

Town of Farmington
Planning Board Meeting Minutes
Tuesday, November 19, 2019

Board Members Present:

Charlie King, Chairman
Rick Pelkey, Vice Chairman
Bill Fisher, Secretary
Neil Johnson, Alternate Selectmen's Rep.
Bruce Bridges
Stephen Henry
Felicia McCowan

Board Members Absent:

TJ Place, Selectmen's Rep., excused

Others Present:

Arthur Capello, Town Administrator
Kyle Pimental, Interim Planner
Aimee Jones
Tim Bernier

BUSINESS BEFORE THE BOARD:

Call to Order:

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

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

November 5, 2019 – No errors or omissions

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

Any Other Business before the Board:

Ongoing Discussions on Proposed Zoning Amendments – Mr. Pimental gave the board copies of the updates that have been made since their last discussion. He began with the proposed amendments to Section 1.14 Definitions.

Warrant Article 2: Amendment #1: i). Mixed Use –Mr. Pimental said this definition says that there has to be a portion of the bottom floor that has to remain as a commercial use on the store front side of the building. He said one option to calculate this is 30 feet deep from the front side of the building by the street frontage of the building to come up with the square footage or 750 sq. ft. whichever is greater that must remain commercial. He said the previous discussion included that it didn't make sense for the longer buildings to have the entire bottom floor be commercial so this would allow the back portion of the bottom floor to be used for utilities, parking or residential and cannot be in the area along the street frontage. He said that multiple communities are moving toward not requiring the entire bottom to be commercial and to allow some flexibility of uses there.

Chairman King asked what the other municipalities were requiring for square footage.

Mr. Pimental said that in Rochester they calculate 30 feet back from the front exterior wall by the street frontage of the building or 750 sq. ft. whichever one is greater. Dover is leaning toward 2,500 sq. ft. must be a commercial use or a percentage of the entire building he said. Mr. King said if a building is 60'x 100' that is 6,000 sq. ft. on the first floor and if you apply this formula that's a pretty small percentage and if the building is only 40' deep there is no room to do anything in the back. He asked if they should consider requiring that a certain percentage of the space be for commercial use.

Mr. Pimental said that is the other way to do this.

Mr. Bridges asked if there are many buildings downtown that are that big.

Mr. King said the Masonic Hall is approx. 2,000 sq. ft. per floor so 750 sq. ft. is not even half of that and that is a pretty common size building.

Mr. Henry said the building his business is in downtown is a similar size and some people who looked at the building before it was sold were looking to split the 1st floor in half and rent the back space to one tenant and the front portion to someone else. There's value in having an apartment in the back and it doesn't change the look and feel of Main Street he said.

Mr. King said there would have to be access to and parking for an apartment in the back of the building which some of these buildings are not going to have. He said they may not want to fully hammer out the details until there is a Public Hearing and they get some resident opinions.

Mr. Pimental said if someone wanted to have all commercial that is fine and this offers a little bit of flexibility to both sides.

Mr. Johnson asked why they are considering allowing residential on the first floor when it has always been the plan to have commercial uses only on the first floor and residential on the upper floors. He said that even the survey that was just completed showed a preference for that and asked why this was being reevaluated or re-done.

Chairman King said some members thought that in the larger buildings it would be reasonable to allow residential use in the back because it is space that is potentially not going to be used. He said they talked about allowing it in the entire Village Center (VC) and or in limited areas on Main Street and asked if Mr. Pimental's proposal would apply to the entire VC.

Mr. Pimental said that this is just a definition and that determination is up to the board.

Mr. Henry said that he leans toward private property rights and letting the building owners maximize the value of their property based on what the market wants.

Mr. Pelkey said he is in the middle of both opinions as he would like to maintain the store fronts of the buildings on Main Street but still allow the building owners to get some use out of the first floor if they don't have somebody in there for a commercial use. If it could be divided and use the front space for commercial and the back space for residential we would keep the store fronts we want to keep and maybe a smaller business could afford the smaller space he said.

Mr. Henry said the survey asked what is important to them and that nobody was against it because there was no opportunity to be against anything in the survey. The survey was unable

to explain that if we make this rule we may have 20% vacant store fronts for the next 10-20 years and nicely decorated doors are better than empty store fronts in my opinion he said. Mr. King said that a minimum amount of sq. footage should be required because a percentage is not going to work in a small building. He said he favored considering a percentage in some situations where it is reasonable because the building doesn't provide enough space for both and there needs to be a threshold for that.

He said if they increase the density in the VC this has to tie into what they determine is an acceptable minimum amount of dwelling unit space. Otherwise we will be creating situations where there isn't enough total sq. footage to meet the residential unit requirement and it hasn't been properly defined to tell someone that it doesn't meet this requirement he said. Mr. King asked if this would apply to all zones in town and if they would enforce that mixed uses/commercial must be on the first floor. He gave an example of a homeowner with a law office on the second floor of the home in the UR zone and if this definition is put in place this may be prohibited or it may prohibit a potential buyer from continuing the practice.

Mr. Pimental said they would get to that when they get to Permitted Uses section and that right now it is only for the VC and would not be town wide.

Mr. Henry asked if the definition has to be town wide but the mixed use regulations could be vary by zone.

Mr. Pimental said that is correct and they would decide where mixed uses would be allowed.

Warrant Article 3: Amendment #2: Section 2.00 C Table of Permitted Uses – Agritourism

Mr. Pimental said the larger farming operations in town that this amendment would impact could include Cardinal Farm, Conley Tree Farm, Cold Spring Dairy, The Traveling Barnyard, Butternut Farm and Scruton's Dairy but this is not to say that any of them are doing any agritourism other than Butternut Farm.

He passed around a copy of the revised site plan review application for agricultural tourism operations from the Town of Lee that has been in use since 2018. They require that any farm using agritourism to fill out the form, provide a map showing the site plan requirements and go before the Planning Board to discuss it with them. The engineering or survey requirements can be waived and it is a 1 time process unless they decide to expand or do something else he said. He suggested permitting agritourism by review in all districts except for the UR, VC and CB districts would be something that this board should think about.

