

Town of Farmington  
Planning Board Workshop Minutes  
Tuesday, November 26, 2019

**Board Members Present:**

Charlie King, Chairman  
Rick Pelkey, Vice Chairman  
Bruce Bridges  
Stephen Henry  
TJ Place, Selectmen's Rep.

**Board Members Absent:**

Bill Fisher, Secretary  
Felicia McCowan

**Others Present:**

Kyle Pimental, Interim Planner

**1). Call to Order:**

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

**2). Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**3). Zoning Amendments Discussion:**

Mr. Pimental began the review of the latest revision of the proposed zoning amendments which contains the Town Attorney's comments on the questions from the previous meeting.

**Warrant Article #2: Amendment #1, Section 1.14, Definitions**

**Agritourism** -Mr. Pimental said this definition still needs some input from the board. He read the Attorney's comment which said if the board wants to avoid holding a Public Hearing to make this a permitted use with application to and approval of the Code Enforcement Officer (CEO) instead of permitted with Planning Board review.

He said the Attorney added a sentence about requiring adequate parking and other facilities to support the public and that traffic and parking shall not adversely impact adjacent properties, streets, sidewalks or public safety.

Chairman King asked if there is a way to separate out large events so they would have to come before the board for review.

Mr. Pimental asked Mr. King to "hold that thought" until they get to Warrant Article #3, Table of Permitted Uses where the Attorney addresses this issue.

He asked if the board is comfortable with moving in the direction as suggested by the Attorney.

Mr. Henry asked if they should add a requirement to have the appropriate sanitary facilities and if so, if it would fall under definitions or should be included elsewhere.

Mr. King said it should be part of the application process because they need to show they have adequate facilities depending on what they are doing and how many people they are having.

Mr. Pelkey suggested that a period be placed after "public", the words "traffic" and "and" were struck and then start a new sentence with "Traffic" to read "There must be adequate parking and other facilities to support the public. Traffic and parking shall not adversely impact adjacent

properties, streets sidewalks or public safety.” That addresses Mr. Henry’s concern that there are enough sanitary facilities and whatever else is necessary to support people coming to the site he said.

Consensus of the board was to agree with Mr. Pelkey’s suggested revision.

**Amusement Arcade** – Mr. Pimental said the Attorney recommended removing “pool hall” and “bingo hall” as they are not arcades and to keep the definition as “coin or token-operated games, rides, shows or similar entertainment facilities and devices”.

**Amusement Park** – The Attorney recommended removing “or sale of items” because leaving it in indicates an amusement park could just be for the sale of items which she did not think was the board’s intention. She said the sale of items would still be allowed as long it was in conjunction with the rides, booths, etc.

Consensus of the board was to accept these 2 definitions as presented by the Attorney.

**Farmer’s Market** – Mr. Pimental said the Attorney added a sentence to this definition that states that commodities offered for sale must include, but are not limited to, products of agriculture as defined above (under the definition of farm).

Mr. Pelkey asked if this would apply in general because there are some folks who offer crafts and not necessarily agricultural/food items at the farmers’ markets.

Mr. King read that the definition says the market must include but is not limited to the sale of agricultural products.

Mr. Henry suggested that 2 or more vendors of agricultural commodities “gather” be changed to 2 or more vendors are “invited” because during some parts of the season there may be only one table there but it is still a farmers’ market.

Mr. King asked why it couldn’t state 1 or more vendors in the definition.

Mr. Henry because that would be a farm stand on your property and there is a difference between farmers’ market and a farm stand.

**Mixed Use** – Mr. Pimental said that typically mixed use has a residential component to it but the way the definition is currently written there could be both office and retail in the same building with no residential use. He said the Attorney saw no problem with this legally and asked if the board wanted to redefine it as a residential component with some other use or to leave it as a mixture of commercial/office/retail with no residential component.

Mr. King said the board discussed that the buildings in the VC could have all of the permitted uses for that district. He said a mixed use building should be defined as containing some or all of the uses permitted in that zone. We may restrict the residential uses in some areas of the VC but that would be separate from the definition of mixed use he said.

Mr. Pimental asked if the board wanted to require that one of the uses in a mixed use building must be a residential use.

