

Town of Farmington  
Planning Board Meeting Minutes  
Wednesday, November 16, 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  
Ron LeMere, Building Inspector/CEO

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

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

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**Review of Minutes:**

**September 21, 2022- Public Meeting Minutes**-No errors or omissions

**Motion:** (Henry, second Day) to accept the minutes as written passed 6-0-1(Squires abstained).

**Public Comment:** None

**Public Hearings:** None

**Proposed Zoning Amendments:**

Mr. Pimental suggested that they begin with the Housing Maintenance and Occupancy Code since Mr. LeMere was present at the meeting.

**Warrant Article #3: Amendment #2:** Sections 1.08 and 1.10- Building Inspector Ron LeMere came forward and gave copies of the amendment tracking from the last time he was here. Mr. Pimental said the board's copies has the tracking it just doesn't have the comments. He said everything highlighted in yellow is what has changed since the last meeting.

**Page 1-** Mr. LeMere said the first comment was adding to Section 1.08 (B) (1) Accessory Structure "on the premise" to the end of the sentence.

Mr. Pelkey said a lot of these changes are based on comments the board made.

Mr. LeMere said that's correct and he wanted to go through the comments to reinforce that they did make the changes that were requested.

Page 2- (B) (21) Guest- Mr. LeMere said they talked about striking out “for more than thirty (30) days in one calendar year” as part of the meaning of a guest.

Mr. Pelkey said the conversation was they didn’t have any way to figure out or enforce how long people were staying.

Mr. LeMere said that is correct and best thing to do is to strike that part and leave it as “any person who shares a dwelling unit in a non-permanent status”.

Mr. Pelkey asked if Mr. Pimental’s comment seeking further research on this still applies.

Mr. Pimental said no.

#26- Mr. Henry said it says “Household means a family as defined in #16 above...” but “Family” is defined in #17 now.

Page 3- #41 Public Nuisance- Mr. LeMere said they needed to define the word “utilities” in (f) so he added the definition for utilities to the definition section (page 4, #56). He said that states that “Utility means a service that provides electric, gas, water and sewer including equipment that may provide a comparable service” because they are so many different ways to supply water and heat.

Page 4- Section C Responsibilities of Owners and Occupants- Mr. LeMere said they had some conversation about striking out full parts of #1 and #2 but when he read through it there were certain parts that he felt they should keep. He said in #1 they did strike out “and free of peeling paint, cracked or loose plaster, decayed wood or other defective surface areas”. He said they added “public nuisance” to this line so they carried the definition of public nuisance over to the responsibilities of the owners so he wasn’t just making reference to a violation just to a definition but actually to a section that would correlate with a public nuisance. We changed the word “comply” to “complies” and everything else in that section stayed the same he said.

Page 5- #10- Mr. LeMere said they removed “EPA and OSHA” and added “State and Federal guidelines”.

Mr. Henry asked if “guidelines” was too loose and if it should say “requirements”. The government recommends that I do a lot of things he said.

Mr. Pelkey asked which are more enforceable recommendations or guidelines.

Mr. King said Mr. Henry’s point is federal requirements not guidelines. It’s a requirement or it’s not he said.

Mr. LeMere changed guidelines to requirements.

Page 6- Mr. LeMere said there were no further changes to this page from the last meeting.

Page 7-(H) Maximum Density, Minimum Space, Use and Location Requirements, #2- Mr. LeMere said they discussed “waterproof” and how they wanted to call out waterproof and damp proof. He said they added “water resistant” and deleted “water proof and damp proof”. He said they tried to find the best way and a material that’s water resistant and the discussion about trying to make something water proof would probably be a pretty tough thing to do. Consensus of the board was they were okay with that wording.

Mr. LeMere said that was the end of the comments that they had.

Mr. Pelkey thanked Mr. LeMere for doing such a good job and that he captured what they were looking for.

Mr. LeMere said the comments were great and he liked the way the document is coming out.

Mr. Pelkey said they were trying to give him something that's enforceable so he can do what he needs to do.

Mr. Pimental said because they've added definitions and the numbers have shifted Mr. LeMere may want to look at the cross references to make sure that the numbers are correlating correctly. He said the rest of this section is probably fine but suggested that he read through the definitions again to make sure nothing is pointing to a section that isn't there anymore.