Mr. King asked if Mr. Pimental knew what the notice and fee requirements are in Lee.

Mr. Pimental said it has the same requirements as a normal site plan review and that this board could reduce those requirements.

Mr. King said he didn't know if they could hold a Public Hearing and review a site plan without following the standard public and abutter notice procedure.

Mr. Pimental said he would find out if Lee waives any of their fees as they have waived other parts of their site plan regulations to use this process and it has worked out well for them.

Mr. King said that on its face, this amendment makes sense but he would not be comfortable with it until they beat out all the details. Once it gets passed, when the first application comes in we will see all the glaring things we didn't cover he said.

Mr. Pimental asked if there was anything else the board would like him to follow up on with Lee or anything else they should be looking into.

Mr. King said they would need to revise the site plan review regulations to include a section on agritourism and what the applicant needs to supply. We just can't throw the site plan regulations at them and say that they can get some waivers to some of them he said.

Mr. Pimental said they could use Lee's agritourism application form as a template to work from.

Mr. Henry asked if Mr. Pimental spoke with any towns that just left the farmers alone to do what they do and didn't feel the need to add extra red tape and how that works for them.

Mr. Pimental said that up until 2016 Lee was one of the communities who did nothing. One of their larger farm operations continued to grow and became a public safety issue with parking on the street. The Planning Board met with the farmer to address it and they decided that if they were going to do it for one to be fair they would have to do it for everyone he said.

He said the state has changed the definition and become more involved with this as a niche market that is continuing to grow so more communities are starting to do something to address it. Lee regulates temporary farm stands but I don't think Farmington needs to go there and for now we should look at the big operations of which there may be only 1 or 2 in town he said.

Chairman King asked the members to table the remainder of this discussion until after the 3 Public Hearings on the agenda as it is now 6:30 p.m.

PUBLIC HEARING – 6:30 P.M.

NEW CASES:

Application for Accessory Dwelling Unit Certificate of Use by Aimee Jones (Tax Map R61, Lot 5-24: The applicant is seeking approval to convert an existing basement to an accessory dwelling unit. The parcel is in the Rural Residential District.

Aimee Jones told the board that she has elderly parents and that they just bought a house on Cherub Drive and they would like to finish off the basement for a unit for them.

Chairman King asked the board if they had any questions for Ms. Jones. He said that based upon her application the board was considering revising the ADU requirements.

Mr. Pimental said Ms. Jones' application would not be subject to those revisions.

Mr. King said they discussed revising the requirements so that this type of application would not have to come before the board and could be addressed by the staff. He said the previous discussion included concerns about someone turning a property into a duplex and not having to come before the board but this type of ADU would have less impact than a duplex and could be put into this category.

Mr. Henry asked if the property was connected to the Town sewer or has its own septic system.

Ms. Jones said the residence has its own septic system.

Mr. Henry asked if that would be an issue with the number of bedrooms and the septic design.

Mr. Pimental said they have approval from NH Dept. of Environmental Services (DES) that the septic design could handle this.

Ms. Jones said she had a new design done to go from a 3 to a 4 bedroom system.

Mr. Pimental said the new design is on file with the Town.

He said the only discrepancy he found was with the number of sq. ft. for the ADU (the application states the total area is 635 sq. ft. while the design layout for the space states it will be 650 sq. ft.).

Ms. Jones said she redid the math and the ADU would actually be 711 sq. ft.

Mr. Pelkey asked if this includes any closet space.

Ms. Jones said it does include the closets but it doesn't include the stairs going from the main floor to the basement because there will be space in the basement that is not part of the ADU.

Mr. Pelkey said there are standards that exclude closet space that they need to talk about but that Ms. Jones proposed ADU is well within the requirements with the numbers she has.

Chairman King opened the hearing to public comment at 6:35 p.m.

Motion : (Henry, second Johnson) to accept the application as substantially complete passed 7-0.

Chairman King asked if the applicant had met all of the requirements and if everything had been publically noticed in the newspaper.

Mr. Pimental said it's all good and the staff recommends the application be approved as submitted.

Chairman King called last call for public input and not hearing any, he closed the public comment portion of the hearing at 6:37 p.m. He asked if the board had any further comments.

Motion: (Henry, second Bridges) to approve the application;

Discussion: Mr. Fisher said the memo from Mr. Pimental has some recommendations for approval of the application based on 3 conditions. He said he didn't see any reason why these conditions were needed because this is the normal process Ms. Jones will need to go through anyway and it seems like wasted time.

Mr. King asked what the conditions were.

Mr. Pimental said his recommended conditions of approval are:

- a). obtain a building permit from the Code Enforcement Officer prior to any construction;
- b). Adhere to the provisions set forth in Section 6.00 (D) of the Town's Zoning Ordinance during construction;
- c). obtain a Certificate of Occupancy before any tenants move in.

Friendly Amendment - (by Mr. King) to include Mr. Pimental's recommended Conditions of Approval in the motion;

Discussion: Mr. King said the reason he would amend the motion to include these conditions is because it is good to have it as part of the public record in the Notice of Decision and it puts the applicant on notice publically that they will be held to it. I think it is good housekeeping he said. Mr. Pimental said it also helps the applicant to know what she has to do next.

Mr. Henry said these rules are in place whether we add them to our motion or not. He said it is redundant to have to add them.

Mr. Fisher agreed the amendment would be redundant.

Mr. Henry said the rules are already in place and that he is a friendly guy but not that friendly.

Vote: The motion passed unanimously.

Application for Major Site Plan Review by Christopher Knight (Tax Map R19, Lot 15-1): The applicant is seeking site plan approval to construct a solar array. The applicant received a special exception and variance from the Zoning Board of Adjustment at their November 7, 2019 meeting to allow a solar array to be constructed on the property and to be located within six (6) feet of the rear property setback. The parcel is in the Commercial Business District.

