about where they are going to allow it so one of the constraints would be the access to medical care in case of a problem.

Mrs. Patton-Sanderson said she wouldn't have a problem with it anywhere.

Mr. Pelkey agreed-for group homes.

Mr. Fisher said nursing homes are already permitted in every residential district.

Mr. King asked if they are saying that if it's a group home they're not going to allow any dispensing of medication.

Mr. Pelkey said it does say specifically that it does not provide medical care.

Mr. Henry asked if dispensing Methadone was medical care.

Mr. Pelkey said he believes it is.

Mr. Henry asked if providing Narcan was medical care.

Mr. King said that was considered emergency medical care.

Mr. Pelkey asked if these questions were meant to be facetious.

Mr. King said no because the other one is outpatient clinic and asked how they know there aren't current situations and he is not an expert in this field. He asked how they would know that some of the group homes do not also act as outpatient or in-patient facilities for drug rehab in the dispensing of medications.

Mr. Squires asked what the goat farm on Central St. is considered.

Mr. Henry said it's a boarding house.

Mr. Pelkey said if they are dispensing meds on a temporary basis that's a clinic.

Mr. King asked what the current model of a group home for substance abuse rehabilitation is and if they were going to say you can't have it but that's what the model is going to be. He said so they're going to allow a group home but in every other group home in the area this is what the model looks like and you're going to get it whether you say you can't have it or not.

Mrs. Patton-Sanderson said the definition says does not provide medical care and if they are prescribed meds they can take them but not someone there who is going to prescribe medicine for the people there.

Mr. Henry said but if somebody on-site is controlling the distribution of the medication when you get it and asked if that happens in drug rehab. He said he didn't know if that is considered medical care and if that's the norm in rehab facilities.

Mr. Pelkey said he wouldn't be surprised if it is the norm.

Mr. Henry said he didn't know if they wanted to preclude that and say you can't have a group home where you're controlling access to medication prescribed off site.

Mr. Pimental said these definitions are based off the International Building Code. He said the intent is does not provide medical care he doesn't know if that means they couldn't administer whatever and he didn't think that was the intent of providing medical care. I think what this is intending is someone is coming there to seek help they're not in danger or need of a hospital or a doctor. They're in need of assistance and I would see that as the difference when it says not providing medical care he said.

He said there is probably not emergency staff at these facilities providing that type of care. They're providing treatment for those not at a certain health risk. When someone is dealing with substance abuse their health is at risk but that last phrase the intent there is someone is seeking treatment and that is different than seeking medical care as what you would go to like a hospital or a doctor's office. This is not my level of expertise either and these definitions are somewhat ambiguous he said.

Mrs. Patton-Sanderson said she didn't know if that's something they should get involved in anyway.

Mr. Henry said they are creating the rules on where you can open particular businesses.

Mr. Day said he agreed with Mr. King that they need to take some time and do a little research into this.

Mr. Henry said a psychiatrist is medical care and a psychiatrist might treat patients in a group home for people with mental illness.

Mrs. Patton-Sanderson said they should focus on where they want to limit that facility. She said maybe they can go through the ones where they were okay with a group home in these zones but not these zones or they're pretty comfortable with these zones and we'll come back and look at the other zones. She asked where they would want to restrict a group home from being whether they dispense medication or not.

Mr. Pimental said that is the larger question that needs to be asked and he agreed with that.

Mr. Henry said a group home should be Permitted in CB and IB and by SE in the rest.

Mrs. Patton-Sanderson said nursing homes which distribute medication are in all of them.

Mr. Henry said for outpatient clinics they would be P in the VC, CB and IB and by SE in the rest.

Mr. King said if they are talking outpatient clinic people should get themselves familiar with what happened in Rochester a few years ago when they put some outpatient services right downtown and what that caused for issues and blow back in their community and its also happened in Laconia. He asked what they think could happen if you drop a Methadone clinic in the Village Center and anybody that thinks it would go okay should get with some of the communities that made outpatient clinics available. It went through zoning in Rochester and passed and it has not gone well he said.