Mr. LeMere said there were some numbering changes and he believed he captured those. He said now that they have the bulk of this taken care of they can go thru it and proof those numbers out and make sure they're correlated. He thanked the board and left the meeting.

**Warrant Article #2: Amendment #1: Section 1.04 Lots Split by Zoning District Boundaries-** Mr.

Pimental said the board was comfortable with the language that was changed last which was just adding the language to D about the vegetative buffer being maintained and in cases where there isn't one additional landscaping may be required at the board's discretion. He said the board was comfortable with that as written so nothing was changed since the prior meeting.

**Warrant Article #4: Amendment #3: Section 2.00 (C) Table of Permitted Uses-** Mr. Pimental said this amendment goes with Amendment #6: Amendment #11: Section 1.14 Definitions as the definitions go with the changes they want to make to the Table of Permitted Uses. He said prior to the discussion about the group homes and health care facilities they organized and looked at all of the uses for the **Commercial Business** and the **Industrial Business** zones to make sure that those are similar. He said what he is looking for from the board is a conversation about group homes and health service facilities, how those are currently defined, where this board feels it makes the most sense to allow for those types of facilities in which zoning districts.

He said when this was brought up at the last meeting the board wanted to give this some more thought because they should be thoughtful about how and where these facilities, based on their definitions, should be allowed in which zoning districts. He said Mr. King said he knew of some examples he wanted to discuss and he didn't know if the group did any homework in looking at this and that is the guidance he is looking for.

Mr. Pelkey asked if area highlighted in yellow is a change to the definition based on their conversation the last time.

Mr. Pimental said it's not a change because Health Service Facility was already in the definitions but it wasn't in the Table of Permitted Uses. He said it reads very similar if not almost verbatim to the Out Patient Clinic and they don't need to duplicate that so he took that out and put Health Service Facilities in the Table of Permitted Uses.

Mr. Pelkey asked if the yellow highlight for those rendered incapable of self-preservation was the change to what was originally proposed.

Mr. Pimental said that's correct and Mr. Henry's comment was to add that in there and there was a lot of discussion on making that change so that was added to the group home definition.

Mrs. Patton-Sanderson said she still sees a definition for Clinic but not for Health Service Facility and asked if Clinic should come out.

Mr. Pimental said it should already be struck out.

Mrs. Patton-Sanderson said she was talking about the definitions on page 14.

Mr. Henry explained that what they are looking at here isn't all the definitions it's just the proposed new ones or the changes.

Mrs. Patton-Sanderson asked if Clinic is going to be gone completely or if it's somewhere else.

Mr. Pimental said he is suggesting that they remove it entirely because they already have Health Service Facilities defined which is essentially the same thing. He said the board should start with Group Home based on this definition of "a facility for social rehabilitation, substance abuse, mental health problems or those rendered incapable of self-preservation that contains a group housing arrangement that provides custodial care but does not provide medical care". He asked how the board felt about allowing that use in which zoning districts that makes the most sense for the town.

Mr. King said he would start with it not being permitted in any of the residential zones- **Agricultural Residential, Suburban Residential, Rural Residential and Urban Residential** for discussion and then he would say by **Special Exception** in the **CB, IB** and the **Village Center** could be by **SE** or not permitted.

Mr. Henry said these are homes that generally look like residential houses and are places where people live who can't live on their own and they need a caretaker of some sort but not a nurse. To me that's where people live so they are residential zones he said.

Mr. Pelkey said he didn't think they go in the business or commercial zones and anything that has residential are okay there but he didn't want to give it carte blanche permission to do it. I want there to be some sort of review requirement before we just okay it.

Mr. King asked if it should be allowed by **SE** or by a **Special Use Permit**.

Mr. Pelkey said it should be something where they are required to satisfy the board that they are going to have specific precautions taken for whatever their purpose is for impacts on neighborhoods, etc. He said he thought it should not be permitted by right and that they ought to put some sort of doorstop that they have to jump through.

Mr. Pimental said the board has 2 choices in terms of the additional oversight.

Mr. King said he'll agree with the prior conversation in that maybe it should be with a **Variance** in the **CB** and **IB**.

Mr. Pimental said that means it's not allowed.

Mr. King said that's right but they could get a **Variance** and then you could go to **SE** in some

zones or Special Use Permit in other zones.

Mr. Pimental said the biggest difference with that would be the SE is outside of their control and would go through the ZBA. He said they would have to come to this board for site plan review so they would be able to approve it there but the ZBA would handle the SE.