Tim Bernier of TF Bernier, Inc. came forward representing Mr. Knight for this project. He said the existing site plan was approved 2 years ago and that approval has not yet expired and there is a variance which has a 2 year time limit but it was reinstated so it never expired.

He said that in 2017 the solar array project was approved by the Town, all of the state approvals (which are good for 5 years) and the use agreements with Eversource are in place and the project is ready to start building and has been ready for a year.

He said that in 2018 one of the neighbors purchased a small piece of Mr. Knight's property so they came back before the board for a lot line adjustment. The board did not feel that lot line adjustment affected the solar array or their approval of the site plan he said.

Mr. Bernier said the contractor who will build the arrays is the same contractor who is building the other 2 solar fields (on the former Town landfill site and the former Cardinal landfill site) which have been hung up and the contractor wants to build them all at the same time. He said that Mr. Knight has been assured that his project will start construction next summer and that other than the lot line adjustment nothing has changed.

Chairman King opened the public hearing to public comment at 6:40 p.m.

Mr. Bernier said Mr. Knight was unable to attend the meeting because he is out of state.

Mr. King asked what the holdup was with the other 2 solar array sites.

Mr. Bernier said he is not involved with those sites so he did not know.

Mr. Fisher said it was because of the Alteration of Terrain permit, the Shoreline Protection permit and the protection of the salamanders' and turtles' habitats.

Mr. Johnson said the Town had to agree to a set aside for the habitats at the former Town landfill site which has no affect on Mr. Knight's property so he didn't know why his project was being held up. He said he understood the economics of ordering all of the materials and

installing them at the same time but they are 3 separate projects and they are trying to lump them all together and everybody is suffering for it.

Mr. King asked if there would be more discussion between them and the Selectmen. He said he was on that board when they signed the contract (2 years ago) and they said they were ready to go. There should have been some safe guards in place to ensure they would do what they said they were going to do because the Town has lost revenue due to their delays he said.

Mr. Johnson said he was done with discussion as evidenced by his last vote on the matter. He said that NH Solar Gardens is no longer involved with any of these 3 projects and it has been sold to the investors who have taken over.

Mr. Bernier said the new contractor, Blue Planet Funding does the same thing as NH Solar Gardens did and they are putting as much pressure on them as they can to begin as soon as possible.

Mr. Johnson said some of the past statuses they received turned out to be inaccurate or misleading in his opinion and that they kept moving the construction start date further out. He said they have made progress in the past 6 months with Blue Planet and suggested that Mr. Bernier tell Mr. Knight that he is not the only one in this boat.

Chairman King closed the public comment portion of the hearing at 6:45 p.m.

Mr. Henry said there have been multiple presentations on this project over the years and the only new face on this board is Mr. King and that he is pretty well versed on it as he was a Selectman prior to being on the Planning Board. We have definitely vetted it and know what is going on he said.

Mr. Pimental recommended that to stay consistent with how the Zoning Board of Adjustment did it that they make 2 separate motions.

Mr. King asked if Mr. Pimental had any recommended conditions for this approval.

Mr. Pimental said he did not have any recommended conditions of approval.

Motion: (Pelkey, second Johnson) to accept the site plan review application for Map R19, Lot 15-1 as substantially complete;

Discussion: Mr. Henry asked if there were any conditions of approval for the first site plan approval.

Vote: The motion passed unanimously.

Mr. King said there must have been conditions on the first approval and that they may be able to handle that by making a statement that all the original conditions must be met.

Mr. Pimental said they could say that any conditions of approval that were part of the original approval are still in effect. He said the one condition set by the ZBA was that the variance would no longer be applicable if these lots were to be used for anything other than solar because they are within the setback. He said he would look to see if the Planning Board set any conditions at the previous hearings.

Mr. Fisher said the Planning Board Notice of Decision dated Jan. 18, 2018 included the motion

to approve the application for both lots, Tax Map R19, Lot 15-1 and Lot 15-2 with the following conditions:

- 1). For both Lot 15-1 and 15-2 the application fees have to be resolved with the Town;
 - 2). The Alteration of Terrain permits must be approved for both Lots 15-1 and 15-2;
 - 3). For Lot 15-1 the site plan will be amended to note snow storage;
 - 4). For Lot 15-2 an approved Shoreline Impact permit will be submitted to the Town Planner.
- Mr. Fisher and Mr. Pelkey noted they have copies of the documents in their packets showing that these requirements have been met.

Mr. King advised that they carry these conditions forward so that if there is a problem with any one of them that the board may not be aware of as they are handled by the staff they could still be resolved.

Mr. Bernier said that is fine with them.

Mr. King said they could note that all of the original conditions are still in force on this approval.

Motion: (Pelkey, second Henry) to accept the site plan application for Tax Map R19, Lot 15-1 with the Conditions of Approval as previously read from the first approval passed unanimously.

Application for Major Site Plan Review by Christopher Knight (Tax Map R19, Lot 15-2): The applicant is seeking site plan approval to construct a solar array. The applicant received a special exception and variance from the Zoning Board of Adjustment at their November 7, 2019 meeting to allow a solar array to be constructed on the property and to be located within six (6) feet of the rear property setback. The parcel is in the Commercial Business District.

Motion: (King, second Johnson) to accept the application as substantially complete passed 7-0.

Motion: (Pelkey, second Henry) to accept the site plan application for Tax Map R19, Lot 15-2 with the Conditions of Approval as previously read from the original conditions of approval passed unanimously.

Motion: (King, second Bridges) to take a 5 minute recess passed 7-0 at 6:50 p.m.

The meeting reconvened at 7 p.m.