Mr. Fisher said it was right by the library and it was a church that was providing those services for the homeless and that got really big attention in Rochester. He said he knew some people that worked at the library and they said homeless people were trying to camp out in the library and they had to get the Police to evict them and it got really messy downtown.

Mr. King said if they put in a Methadone clinic they would have people standing in line, laying on the street waiting to get in and coming out and be congregating there.

Mr. Henry said that's also what a pediatrician's office would be classified under.

Mrs. Patton-Sanderson suggested they be allowed by SE all the way through or not permitted in the business area.

Mr. King said there should be no outpatient clinics in any of the residential zones and asked what the requirements would be and where they would allow them to be in the other zones.

Mr. Fisher said it should in the CB and the IB and that keeps them out on Rt. 11.

Mr. Pimental said the board hasn't seen this, this is something the Planning Dept. added because they thought the board should address this so maybe they should take some time to read through this and think about this more and they can talk about it in more detail at the next meeting and come prepared. He said this is an important discussion and he wanted some consensus about where they are going to allow the outpatient clinics and the group homes in residential vs. commercial areas and maybe they shouldn't have that discussion tonight.

Mr. King said people consider the best and worst case scenarios for both of these additions because we are more likely to get a worst case situation than a best case.

Mrs. Patton-Sanderson asked if they are able to say no to either of them in all zones realistically if they wanted to. Neither one of them is particularly savory she said.

Mr. Pimental said he didn't think the optics of that would be great if they were not allowing for that anywhere in the town but technically they could. He said all the amendments would go through legal review so there might be some state statute that says a municipality is not allowed to ban a facility like that.

Mr. King said just like adult entertainment they weren't allowed to ban that but were allowed to put it in specific zones with certain requirements which they did years ago and it hasn't really

come up but they did address that.

Mrs. Patton-Sanderson asked what happens for a SE and do they come before the Planning Board for each one.

Mr. King said an SE would start at the Zoning Board and the highest level of restriction is a Variance and where something is not permitted they could get a Variance for it so there is relief. He said so even if they said outpatient clinics are not allowed anywhere in town somebody could apply, go to the Zoning Board and make a case they're an outpatient clinic for pets or people with whatever and they could get a Variance for a certain site.

He said the next one down is a Special Exception which has a lower threshold to meet but is still given out by the Zoning Board. He asked if after that they could have a **Special Use Permit**.

Mr. Pimental said it is either a SE, Variance or Permitted by Right. Permitted by right means permitted by review he said.

Mr. King said they could have a permitted place upon site plan approval or they could put a SUP for certain things to ratchet it up a little bit.

Mrs. Patton-Sanderson said it's one thing to say a methadone clinic vs. a diabetic clinic or an urgent care clinic.

Mr. King said urgent care is classified under something else.

Mr. Pelkey said it's probably under outpatient clinic.

Mr. Henry asked under this current table what a dentist's office would qualify as. He said based on this list it's an outpatient clinic with a doctor, you go in, you get your treatment and you leave. He said he didn't see anything else that would fit a dentist better.

He said his next question would pediatrician and kidney dialysis and the quick care types of place. He said right now they all fall under outpatient clinic and that was the kind of thing he was picturing when he said in the VC. We had a dentist in the VC he said.

Mr. Pimental said to keep in mind that this table isn't complete because the commercial uses are taken out of this because they already addressed those. He said in the commercial we have health service facilities that may cover some of what they're talking about. He said a health service facility is an outpatient establishment furnishing medical services to humans including the offices of physicians, dentists and other health practitioners, clinics, medical laboratories, outpatient surgery and blood banks.

Mr. Henry asked how that is different from an outpatient clinic.

Mrs. Patton-Sanderson asked so why repeat it here.

Mr. Pimental said that's a good point and maybe they don't need it. He said if the board was comfortable with the health service facility covering that maybe they could strike the clinic.

Mr. King asked if they need to look at redefining one of them so they can narrowly split that up and if they can separate out from outpatient clinics the certain types of outpatient clinics and differentiate between where they are allowed-one being the dialysis the other being the methadone.