He said the other option is a Special Use or Conditional Use Permit which is the same thing just some communities call it one or the other and this board could set that criteria. He asked if it is allowed by conditional use only what criteria they would want to see met for that use to be allowed in whichever districts.

Mr. Pelkey asked if he thought they need to define that because there are so many different varieties of group homes it will be hard for them to address every possible "flavor" of group home that could come to the board.

Mr. Fisher said in the definitions they have social rehabilitation and asked what is meant by that and if it means rehabilitation of sex offenders. He said if so he doesn't want them in his neighborhood. He said that he understood substance abusers have problems but seeing what has gone on in other communities with trying to rehabilitate substance abusers sometimes it works, sometimes it doesn't and when it doesn't it creates a headache for everyone.

He said downtown Rochester has been fighting this for years and he doesn't want that in a residential area, SE or not. If it was just a group for people that can't live on their own like someone with Downs' Syndrome or someone with a physical disability and they need help getting around then I don't mind that in a residential area he said.

Mrs. Patton-Sanderson said it depends on the type of problem.

Mr. Pelkey said drug addiction is also a mental health issue.

Mr. Henry asked if they should split this out into 2 definitions essentially long term and short term. He said somebody that has mental limitations that needs some level of supervision so they have to live in a group home the expectation is that they're going to live there for a long time and they're not there for treatment.

Mr. Pelkey asked if that would be more like a nursing home.

Mr. Henry said no and there are disabled people that need help bathing and they'll set the house on fire if they cook so other people handle the cooking and stuff but it's not a chronic illness that requires nursing care. They just can't live on their own and they're always going to be in that situation he said.

Mr. Squires asked if that was like an assisted living situation.

Mr. Henry said it was a lower bar than assisted living and they are not necessarily elderly. He said there are also group homes for children that are wards of the state so the long term there would end at the age of majority or sometime beyond that because some of those facilities have transitional units where they get jobs and start to rent and they're 18 or 19 but they're not ready to go out on their own. But they're not there for treatment he said.

Mr. Pelkey said if they keep it under the same umbrella but they make it so every circumstance



has to come before the board they can address the specifics of what they are trying to do.

Mr. Squires asked if they would come before the Planning Board or the Zoning Board.

Mr. King said the problem is if they have a Conditional Use Permit and they just have broad conditional requirements and if they meet them it's permitted.

Mr. Pelkey said it also opens it up for public input.

Board members said but it's still permitted.

Mr. Henry said they are talking about protected classes they can't discriminate against.

Mr. Pimental said when denying an application the board has 2 ways to deny it-denied with prejudice or denied without prejudice. He said an example of without prejudice might be the 65 days is up and the board and the applicant can't reach an agreement because the board feels the application is not meeting certain criteria and the applicant feels that they are and wants to move forward, the board can deny that application without prejudice which means that they can come back.

He said they could also deny an application based on its merits meaning they can meet the criteria and the board can deny it with prejudice but it opens them up for a lawsuit. He said typically if something is meeting the regulations they tend to approve it but there could be circumstances where the board feels that based on public feedback and based on the project this doesn't make sense and they are going to deny the application. It may end up being settled in court but it allows this board the legal authority to deny it but I advise not doing that unless you have a very good reason to do that he said.

He said they are right that if something is conditional use and they have broad guidelines if they really want to prohibit something then don't leave that door too open because it could be easy for them to meet the conditional use criteria. He said it sounds like there are certain parts of this definition as currently written that the board is okay with in residential areas but there are other parts in this definition that the board feels differently about in residential areas.

He said if they do have to break this out that sort of long term custodial care and what that looks like is different than social rehabilitation, substance abuse and mental health. Those are 2 different things and if that would make it easier for the board to determine which of those should be allowed in residential areas and which are not then we should look at that he said.

Mr. King said it would put things more in the appropriate bucket but there may still be some cross over that they need to fine tune.

Mr. Pelkey suggested that he poll the board and ask them for the things they don't think should get an okay in residential areas and they can split them out and have a discussion about why and what they want to do about it.

He started with himself and said he doesn't have an issue with having in a group home in the downtown area for people who are recovering from drug addiction. He said Farmington has had a problem for quite a while and if we're not willing to do something to help our own people out who else will. He said it needs to be well policed and if they have issues with the way it is

being run it needs to be shut down. He said that is what he would want to be able to put into place and what he doesn't want to do is to say we're not willing to help any of the kids in town that have problems.