Continued Discussion on Proposed Zoning Amendments:

Warrant Article 4: Amendment #3: Section 2.00 C Table of Permitted Uses- Mr. Pimental said that at the last meeting they didn't clarify whether or not the board wanted to change recreational uses not specified and laboratories research and development facilities from Special Exception (SE) to Permitted with Review (PR).

He said the board asked him to provide additional recreational categories as there are now only 4 or 5 categories in the table. He said he looked at 6 communities and then laid out some options that would fall under the entertainment/sports/recreation category.

Mr. Pelkey recalled that last year it was agreed that they were going to change them to PR but they didn't get it submitted on time for the Town Meeting warrant.

Mr. King said this was okay for these 3 areas because someone considering one of these uses would not have to get an SE first and the Planning Board would still convene over it and make sure it complies with the site plan regulations or not approve it if it doesn't meet them.

Mr. Pimental said he agreed the additional step of getting a SE is not needed for laboratories research and development uses in commercial and industrial zones but asked the board to think about the recreational uses not specified has the potential to be incredibly broad and that once it comes before the board they basically have to grant it. If you keep that as a SE that has to go to the ZBA for them to determine before it comes to the Planning Board he said.

He said all of the other uses not specified would be SE and this would be the only one that would be PR.

Mr. King said he would be okay with it if they added some additional definitions.

Mr. Pimental said to try to narrow it down a little more so that it is not so broad that someone could find something and sneak it in there and come right to the Planning Board and then you have to approve it so long as they meet all of the site plan regulations.

Mr. Pelkey said that if this is only one in the Table of Permitted Use where it is unspecified then for sake of consistency that makes sense to leave it there.

Mr. Henry said he wanted to expand the uses permitted with review in the Table of Permitted Uses but he did not know if they want to designate campgrounds as PR or leave it as SE.

Mr. Pimental said the definition of campground is already in the ordinance. He said they are PR in the AR, SR and RR zones and are not permitted in the UR, VC, or IB zones.

Consensus of the board was to leave it as needing a special exception for those recreational uses not specified and to change laboratories research and development facilities in the commercial and industrial zones to permitted with review.

Chairman King then turned to the proposed list of additional recreational uses and said that after a quick review of the list he was okay with adding amusement arcade, amusement park, campground/RV/tent, indoor recreational facility and movie theater/drive-in. He said the low impact and medium impact outdoor recreation areas needed some work and that he was not sure what was meant by non-profit recreational areas.

He said that one thing missing is outdoor recreation using motorized equipment/vehicles that would have a different impact than the other recreational uses listed.

Mr. Pimental said the low impact uses are those that are nature based where there is no disturbance such as hunting, hiking and fishing where you are not altering the natural environment. The medium impact was determined to be putting in trails for biking, skiing or a boat ramp where there is some kind of change to the natural environment. He said the board was correct in that both definitions did not allow motorized vehicles and that they are missing something that captures that whether it is called high impact or motorized recreation.

Mr. Henry asked how this would impact the trail systems.

Mr. Bridges asked if this would impact the expansion of existing trail systems.

Mr. King said they need to consider there is a difference in having motorized vehicles come through on a trail and having an ATV park where there is a track and/or obstacles. He asked how they would differentiate the uses so that 3 years from now someone doesn't need to get a permit to allow motorized vehicles to pass through his land.

Mr. Pimental said that most of the time the conserved land that those trails go through they specify what is allowed. He said if they are trying to regulate a newly built park specifically for motorized activities that should be specifically called out so it doesn't get lumped in with the existing trail systems that may be used by snowmobiles, etc.

Mr. King said the park would be a primary use where the trail systems are an accessory use of the land where hunting, skiing, ATV use is allowed.

Mr. Henry said they would not be attracting people to the property for the purpose of crossing it on the snowmobile.

Mr. Bridges said a start and end point is planned for the expansion of the ATV trails so they would be attracting people to the start and end point to get onto the trail system.

Mr. Pimental said this is the type of use the board would be reviewing as opposed to hunting or hiking.

Mr. Henry said he thought a non-profit recreational area may be something like a YMCA camp.

Mr. Pimental said he was not sure what was meant by that and he put it in because he has seen it in 3 or 4 communities but they didn't define it.

Mr. King said it should be removed as it is about the use itself and whether it is a profit or non-profit doesn't make a difference in how it's regulated.

Mr. Henry suggested changing it to summer camp which may have structures and is different from a campground.

Mr. Pimental read the definition of campground currently in the ordinance that states it is a plot of ground on which two or more sites are located, established or maintained for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.

Mr. King said that does not take into account the permanent structures such as cabins and dining halls found at some campgrounds. He asked if another definition should be added or if the existing campground definition should be expanded.

Mr. Henry said a summer camp would be use in different season than other campgrounds with different levels of noise and traffic.

Mr. King said they didn't need to hammer out the exact definition at this meeting and asked Mr. Pimental to come back to board with a recommendation for the definition of campgrounds. He said the outdoor recreational uses shown could all fit in the low impact category except for boating which may involve a motorized boat.

Mr. Henry said he didn't think anyone would be coming before the board with business plans for any of these uses.

Mr. King gave an example of someone coming forward with a plan to establish a campsite on

the back side of Lancelot Shores with ramps and jet-ski racing every Sunday afternoon.

Mr. Pimental said a good example of this might be the Mighty Joe Campground in Milton where they proposed to go from the existing campground to a water park. They didn't have what they needed in their regulations to deal with it and that was a big change in terms of going from a low impact campground to a big amusement park with chlorinated pools, slides, etc. he said. He said the outdoor recreational uses shown in the parenthesis in each category are just examples and what the board would be regulating would be the outdoor recreation low or medium impact.

Mr. Henry suggested a high impact category be included for things like a race track or ATV park.

Mr. Pelkey said if the category is there the board can decide what impact a use falls into.

Mr. King said if they define a high impact use for motorized vehicles they need to make sure there are enough teeth in the regulations to say no when they don't feel it's appropriate. We will need to follow up after Town Meeting because if this passes these uses will no longer be unspecified so they will be permitted with review he said.

