

Town of Farmington
Planning Board Meeting Minutes
Tuesday, December 17, 2019

Board Members Present:

Charlie King, Chairman
Rick Pelkey, Vice Chairman
Bill Fisher, Secretary
Felicia McCowan
Stephen Henry
Bruce Bridges

Board Members Absent:

TJ Place, Selectmen's Rep., excused

Others Present:

Arthur Capello, Town Administrator
Kyle Pimental, Interim Planner
Randy Tetreault, Norway Plains
John A. and Rose Robicheau
Wayne Robicheau

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 19, 2019 – No errors or omissions

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

Any Other Business before the Board:

Trolley Project– Mr. Pimental said at the previous meeting the board reviewed the Master Plan maps and discussed the potential for other transit opportunities and then gave the board copies of 2 articles that the **Strafford Regional Planning Commission (SRPC)** published in their newsletter. He said the articles dealt with some of the discussions that have been going on with the Tri-City Trolley (Dover, Rochester & Somersworth) and that he would keep the board informed as the project moves forward.

Proposed Zoning Amendments – Mr. Pimental said he met with Town Attorney Keriann Roman last week and then began the review of the recommended revisions to the proposed amendments.

Definitions – Accessory Dwelling Units had to be changed to include “or detached” and the RSA number needed to be corrected.

Barn – Mr. Pimental said this is a new definition and they included that it must be at least 120 sq. ft. so that it would trigger a building permit because they wanted to ensure that any structure would meet the setbacks and be no more than 1200 sq. ft which seemed to be an average for barn sizes. Other provisions would include they must be registered with the state as

an active farm, be used to shelter livestock, equipment, feed or other farm products and may be free standing or connected to other structures he said.

Mr. Pimental said that whenever a barn is being used for agriculture or farming as defined by RSA 21 and is not just an empty barn or being used for storage that barn would be allowed on an otherwise vacant lot. He said the current definitions in the zoning ordinance of a principle structure/use already affirms that a barn can stand on its own as long as it is the primary agricultural farming use on that lot. It is up to board whether or not to call it out as a principle use as it is already allowed as long as it is being used for an agricultural use he said.

Mr. Bridges asked if the barn has to be registered with the state.

Mr. Pimental said the barn does not have to be registered with the state and that was something that the **Code Enforcement Officer (CEO)** requested be included in the definition.

Mr. King said he was opposed to a maximum sq. footage and asked if the proposed definition of a barn is that it is from 120-1,200 sq. ft. what 1,300 sq. ft. barn would be. He said it's still a barn and didn't see the need for a maximum sq. footage because the owner would need a permit and to get a special exception unless it is a straight agricultural use.

He asked if the barn doesn't need to be registered with the state why would they require it.

Mr. Henry asked if they don't address it as a principle use and a barn was constructed for an agricultural use and then that use was discontinued if the owner must tear it down.

Mr. Capello said they wouldn't have to tear it down because its initial use was for agriculture.

Mr. King asked what would happen if they didn't consider this amendment and someone built a barn on a property without a primary residence for agriculture purposes and 5 years later it is just where he parks his cars.

Mr. Capello said it wouldn't matter as it was built for agricultural use and they could deal with any potential zoning violations as needed.

Mr. Bridges asked if the owner would get a code enforcement violation if the barn were no longer used for agricultural use and asked Mr. Capello to clarify his statement.

Mr. Capello said if it turns into another zoning issue such as a junkyard they would get a violation. We wouldn't necessarily know if they were using it for agricultural purposes or not as we don't go out looking at these things. If the barn was no longer used for agriculture they wouldn't have to tear it down just as if I built a house and wasn't using it any more I wouldn't have to tear it down he said.

Mr. King asked how long RSA 21 has been in force.

Mr. Pimental said that RSA 21 has been in force since 2015.

Mr. Fisher agreed they should drop the maximum size requirement. He said if they are going to build a barn they are going to need a building permit which tells them a barn is going in so he didn't see the need to file more paperwork by registering with the state to tell them a barn is going in if it is not required by the state.

Consensus of the board was to drop the requirements for state registration and maximum size.

Garage – Mr. Pimental said this section has a typo and should read “an extension of an existing principle residential use (instead of “building”) designated to be utilized for the parking or storage of one or more motor vehicles which is enclosed on 3 or more sides and covered with a solid roof”. He said this definition will be part of the discussion about the Attorney’s memo.

Gazebo/Pavilion – Mr. Pimental said this is defined as a small free standing outdoor structure that has a roof but is open on all sides and provides shelter, shade, ornamental features in a landscape and a place to rest and are often built in a park, garden or spacious public area. He said these structures are typically seen in public spaces unless it’s something like a property with a water front view and are not typically found on a vacant lot next to someone’s residence so the board could choose whether or not to keep this as a primary use.

Mr. Henry suggested it be left in for such instances where someone has a pond on their lot and they want to make a little picnic area.

Mr. King said if someone had a piece of land open to recreational use by others and they had a gazebo as an entry point in a parking area it would be allowed.

Mixed Use – Mr. Pimental said the revision states that a mixed use is a mix of residential and non-residential uses or at least 2 complimentary integrated uses in a compact form provided that such uses are individually allowed in the zoning district. We just made it a little clearer that it can be residential or non-residential uses or any 2 uses that are allowed in the district he said. Mr. Henry asked if it can’t be any 3 uses allowed in the district.

Mr. King suggested it be changed to “any 2 or more” uses.

Outdoor Recreation-Low Impact –Mr. Pimental said that the board requested that a similar clause be added to this definition to mimic the high impact definition. He read that low impact outdoor recreation will only be regulated when the proposed land use activity is the principle use and shall not apply to pedestrian uses such as hunting, hiking, fishing, swimming and that use trail systems to cross or connect to and from other areas.

Storage Shed – Mr. Pimental said a storage shed is a small building used for the storage of garden equipment, toys, sports gear and other miscellaneous items. The structure shall be at least 120 sq. ft. (to trigger the need for a building permit) and not more than 200 sq. ft. in floor area and not situated on a permanent foundation. In cases where a storage shed is the principle use a maximum of 1 per lot is allowed he said.

Mr. Henry asked for the maximum sq. footage before a foundation is needed.

Mr. Capello said the maximum is 600 sq. ft. or if it is heated.

Mr. Pelkey asked if once the shed exceeds 200 sq. ft. if it would be considered a garage.

Mr. Pimental said it wouldn’t be a shed any more and they are trying to put maximum sizes on them because they are principle uses on vacant lots and they don’t want people to be able to put something giant there and call it a shed.

He said if the board wanted to go a little bit larger that would be okay but advised them not to leave out a maximum size requirement for this item.

Mr. Henry said there is a maximum of 600 sq. ft. if it doesn't have a foundation.

Mr. King said he thought 200 sq. ft. would be sufficient and that even the large sheds that you buy probably aren't 200 sq. ft.

Mr. Fisher asked if this would conflict with the definition of a barn where a barn can't be less than 120 sq. ft. and the shed is 200 sq. ft. and if they were turning a shed into a barn.

Mr. Pimental said the difference is the barn is for agricultural uses and the shed is more for the storage of things like lawn mowers, bikes and gardening equipment. He said if the board wanted to go to 250 or 300 sq. ft. that is pretty big for a storage shed.