Mrs. Patton-Sanderson said they would need that commercial list to help them.

Mr. King said you could make a case that they're all the same but they're not all the same. He asked if they define the outpatient clinic so they can control those types to go where they could be best located.

Mr. Henry said currently a methadone clinic would fall under the healthcare stuff that's permitted in the UR, VC, CB and IB.

Mr. Squires said that is why Mr. King's thought is they might want to split them up.

Mr. Henry asked but can they split them up.

Mr. King said there are other communities that split up their outpatient clinics and put them in different locations in their zoning.

Mr. Pimental said he was not sure but it sounds like how the health service facility is being defined may be different than what they are envisioning what an outpatient clinic could be. He said he would look into it a little bit more and come back at the next meeting with some ideas.

Mr. King asked based on the other zoning they looked at if there is something that overlaps with this new proposed group home.

Mr. Pimental said no and that one is a challenge and they don't have anything that addresses that one.

Mrs. Patton-Sanderson said their homework is to look at and think about the group home permitted uses and his homework is to give them more information about the health services.

Mr. Pimental said he would be looking at the health service facilities and the outpatient clinics and the board would be thinking about the group home and where they want to allow that.

Mr. Henry asked while they are talking about group homes and the unintended consequences if we have halfway houses in NH where somebody is between prison and independent living.

Mr. Pelkey said yes.

Mr. Henry asked if we address those in our zoning because now that might fall under group home which might change how they want to handle things or if they wanted to handle halfway houses differently. He then asked if it is included in the table now.

Mr. King said Mr. Pimental might want to check on if other communities differentiate the types of group homes and where they are permitted such as halfway houses for criminal offenders or assisted living for the disabled.

Mr. Pimental said halfway is not mentioned once in the zoning and asked if there is any other name that would be categorized under.

Mr. King suggested transitional housing.

Mr. Henry said transitional could also be youth going from a group home when you're 18 but you're not really ready to take care of yourself so we're going to help you out.

Mr. Pelkey said there are a lot of different potential group homes out there because any challenged group could be looking for a group home.

Mr. Henry said a halfway house and a youth home are different.

Mr. Day read that a group home is a facility for social rehabilitation and said most people getting out of prison need social rehabilitation to go back into society.

Mr. Henry said right now if he wanted to open a halfway house he would qualify under that.

Mr. Day said they have to go and do their research and come back with more answers.

Mr. Fisher said they would have to see about the homes we have on Central Street that offenders living in it.

Mr. Henry said he didn't think what they change here is going to have much impact on existing operations.

Mr. Pimental said he would look into this but highly encouraged all board members to give this some thought because this whole topic needs to be discussed and it needs to be thought about carefully especially when it comes to where they want to allow some of these uses.

Amendment #9-Section 2.00 (E) Principal Uses-He said the next one is another one that comes up a lot and that he would rely on Mr. Fisher to speak to this from his experience on the Zoning Board. He said the way in which amendment #9 is written for the principal uses it only allows 1 principal use on a lot and it has caused the need for a lot of applicants to go to the ZBA on. He suggested they think about reworking this language to allow for additional flexibility and proposed for discussion that more than 1 principal use is allowed by SE on lots Agricultural, Suburban, Rural and Urban Residential Districts provided that the use is allowed in the Table of Permitted Uses. He said more than one principal use is allowed by right in the VC, CB and IB Districts provided that the use is allowed in the Table of Permitted Uses.

He said what that means is that it's offering additional flexibility instead of saying it's not allowed and they immediately have to go to for a variance which in some cases is very hard to meet the 5 criteria.

Mr. King asked for a couple of examples of those situations.

Mr. Pimental said this one in front of the board tonight was a good example.

Mr. Fisher said also several of them that they approved in the past years such as people have a construction business and they want to bring their equipment and store it on their property and they have several acres of land to do it and they have customers actually come on to their property and say I need you to come and excavate this area and that would be a second principal use somebody trying to run a business out of their property.

Mr. King asked if that would fall under a home business.

Mr. Pimental said in some cases it could and in some cases it's not because they have to meet certain criteria.