Consensus of the board was not to require a residential use as one of the uses in a mixed use building.

Mr. Pelkey asked why they should list of the types of uses when the definition will contain “provided that such uses are individually allowed in the applicable zoning district”. He asked why they shouldn’t just remain silent on that and just say it’s what is already permitted within the district.

Mr. Pimental said that is probably the better way to do it and they will clean that up.

**Percentage of Commercial Floor Area** – Mr. Pimental said he gave the board some options on how to determine the appropriate amount of floor space that should be reserved for commercial use in the buildings downtown based on some examples from other communities. He said the board wanted to go with using a percentage of the floor area so he asked the Assessing Clerk to pull all of the parcels within the VC and group them into small, medium and large size buildings based on the effective building area not just the first floor.

He said there are a total of 95 parcels with 50 of them between 559 and 3,372 sq. ft. (small), 20 between 3,859 and 6,931 SF (medium), 12 between 7,562 and 22,477 SF (large) and 13 vacant lots or with no data available. The assessing data only contains the total SF of the buildings and there was no good way to figure out the SF for the bottom floor of those 95 buildings he said.

Mr. King asked why the area requirement is not in another section of the zoning instead of in the definition of mixed use. He said the restriction would apply only in the VC and would be cumbersome in other areas as part of the definition.

Mr. Pimental agreed and said that it could be put in Section 2.05 Village Center District.

Mr. King said it should be taken out of the definition, put it in Section 2.05 and delineate where those restrictions would apply in the VC so that everything related to the VC is all together.

Consensus of the board was to agree with Mr. King’s suggestion to remove the percentage requirements from the definition and move them to Section 2.05 of the Zoning Ordinance.

Mr. King added that should the board want to change the restrictions in the future they would only have to change that one section.

**Outdoor Recreation: Low Impact** – Mr. Pimental said that at the last meeting the board decided to eliminate the medium impact definition and to just have the definition of low and high impact activities. He read that the definition of low impact uses would include low intensity activities in nature that do not require major structures or motorized vehicles including but not limited to hunting, hiking, fishing, swimming, canoe/kayaking, biking, etc.

**Outdoor Recreation: High Impact** – Mr. Pimental said this would include high intensity activities that require motorized vehicles including but not limited to all-terrain vehicles, snowmobiles, boating (that requires a temporary boating license) and motocross bikes. He said these definitions will become important when they come to the Table of Permitted Uses and have to determine which of these activities will be allowed in each zone.

Mr. King said at the previous meeting they discussed where snowmobile, ATV, bike, etc. trails pass through a property but is not a dedicated use on that site and asked how that would be defined so that it is not designated as a high impact use subject to Planning Board review.

Mr. Pimental said that these designations would be for new projects coming before the board. Mr. Henry noted that could be a proposed new trail.

Mr. King suggested the threshold might be if it's a commercial activity.

Mr. Pelkey said it should not interfere with a landowner's right to allow someone to pass over their property if they choose to.

Mr. Henry said this is an area designed to attract people to the property and stay on the property and the trail system is designed to cross a property but not stay at the property. He asked how they would define an outdoor recreation area that is intended to keep the activities on the property for an extended period of time.

Mr. Pelkey said it may be tied to the primary use for the property because if the owner wanted to make the primary use of the property a high impact outdoor recreation use that would be something he would want to talk to them about. If it is just some people crossing a property I don't see regulating that at all he said.

He then asked if outdoor recreational uses could be allowed as a primary use and if it would have to be added to the Table of Primary Uses.

Mr. King said maybe it's a combination of a primary use and a secondary use that they put a threshold on such as holding events or gatherings in excess of a certain time period or the number of people. The event could happen a few times a year but because of the size of the event it would fall under board review he said.

Mr. Pimental said he understood the board's intent is to add a threshold or some additional information to make sure people understand this is not trying to regulate snowmobile trails but is for large events where there is a primary use on the property.

Mr. Henry suggested adding a line that states this shall not apply to trails whose purpose is to cross a property.

Mr. Pimental asked if there is a number they should start with as the threshold for events.

Mr. Henry asked if the threshold was for the number of vehicles or people.