Mr. King said he would have to agree with that even though some residents may not like the sound of it.

Mr. Squires asked Mr. Pelkey if he was saying to permit it or allow it by SE.

Mr. Pelkey said he wanted to have some control over it and he didn't want to give anybody a blank check to go do it. He said he wanted them to be able to put some constraints on it and some safeties in there so if it turns into what has happened in Rochester we can shut it down.

Mr. Squires asked when he says "we" if he means the Town not necessarily the Planning Board.

Mr. Pelkey said it would be enforced by Code Enforcement and the Police Dept.

Mr. King said based upon the conditions of the approval.

Mr. Pelkey said they would put the conditions on that would say if they have repeated visits by the Police and if there are complaints about the way it's being run he didn't know what they can do but he wanted to be able to offer it to the people in this town that need it but he wanted to be able to put some constraints on it so it doesn't turn into a free for all.

Mr. Fisher asked if he wanted it in residential areas or in the VC district.

Mr. Pelkey said he didn't have an issue with it wherever there's a house.

Mr. Fisher said he didn't have an issue with it being in the VC but he still had issues with it being in residential areas because one screw up is one screw up too late. He said if a drug user goes in there and completely flips out and murders the people next door-that's a far extreme but it could happen and he would like to keep it as far away from residential areas as possible. I agree that we need help for drug abusers but I don't agree with putting it in residential areas he said.

Mr. Pelkey asked him if he would say only in the business and commercial districts.

Mr. Fisher said he would allow it in the commercial, business and the VC districts.

Mr. Pelkey said the VC has the highest concentration of residents in the town.

Mr. Henry said the VC is actually pretty small.

Mr. Fisher said it would be easier for the Police to control it there than it would be on Ten Rod Road.

Mrs. Patton-Sanderson said that the definition is a little bit too broad and that she was not comfortable in any residential area with social rehabilitation, substance abuse and mental health problems depending on the type it is. She said she agreed about the people with Downs' Syndrome and people that need help along those lines and she was okay with that but not with anything that could potentially lead to crime or undesirable behavior in a residential area. If we could split that out I would be more okay with those in the residential areas otherwise any of those I'm not comfortable with except in the commercial or industrial business. I'm not comfortable with them in the VC either she said.

Mr. Pelkey said if they are going to split them out they need to start a list and then have a

discussion about them. He said maybe they could put the ones that they all agree with where they are happy with them and then have a discussion about the rest of them.

Mrs. Patton-Sanderson said she didn't have a problem with mentally challenged individuals with conditions like being bi-polar or schizophrenic but not with things that have a tendency towards more criminal potential.

Mr. King said they need 2 definitions but people also need to consider that they say they need to permit it and they don't want it in residential but it seems to be okay to dump it in the commercial and industrial business zones that may have a negative impact on the business community. He said they are saying they don't care what happens over there but it's a workplace for people that are trying to earn a living and they can't because they haven't done their job as far as thinking it through and what the requirements should be in any district because it has a potential impact on the CB, the VC and the residential districts. It still has people in those districts that are trying to live or work he said.

He said they need to figure out how they are going to gain control over the ones they have the most concern over on a case by case basis and put in safeguards as best they can along with the broad strokes of where they could be allowed.

Mr. Squires said he didn't agree with breaking it up because part of the rehabilitation is probably better than its not all one type in the same group. He said he liked the way that it was written and that they don't want all the drug users in one place and it might be easier for them to rehabilitate with other types around them and to leave it grouped like that. He said he was saying to allow it by SE in the VC, UR, RR, SR and to keep it out of the AR, CB and IB districts.

Mr. Henry said looking at the AR and the working farm concept where they get people away from the inner city where drugs are easy to find and take them out to a farm and keep them busy and teach them some skills and show them that there are other things to do to occupy their time we have land in the AR zone that would be good for that kind of facility. He said when you concentrate them in a downtown area where things are prevalent already it may be hard for them to kick the habit.

He said another concern he has is that there are people within their own homes through various agencies that have people living in their home where they provide that custodial care in the home that they own. He said they might have 3 or 4 people living there that aren't capable of taking care of themselves but the homeowner lives there also and asked if that is a group home. He asked if that would be regulated the same way and that it's not a commercial enterprise but they are getting paid for doing that work.