Mr. Fisher said if you have your equipment stored there then you have storage of your business equipment and everything else and if you just have an office there then that could be considered a home office use and that is some the arguments they've seen on the ZBA.

He said some people live upstairs and downstairs it's automotive repair and they see that on Ten Rod Road and another place where there is a transmission shop so there are 2 principal

uses on the property so they had to come for variances and SE's and all that. Mr. Pimental used the example of tonight where the applicant's principal use on their property right now is a residential structure and what they want to do is a commercial business. He said it can't be considered a home business because of the nuisance and the noise and it's not an accessory use because it's not incidental to the residential use. He said the way in which this was written it didn't provide any flexibility for us to try to approve that and get them here prior to getting relief from the zoning.

He said what he is proposing is allowing for more flexibility in that the residential zones are allowed more than one use by SE which has to meet certain criteria but is a little more lax and in the areas where they are trying to encourage more commercial development in VC, CB and IB zones more than 1 use is allowed by right so long as that use proposed is allowed in that zoning district. He said for example in the area right next to Rt. 153 where Aroma Joe's is and the back part of that lot has some space and someone wants to put something else back there that's entirely different than the Aroma Joe's. He said they would not be allowed to do that without seeking relief. He said if they come before the board for a full site plan review and meets everything why would they have to get relief for the 2<sup>nd</sup> principal use if they are trying to encourage that.

Mr. Fisher said the greatest thing in trying to grant a variance is the last requirement of a hardship and a hardship on property is either due to the property itself or a particular feature of the property. He said it's not a hardship if you say I want to sell cars on my lot and you tell them no because money is not a hardship. He said if he wanted to place a building in a spot and in this spot only because if he has to move it 10 ft. back and 5 ft. over its going to cost me \$10,000 to that that's not a hardship.

Mrs. Patton-Sanderson said that would have to be brought forth with a site plan for review anyway.

Mr. Fisher said before they can come for the site plan review they have to get the variance granted. He said if they could get around doing a variance with a SE that would make it easier on the property owner, the boards and the Town and would allow for more businesses to come into town.

Mr. Henry asked for the business districts what the difference is between more than one principal use and mixed use which is already allowed.

Mr. Pimental said he sees them as entirely separate issues because of the way the Town has defined mixed use as in the same building. He said if someone was coming in for site plan review and they want 9 different buildings and it's a strip mall they would view that as a mixed use development of commercial uses. He said what has happened in their experience is it's an existing lot that already has a principal use for commercial use that's been there for 10 or 15 years and now they want to add another commercial use for something that's completely different way after the fact that was never planned and the use is completely different and

doesn't fit the definition of mixed use.

Mr. Henry asked if they should fix the definition of mixed use instead.

Mr. Pimental said he thought the definition is okay the way that its written because that was what the intent was but he was okay with the board discussing that. He said the way that this is written is still going to be a problem whether they change mixed use or not. I think that this one principal use per lot has been challenging to a lot of people he said.

Mr. King said the way this is written is pretty good and gave some examples of businesses in the IB and CB zones with more than 1 principal use. He said PIP Rental has 2 primary uses on it, Barron Brothers has 2 primary uses on it, Cameron's Sod Farm has at least 2 maybe 3 primary uses on it, Honey Dew Donuts has multiple primary uses on it and he was sure there are more that have either grandfathered uses or may have been permitted even though that may have not been the intent to have multiple uses and they don't have any issues with them.

He said it has changed based on the interpretation of the zoning and multiple primary uses are permitted but we have quite a few examples that don't have any issues with it.

Mr. Pimental said he didn't disagree he just knows that in his time here this has been one of the things that has been most challenging.

Mrs. Patton-Sanderson said is fine with it and is just waiting for them to educate her and shoot it down.