Mr. Pelkey advised them to be careful when creating a threshold as people will find a way to get around it and gave an example of a group that held a "crawl" where 300 people split into groups of 15 people each.

Mr. Pimental suggested they start with 25 people as the threshold and he would do some research to see if there is any additional information available. He said he liked the idea of a primary use, some threshold for events (people, size, time?) and that this does not apply to trails designed to travel through a property.

Mr. King suggested it be worded to include that connections to or through trail systems do not apply.

Mr. Henry said he didn't like the word "connecting" because it requires that there is already an existing trail system and suggested it be changed to "as part of a trail system". He added there is an effort underway to create a new trail system in town.

Mr. Pelkey said someone may want to allow their vacant lot to be used for parking and to access a trail system so there could be a number of cars at one location.

Mr. Pimental said he would work on this and provide a revised definition to the board.

**Youth Recreation Camp** – Mr. Pimental said he found a definition in the NH Dept. of Environmental Services code which says it is a camp in operation for at least 10 days per license year for the purpose of providing recreational opportunities or a combination of recreation and instruction to 10 or more youth per day at a place which is continuously or periodically used for such purposes and includes residence camps and seasonal and year-round day camps as defined in Env-Wq 902.21 as may be amended in the NH Code of Administrative Rules.

Consensus of the board was to use the definition of Youth Recreation Camp as presented.

**Warrant Article #3: Amendment #2: Section C, Table of Permitted Uses -**

**Agritourism** – Mr. Pimental said the Town Attorney commented that the Town cannot require existing uses to come in for approval unless it involves an additional/new agritourism use or a significant expansion of the agritourism (per RSA 674:32-b).

Mr. King said he didn't have issue with that because if there is an existing use that is causing a traffic impact, etc. there are other ways for the Town to address it.

Mr. Pimental then read the Attorney's suggestion to make agritourism a permitted use with an application to be approved by the Building Inspector. She wrote that no public hearing would be required, there would be a minimal application fee and the Building Inspector can determine if the proposal would require a building permit for any new structures or needs site plan review if it is more than agritourism.

Mr. King said he was not concerned about allowing all of the other things involved in agritourism by the permit process with a fee but that he was concerned about overnight stays, dining and serving alcohol at the sites. He gave examples of applicants wanting to open a diner/restaurant or a boarding house/hotel in a zone where that isn't allowed and calling it agritourism to circumvent the review process. He said he did not know how they would deal with this except maybe to put it in the Table of Permitted and designate it as Permitted with Review (PR).

Mr. Pimental said he thought this would be tough because overnight stays, alcohol and food service is part of the state's definition of agritourism.

Mr. King said they can define where they would fall within the Table of Permitted Uses so it would be permitted, but permitted with review. If those three things are PR then the community has an opportunity to make sure it is not a negative impact he said.

Mr. Pimental said if those 3 uses are PR then a site plan review and abutter notice would be required. He said the amendment calls for agritourism to be allowed in all zones except for the Urban Residential (UR), the VC and the Commercial Business (CB) Districts and asked if the board would allow it in all zones.



After a brief discussion about the location and characteristics of the zones in town Mr. Pimental asked the board to table the discussion until the next meeting to allow him to take the agricultural principle uses in the Table of Permitted Uses and add what was discussed at this meeting so they can see it all at once and see if it is in balance with each other.

**Warrant Article #4: Amendment #3: Section 2.00 C Table of Permitted Uses**

**Recreational** – Mr. Pimental said he added the principle uses discussed at the last meeting and the board needs to decide if they will be permitted by right (**P**), permitted with review (**PR**), permitted by special exception (**SE**) or **prohibited** (-) in each zone.