Consensus of the board was to increase the maximum sq. footage to 275 sq. ft.

Vacant Lot – Mr. Pimental said the ordinance did not contain a definition for vacant lot and there wasn't a need for one until they started using that term in relation to recreational vehicles. He said it may be useful to have a very simple definition that says it is any parcel of land that currently has no buildings or structures on it. That phrase is used with the amendments so it may be worth thinking about including it he said.

Mr. Henry asked where they stood regarding having mobile homes, campers and RV's on lots with a building permit to build a house.

Mr. Capello said if the landowner is building a house he can live in something like that on the lot for up to 6 months while they are building and then get an extension from the CEO.

Mr. Henry said they need a building permit first.

Mr. Capello said that is correct.

Mr. Henry asked if they needed to address that if there is a building permit for the lot that it is not necessarily vacant any more or if that is covered elsewhere.

Mr. Capello said the lot is still vacant until at least the foundation is in. The intent is to not make it vacant and that is covered under the building permit process he said.

Warrant Article #3- Table of Permitted Uses- Agritourism – Mr. Pimental said this article will be discussed as part of the Attorney's memo.

Warrant Article #6- Table of Permitted Uses - Commercial & Industrial – Mr. Pimental advised that they strike out that a retail use must be larger than 2,500 sq. ft. and leave the maximum of 7,500 sq. ft. to limit large box stores which was the original intent of this requirement.

Mr. Fisher said he understood a big box store could hurt the downtown and asked why they would want to keep one out if it was coming into a commercial/industrial area along Route 11.

Mr. Henry said the table says retail less than 7,500 sq. ft. is permitted with review in the Village Center (VC) and the Commercial Business District (CB) and asked if a retail use over 7,500 sq. ft. would not be allowed anywhere in town.

Mr. Pimental said that is what the requirement has always been.

Mr. Capello said there is a mechanism to overrule it as they could go for a variance.

Mr. King said they could reduce it to requiring a special exception for sq. footages over 7,500 sf.

Mr. Henry said he would favor doing that for the CB district.

Mr. Capello reminded the board that the intent is to revitalize the downtown and if they start allowing big stores out on Route 11 you are never going to do that.

Mr. Henry said he was trying to lower the burden on business and be more business friendly.

Mr. King asked if a special exception was a lower burden to pass than a variance.

Mr. Pimental said the original intent was to try to avoid having those large box stores. He said if that has changed the retail stores could be broken out into 2 sections with anything greater than 7,500 sq. ft. is allowed by special exception but they could just apply for a variance.

Mr. Capello said the Master Plan doesn't allow it and the survey commissioned by the board showed people don't want the big box stores.

Mr. Fisher said that was for the VC and asked about allowing it in the CB.

Mr. Capello repeated that they could go for a variance.

Mr. Fisher said if something like Cabela's (outdoor recreation retailer) came to town it won't hurt the mom and pop pizza place downtown and could improve it. He asked why they should force the big box stores to have to jump through hoops.

Mr. Capello said the Planning Board can do what they want and the whole charge based on the survey is to revitalize the downtown and you are not going to do that with big box stores.

Mr. King said revitalizing the downtown is not their only charge based on the survey. He said the purpose of the survey is to find out what the taxpayers want/don't want and to make recommendations.

Mr. Henry said he often hears that they want more business in town to decrease the tax burden on the homeowners.

Mr. Bridges said the ordinance isn't stopping the big box stores- they just have to get a variance which is something they do every day.

Mr. Capello said the town spent a lot of money on the survey and the board should follow it.

Mr. King suggested that the retail stores be put into 2 levels in the proposed change and leave the current zoning in place for now. He suggested that it show retail uses above 7,500 sq. ft. as all dashes (requiring a variance) and retail uses below 7,500 sq. ft. are permitted with review.

He said if the board decides it wants to bring forth to the voters that they want to allow it by special exception in a few zones or make other changes it would already be broken out.

Mr. Henry said they should also make it clear to people that they are making it difficult to build large taxpaying retail establishments. He suggested making this a separate warrant article so the people could vote on it.

Chairman King called off further discussion on this issue because of the posted Public Hearing on the agenda set for 6:30 p.m. He said that he currently has Norway Plains under contract to do some site plan work for his business and would recuse himself from the board until the hearing is finished. He then turned the meeting over to Vice Chairman Pelkey.

PUBLIC HEARING – 6:30 P.M.

NEW CASES:

Application for Minor Subdivision and Lot Line Revision by John A. Jr. and Rose Robicheau and Wayne Robicheau (Tax Map R53, Lots 22 & 23): The applicant is seeking to subdivide a parent parcel (Map R53, Lot 22) into two pieces (Map R53, Lot 22 and Map R53, Lot 22-1) on Meaderboro Road. The plan also proposes to revise the lot line between the newly created lot Map R53, Lot 22-1 and Map R53, Lot 23 to correct an existing non-conforming structure. The parcel is in the Agricultural Residential District.

Norway Plains President/Surveyor Randy Tetreault came forward to speak to the application on behalf of the applicants who were present in the audience.

Mr. Tetreault said this is a 2 lot subdivision with a small lot line adjustment. He said this was a large parcel of land that was owned by the Robicheau's father and their uncle. They discovered that it was about 20 acres larger than it was supposed to be when it was surveyed properly and in 2018 the family agreed to the location of the property lines and had a plan and a boundary line agreement drawn up.

He said the side of parcel that borders Scruton Road is 39 acres and is owned by Lance and Cheryl Robicheau and the other side of the road is about 48 acres and is owned by John A. Jr. and Rose Robicheau and Wayne A. Robicheau.

Mr. Tetreault said the 48 acre piece didn't include the house lot that John and Rose live on which is Map R53, Lot 23 that was previously deeded to them by Mr. Robicheau's father.

He said now there are 2 pieces of land that are owned by cousins John and Wayne. Their father's will called for the remaining land to be split among the brothers and that is what they attempted to do with this application currently before the board he said.

He said they created 2 lots roughly the same size (24.33 acres and 24.12 acres) and are also seeking a lot line adjustment on the back or southwesterly side of the existing residence of John and Rose Robicheau to add approx. 9,000 sq. ft. to make the existing garage a conforming structure. Sheet 1 of the plan shows the overall view of the 2 large parcels he said.

Mr. Tetreault said Sheet 2 of the plan depicts more of the parcels' site features which would assist in the discussion of the waivers they have requested. He said the second sheet is blow-up that shows the 4,000 sq. ft. buildable area to meet zoning on each lot. We have done the site work and test pits in those areas and the parcel to the east (Wayne Robicheau's lot) has an existing house on it that most likely will be torn down and replaced he said.

He said one of the quirks to this plan is that there is a pond located on the proposed Lot R53, Lot 22-1 and there are steep slopes along the frontage of Lot R53, Lot 22 so there is no good place to locate 2 separate driveways so they created a common entrance off Meaderboro Road for the lots making sure there is enough buildable area (approx. 14,000 sq. ft.) for a house and septic system in front of the pond on Lot 22-1. He said they have submitted proposed language for the easements and shared maintenance agreements for review.