Mr. King said the example that requires a SUP that he gave today was not a good example because there's not that much of an impact. He said for example say he owns an excavating company and he wants to put it at his house on Ten Rod Road and he is not going to do work there but his is going to bring his equipment home. He said so depending on the lot and the site he could be bringing home very large equipment that you can't get off the site if there's a road ban and he could be starting his equipment at 5 a.m. to get to the job site and a lot of that equipment does not have any noise requirements of any over the road vehicle and it could be relatively loud and he is going to do that 7 days a week through the summer. He said that's when you look at what would be the most impact business that would even be considered. He said in that SE process the ZBA has the ability to consider whether it's a less impact or a high impact and make conditions upon it so is there is some way to mitigate that at the ZBA. That's the reason why I'm okay with it because it's a case by case basis on a SE and they could say you only have a half acre of land how are you going to do that here and not give it to you he said.

Mrs. Patton-Sanderson asked if excavating is a permitted use in a residential zone.

Mr. King said what's good about it is if you wouldn't allow it as 1 primary use on a lot in that zone why would allow it as a 2<sup>nd</sup> meaning you shouldn't. He said all you are doing is allowing somebody to have a multiple primary uses which in past interpretations may have been different or may have been grandfathered because we have these all though out the town.

Mr. Pelkey said that multiple uses are permitted by right in the VC but they are all subject to site plan review. He said because they are permitted by right doesn't mean it's going to be an

acceptable site plan.

Mr. Pimental said if it's a non-residential use it will automatically trigger site plan review under state law.

Mr. Henry said "sort-a kind-a" because the VC can be handled by staff.

Mr. Pimental said in some cases.

Mr. Henry said they can still kick it to them but it may not come to the board.

Mr. Pimental said its typically a change in use in the VC that they can expedite and that's in the site plan regulations but if its new construction on a vacant lot staff cannot review that even if it's in the VC. That has to come before the board he said.

Mr. Pelkey said any new additional or change of use in the other districts where its allowed by SE still has to come before this board for site plan review.

Mr. Pimental said Mr. King's point was well taken that this doesn't change a lot if this was something that was allowed in the past. He said in his interpretation and he has gotten legal opinions on some of these where he had to make a determination this has been problematic and he is hoping this will alleviate that and offer some additional flexibility.

Mr. Henry asked if they had stuff come before them in the commercial zones.

Mr. Pimental said if he meant with 2 principal uses that needed a variance first-yes.

Mr. King said they have handled them and approved them before just like the one that used to be in the Tire Guys place. He said there were 2 businesses there and asked if that was the same as 2 principal uses though they didn't take it that way.

Mr. Pimental said again its always going to be reviewed by this board under site plan and the use has to be allowed in the Table of Permitted Uses. He said if you're allowing it in that area and it can meet the site plan regulations why make them have to make in some cases a very difficult case to the ZBA and Bill (Fisher) is 100% right that the hardship sometimes can be very difficult to do. So its removing that and putting it more with this board to approve the site plan process he said.

Mr. Fisher said the hardship criteria is a bailiwick the state needs to fix in the RSA's because he has seen it create so many headaches for so many people trying to do things. He said what is a hardship to one person is not a hardship to the other person because they don't understand the definition. If we can get away from that hardship exception we're making it easier on the public and doing it legally. I'm all for what this amendment is trying to do he said.

Mr. Squires said he was too and then told Mr. Pimental he did a very good job.

**Amendment #10-Section 3.01-Relationship of Buildings to Lots-** Mr. Pimental said the next one is sort of in a similar vein its allowing flexibility for multiple buildings on a single lot. He said what this is attempting to do is that more than one principal building can be placed on a lot in the CB and IB Districts and more than one building may also be placed on lot in all other districts with Planning Board approval through a **Conditional Use Permit** for non-residential, mixed use and multi-family developments.

He said the way in which this was written before was complicated because it was saying that for lots with frontage on Rt. 11 you could have 2 principal buildings located on one lot if approved through site plan when complying with access management ordinance. For principal structures sharing one lot in these districts a combination of commercial and/or industrial may be permitted by the Planning Board he said.

He said it just seemed really clunky and this was an attempt to allow more than one principal building in the CB and IB by right and that could also be done in any other district through a CUP. He said the applicant must show that the proposed project complies with the following standards: that its compatible with abutting uses and surrounding neighborhood, will not create undue traffic congestion or unduly impair pedestrian safety and will not result in objectionable noise or odor which would constitute a nuisance.