The board made the following determinations:

**Amusement Arcade**– *prohibited* in the AR, SR, RR, and UR; **PR** in the VC and CB; by **SE** in the IB.

**Amusement Park** – *prohibited* in the AR, SR, RR, UR and the VC; **PR** in the CB and by **SE** in the IB.

**Indoor Recreation** – by **SE** in the AR, SR, RR, UR and the IB; **PR** in the VC and CB.

**Outdoor Recreation (low impact)** – **PR** in the AR, SR, RR, UR and the CB; by **SE** in the VC and IB.

**Outdoor Recreation (high impact)** – **SE** in the AR, SR, RR and CB; *prohibited* in the UR, VC and IB.

**Movie Theater/Drive-Ins** – **SE** in the AR; *prohibited* in SR, RR, UR and the IB; **PR** in the VC and the CB.

**Youth Recreation Camp** – **PR** in the AR and the RR; **SE** in the SR and the UR; *prohibited* in the VC, CB and the IB.

Mr. Pimental said the board could revisit these designations and that the use of a zoning map would be important in determining if there is appropriate space for the proposed uses.

**Warrant Article #5: Amendment #4: Section 2.00 C Table of Permitted Uses**

**Residential –Principle Uses- Mixed Use** - Mr. Pimental said he would have to consult with the Attorney again about the mixed use definition. He said the Attorney wrote that the current definition of mixed use is office/retail with no residential and the board is saying it can be residential or any combination of those uses.

He said the Attorney felt that the current definition doesn't fit under residential and should be moved to commercial & industrial. He suggested that if they go back to what was discussed earlier in the meeting (mixed use is some or all of the uses permitted in that zone) that would alleviate that issue.

Mr. Pimental said that at the last meeting the board said that mixed use would be PR in the VC and with the definition being a little more relaxed there will only be certain sections of the VC that would have additional requirements. He asked with the new definition if there are other zones where they would like to allow mixed uses such as in the UR.

Mr. Henry said some mixed use is allowed now with home occupations and home businesses.

Mr. King said they would need to allow it in the CB where there were multiple businesses in a multi-unit structure.

Mr. Pelkey asked if they would allow a mixed use building to be put up in the CB zone. He said unless they set the amount of commercial business required they could end up with a 25%

business/75% housing mix in that zone.

Mr. King said residential uses are not allowed in that zone. He said a mixed use could be a building with different types of businesses in it such as a machine shop and an art studio. He suggested that mixed use be allowed by PR in the UR, VC, CB and IB and by SE in the AR, SR, and RR.

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

**Accessory Uses** – Mr. Pimental said that he and the Town Attorney recommend that the board not allow accessory uses on a parcel without a primary structure but the board could identify several specific accessory uses and allow those uses in the Table of Permitted Uses.

He provided a list of the uses that are typically seen as accessory uses which included small pole barn, storage shed, gazebo, picnic pavilion, pool house or cabana, carport and garage. He recommended that any of these uses added to the table should be defined and to include some limitations on storage sheds so someone doesn't build a 400' x 400' structure and call it a shed.

Mr. King suggested they change "small pole barn" to "barn", to remove pool house/cabana and carport and to combine gazebo and picnic pavilion. Sawmills is missing from the list he said.

Mr. Henry said that would fall under barn as that is what you do inside one of these structures.

Mr. King disagreed and said it could be a portable or a fixed mill and could be in anything from a 4 sided structure to under a shed roof and if someone wanted to put in a saw mill it wouldn't be allowed.

Mr. Henry asked if they need to call out the uses in the building or just say the building is there Mr. Pimental advised the board to err on the side that this is more about the uses but it is going to depend on how each use is defined. This gives the CEO some guidance as to the structure's intended use when someone goes to apply for a permit he said.

Mr. Bridges asked if removing carports would mean a lean-to on the side of a barn/garage to park a vehicle under wouldn't be allowed.

Mr. Henry said that would depend on how you define carport. He said in his opinion a carport is a lightweight stand-alone or attached shelter.

Mr. Pimental said they are talking about allowing structures on a lot without a primary structure so you probably wouldn't have a carport on vacant lot.

Mr. Henry said someone might put an aluminum frame structure with no foundation on the lot. He said there are also carports that are fully enclosed but are not as robust as a barn or a shed.

Mr. King said he was not in favor of allowing carports but suggested saving this part of the discussion for the Public Hearing instead of "beating it to death".

Mr. Pimental advised the board to remember what the intent is which is not just to allow these accessory structures everywhere. It's in certain cases such as where a property owner owns a lot across the street or an adjacent lot where he can't do something because of the setbacks.