Mr. Tetreault said they also have 40,000 sq. ft. of buildable area at the rear of Lot 22-1 behind

the pond and they wanted to provide access to it in case that is what the owner desired. He pointed out the proposed access on the map that runs from Meaderboro Road between John and Rose Robicheau's existing house and garage on Lot 23 to the proposed new boundary line with Lot 22-1. He said they also submitted the proposed easement and shared maintenance agreements for these 2 lots in the package given to the Planning Dept.

Mr. Tetreault noted that the small body of water is a farm pond and is not a lake and it has a Class 2 wetland area with a 50' buffer and 50' setbacks for structures. He said if a house and septic system were installed in the 14,000 sq. ft. buildable area in front of the pond the septic system would be 75 ft. from the pond so there is plenty of room according to state regulations. He said the plan does not need state subdivision approval because the lots are over 5 acres and they both have 250' or more of road frontage. He said the test pit information is included on the plan and the wetlands areas are delineated from the rear buildable area of Lot 22-1 out to Meaderboro Road for all 3 lots.

Mr. Tetreault said they asked for a waiver to the 3:1 ratio in the configuration of the 14,000 sq. ft. buildable area and waivers to providing all the natural features, topography, soils and wetlands delineations for the remaining 10 acres of back land as no development of this area is planned now or in the foreseeable future.

He then gave the board an example of a plan depicting how much land it would use if the owners were to build a standard size house, breezeway, garage, septic, well and driveway in the 40,000 sq. ft. of buildable area. He said there was some concern that the lots wouldn't be useable because of their configuration and this would give the board a general idea of how many times you could fit a 6,000 sq. ft. building site within that 40,000 sq. ft. of buildable area.

Mr. Tetreault said the buildable areas were highlighted on the sheet and the Town requires a minimum of a 200' x 200' square, a 115' x 350' rectangle or a 225' diameter circle within the 40,000 sq. ft. of buildable area and he could only come close to the 200' square due to the buffers for the wetlands.

Vice Chairman Pelkey opened the hearing to public comment at 6:45 p.m. and asked if any members of the public wished to speak to the application.

Mr. Bridges asked if there was a way of putting the lot line in the middle of the lot so that it falls under the requirements to make it generally square instead of being a wedge shape.

Mr. Tetreault said in this case there is an existing house on Lot 22 they want to provide access to and somehow they have to split the frontage to give Lot 22-1 and Lot 22 250' of frontage each and keep the pond on 1 property. We tried to split it across the back of the lots to give them each 24 acres and mathematically there isn't a lot of different ways to do that he said.

Mr. Bridges went to the map and asked why they couldn't place the line so that it goes back in a straight line with a square configuration instead of jutting out at right rear side of the pond and then going back at an angle.

Mr. Tetreault said the placement of the boundaries and the configuration of the lots were

hinged on finding the buildable area, the frontage and the total lot size to be split between 2 brothers. He noted that they have the mandates from the will, the Town's subdivision regulations and the state regulations to contend with which is sometimes problematic.

Mr. Bridges said he now understood that the lines were configured that way because they need the space for the setbacks to the wetlands, etc.

Mr. Pelkey asked if Mr. Tetreault had an opportunity to read Mr. Pimental's memo and his comments about the existing driveway that the Planning Dept. does not have a record of.

Mr. Tetreault said he read the Planner's memo and asked which driveway he was referring to.

Mr. Pimental said they don't have a driveway permit for Lot 23 and recommended that the applicant get a new driveway permit because the driveway would service 2 lots and it would give the DPW Director and the CEO an opportunity to review it. We didn't have an issue with it and the board can make it a condition of approval of the application he said.

Mr. Henry asked if there is a cost for the driveway permit or if it is essentially a notification.

Mr. Pimental said he did not know if there is a cost for a driveway permit.

Mr. Tetreault said both driveways shown on the plan will become common driveways and when the properties are conveyed there will be language that has the easement for the shared accesses and the maintenance agreements in case the land goes out of the family.

Wayne Robicheau said he would encourage them not to build on that property at all and this was something he had for years and wanted to preserve it the way that it is. He said they worked closely with Norway Plains to split everything up evenly and that originally he had part of the pond which he does not want because then he would have to maintain it.

Mr. Henry asked if a landowner wants to subdivide the land if there has to be a potential for a house lot.

Mr. Pelkey said this requirement is in the subdivision regulations.

Mr. Pimental said this is not something that is unique to Farmington but what is unique is the 40,000 sq. ft. of buildable area and the dimensional requirements. He said the 40,000 sq. ft. is a large area which is why he wanted to make sure that the board understands how big that area is, what you can fit in there and what they would be approving as part of that waiver. There is no reason to show the rest of the survey data for the back part of the lots he said.

He said he has copies of the maintenance and declaration agreement and the easement language and recommended that the board make it a condition of approval to have the language reviewed and approved by Town Counsel. He also advised that the Notice of Decision should contain that the cost of the legal review would be covered by the applicants.

Motion: (Henry, second Bridges) to accept the application as substantially complete passed 4-1 (McCowan-opposed).

Mr. Pelkey asked the board to take up the waivers individually and suggested that they read them, have a discussion and then vote on them. He read aloud the waivers as follows:

1). Subdivision Regulations, Section 8 (H) (17) Natural Features – a waiver from the

requirement of depicting natural features on the remaining back land is requested. All natural features relevant to the proposed lots and area of the proposed development are depicted on the submitted plans. We feel that requiring the depiction of the natural features of the remaining land would place an undue financial burden on the applicants at this time as no development of this area is planned currently or in the foreseeable future.

Discussion: Mr. Pelkey said he had no issue with this as it is something they have been doing pretty regularly for large lots.

Mr. Henry agreed.

Motion: (Henry, second Bridges) to approve the request for the waiver passed 5-0.

2). Section 8 (H) (18) Topography – a waiver from the requirement of depicting topography on the remaining back land is requested. Topography in the front of the lots is depicted on the plans sufficient to show the required 40,000 square feet of buildable area. We feel that requiring the depiction of the topography across the remaining land would place an undue financial burden on the applicant at this time as no development of this area is planned currently or in the foreseeable future.

Discussion: None

Motion: (Bridges, second Henry) to approve the waiver passed 5-0.

3). Section 8(H) (19) Soil and Wetland Delineation –a waiver from the requirement of depicting soils data and delineating wetlands on the remaining back land is requested. This information has been provided for the front of the lots on the plans sufficient to show the required 40,000 square feet of buildable area. We feel that requiring the depiction of this information across the remaining land would place an undue financial burden on the applicants at this time as no development of this area is planned currently or in the foreseeable future.

Discussion: None

Motion: (Fisher, second Bridges) to approve the waiver passed 4-1 (McCowan –opposed).

Additional Discussion: Ms. McCowan said she was a little hesitant with the wetland thing but maybe that was her particular issue that she has been looking at. She said she was okay with waiving the financial burden piece but she thought it would be beneficial long term for the applicants to look into the natural wetland habitats and to consider taking an aerial photo of the topography for an occasional review and to check for vegetation that could be invasive and harmful.

4). Section 6(B) (1) (f) (i) Lots – given the dimensions and configuration of the existing lot of record there is no way to truly conform to the restraints of this section. We have done our best to keep the lot shape and configuration as reasonable as possible as well as keep the required 40,000 sq. ft. of buildable area as regularly shaped as possible.