Mr. Henry said if they separate outdoor recreation-high impact they could make it so those uses require a special exception.

Mr. King said they could do that or put in the requirements they have to meet to put safeguards in place. He suggested they define the high impact uses and change the site plan regulations to give the board the ability to negotiate with the applicant so that they get what is wanted.

He said if the applicant is required to get a special exception the ZBA only has a limited amount of information at that time. There are no requirements in the site plan regulations for them to feel comfortable considering it and there are not enough safe guards so the Planning Board doesn't have enough "teeth" and it doesn't give the applicant a fair shot he said.

Mr. Fisher said there are state rules with 5 categories for special exceptions and if they meet the 5 categories the ZBA can't say no.

Mr. King asked if any of the additional categories suggested by Mr. Pimental are currently defined in the ordinance. He said if they are going to be included in the Table of Permitted Uses they have to be defined otherwise the applicant and the Code Enforcement Officer (CEO) could have different opinions with no guidance from the board.

Mr. Pimental said that indoor and outdoor recreation "facility" is defined in the zoning. We may want to redefine them to say which ones are low, medium or high impact uses he said.

Mr. King said there should be two levels of impact, low and high with the use of motorized vehicles being the cutoff point as it tends to be more problematic and have a higher impact on abutters than people hiking, hunting and biking.

Mr. Henry said if they use motorized as a definition that will rope in the motorized boats and leave alone the canoes and kayaks.

Mr. King said they could also stipulate this pertains to boat motors of 10 HP or more.

Mr. Henry asked at how many game units a business becomes an arcade and if a business has

3-4 arcade games and serves pizza if it is pizza place with games or an arcade with pizza.

Mr. King said that in some ways the site plan requirements are no different for both uses.

Mr. Pimental asked how it would work if they allow an arcade in a zone where they don't allow a pizza place. He said at the next meeting he would provide the board with an organized spreadsheet so they can determine what uses will be allowed in which zones and he will work on clarifying some of the definitions. He asked the board to come to the next meeting prepared to discuss in which districts they want to allow the proposed additional categories/uses.

Warrant Article 5: Amendment #4: Section 2.00 C Table of Permitted Uses – Mr. Pimental said this amendment will depend on where the board wants to allow mixed use buildings in the way they have defined it. He asked if they wanted to allow this in other zones or narrow the area where mixed use is allowed in the VC to a few streets.

Mr. Henry said he thought they would be creating a lot of problems if they were to apply the mixed use requirement to the entire VC with commercial first floors. A lot of property won't be developed as soon if there is a commercial first floor requirement he said.

Mr. King said he agreed for a different reason. He said this is something new and they should start out with the bare minimum and then if it is meeting the goal they could add some additional streets or frontage areas.

He suggested they start with the VC and draw some lines on a map before they go to a Public Hearing. This board is going to have to say it's all (the entire VC) or it's this (a section) he said.

Mr. Pimental said that single family detached units, 2 family and multi-family dwellings are allowed in the VC.

Mr. King asked if there was a vacant lot on Main Street if someone could build a house on it.

Mr. Pimental said they could build a house on it and they would not come before the board because it is permitted by right.

Mr. Henry asked what would prevent an owner from removing the commercial use from his commercial/residential building and converting it to all residential units.

Mr. King said if the amendments pass and they apply mixed use on these streets and there is a vacant storefront the owner can't say it is no longer a mixed use building and put in all residential units.

Mr. Pimental said he agreed with starting with the VC as this is where this group started last year and what they have heard in the survey and to go beyond that may be too big of a leap.

Mr. Pelkey said the definition of where this is going has to be narrower than just the VC and asked how they would carve it out in the regulations.

Mr. Pimental said one way to do it is to create sub-districts.

Mr. King said he did not think sub-districts were needed and all they need to do is to state that the requirements for mixed use along these streets will be this in the VC.

Mr. Henry suggested it could be bounded by Tax Map lots or by street intersections but noted there is no street intersection if the requirement goes as far as the Main Street Bridge.

Mr. King suggested the Cocheco River could be a marker.

Mr. Henry said that if the entire VC is required to be mixed use that if Cardinal & Glidden Oil Co. was to move the remainder of their business to their new location on Rte. 11 they would not be able to convert their Crowley Street building into a residence and sell it.

Mr. King said the discussion has been that it is not their intent to apply the mixed use requirement to the entire VC. He explained that it starts with definition of the zone where the mixed use will be required- the VC and then when you go to that section it will state the certain areas of the VC where this will apply.

Mr. Henry said those specified areas will be prohibited from coming out of mixed use.

Mr. Bridges advised that the board needs to be careful doing this because once we lose it to residential we lose it forever.

Mr. Pelkey disagreed and supposed that if the town had the “terrible problem” of having so much business that there isn’t enough store fronts that when it becomes economically feasible for them to convert they will convert.

Mr. Henry asked why it would be a bad thing if the downtown became completely residential. He said if there is no commercial downtown it will be because people didn’t want to shop there and they made it into apartments. If the people continue to shop there, there will be a commercial downtown he said.

Mr. Pimental said he would bring a large map to the next meeting so the board can mark it up and he can convert it to a new map to be reviewed at the December meeting. He asked the board to think about the streets within the VC where it will not be allowed for a commercial business on the first floor to be converted.

Warrant Article 6: Amendment #5: Section 2.05 Village Center District – Mr. Pimental said this amendment has been cleaned up and more information was added to the purpose. He noted Section C Special Considerations is where they would not just say located in the VC but that any building on “X” and “Y” Streets in the VC is prohibited from converting the first floor on the store front side from commercial to residential. He said he wanted to be clear that is the store front side and it does not mean that the back part of the building can’t be used as residential. Mr. King said there needs to a minimum unit size as part of requirements to increase the density in the VC and that some buildings are not going to have the space for both commercial and residential and meet the minimum residential unit size requirement.