Mrs. Patton-Sanderson said she was thinking more along the lines of the drug rehabilitation homes and that she lives in the AR and it's not all farms so she really didn't want that influence necessarily. She said she lived in San Diego for 25 years and most of those people don't rehabilitate and get out and go back.

Mr. Squires said he said not in the AR because the AR is on that side of Rt. 11 and this side is



more easily serviceable from the Fire and Police Depts. and the response times are drastically different.

Mr. King said depending on their needs there may be a need to be close to the available services which could be a bus network or a local store they can walk to. He said it was a good point about having facilities in the AR district removed from the downtown district but it also lacks access to services depending on what the group home is for.

He said maybe the answer is that depending on what it is it could be best suited in any district and asked how they should handle the ones they are most concerned about, drug addiction recovery services, mental illness recovery or care facilities, half-way houses for people coming out of prison. He said these are the ones they have the concern with and it's not that we need a home for people needing long term care because they have limited cognizant or physical skills. He said there still needs to be some review on that and asked if they should separate those in the definitions or do they say those are to be handled on a case by case basis and how they would do that no matter what district they're in. If we don't know how we're going to handle them it's pretty tough to figure which district you're going to put it in he said.

Mr. Henry said doing it on a case by case basis opens them up to claims of discrimination because they are talking about protected classes.

Mrs. Patton-Sanderson said unless they define them and do them individually and she didn't know if they could do that.

Mr. Pelkey said if they are talking about protected classes and are saying they can't deny them then they can do whatever they want to because they can't stop them and why bother having roles. He said if they can't have input from abutters and community members on these activities that want to come in to our neighborhoods that steers their response to these requests then they are going to do what they want.

Mr. Henry said as a property owner that wants to rent out their house they can't say they are not renting to someone who is bi-polar.

Mr. King said if the owner is renting his house and wants to run a commercial business rehabilitating people with drug addictions he can say no I'm not renting to you.

Mr. Henry said he is not a lawyer but he didn't want to open them up to picking and choosing.

Mr. King said there would be legal review of what they propose.

Mr. Pimental said that regardless of which zones these are allowed in he would be interested in getting a legal opinion on what safeguards are legal and what this board actually has the authority to put on something like this because he didn't know what they can do.

Mr. Pelkey said it just can't be a free for all.

Mr. King said they need multiple definitions so they can put requirements on those people that qualify for the definition.

Mr. Pelkey then proposed based on having multiple definitions that the group home definition has 3 specific things listed in it-social rehab, substance abuse and mental health problems

which all have been listed as something that people don't want in certain areas. He said the rest of it is non-specific or those rendered incapable of self-preservation so you could say group home A is a facility for those 3 things and group home B is excluding those things in group home A.

Mr. King said or they could have more than just A and B and if they do that they can quantify what they are comfortable with. He said somebody will say it's allowed for long term care for somebody of diminished mental capacity in the AR, they submit an application and they have to say if it really qualifies or if they are trying to slide into a definition where it's permitted.

He said that's where the interpretation comes in and they need to be pretty clear on how that is to be interpreted to say they qualify under the definition or not because they could say they are rehabbing drug addicts and because it's an addiction they have diminished mental status. If we have a definition that they better fit we can say you fit here and these are the requirements for that he said.

He said if they were to split them into 3 categories under group homes they would need to have 3 definitions and those definitions would have to be legally sound to withstand a challenge and then they can determine where they are permitted and not permitted and with what restrictions.

Mr. Pelkey said he completely agreed and that is exactly where he was going. He said they need to feed back on what controls they can have over this before he could make a decision about where it should be allowed. He said he wanted to know from legal counsel what they can and can't control when it comes to these things.

Mr. King said they could also look at other communities.

Mr. Pelkey said it's going to mess up their timeline.

Mr. King said they know they need to have additional sub-groups under group homes and they could go to the zoning ordinance in Portsmouth, Dover, Salem and other larger towns that have dealt with this and these are some definitions that may fit or can be modified into Farmington because they're defining it and then they're applying what they want for zoning. He said maybe the best place to look is at other communities or other states for definitions of sub-groups under group homes that are in the areas they feel they need.

Mrs. Patton-Sanderson said that takes the subjectivity out of it which was her concern about just making it blank and then deciding case by case because then they are subjectively deciding vs. having objective guidelines.