Discussion: None

Motion: (Bridges, second Henry) to approve the waiver passed 5-0.

Mr. Pelkey then said this application is for 2 lots and a lot line adjustment which would need 3

different actions from the board.

He closed the public comment portion of the hearing at 7:03 p.m. He said that each of the lots has language for the easement that needs to become part of the Conditions of Approval and the driveway piece is for 2 of the lots but not for the smaller lot line adjustment to Lot 23.

Mr. Pimental said the driveway piece could be part of the Conditions of Approval.

Mr. Pelkey asked if the board had anything they wished to add to the Conditions of Approval. Hearing no response he said the first condition should state "The applicant will provide a Road Maintenance Declaration and Access Easement language for review and approval by the Town legal counsel at the owners' expense".

He proposed the second Condition of Approval should state "The applicants would submit a new driveway permit application to the Public Works Director and the Code Enforcement Officer for review for Map R53, Lot 23".

Mr. Pimental said the conditions would go with the motion to approve the subdivision of Tax Map R53, Lot 22 at 964 Meaderboro Road and the lot line adjustment (for Map R53, Lot 23) is not going to have any conditions.

Motion: (Henry, second Bridges) to approve the subdivision of Tax Map R53, Lot 22 into Tax Map R53, Lot 22 and Tax Map R53, Lot 22-1 with the Conditions of Approval as stated below and with the waivers they have already approved:

1. The applicant will provide a Road Maintenance Declaration and Access Easement language for review and approval by Town legal counsel at the owner's expense
2. The applicant will submit a new driveway permit application to the Public Works Director and the Code Enforcement Officer for approval for the driveway depicted on Map R53, Lot 23.

Vote: The motion passed 5-0.

Motion: (Henry, second Bridges) to approve the lot line adjustment on Tax Map R53, Lot 23 passed 5-0.

Chairman King returned to the board.

Mr. Henry asked if the board should consider putting a "boiler plate" Road Maintenance Agreement on file that has already been approved by the Attorney for resident use without having to pay the Town Attorney to approve it.

Mr. Pelkey said that each time the board gets one it would have to be reviewed to make sure that the requirements for their situation are met as the board is not going to render a legal decision.

Mr. King said if there is an agreement in place it should say it is in force until another driveway is put in place.

Mr. Tetreault said the agreement does say that and it contains a description of the actual area of the easement and is pretty standard and used in several towns. It would be easier if there was a sample of acceptable language in the ordinance he said.

Mr. King said they would be taking a chance that the boiler plate version will work for that use

and is not going to cause problems. If it was specifically going to be different then it would still have to be reviewed he said.

Mr. Tetreault said the issue of shared driveways also comes up with back lot subdivisions and sometimes the land the access is on is owned by one lot and sometimes both lot owners own the access way.

Non-Public Session - Mr. King said the board received some correspondence from the Town Attorney and recommended the board enter non-public session to discuss her memo.

Motion: (King, second Pelkey) to enter non-public session under RSA 91-A: 3 II (I) Consideration of Legal Advice passed 6-0 by a roll call vote (King, Pelkey, Fisher, Bridges, Henry, McCowan-yes) at 7:30 p.m.

Chairman King asked Mr. Capello to remain for the non-public session to assist the board with the discussion.

Chairman King reconvened the public session at 7:50 p.m.

Proposed Zoning Amendments Discussion – Garages - Mr. Pimental asked if the board wanted the definition of garage to include adjacent or abutting properties.

Mr. King said the definition of a garage is for the structure itself and whether or not it is permitted on an adjacent lot would be part of the zoning rules and not part of the definition.

Mr. Capello said it should be in a separate section so people would know if the board agrees to it and it passes, it can only be on an adjacent or abutting lot and can't be on a vacant lot.

Barns - Mr. King said the part of definition that states it is allowed by state law needs to be removed from the definition and put in a separate section of the zoning or as a footnote in the Table of Permitted Uses because it could change.

Mr. Henry asked if the Town's definition should reference the state RSA that defines a barn.

Mr. Pimental said they could use part of the state's definition as it does have language saying its purpose is to shelter livestock, equipment, feed and other farm products but it does not have the 120 sq. ft. requirement that would trigger a building permit.

Mr. King said someone could build a barn that doesn't fit with those uses and is used for storage and workshop and it would still be a barn. He said that is why it would be in the zoning or Table of Permitted Uses as to what is permitted or not permitted.

Storage Sheds – Mr. Pimental asked if the board wanted to make a change to this definition and remove the last sentence which says in cases where a storage shed is the principle use a maximum of 1 per lot is allowed.

Mr. King suggested this be removed and be dealt with under permitted uses.

Warrant Article #3: Amendment #2: Section 2.00 C Table of Permitted Uses – Mr. Pimental said the board needed to talk about residential uses and to make a decision about barns, gazebos, garages and storage sheds. He said he needed to add a note that says any residential use that is permitted by special exception will not require a site plan review. The note is there because the zoning ordinance says that anything that goes for a special exception automatically

has to come for site plan review and we want to say no to that in this case because it is a residential use he said.

Mr. King said if a barn can be put up with a special exception this would be the place where they state next to residential uses if it is for agricultural purposes per the RSA it is permitted. He said then if they wanted to change it would be separate from the definition.

Mr. Henry asked if it was permitted in all zones under the RSA.

Mr. Pimental it is not tied to the zone but is tied to the use so as long as the barn is for an agricultural use it is allowed. We could add that any other use of a barn would have to be granted a special exception he said.

Mr. King said it would need to say agricultural uses per the RSA and the owner would have to comply with that.

Mr. Henry asked how long the owner would have to comply with the RSA. He said the owner could raise a flock of chickens and then send them off to the butcher and he is done with the agricultural use but doesn't have to tear down the barn.

Mr. Capello said there is a pretty extensive definition in the RSA.

Mr. Pimental said there will always be somebody who tries to push the limits but the intent is to allow someone to build a barn on a property for agricultural purposes. He said it was already allowed by state law and what the board is doing is to allow barns without agricultural uses by special exception. The answer to the question is I assume it would be grandfathered he said.

Mr. King said the state has provided a big enough loop hole and asked why they would even worry about this. He suggested that if it already permitted to take it out of principle uses or to just allow it.

Mr. Pimental said they could move barns to agricultural and say it is permitted and then in the residential uses they could state "barns (other than agricultural uses)" and keep it as requiring a special exception.

Mr. Henry said it should be permitted with review.

Mr. King said he did not want them to have to come to board for review.

Mr. Pimental said the board's authority extends only to multi-family or commercial uses and because this is becoming a residential principle use there is no process for site plan review. It's either by special exception or if the board wants it to be permitted by review it needs to come out of residential and put someplace else he said.

Mr. King said that it could just be permitted meaning they get a permit and they're gone. He said that a special exception essentially acts as a permitted use because they don't come before the board.

Mr. Pimental said these are accessory structures that need a principle use and the board's intent is to allow accessory structures on lots without one and it shouldn't happen all over the place. He recommended that it be kept as a special exception so that it doesn't have to come to the Planning Board but there would still be some oversight of the proposed plan.

Mr. Henry asked if they wanted to list barns as a permitted use in the agricultural zone.

Mr. Pimental said that would be fine.