He said some of this language was adapted from other CUP's where you're allowing for multiple buildings on a lot.

Mr. Henry said under #2 C would not constitute a nuisance, they did or are about to define public nuisance and asked if they should use "public nuisance" there since they have a definition for that.

Mr. Pimental said yes and Mr. Pelkey agreed.

Mr. Henry moved to paragraph 1 and read "More than one principal building may also be placed on a lot in all other districts...through a CUP for non-residential, mixed use and multi-family development". He said right now he could put 2 houses on a lot if he can show that the lot can be subdivided but this says all districts so now he could say he wants to build 4 or 5 smaller houses on this smaller lot as rentals as it's a multi-family development.

Mr. King asked could it say I want to put a residential house in the IB zone where it didn't exist.

Mr. Henry said it would have to be a multi-family house.

Mr. Pimental said you couldn't put a residential in the IB because it's not allowed. He said maybe it should say if it's allowed under the Table of Permitted Uses and if multi-family is not allowed in the IB then it's not allowed. It needs to be allowed in the underlying zoning for more than one principal use for these and he would clarify that.

Mr. Henry asked if this opens them up to multiple houses on a small lot that can't be subdivided.

Mr. Pimental said he didn't think so because this is only non-residential, mixed use and multi-family and section #3 deals with that and you can't have any more than 2 (single family homes).

Mr. Henry read that it says more than one principal building may also be placed on a lot in all other districts with Planning Board approval through a CUP for non-residential, mixed use and multi-family developments so a multi-family development would be 4 small houses.

Mr. Pimental said he wouldn't interpret it like that and multi-family is 3 or more units.

Mr. Henry said his units are little cottages.

Mrs. Patton-Sanderson said it also says with Planning Board approval.

Mr. Pimental said by the definition of what we typically think of as multi-family is 3 or more units within a single building and he believes that's how it's defined in Farmington. He said if someone tried to make that case to do 3 or 4 different houses as a multi-family we would not accept that.

Mr. King asked for the definition of mixed use under residential.

Mr. Pimental read that mixed use is a building or structure containing (a) a mix of residential and non-residential uses or (b) 2 or more complimentary integrated uses in a compact urban form provided that such uses are individually allowed in the applicable zoning district.

Mr. King said a residential use or a mixed use is permitted in the CB and the IB and asked if he could say he wanted to have a mixed use building or multiple mixed use buildings in the IB so he is going to add 3 buildings and they're all mixed use. He said this one has an apartment above a detail shop, this one has an apartment above a...

Mr. Henry said its easier than that-12 apartments and 1 commercial coin-operated laundry mat.

Mr. Pimental said Mr. King was talking about multiple mixed use buildings and they would have to meet site plan regulations.

Mr. King said if he wanted to circumvent the zoning he could put in a mixed use building mostly being done for the residential component with a first floor which is going to be an antique shop, car cleaning or whatever based on the density and housing. He said that is the only residential use that is allowed as a principal use under the CB and the IB all the other ones are not- 2 family, multi-family, single family detached dwellings, barns and garages are not allowed but mixed use buildings are. It could be problematic he said.

Mr. Henry said they could build traditional looking large apartment complexes in the CB and put a coin-op Laundromat in there and it's a mixed use.

Mr. Pimental said the amount of apartments they could get would be based on what they have for parking and all of those other pieces would have to be ironed out. He said if they wanted to have 2 large buildings and they were going to have 8 units each and one was going to have a restaurant underneath it and the other one was going to have a comic book store and it could meet all the regulations is that something the town wants because what we're proposing is that 2 principal buildings if the uses are allowed then you're allowed to have multiple buildings.

He said the piece that is missing for the second part of that clause is it needs to say allowed by the underlying zoning. He said whether or not the board wants to make any changes to mixed use because Mr. King is right in that is the only one that allows for some flexibility with residential in the CB and IB that is for the board to discuss.

Mr. Pelkey recalled that when they talked about that it was the agreement at the time that that was what they were going to do.