Mr. King said an applicant will say if I apply for a motor sales business I'm not permitted but if I do service and sales it's permitted and historically that has happened. He said the applicant will back fit their application so it fits the location where he wants to put his business and back fit into that definition at times.

Mr. Pelkey said he feels that anything that says residential is a place where a residential group home can be put but only if they can put some controls in place to protect the abutters and the

town. He said if they can't put any kind of brakes or controls on what they're doing then they can't subject that to the people.

Mr. King said they do it now under every site plan or subdivision they do. He said they do it on multi-units too-Where's your dumpster? Where's your parking, etc.?

Mr. Pimental said there is a clear distinction though. He said they could make sure the design and layout of the site plan works but he didn't think the board has the authority to say they are not going to approve this unless you have 24-hour Police details with an application like this. That is a legal question he said.

Mr. Pelkey said he hoped someone didn't come in tomorrow and ask for a group home downtown because they just have site plan review.

Mr. Pimental said they have site plan review but they don't have a good definition right now so it would be where in the existing Table of Permitted Uses do they put this under an umbrella.

Mr. Pelkey said it would come before the board and they would deal with it no matter what they called it. He said they could call it a clown college and they are going to come here asking for permission to do something and they are going to have to put some constraints on it.

Mr. Pimental said before it gets to the board the Planning Dept. has to make a determination on where it goes.

Mr. King said that is why they need additional definitions to put it into the appropriate categories where they can add restrictions and requirements through subdivision and site plan review and conditional use permits. He said currently they can put restrictions on the hours of operation, access to the site and lighting on the site and they can expand on that as far as how they function physically in the community but they do have limitations.

Mr. Henry said they can't tell them who their customers can be.

Mr. Pelkey replied they can say that if these are your customers this is what our expectations are.

Mr. Day said if they break it up and put those guys up in the AR they would be fine and they would go up there and dig dirt and be happy little larks and he didn't want them in the downtown where they can't move around but the response times and walking to the store to get a soda isn't going to happen up over the hill because it's 5 miles one way to the store and there are no buses or taxis that come up there and you can't get food delivery up there.

Mr. Pimental said this is a complicated issue and is not easy.

Mr. King said they need to break it down into smaller pieces and see what they can do with those pieces.

Mr. Henry said social rehabilitation is a big umbrella and he is not sure that is good wording to use and they need to be more specific. He said there are group homes that are intended for you stay for a while and the others are where you live.

Mr. Pelkey said Concord has a prison and they probably already have a lot of this stuff in their codes.

Mr. Squires said that goes back to Mr. King's thought about finding some cities that have these in multiple districts so they could see what they have because theoretically that's already legal.

Mr. King said Concord has probably had a half-way house for people that come out of the prison system and there have probably been issues they've dealt with from the zoning and enforcement area and the same thing with the psychological issues.

Mr. Squires suggested they look at Berlin too as its more like the AR district and they have prisoners too.

Mr. Pimental said it sounds like the will of the board is to look at breaking down this group home definition into 3 or 4 definitions and suggested that they not call them Group Home A and Group Home B and they should be titled differently or they will run into a legal issue there. He said he could work on that with legal counsel as well as looking at some other municipalities. He said it sounds like the differences of staying there short term for treatment vs. long term is a clear distinction and he may be able to come back to the board with some definition options they could then make some decisions on.

He said he would also follow up with what the best way would be to put some constraints on this and in his opinion the best way would be through a conditional use permit. He said it may be through an SE but the problem with that it is out of the Planning Board's hands and is with a different board (ZBA) that has not had these conversations except for Mr. Fisher.

He said there are separate criteria that they may want to look at in the zoning about what needs to be met for an SE. He said if they say this is actually pretty stringent and they need to meet all of these things then maybe an SE is the best option and if they do it under a conditional use they could put your own criteria on that.

He said he will ask legal what they think is the best option based on the concerns about the potential for these uses to cause issues in the surrounding community and what the Planning or Zoning Boards could do to lessen that. He said this may draw some input during the public hearing process and hopefully it does because that would be good for the board to hear that but it may lead them to need more than one public hearing so they should be shooting for mid-Dec. to have the first public hearing if they're going to need to have 2 or 3 public hearings.

Mr. Pimental suggested if the board is comfortable with the rest of the amendments that they make a motion to send the rest of them to legal review and that they continue to work on Amendments #3 and #6 internally. He said if they wait too long legal may not have enough time for review and the public hearing needs 10 days notice so there is a lot to do and it will come up quickly.