Mr. Pimental said he didn’t know if regulations currently contain a minimum size for a one bedroom or studio apartment.

Mr. Pelkey said the unit size requirements might be included in the building code regulations.

Mr. King said the board needs to know what that number is and if they agree with it to point to that regulation in the zoning or they can come up with a number they prefer.

Mr. Henry asked if there is a minimum house size.

Mr. Johnson said he thought there was a minimum as there was an issue with a tiny home.

Mr. Capello said the minimum house size is driven by the building codes and tiny homes are not allowed by the building code.

Mr. King asked if there is a code size for apartment units based on the number of bedrooms.

Mr. Capello said there are specific sizes required for certain rooms such as the bathroom and the bedrooms but there are no other size requirements in the building codes.

Mr. King said if all those requirements were met it would come up to a minimum number.

Mr. Capello said that is correct but he did not know what that number is. He said it would be bigger than a tiny house which is about 400 sq. ft.

Mr. Henry asked Mr. Capello if he could get the minimum room sizes and codes for the board.

Mr. Capello said the Town has recently changed building codes so he didn't know if the minimum sizes have changed and that he would get the information for the board.

Mr. Pelkey said they should refer to the building code in the zoning ordinance.

Mr. Henry said they may decide that the code minimum size is too small and to set a larger minimum. He said there was some discussion at the last meeting that studio apartments were not allowed because a walled-off bedroom is required and asked if Mr. Capello if that was true.

Mr. Capello said he thought studio apartments were allowed but he is not as familiar with the revised version of the International Building Codes and didn't know if that had changed.

Mr. Pimental said the CEO said that studio apartments are still allowed but there has to be walls around the bedroom.

Mr. Capello said that may be part of the Town's housing standards.

Mr. Henry asked if that would apply to apartments as well or only to free standing houses.

Mr. Capello said it would also apply to apartments.

Mr. King asked who adopted the housing standards.

Mr. Capello said the legislative body (the voters at Town Meeting) voted it in.

Mr. Pelkey asked which committee has standing over the housing standards.

Mr. Capello said that would be the Planning Board and they would have to propose a warrant article to get it changed.

Mr. King said this is something they need to check into if they decide to change the density in the VC to safe guard against getting what was not intended.

Mr. Capello said the Town could have no density requirements but the size of the houses and apartments would be driven by the building codes or housing standards.

Mr. King said they are considering getting away from sq. footage in land area and going to building area but we want to safe guard that what is built is reasonable.

Table 2.05 (B) - Space and Bulk Standards – Village Center District – Mr. Pimental said he spoke with multiple Planners and their recommendation is to get rid of the residential density requirement. He said there are 3 pieces that control development- density, building height and parking. Other communities are moving away from having max density requirements in their downtowns and the max residential density in Farmington is 1 unit per 5,000 sq. ft. he said.

He said they did a quick analysis of all the parcels in the VC and the average parcel was about .3 acres but the mean was about .2 acres which is approx. 8,000 sq. ft. and is 1 unit per building in the entire VC if you keep the existing regulations.

He recommended to get rid of the density requirement, lower the minimum lot size and then review the parking requirements in the site plan regulations to ensure what happens with the parking. It is up to the developer to figure out the parking situation he said.

Mr. King asked Mr. Pimental if he followed up with Dover to see how they are keeping the parking spaces enforced over time and how other towns who make it a condition of approval to provide tenant parking were keeping those conditions met.

Mr. Pimental said in Dover they didn't care. If the developer said they would provide 5 parking spaces and showed where they were going to be then it's between the tenant and the landlord to keep those spaces available unless they were leasing the spaces from the Town/City he said. He said Dover has also changed their regulations on how they meter parking and now allow tenants to park on the street in some areas that have residential or mixed use.

Mr. King said we don't meter parking and there could be applications with the increased density where people are parking on the street and create an enforcement issue worse than it is pretty quickly.

Mr. Henry said he wanted to increase the residential density downtown but if all the spaces around the downtown businesses are always full with residents and consumers can't stop and shop the businesses will be gone.

Mr. Pelkey said when they build a building in Dover they put in parking on the ground floor and build the building over it.

Mr. King said that would immediately increase the construction cost because an elevator must be provided to go above the first floor level in a commercial use.

Mr. Johnson asked why they were looking to increase the residential density in the VC.

Mr. Henry said the intent seems to be to have a vibrant downtown with businesses. He said a lot of his customers live downtown and the more people that live downtown the more customers there are for the businesses downtown and the more activity you have.

Mr. King said we have apartment houses that may have pre-dated zoning and have multiple units in the same area but if someone wanted to convert an old mill building there into office space on the 2nd floor and residential units on the 3rd floor they don't have the density to do it.

Mr. Johnson asked how they reconcile this with the survey results that said no to an increase in the residential density in the VC (60% said no; 10% said yes).

Mr. King said he has a different opinion on that and if people were more informed they would see the need to allow a higher density for the existing structures. If those 60% don't like what we put out it's not going to pass (a vote at Town Meeting) he said.

Mr. Henry said if they adhere to that "no" in the survey those buildings are likely to stay undeveloped. What we are doing now isn't working he said.

He said the parking piece of this is of concern to him and asked Mr. Johnson if the Selectmen want to consider the option to lease spaces in the municipal lot from the Town which is essentially what Dover did by renting spaces in the garage they built.

Mr. King said there is no space available at the Municipal Office Building and the Selectmen are looking into the potential sale of the old fire station property and may not want to risk losing the sale of the lots because the spaces are tied up in leased spaces for apartments. He said he did not know how much of the municipal lot at the old Town Hall/Rec. Center was spoken for with the Town's usage.

Mr. Johnson estimated that currently about 50% of that lot is spoken for by the Rec. Dept.