Consensus of the board was barns would be a permitted use in AR zone, by special exception in the other zones and if they comply with the RSA it would be permitted in all zones which would be noted below the table.

Mr. King said there has been some discussion that allowing a garage as a principle use is a bad idea and asked what the difference is between a barn and a garage.

Mr. Capello said the difference is in the principle use of the structure and there is a definition for both structures.

Mr. Pimental said the definition of a barn and a garage is substantially different.

Mr. Fisher asked if barns are going to be permitted in the AR why he would need a special exception for a storage shed if they are going to allow a barn to be built. He asked if they should change storage sheds to a permitted use in the AR zone only.

Mr. King said the same argument could be made for all of the other zones as it is a small structure and there is plenty of land there.

Mr. Fisher said the barns are allowed by special exception in the other districts so there would be no difference with allowing a storage shed by special exception. He asked if in the AR zone a barn is allowed why he would be required to get a special exception for a storage shed which is smaller and less obtrusive than a barn.

Mr. Pimental said when they start changing these uses from special exception to permitted by right there would be no oversight so storage sheds could start popping up on empty lots anywhere. It would require a building permit but the CEO could not say no to it so long as it met the setbacks he said.

Mr. Fisher said there would still be some oversight by the building permit process. He said they can't put a paint can in the building until they receive a letter of occupancy so the storage shed must be built to specifications.

Mr. King said the Town has enforcement issues now and these changes probably will increase that effort whether it is significant or a small amount. Down the road if there is more building of structures as a primary use there will be code enforcement violations as we have that now he said.

Mr. Bridges said they should be careful and make all these changes in little steps so they don't make a big mess by doing it all at once.

Mr. Fisher asked for a consensus of the board on allowing storage sheds in the AR zone.

Mr. King said if the board said that barns, storage sheds and garages are permitted by right in the AR zone and special exception in the other zones it would be an opportunity to allow it but not everywhere. He said if there is an issue future boards could make it more restrictive or make it less restrictive and move it to the other zones.

After some additional discussion consensus of the board was that barns, garages, gazebos,

pavilions and storage sheds will be permitted in the AR zone and a mixed use would be allowed by special exception.

Mr. Pelkey expressed concern about allowing garages on non-adjacent empty lots.

Mr. King said they could add that garages would not be allowed on individual lots unless they abut a primary residential use. He said they could be creating a lot of non-forming situations based on deed transfers when the owner sells his residential lot but keeps the abutting lot and asked why they should bother.

Mr. Capello said they are not going to be able to zone everything and the Town is not going to come along and say they need to tear down the building because they don't own the abutting lot any more.

Mr. Pelkey said he didn't think it would devalue the lot with the garage and future potential buyers may be more interested in the property as building a garage would be one less thing they have to do.

Mr. Bridges noted the property owner is already paying taxes on an existing structure.

Mr. King asked if they were going to require that it has to abut a residential use that they own and maintain and if so they would have to say that in writing.

Mr. Pelkey said he didn't have any issues with putting any of these structures on a lot in the AR but he would like to see it on an abutting lot.

Mr. Bridges agreed.

Mr. Henry said he did not like that stipulation. He asked if the board if they want to permit it if it's an abutting lot and by special exception if the lot is free standing.

Mr. Pelkey said he would be okay with that because it allows what he is looking to do and makes them come before the ZBA to get the other one.

Mr. Fisher said they could go before the ZBA for a variance now to put a barn on a single lot they own that doesn't have a principle use. He gave an example of a lot owner on Baxter Lake wanting to put up a garage to store his boat year-round that would have to get a variance to do so. They would say it's allowed on primary use lots or on lots abutting the primary use lot and ask why they couldn't do it there. The owner could probably prove a hardship because he would not have full use of his land that they give to other people he said.

Mr. King asked if there was a way to make it work so that if there was an abutting lot it would be allowed and if it's not an abutting lot that they own that it would require a special exception.

Mr. Henry asked for the difference in the burden between a special exception and a variance. He said the board has made it clear that they are leaning more toward allowing it and having to go for a variance means leaning toward not allowing it.

Mr. Fisher said the difference is in the criteria they must meet to prove their case which is put out by the state. The variance is the bigger burden he said.

Mr. Pimental said the distinction between the two is the use is allowed by special exception and if you need a variance it's for something that is not allowed.

Mr. Pelkey asked how they would put this in the zoning regulations.

Mr. Pimental said the board could either make a footnote or to spell it out in two separate uses such a garage that is on an abutting lot is permitted and one that is not requires a special exception.

Discussion then included how to set this up in the Table of Permitted Uses, what should be included in a footnote under the Table and if this would be discrimination against forms of ownership if it is allowed because the owner owns more than 1 lot but is not allowed if he only owns 1 lot.

Consensus of the board was there would be 2 different requirements- the storage sheds, gazebos, garages and barns would be by Special Exception – Permitted (SE-P) in the AR zone and in the rest of the zones it would be allowed by special exception and will only be permitted by right if they are on an abutting lot.

Mr. Pimental said he would send this to the Attorney for review the next day.

Mr. Henry asked now that they have added the contingency for abutting lots if they wanted to permit these uses in some of the other zones. He asked if they wanted to go with permitted by right for garages in the Rural Residential (RR) and Suburban Residential (SR) zones.

Mr. Pimental said he wouldn't recommend permitting them by right for the other zones at least for this "round".

CB -Retail Stores – Mr. Henry said that currently anything over 7,500 sq. ft. is not allowed.

Mr. King added that is without a variance. He proposed that they split it and put below 7,500 sq. ft. for retail on 1 line and put retail above 7,500 sq. ft. on a separate line and to be a little less restrictive by requiring a special exception to allow a retail use over 7,500 sq. ft. in the CB and to prohibit it in the rest of the zones.

Consensus of the board was to agree with Mr. King's proposal.

Mr. Henry asked if they should break this out as a separate question for the voters as it was stated earlier that some survey respondents said that they don't want big stores on Rte. 11.

Mr. Fisher said he did not recall that being a question on the survey and that the survey was concerned with the VC.

Mr. King said all of the zoning changes are going to go before the voters as one warrant article.

Mr. Capello said if one change is lost they would lose all of the amendments that way.

Mr. Pimental said that Warrant Article #3: Amendment #2 is all of the proposed changes to the Base Zoning Districts: Table of Permitted Uses because if they break them out individually with everything else they have there would be 15 different warrant articles. He said the Town Attorney would "message" the amendments and provide more information about whatever needs to be revised. He recommended they not break the amendments out separately.

Ms. McCowan said it makes sense to segregate the sq. footage for the big box stores and that if they were trying to find a compromise they could look to what Rochester did with Brock's and Home Depot. You want to be able to keep your small stores nuanced and as that place that you

want to visit and you want to find those intricate pieces as your town "cobblestones". Big box stores are going to happen and you will desire the income that they will bring in she said. She said they are going to want to take a look at the land use along Rte. 11 and decide whether they want to also have recreational uses in conjunction with the trolley and how that trolley could bring customers into downtown.

Mr. King said a lot of the decisions are not up to them and there are a lot challenges to the land along Rte. 11 as there is not a lot of easily buildable land available between the slopes, ledges and the wetlands depending on which side of the road you are on. A lot of that will depend on the demand and if they feel it doesn't have the market they are not going to do it he said.