Mrs. Patton-Sanderson asked about Health Service Facility and if they are discussing or accepting that.

Mr. Pimental said they could and read that is "any outpatient establishment furnishing medical services for humans including offices for physicians, dentists, other health practitioners, clinics, medical laboratories, outpatient surgery and blood banks". He said that is more clear of what

that definition is-that's a doctor's office or a dentist's office.

Mr. King interjected that it's also a methadone clinic. He said they show up and are dispensed prescription drugs under medical care by licensed professionals.

Mr. Henry said he didn't want to say they can't have a dentist office in the VC and Mr. King doesn't seem to want a methadone clinic in the VC and asked how they would handle that.

Mr. King said they have been very problematic in other communities. He said it fits that description but they are going to need additional guardrails for those types of applications if possible.

Mr. Pelkey said he was okay with putting a methadone clinic in the VC but he wants some rules that they have to follow in order to operate and if there are issues he wants the ability to pull that.

Mr. Henry said he didn't want to put up a hurdle for a pediatrician and asked how they do that.

Mr. Pelkey said they don't have an answer to how much control they have over these things.

Mrs. Patton-Sanderson asked if they could use an exception.

Mr. Pelkey said that is just one instance of a clinic.

Mr. Pimental said the internet may not be the best place to get information but the definition he is reading here is not in line with health service facility establishments as we have it defined. He said a methadone clinic is captured under substance abuse disorder service clinics and is defined as "an establishment for dispensing of medication used in the treatment of opiate dependence".

Mr. Pelkey said to group that with group homes on one line and call it substance abuse disorders services clinic and substance abuse group homes.

Mr. Henry said they could stop it at "services" and define the services.

Mrs. Patton-Sanderson asked if they could just accept it from the Health Services Facility.

Mr. King asked if they need multiple definitions under Health Services Facility and put those in a category and dentists and pediatricians in the other.

Mrs. Patton-Sanderson said the definition Mr. Pimental read was nice and generic and encompassed the one segment of health service facility they are concerned with so if they gave that a separate line item or say excepting those.

Mr. King said they could be 1 vote away from medical marijuana is legal in NH and have dispensaries that would be considered health services.

Mrs. Patton-Sanderson said that would fall under Mr. Pimental's definition.

Mr. Henry said he understood from Mr. Pimental that when someone comes in a proposal he looks at the definitions to see where it would best fit. He said right now it would best fit under health service facilities but if they add the definition that he just read then that is where it best fits. He said by adding that definition you've said the best fit for you is not health service facility because we call it out more clearly here.

Mr. Pimental said he tries to avoid the commercial or institutional uses not specified as possible



as that adds an additional step for the applicant. He said they try to match it to an existing definition in use and it is not always perfect and they can't account for every single use out there or they would have 900 pages of definitions. He said in reading this they're right it would probably be under health service facility and if they add this additional one it would make his job easier to establish what the use is. The board would have to add this to the Table of Permitted Uses and determine where they would want to allow it he said.

Mr. Pelkey said then they would fall right back on what they are going to be able to do to control it before they decide to permit.

Mrs. Patton-Sanderson said it makes it easier to separate it from the other stuff.

Mr. Pimental agreed and said he would add it in there.

Mr. King said there may be another section when he is looking for definitions under group home but also under health care facilities he may find some other definitions they may need.

Mr. Henry said he thought medical marijuana would fall under pharmacy so it would go wherever they permit those.

Mr. Pelkey asked Mr. Pimental if he wanted a motion on his initial proposal to push forward the articles for the acceptance of the Table of Permitted Uses and definitions for legal counsel.

Mr. Pimental said as long as they are okay with Amendment #7 (currently labeled #12: Section 1.02 (c) Amendments). He said Mr. King suggested that they make it clear that the board is not going to make those small changes without first holding a public hearing so he added "that the board hold a public hearing prior to making changes" to the end of the sentence. He said if the board is okay with those he would ask for a recommendation to put these forward to legal except for Amendments #3 and #6.

**Motion:** So moved by Mr. King and seconded by Mr. Pelkey.

**Vote:** The motion passed 7-0.

Mr. Squires asked if they need to reach a conclusion on Amendments #3 and #6 at their next meeting in order to the timeline.

Mr. Pelkey said if they can't they may have to schedule an additional meeting.