Mr. King said there is not much capacity available for lease and probably about 10 spaces is about all the Selectmen would consider for that application. I don't think that is a viable answer because if this passes you could have 2 buildings that would consume all of the spaces available if the Selectmen were to allow it he said.

Mr. Pimental said that the Strafford Regional Planning Commission in conjunction with UNH did a parking study of downtown Farmington and that he would ask the Land Use Assistant to send the online link to the study to the board members.

Mr. Johnson said his take away from the study is they determined there is plenty of parking downtown. The report said there were plenty of existing spaces all of which were underutilized, that at certain times of the day the spaces were filled and they took into account the spaces at the bank, the funeral home and the post office. The report didn't identify any spaces for private use and only included the spaces supporting the downtown businesses he said.

Mr. King cited the parking issues in front of the old Mason's building which is due to the site plan review which in theory handled this issue but in practice has not been the case because of what the real amount of space is on the site with more than 1 vehicle per unit, dumpsters, etc.

Mr. Johnson said driving has changed over the years and people want to pull up in front of their destination, get out, run in and get out again. They are not going to park 4 blocks away and walk there he said.

Mr. Henry said it will require more enforcement of the 2 hour parking time limit.

Mr. Pimental said on Page 22 of the Site Plan Review Regulations, Design Standards, Parking it says 1.5 spaces are required per dwelling unit for multi-family housing.

Mr. King said that a regulation could be changed at any time following 2 Public Hearings. He added that if the board changed the requirement to 2 spaces per unit they could waive it upon request of the applicant.

Mr. Pimental said there are some creative solutions to parking issues in the VC which includes that off street parking may be located more than 600' from the building, the Planning Board may reduce the number of spaces required for the re-use of an existing building up to 30% and the gross floor area of the building will be used to calculate the number of spaces needed unless otherwise noted.

Warrant Article 7: Amendment #6: Section 2.00 Base Zoning Districts and Section 2.00 (E)

Special Exception General Standards – Mr. Pimental said every district has this SE piece which is repetitive and it points to “Zoning Permit pursuant to Section 1.08” which is non-existent so the Attorney recommended that they eliminate paragraph C from each district and put it on Page 40 of the Zoning Ordinance to have it in one place and simplify the SE General standards.

Warrant Article 8: Amendment #7: Section 3.09 Signs – Mr. Pimental said he hadn’t had a chance to really review this amendment. He recommended the board not put this on the warrant and to address the entire sign ordinance not just for the commercial business areas and determine some dimensional requirements.

Mr. King asked if it would make sense on Rte. 11 to change it so it falls under site plan review instead of taking it out of the ordinance and putting it into the site plan regulations giving the board the some flexibility to review and approve it on a case by case basis.

Mr. Pimental said if they keep it in zoning and develop some dimensional requirement there will be more consistency. He said other towns determine the size of the sign allowed by the frontage of the building such as 1 sq. ft. x the length of the building along the street frontage. He asked the board if they wished to take more time to review the entire sign ordinance or to focus on making a few tweaks to the Route 11 portion of the regulations.

Mr. Henry said he liked the idea of taking this out of the ordinance and putting it in the site plan review which would allow the board to do something that makes sense for each property.

Mr. King said that the NH Dept. of Transportation also has requirements regarding free standing signs along state roads that must be considered. He said putting this in the site plan review will allow the board to decide sign issues on a case by case basis until you know what you want.

Mr. Pelkey said he would support this idea as well as long as there are guidelines to follow.

Mr. Pimental said the sign regulations he has seen are in the zoning ordinance. He said he will ask the Attorney to advise them on how taking it out of the ordinance would work to make sure they are not doing something not allowed by state law and report back to the board next week.

Warrant Article 9: Amendment 8 Section 3.16 A-6 Recreational Vehicle Parks or Campgrounds

Mr. Pimental said he has not done anything with this amendment yet. He suggested they leave this one alone for now and take it up next week.

Mr. King asked if Mr. Pimental had the chance to ask the CEO about his suggestion for a permit process for all cases of recreational vehicle use on a vacant lot and if it would help with enforcement. He then updated Mr. Johnson on the board’s previous conversation as he is filling in for Mr. Place and was not present at that meeting.

Mr. Johnson said the Attorney has advised that you can’t have a camper on a vacant lot as it is an accessory use and there is no primary use on a vacant lot.

Mr. King said the way the ordinance reads it is not user-friendly and is prone for abuse because they can’t monitor how many days someone has been there (no more than 30 days in any 90 day period). He suggested that the user be required to get a permit and the permit would state

the start and end dates for their stay and certain requirements to adhere to and if they don't the permit gets yanked and asked if the CEO would have better enforcement that way.

Mr. Pimental said the other issue with this is if the Town will allow a recreational vehicle on a lot without a principle structure on it.

Chairman King said they will come back to this issue next week.

Warrant Article 10: Amendment #9: Section 6.00 Accessory Dwelling Units – Mr. Pimental said he would have a revised edition of this section (to comply with RSA 674:71-73 and clarify the administrative process) for the board to review next week. He asked if the board wants to allowed detached structures as ADU's.

He said a restrictive covenant is required in Dover to be signed by the landowner that would prohibit the ADU from being converted to anything other than a single family dwelling and the covenant has to be registered with the Registry of Deeds.

Mr. Pimental said he asked NH Housing Director of Legal and Public Affairs Ben Frost and Dover Asst. City Manager Chris Parker about Mr. King's assertion that that would be illegal as they can't discriminate against any form of ownership. They said the way Dover's ordinance is written it complies with state law but if Mr. King has any specifics they would be interested in looking at it he said.

Mr. King said they can't do that and suggested that he ask the Town Attorney because she has experience with the issues the Town has been to court over. He said there is a potential for someone with a 3 acre lot who wanted to build 2 houses on it where zoning requires 6 acres and the lot must be ready to subdivide to have 2 houses. The detached ADU could be installed in the owner's garage and the next thing you know it will become a condominium with 2 different owners and be used to subvert the density requirements of that zone. He cited Campbell Commons and Ian's Way as examples of where subdivisions were converted from one form of ownership to another and the Town had to approve it.