Mr. King asked when they add this does that make it ripe for abuse or used for something that is not really the intent.

Mrs. Patton-Sanderson said they have the restraints on it by having to come before the board

to get approval.

Mr. King said they do but if its allowed, its allowed and you can't say we're not going to allow it because we don't like your plan.

Mr. Pelkey said it has to be by cause.

Mr. King said if its allowed and they meet all the requirements you can't deny it even though that's not what you wanted.

Mrs. Patton-Sanderson asked him for an example of what he wouldn't want so she could understand it better.

Mr. King said say if you're right on Rt. 11 and you want to put up overgrown mini-houses with a pseudo-commercial front end on the first floor to get around the zoning to turn it into an overgrown campground which is not permitted.

Mr. Pelkey said he didn't understand how a campground fits mixed use.

Mr. King said it would act the same as a mobile home park where you have residential uses on top of pseudo-commercial or industrial uses and you're calling it a mixed use buildings so I can have multiple buildings and in essence that's a mobile home park.

Some board members said they were having difficulty following Mr. King's example.

Mr. Fisher said he thought that would be a single use if they are not attached to each other or stacked up on top of each other then it would be individual buildings.

Mr. King said they're allowing multiple structures.

Mr. Henry said we define a recreational vehicle and that is not a structure.

Mr. King said he would come up with a better example for their next meeting.

Mr. Henry said for example the land next to Holy Rosary Credit Union on Rt. 11 you could site a very large apartment building there with a coin operated laundry on the first floor and you're going to meet the requirements for parking as there is plenty of space there to park, drainage shouldn't be an issue, line of sight and you have everything you need and they would be hard pressed to say you don't pass site plan review so now you have a big residential building there.

Mrs. Patton-Sanderson asked why he wouldn't want a big residential building there.

Mr. Fisher asked what the problem is with having an apartment complex out on Rt. 11.

Mr. Henry said he didn't think that has been the town's vision for how Rt. 11 develops.

Mr. Pimental said the town could require a traffic analysis and there may be hoops they would have to jump through with NH DOT for an access with a lot of units so that may curb some of that but they're not wrong that if someone wanted to have a large apartment building with "x" amount of units and they can meet all the regulations right now, not even anything they are proposing this year that mixed use would be allowed by right.

Mr. King said if it was just a multi-family dwelling it would not.

Mr. Pimental said that's correct. He said they have not been approached with any mixed use developments on Rt. 11 but if they're going to make something work where it's going to add commercial and the only way to make the project work is that its mixed use and it offers "x"

amount of apartment units maybe the town needs to rethink what Rt. 11 will/will not be.

Mr. Fisher said that also opens up a lot of grant possibilities with the state going towards more affordable housing plans.

Mr. Henry said the Master Plan wants commercial development along Rt. 11.

Mr. Fisher asked if apartment complexes are commercial.

Mr. Henry said no.

Mr. Fisher said it's a commercial business because they are making money by renting out apartments.

Mr. Pimental said they can't have this discussion without saying all of this is not going to happen until water and sewer is extended out to Rt. 11.

Mr. King said he disagrees with that statement.

Mr. Pimental said he didn't think large commercial development is as viable without having water and sewer out to that area. He said some places are but in some places they're going to be restricted and he didn't know if a huge mixed use development was even possible unless someone wanted to invest in a community system which they could do.

Mr. King asked if the Strafford Inn was on Town sewer and how many hotel rooms are there.

Mr. Pimental said they are not on Town sewer but he didn't know how many rooms it has. He said he wasn't saying it was impossible but there would be more potential for large scale development when there is water and sewer out to that area.

Mrs. Patton-Sanderson said they need to make sure whatever they agree on falls in line with the Master Plan.

Mr. Pimental said economic development and commercial businesses along Rt. 11 have been encouraged. He said he didn't think it says that residential should be banned from Rt. 11 and the Town has restricted residential development almost to the point where the only opportunity is a mixed use development and single family, multi-family and duplexes are not allowed in any of those areas. I think that the Planning Board with allowing for mixed uses is in line with what the residents have said and if they were allowing for single family and duplexes I would say they were not in line with what the town has said he said.