Mr. Pimental said they may have to have an extra meeting and the public hearing may not take place at the second meeting in Dec. and it might be held on the last week in Dec. He said if they have the first public hearing in Dec. and nobody shows up and they make no amendments they're done but if a bunch of people show up and the board decides to make any changes they have to have another public hearing.

He said the majority of the changes proposed are not controversial and the Table of Permitted Uses and this discussion they had tonight is probably the one that if people are going to come out to discuss it would be that one. He said if at the second meeting there is still not a consensus they will have to pull it.

Mr. Pelkey asked about the timeline for amendments brought to them by the public and if there is any indication there are any petitioned zoning amendments coming in.

Mr. Pimental said nobody has approached the Planning Board with any indication of submitting a petitioned zoning amendment.

**Member Comments:** None

**Any Other Business before the Board:**

**Great Bay Resource Protection Partnership Land Protection Transaction Grant Program-** Mr. Pimental said the board received copies of a letter from the Great Bay Resource Protection Partnership and in Oct. he submitted an application to help with the transaction costs for the Cartwright Land Donation Project. He said originally they asked for \$7,000 and it was a pretty competitive grant round so they didn't get the full amount but we have been awarded \$5,000 to help cover that cost and this will be on the Selectmen's agenda on Monday to accept the grant. He said the Town has until June 2024 to submit all invoices for reimbursement of costs. He said he is going to work with the Town Administrator and the office staff to ensure that when the Town's legal staff is working on reviewing/writing the deeds and anything related to the land donation project that those costs are tracked separately from any other legal services they are providing to the Town. We will then have invoices we can submit to the grant that the Town has already paid and ask to be reimbursed for those costs. It can also be used for other costs such as recording fees he said.

Mr. Pelkey asked if it could be used for making improvements to the property in accordance with the wishes of the person giving the property to the Town.

Mr. Pimental said not with this funding but there are funding sources they can pursue. He said these funds are for admin costs incurred by the Town to accomplish the land acquisition. He said a baseline report and a Phase I environmental assessment needs to be done in order for the Town to have liability insurance for property that is open to the public.

Mr. King asked for more information on that. He said a Phase I assessment has more to do with potential environmental pollutants not hazards posed to people on the property. He said the Town acquires property all the time without a level 1 site assessment and everything the Town owns is automatically insured because it has an umbrella rider.

Mr. Squires said there is a difference between gifted and taken by a tax lien.

Mr. Fisher said normally property taken by the Town is not open to the public where this land would be open to the public.

Mr. King said he was not going to assume anything.

Mr. Pimental said he would try to pull together that information so he could have it in time for Monday's Selectmen's meeting.

Mr. King said his goal is to assist with getting this done for the Town and not put any unnecessary hurdles or expenses in front of the Town or the donor to getting it done. What I just heard has a bunch of hurdles and dollars attached to it he said.

Mr. Fisher said there is a commitment to this that the Grantee confirms that \$5,000 or a

minimum of 50% Of the total project transaction costs will be used as a match for this project. He said he brought this up to the Conservation Commission and they voted to match it with \$5,000 as needed for this grant. He said they also voted up to \$2,000 for the baseline study so the money has been scheduled but they are not going to do anything with it until we get the property.

Mr. Henry asked what a baseline study is.

Mr. Fisher said there used to be a dam and a mill on the property back in the early 1900's and this would be to check the boundaries and to make sure the property is safe by checking for any physical hazardous areas such as sink holes or a bridge that is out.

Mr. Pimental said they sent a general description of the existing conditions, the soils, wetlands, land cover type and wildlife resources and other to the Town's Forester and those are the types of things they look for in a baseline report. He said it's a large property, 370+ acres so the general description of the existing conditions is what they are looking for.

Mr. Fisher said it's going to be fantastic and he has unofficially talked to a few organizations that are open to the idea of letting people that know how to do it go out and build a hiking trail and possibly naming the trail for that group and they would donate the cost to do it. He suggested some Boy Scouts might be interested in building trail as their Eagle Scout project.

Mr. Squires said it shouldn't be too hard to do as they logged the majority of it a year ago.

Mr. Fisher said he planned to talk to people about donating a picnic table which would cost \$150 once the parking lot is done. He said there are people interested in volunteering things but until they get the property there is not much they can do.

**Adjournment:**

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

Kathleen Magoon

Recording Secretary

  
Richard "Rick" Pelkey, Chairman