Warrant Article #4: Amendment #3- Village Center District – Mr. Pimental gave the board a map based on the previous discussions he had with the board. He said the Town Attorney has advised that the board cannot regulate the properties along Main Street and Central Street differently than the Village Center itself unless they create an overlay district.

He said the board previously requested that he put together some options for dealing with the density downtown and recommended the following 3 options:

He said the first and most reasonable option is to set a minimum unit size. He said that based on the International Maintenance and Occupancy Standards the minimum size for a one bedroom unit is 260 sq. ft. which breaks down into 120 sq. ft. of living space, 70 sq. ft. for a bedroom and 70 sq. ft. for a bathroom. He said he thought that 260 sq. ft. is awfully small and that they could get away with requiring at least 400 sq. ft. which is still relatively small.

Mr. Pimental said the second option would be to base it on the useable space in the building. He said that formula is almost the same as the current formula for one unit per 5,000 sq. ft. of the lot except they would be using the sq. footage of building instead of the sq. footage of the lot.

He said option 3 would be to set a certain number of units such as no more than 4 units and anything over that amount would have to get a special exception from the ZBA. He said he did not think this would work as a certain number might be too big for one building and too small for another building.

He added the 4th option would be to do nothing.

Mr. Pimental said after consultation with the Attorney their recommendation is to set a minimum unit size of 260 sq. ft.

Mr. King said during a prior meeting Mr. Henry suggested also having an average unit size and that if for example 350 sq. ft. was the minimum unit size the average size for multiple units must be 500 sq. ft. so they don't put in all single units.

Mr. Pimental said the dimensions he gave the board are the minimum for a one bedroom unit.

Mr. King said he was okay with using 400 sq. ft. as a minimum unit size and 600 sq. ft. as an average unit size for a building that is more than one unit.

Mr. Bridges said they need at least that as a one bedroom unit could be 20' x 20' and that is a

closet.

Mr. Henry suggested that the minimum unit size should be 350 sq. ft. with one unit for every 500 sq. ft. of the building size. If you have a 500 sq. ft. building that is one 500 sq. ft. unit he said.

Mr. King asked how many units would be allowed in 1250 sq. ft. building.

Mr. Henry said that building could have 2 units.

Mr. Bridges asked about the hallways, storage closets, etc.

Mr. King suggested the building should have one unit per every 600 sq. ft. with a minimum unit size of 350 sq. ft.

Mr. Henry said they don't know how many units are going to be in a particular building, or if there are any issues with the building layout. He said he was okay with using the building's sq. footage from the tax cards and didn't need to nitpick about livable floor area or the stairways.

Mr. King said these plans would have to undergo a site plan review and they would have to hammer that out then.

Mr. Pimental asked if the board wanted to define it as one unit for every 600 sq. ft. and if that is habitable floor area as it is now defined.

Mr. King said I would be as per the zoning and if the zoning changes the amount of habitable area could change such as when residential uses are or are not allowed on the first floor.

Mr. Henry supposed that a building has 2,000 sq. ft. per floor but the first floor has to be commercial and that 2,000 sq. ft. doesn't count toward how many residential units the building can have.

Mr. Pimental said that is correct.

Mr. Bridges said that the space taken up by stairways would not be included in the formula because that space is uninhabitable.

Mr. Pimental said habitable space is defined as living, eating, cooking, closets and sleeping areas.

Mr. Henry said he would include all of that in how they measure the minimum unit size but questioned if that should be used to determine how many units would be allowed per building.

Mr. Pimental said they could use the amount of habitable space in determining the unit size and the gross floor area as we define it for the number of units.

Mr. King said if there is 2,000 sq. ft. on the second floor that is 3 units and they wouldn't have to worry about what there is for hallways.

Discussion then included whether or not stairway space should be included in the calculations. Consensus of the board was to set the minimum unit size at 350 sq. ft. of habitable space and to allow one unit per 600 sq. ft. of the available residential gross floor area.

Mr. Pimental said even though this still sets a density requirement it is a lot more flexible than what the Town currently has. Given the applications that have been before the ZBA this would have helped them he said.

Mr. Henry said this change is more drastic than laid out by Mr. Pimental because they going from basing the number of units allowed by the sq. footage of the land (which could be a lot bigger or not much bigger than the building) to basing it on the sq. footage of the building. He said they are also changing rules that change the attractiveness of developing vacant parcels downtown. There is land that is undeveloped or uninhabitable in its present condition and it is not financially practical to develop it under the rules that exist today he said.

Mr. Pimental said if there was a 15,000 sq. ft. vacant parcel with the current regulations the most a developer could get out of that is 3 units and that is if the building is exactly 15,000 sq. ft. He said with what the board is doing now a developer might be enticed to build a bigger building with more units where with the current regulations it wouldn't matter what size the building is as the number of units is based on the size of the land.

He said that in January and February the board would need to talk about the site plan regulations and specifically the parking requirements.

Mr. Henry said that not every building will be able to make full use of this because of the parking requirements. He said with the way the zoning is now the only thing that makes sense for the old fire house property is single story residential units which does not match the look and feel of the current downtown or the downtown that we want.

Warrant Article #5: Recreational Vehicles –Mr. Pimental said he would recommend that they strike #2 and get rid of "incidental use" and to not address it because it is not something the CEO is looking to enforce.

Mr. Henry asked if it is stated elsewhere in the regulations that if the in-laws come for the weekend they can't stay in the camper.

Mr. Pimental said this is not addressed any place else in the regulations.

Consensus of the board was to strike item #2.

Mr. King asked if Mr. Pimental is still recommending item #1 which states the storing of recreational vehicles is allowed in any zone as long as there is an existing residential use as listed.

Mr. Pimental said he is still recommending this item.

Mr. Fisher asked why a landowner with a piece of property at Baxter Lake who only uses it during the summer couldn't use the lot to store an RV year round.

Mr. Henry said he didn't have an issue with RV storage on a lot that doesn't have a primary use.

Mr. Fisher said with the way #1 is written you can't do that.

Mr. Henry said that in some zones they have said someone can store their RV on a lot if they get a building permit to put up a 10'x12' shed and store the RV next to the shed.

Mr. Pelkey said he recalled reading some language that says they couldn't stop people from storing these things on their property.

Mr. King said that was included in past correspondence from the Town Attorney. He asked if they want to be silent on this issue and to let state law dictate.

Mr. Pimental clarified that this is just for storage and does not concern the occupancy of an RV. Mr. Capello said he would leave it the way that it is which is pretty much as stated in item #1. Mr. Bridges said the only way people are going to have a problem is if they are a problem (piles of garbage, etc.) and they are better off being silent on this.

Mr. Pelkey said this article is also trying to fix the temporary use of RV's to help with code enforcement.

Mr. King said he agreed with Mr. Pimental's recommendation to require a permit and to allow a total of 90 days occupancy of an RV.

Mr. Capello said he would recommend that it be 90 consecutive days of occupancy.

Mr. Bridges asked that if someone had 2 time periods during the summer that they wanted to use their RV if they would get a permit for 3 weeks and then return to the CEO to get a second permit for the second 3 weeks for a total 90 days.

Mr. Capello said it would be for 90 consecutive days per calendar year.