He said if someone wants to put in a detached ADU without double the minimum density required so that the lot could be subdivided he would not vote to approve it.

Mr. Henry asked why a house with an ADU over the garage couldn't be turned into a condo.

Mr. King said in essence they could. If you have an attached ADU you are very unlikely to sell your basement to someone else but if you had a garage 75' from the house that is much more likely to become sold to someone else he said.

Mr. Pimental said he would ask the Town Attorney for her opinion on this issue.

Mr. King said he hoped they would be taking ADU's out of having a site plan review by the board and that if so that is another concern about having no say other detached ADU's.

Mr. Fisher said RSA 674:71 says an ADU is an attached unit to a single family home and asked how they could go against this by allowing detached ADU's. He then read the RSA aloud and said it spells it out that you can't have a detached ADU.

Mr. Pimental said there was a legislative update but he did not know when it occurred.

Mr. Fisher said the RSA makes no mention of an update or that this law has been repealed. Mr. King asked for the reason Mr. Pimental brought the issue of detached ADU's to the board. Mr. Pimental said he has seen some communities that allow it and some that don't allow it. Consensus of the board was they should go forward with the moving the administrative process for ADU's to Code Enforcement and revisit the issue of detached ADU's next year.

Determining Whether to Allow Accessory Structures on a Lot without a Principle Use - Mr.

Pimental said the Town Attorney advised that by law you can't have an accessory use/structure without a primary use. He recommended the board not move forward with this amendment and noted there are several options for residents who would like to build on an adjacent lot they own such as merging the 2 lots, get a lot line adjustment or get a variance from the ZBA. Mr. Bridges asked about when the owner's vacant second lot is located across the street. Mr. Pimental said that is a scenario where it wouldn't be allowed.

Mr. Fisher said there are several places in town where the owner owns property on both sides of the road.

Mr. King said there places in Lancelot Shores where the house is on one side of the road and their garage is on the other side of the road which were built since the town adopted zoning.

Mr. King said the Attorney's statement is pretty general and asked if this doesn't happen why it exists everywhere with barns, garages and animal/equipment shelters on adjacent lots.

Mr. Johnson said it may due to when the case law was made.

Mr. Henry asked if the state or the Town defines primary use.

Mr. Pimental said the Town defines it. He said if they want to allow certain types of uses that are typically thought of as accessory uses such as barns or sheds they can be added to the Permitted Uses Table and allowed by SE.

Mr. King asked for the exact line that would need to be added to the Table of Permitted Uses.

Mr. Pelkey said they (garages, barns) would be added as a principle use and listed as permitted with review in those zones.

Mr. King said he would like to allow certain structures to be located on individual lots that don't have a residence and if that is the best way to accomplish it then he is all for it.

Consensus of the board was to agree with Mr. King.

Mr. Pimental said he listed barns, garages, sheds, greenhouses and utility buildings and advised the board not to leave the definitions open to interpretation and to have specific definitions of the items to be permitted with review because they will become principle uses.

Mr. Henry suggested that building code regulations may come into consideration with the definitions of some structures such as sheds or barns. He said that may give the board some ability to regulate the structures if they want to go that far.

Mr. King suggested that structures not specified would have to go before the ZBA for a SE.

Mr. Pimental said the Attorney recommended that any of these uses be allowed only by SE. He said he would get some additional guidance and asked the board to think about what

specific structures would be allowed.

Determining Whether to Allow for Rear Lot Subdivisions – Mr. Pimental said he found the warrant article for this type of subdivision in the 2009 Annual Town Report but he could not find a copy of the actual 2010 ordinance. He also provided copies of the Nottingham Back Lot Subdivision and the Stratham “Pork Chop” Lot Subdivision requirements to the board.

He said there was earlier discussion that a previous Planning Staff determined that this was illegal, which is not the case but that they would not want to allow this everywhere.

Mr. Pimental said he was not convinced that the language in the 2009 warrant article meets the requirements of RSA 674:41 because it does not specifically mention requirements for road frontage. He recommended that they add a reference to RSA 674:41 in the requirements to ensure compliance with the state law.

Mr. King said they may need to make some changes to the requirements approved in 2009 because one of the requirements called for 30’ minimum access width to the rear lot. He said that may have been done to allow the owner to be able to restrict future development.

Mr. Pimental said the law requires the frontage of the lot to be subdivided to be less than 400’. He said they may want to consider adding Mr. Henry’s suggestion to require that the 30’ width of the access to the rear lot could be upgraded to 50’ in the future.

Mr. Henry said it was not his intent to require the applicant to build a Class V road into the rear lot but to ensure that the room exists to do so in the future if necessary.

Mr. Pimental said he would ask the Attorney to review the language and provide some recommendations on how to bring it into compliance with state law. He said this item would then be ready to be moved to a separate warrant article.

Review Section 3.23 Storage Units to clarify when and how a determination is made to deem a storage unit permanent and to decide if the existing language is too restrictive – Mr.

Pimental said he did not have a chance to work on this item.

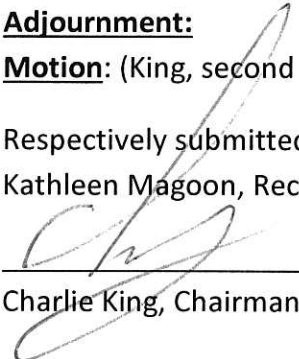
He said there are a lot of amendments going forward to warrant and that some of them may be a lower priority. The next 2 meetings, Nov. 26 and Dec. 3 are designated to work on the proposed amendments (plus a Master Plan update on Dec. 3) and he would like to schedule the first Public Hearing for before Christmas he said.

Adjournment:

Motion: (King, second Bridges) to adjourn the meeting passed unanimously at 8:55 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary



Charlie King, Chairman