Mrs. Patton-Sanderson said there are instances of towns and cities using that to build very nice mixed use buildings like in Portsmouth. She said it doesn't have to be a dump it could be shopping and nice condos above and that would not be unsightly.

Mr. Pimental said some of this is going to be market driven and not too far down Rt. 11 with what went in at the Ridge but he wasn't necessarily saying that was going to come to Farmington but if that is what the market is saying is viable here this board would be open to that happening. He said if it's something a lot smaller than that and the only way to make a commercial use happen is they have to add "x" amount of apartments because that's where they are going to generate the most revenue at least the mixed use being allowed offers that opportunity. What this is trying to do is allow for more buildings as opposed to the restriction of

it just being one and needing to go for relief consistently slows the process down and may be turning potential developers away because it's too cumbersome he said.

Mr. Henry said he was fine with that he was just concerned they were opening it up to multiple houses on small lots.

Mr. Pimental said he didn't see that as an issue but he did agree that the uses in those other districts have to be allowed in the underlying zoning is definitely something to add there. He said the board would see this again at the next meeting and asked them to come with their thoughts. My hope is we can send this to legal counsel at the next meeting because we want to hold our public hearings for this in December he said.

Mr. Pelkey asked about the change in section 3 (1) in blue below that.

Mr. Pimental said the change is getting rid of those because it already says that it meets all dimensional requirements and it gets convoluted when it gets broken down like that. He said they would ensure that street frontage, setbacks and all of those things are already met as part of the dimensional requirements.

Amendment #12-Section 1.02 (C)-Amendments- He said this is just a housekeeping item that was brought up at prior meeting that they don't have anything in here that says if someone finds a spelling mistake or there is something wrong with a number such a 2a should be 2b this allows the Planning Board to make those changes and not have it go to Town Meeting. He said it is strongly recommended by legal counsel and the Planning Dept. staff that if they decide to do that they should still hold a public hearing to make whatever minor changes.

He said without having this in the ordinance they really can't make any of these small changes without it going to Town Meeting and they found grammar, spelling errors and one where the photo was hiding the text because it wasn't wrapped right. He said that is not making any substantive changes to any language so this was vetted and provided by Town's legal counsel that offers that flexibility that the board can make these changes.

Mr. King said they need to add that the board has the authority to sign modified pages and section numbers to correct spelling errors in this ordinance provided there are no substantive changes and that the board holds a public hearing about those changes.

Mr. Pelkey asked if it takes place at the board it is a public hearing and publishing it on the agenda is not good enough.

Mr. Pimental said it would have to be posted as a public hearing it couldn't just be on the agenda and it has to be published in the newspaper.

Mrs. Patton-Sanderson said she thought it was saying they could make the changes without a public hearing.

Mr. Pelkey said it says the changes could be made without a vote at Town Meeting.

Mr. Henry said Mr. Pimental is saying its recommended they hold a public hearing for the changes and Mr. King wants to bind them to it by including the requirement for a public hearing in the amendment.

Mr. King said future boards may not hear this if it's a recommendation.  
Consensus of the board was they were comfortable with Mr. King's suggestion.

**Any Other Business Before the Board:**

**NNECAPA Citizen Planner Award-** Mr. Pimental said a couple of months ago he mentioned that Mr. King had won Citizen Planner of the Year for NH and as part of that those selections in each state for northern NE Chapter of the APA which is VT, NH and ME those folks that were selected get put into a larger pool for those 3 states and Mr. King won that award! He showed the plaque to the board and then gave it to Mr. King and congratulated him.

**Next Meeting-** Mr. Pimental said at the next meeting the only thing on the agenda is working through the zoning amendments including the Housing Maintenance and Occupancy Code and hopefully the TIF District finance plan and if not that will be in December.

**Adjournment:**

**Motion:** (Squires, second Day) to adjourn the meeting passed 7-0 at 8:25 p.m.

Kathleen Magoon  
Recording Secretary

  
Richard "Rick" Pelkey, Chairman

WILLIAM B. FISH