Mr. Henry asked if that meant he couldn't set up his camper in December.

Mr. Capello said he could but he wouldn't get the full 90 days on that permit and would have to reapply in January if he wanted to keep the permit. He said this issue will also have to go before the Board of Selectmen because they are the ones who authorize permits and fees.

Mr. Henry asked if the Selectmen could say they won't issue permits.

Mr. Capello said they could say that they won't issue permits, won't enforce them or could put a fee for the permits. He recommended there be a fee for the permit as there is manpower involved with this.

Mr. King said there should be an application listing the requirements that must be complied with and the fee.

Mr. Henry asked if the Selectmen's feelings on this are known.

Mr. Capello said the Selectmen have not been approached about this matter yet.

Mr. King said he was okay with having 90 consecutive days in one calendar year. He asked the board if the recommendation regarding the storage of RV's should be accepted as presented.

Mr. Henry asked if it is the board's intent that storage of an RV would require another principle use of the property and if someone wants to park their RV on their land they can't park it there unless they put up a shed.

Mr. Fisher said that is not his intent and if someone has an empty piece of land and wants to store their RV on that vacant land he should be able to.

Mr. King said he was pretty sure that the Attorney said that state law allows the storage of 1 RV on a vacant lot.

Mr. Capello said that state law allows the storage of 1 motorized vehicle on a lot under their junkyard statute but we don't allow it.

Mr. Pimental said the Attorney wrote item #1 and it is her recommendation. He said the only thing they have changed is that it originally read "existing primary use". It didn't say residential

use it just had to be any use on the property he said.

Mr. King asked what would happen if they also get rid of item #1.

Mr. Capello said it would stay the same except for adding the 90 day permit process. He said right now you can't have anything on a vacant lot so they couldn't store an RV there.

Mr. King asked if they got rid of the whole section #1 and just let state law rule if somebody could store their camper on their empty lot.

Mr. Capello said they could only if state law says they can but he did not know if it does or doesn't say that.

Mr. Bridges said if someone has their motor home parked on a vacant lot and it is not causing any issues the CEO isn't going to harass the person and asked why they are "playing" with this. Discussion then included neighbor disputes and code enforcement by complaint.

Mr. King suggested that if an RV is stored on a lot that doesn't have an existing residential use the owner must get a permit and be notified of the regulations that must be complied with.

Mr. Henry asked if he would have to get permission from "the man" to park his camper on his land when he is not camping.

Mr. Pimental said the definition of vacant land is with no buildings or structures so if you have an RV parked there for whatever period of time then it is no longer a vacant lot.

Mr. Henry said an RV is a registered motor vehicle and is not a building or a structure. He said it is not right to tell people they can't park their RV somewhere.

Mr. Capello said the board just determined how big an apartment has to be and that's not their right either. He said the board couldn't zone in on some things and not zone in other things because it involves property rights. You are changing property rights with everything you did here today he said.

Mr. Henry said they are attempting to give more rights to the property owner and fewer rights to the Town.

Mr. Pimental said he agreed with it being any use on the property and it doesn't have to be a residential use but that it was not a great idea to have an RV parked on vacant lot because it is going to create additional issues with occupancy which is already an issue with the Town.

Mr. King then suggested it be changed to say "existing residential use" and add in "abutting" so that if you owned a lot in Lancelot Shores and had a house on one side and a lot on the other side you could park your RV there because it is an abutting lot.

Mr. Fisher asked about the guy that only owns 1 lot in Lancelot Shores.

Mr. Capello said there are several hundred residents in Lancelot Shores and there are 7,000 residents in Farmington and that Mr. Fisher wanted to make a rule that benefits only a small portion of the population.

Mr. Henry said if he lived in Lancelot Shores he would not want the neighboring properties to be somebody's parking space. He asked if the intent of Lancelot Shores is to provide parking for people that don't live there.

Mr. King asked if it would be reasonable to allow a guy to park his vehicles on an adjacent lot he owns which is already being done now.

Mr. Bridges said he could agree with allowing it on an adjacent lot because the owner is going to be more apt to take care of it because it is next to his residential lot. He said he did not favor allowing it on some vacant lot somewhere as it could turn into a junk collection site that the neighborhood has to look at.

Mr. King said they have to draw a line somewhere and his line would be drawn at allowing it on an existing residential use or on a lot adjacent to that person's existing residential use. He added that the individual vacant lot somewhere could also become the disposal site for the RV itself because it is allowed to be parked there.

Mr. Pimental said he could live with limiting it to adjacent lots as it is in line with what the board has done with garages, barns and other residential uses.

Mr. Fisher said someone with one parcel could build a shed on it and make that the principle use and then could store their RV there.

Consensus of the board was to add "abutting or adjacent" lots to the proposed amendment.

Mr. Pimental then drew the board's attention to the red text at the bottom of the page that states "No other recreational vehicle use is permitted on any lot except as specifically allowed by this section". He said this is something the Attorney advised should be included.

He clarified that the board was seeing the allowed uses and anything other than that is not allowed.

Mr. Henry asked if campgrounds were addressed in the proposed amendments.

Mr. Pimental said campgrounds are in another section of the ordinance which was left as is.

Warrant Article #6: Overlay District – Mr. Pimental said for discussion purposes he called this the Downtown Overlay and this is essentially what is in red on the map given to the board. He said he wrote a purpose statement and put the boundaries as along Main Street starting at Map U06, Lot 91 west of the Cocheco River and Map U06, Lot 89 at the corner of Main Street and Elm Street, continuing to Map U05, Lot 114 and Map U05, Lot 01 at the corner of Blouin Street.

He said the boundaries for Central Street would include from Map U05, Lot 178 and Map U05, Lot 200 at the intersection of Main Street continuing to Map U05, Lot 206 at the corner of Central Street and Lilac Street and Map U06, Lot 169 at the corner of Central Street and Spring Street.

Mr. King recommended the title of the overlay district be changed to the Downtown Commercial Overlay District. It tells people what it is about and that we are restricting residential development in a certain area and requiring it to be commercial he said.

Mr. Pimental said for the standards they would default to Table 2.05 and the special considerations section will contain the following: "All existing mixed use buildings located within the downtown commercial overlay district are prohibited from converting the first floor

of the store front side of the building from commercial to residential”.

Mr. Fisher suggested that the map given to the board be enlarged and darkened for clarification and put at the polling place so people can see there are places in the VC they are not touching.

Mr. Pimental said he would do this.

Mr. Bridges said he wanted to make it known to the board that he agreed with this stuff but that he did not agree with cutting up the downtown.

Mr. Pimental said there are some unintended consequences with this plan and that it looks like spot zoning as there are outlying properties on Green Street, Pleasant Street, Grove Street and south of Acorn Court that are not contiguous to the rest of the district.

Mr. King said the Green Street parcel does not have frontage on Main Street and the requirement is for lots that have frontage on Main Street. He said the overlay map gives the appearance that the overlay is going down Grove Street and Civic Street and suggested that those streets should be blackened out on the map.

Mr. Pelkey said he didn't think the problem was with the overlay but with the remainder of the VC that now is not contiguous because it has been divided by another district.

Mr. Pimental said the Green Street property is surrounded by properties that will be held to a different standard.

Mr. Pelkey asked what zone it borders on now.

Mr. Pimental said it borders on the **Urban Residential (UR)** district.

Mr. Pelkey said it could be made part of the UR as there has always been some property that sticks out into another zone.

Mr. Henry asked for the minimum lot size in that area and if the lot behind the Green Street property they are discussing is dividable. He then said the back lot would have no frontage to get to it if it were divided.

Mr. King suggested removing the coloring of the side streets because when you look at the map it looks like those lots are affected but it really applies to the properties with frontage on Main Street. Then the red coloring would only be on Main and Central Streets and the properties affected which is better from a visual perspective he said.

Mr. Pelkey said that still leaves the issue of the un-contiguous lots there were part of the VC.

Mr. Pimental said one of the consequences of just doing Central and Main Streets is that they now have some parcels that are almost “landlocked” that are still part of the VC but they are not part of the overlay.

Mr. King said most of those properties are residential uses.

Mr. Bridges asked about Mechanic Street and noted that the street is mostly commercial business.

Mr. Henry corrected that there are 2 businesses on Mechanic Street one of which is the bar and the other is the Tiger Café which is actually a non-profit organization.

Mr. Pelkey asked what issue would be raised by leaving the overlay as it is.

Mr. Pimental said it looks like spot zoning where there are these outlier lots.

Mr. King said he didn't see it that way and they are defining the areas on Main Street that are not going to have this additional requirement. What it ends up looking like on the map is not the intent and we are handling everybody the same on these 2 streets he said.

Mr. Pimental said the board's options include changing the area for the requirement from just Main Street and Central Street to include the entire VC or to make the other areas in the VC be absorbed into the Urban Residential District (which he did not recommend as it would be a drastic change). He said the good thing is that they are allowing mixed use buildings in the VC and the biggest piece of this is the requirement prohibiting conversion from commercial to residential use on the bottom floor in this area. If that accomplishes your goals in terms of legally the overlay district can get you there he said.

Mr. Henry read aloud item d which states "Buildings located within the downtown overlay district are prohibited from converting the first floor on the store front side of the building from commercial to residential". He said he thought the board had said no residential on the first floor.

Mr. Pelkey said at their last meeting the board agreed to restrict them from converting the first floor to residential for now as a baby step.

Mr. King requested that "on the store front side" be removed from the amendment so that it reads "...first floor of the building from residential to commercial".

Mr. Henry said the map shows one property with frontage on both Central Street and Grove Street and asked if they could build a separate residential building on the back of the lot and have 2 buildings on one lot there.

Mr. Bridges said if it's a big enough lot they could divide it.

Mr. Fisher said he didn't think they could have a residence and a store on the same lot.

Mr. King said they will find out.

Mr. Henry said that behind the fire station property there a landlocked little piece of land that is not incorporated into this.

Mr. King said that is because it doesn't have frontage on Main Street.

Mr. Henry said there has to be drivable access to the property.

Mr. Fisher said the owner is working on an easement with the Town through the old fire station property.

Mr. Henry said then there will be some sort of frontage to that property.

Mr. King disagreed and if you are not on frontage you don't have it. You don't gain frontage from a road he said.

Mr. Pimental asked if the board was comfortable with the overlay and changing the name of it. Consensus of the board was to accept the overlay with the changes to name and item d as discussed.

Accessory Dwelling Units – Mr. Pimental said the Attorney added some language which is

highlighted in red to add some more information to the restrictive covenant with the Town. He said that item #6 has to do with detached ADU's and initially it said located on the second floor which has been revised to say located entirely within an accessory structure. If it's an accessory structure above a garage that may make it more difficult for someone older to get to it so by saying entirely within it, it can be on the top or bottom floor he said.

Mr. Pelkey asked about the meaning of the last provision which states that stand alone detached ADU's are not permitted.

Mr. Fisher said the definition includes detached units.

Mr. Pimental said that stand alone detached ADU's are not permitted.

Mr. King said that means it can't be the only the only use on the property.

Mr. Pimental said the owner couldn't have a primary residence on the lot with no garage or barn and then build an ADU like a cottage because that is 2 primary residential uses. If it is above a garage or barn the primary use is the garage and ADU is an accessory use he said.

Mr. Fisher said he thought the definition of an ADU conflicts with the wording in this section.

Mr. King asked Mr. Pimental to review the section with Mr. Fisher's comments in mind and make any changes to the definition as needed.

Mr. Pimental said the board may want to consider reducing the maximum area requirement from 1,000 sq. ft. to 850 sq. ft. as 1,000 sq. ft. is the highest he has seen during his research.

Mr. Fisher asked if the state law says a maximum of 850 sq. ft.

Mr. Pimental said that the state law does not include a maximum area.

Mr. Henry asked if they should set the minimum area the same as for units in the VC.

Consensus of the board was to set the minimum at 350 sq. ft. to be consistent with minimum sq. footage requirements for residential units in the VC.

Rear Lot Subdivisions - Mr. Pimental said they have changed the first paragraph because it pointed to something that didn't exist so they said that it would have to fall in accordance to the Table in Section 2 and in item D (b) there were a blank number of feet which didn't make any sense. It now reads "fee simple owned street frontage as required by the space and bulk standards in the Tables in Section 2 for each zoning district".

He asked if they needed to include something that talks about a road maintenance agreement for shared driveways as mentioned by Mr. Tetreault earlier in the meeting.

Mr. Henry said he thought this section doesn't make a shared driveway.

Mr. King said it allows for a common access and if there was frontage but there is an existing driveway next to that and the access was provided through an easement.

Mr. Henry then said that they wouldn't have to use the frontage that they have to have.

Mr. King said it may not be readily accessible due to topographical issues.

Mr. Pimental used the case before the board earlier in this meeting as an example of where the owner had the necessary frontage but couldn't put in a driveway due to the pond on the lot.

He asked if it makes sense to put something in ordinance to deal with future scenarios.

Mr. Pelkey asked if this was put in the subdivision regulations.

Mr. King said it should be included as a deed restriction so that each of the owners is responsible for a share of the maintenance and it would be as binding as the deed. He said if the land is sold and the new buyer won't sign the agreement that's when the stuff gets lost. He said if the road maintenance agreement is put in the ordinance it is a requirement and if it is put in the subdivision regulations it can be waived.

Mr. Henry asked what the harm is to the Town if they don't put the requirement in the ordinance.

Mr. King said if they don't make it a requirement it doesn't get done and the Town has to deal with people not getting along and claiming it's the Town's fault.

Mr. Pimental said he would ask the attorney to include language regarding road maintenance agreements and if the board was comfortable with him working with the Attorney they could motion to move the proposed amendments forward to the public hearing.

Motion: (King, second Pelkey) to forward the warrant articles as amended to a Public Hearing on January 9, 2020 for draft warrant articles #2,#3,#4, #5,#6, #7 and #8;

Discussion: Mr. King asked when the copies of the articles would be available for public consumption.

Mr. Pimental said he gave a Dec. 27, 2019 deadline to the Attorney and that he would send the proposed amendments to her the next day.

Vote: The motion passed 5-0.

Adjournment:

Motion: (Bridges, second Henry) to adjourn the meeting passed 5-0 at 9:30 p.m.

Respectively submitted
Kathleen Magoon
Recording Secretary



Charlie King, Chairman