Mr. King said the definition says it's not allowed without a residence and says nothing about adjacent structures. He said if a guy owns property in the agricultural zone and grazes cattle in

the summer currently he is not allowed to build a barn on his adjacent lot for those cattle. Mr. Pimental said the Attorney said that wherever these uses go it should be by SE because the owner has to prove why they can't put this accessory structure on their principle property. Mr. Pelkey said this is mostly for people who own a lot across the street from their residence and can't solve the issue by merging an adjacent lot or by getting a lot line adjustment. Mr. King said there may be instances where they can't get a lot line adjustment for an adjacent lot because it would cause it to become a non-conforming lot. Mr. Pimental said this amendment would allow some flexibility for these circumstances which is why doing it by SE is the right way to go so they have to go through the ZBA to make their case on why they should be allowed an accessory structure on a property that doesn't have a principle structure. Mr. Henry asked why he has to have a special circumstance to build a barn on his land. Mr. Bridges said if it is permitted by review it comes before this board and then the board could decide if it should be allowed or not. Mr. King asked if they want to be weighing in and requiring all of the notices for someone who wants to build a garage on an adjacent parcel. This would give them an avenue to do it but we don't need to see it if it's just a building structure. That's for (building) codes he said. Mr. Henry said a SE requires abutters' notices. Mr. Pimental said this is mainly for residents and probably not something you want to entertain in the VC, CB or IB as it doesn't make sense to allow these types of structures in those areas. Mr. King said they should begin with not permitting these uses/structures in the VC, CB and the IB and the only choices for the residential zones is Permitted or permitted by SE. Mr. Henry said he favored allowing the uses to be permitted in the residential zones and asked if this would have an effect on property in Current Use. Mr. King said buildings and structures are not allowed and would violate Current Use standards. He said he favored permitting the use of these accessory structures in the residential zones. Mr. Pimental then read the Attorney's comments which say the board should avoid minimal/occasional uses as a primary use because without a daily on-going use these structures are not maintained and fall into disrepair and start to accumulate junk often creating enforcement issues. She said they are lawful uses to add but advised the board not to do so. Mr. Pimental said he did not have a chance to speak with the CEO about this and that his recommendation is to not go with it as permitted and to make it allowed by SE. Mr. King said that anytime they allow a building for any use there is the same potential for code violations and that the terms "junk" and "blight" were subject to opinion. Mr. Pelkey said he thought it should be left as allowed by SE because when the discussion started it was about people who had legitimate problems they were trying to resolve and not to just open the door and let anybody do anything. If you want to let everybody do anything they want everywhere then you don't need a zoning board he said.



Consensus of the board was to allow these accessory uses by SE.

**Warrant Article #6: Amendment #5: Section 2.05 Village Center District**

Mr. Pimental said they should take the additional requirements out of the definition and put them in this section under Special Considerations. He asked the board if they wished to discuss the required percentage of commercial space or look at the map to determine the specific areas that must meet those additional requirements.

Consensus of the board was to begin by reviewing the aerial photo of the VC District.

Mr. King suggested that along Main Street, Central Street and Spring Street as areas with requirements for mixed use and he would not include the side streets such as Grove, Civic, Mechanic, Acorn, Garfield or Elm Streets.

Mr. Henry said he would not include Spring Street because it is not part of the look and feel of the commercial downtown and if a portion of the that commercial area were to convert to residential use it would not impact the downtown.

He said he would also not include all the way to the Main Street Bridge as the area between Water Street and the bridge is only developed on side of the street and is mostly residential in nature.

He then asked if they wanted to require that homes with businesses located in the midst of other residences have to remain commercial.

Mr. Bridges said he was trying to protect future opportunities for commercial uses and that he would include Mechanic Street as he has seen many businesses there over the years. He said once an area converts to residential it's not going to come back.

Mr. Pimental said the way the definition is currently written mixed use is allowed in the entire VC. What you are talking about is the additional requirement to have a certain percentage of the bottom floor to be commercial. Mechanic Street would not be required to have commercial/mixed use on the first floor but it can be he said.

Mr. Pelkey noted that whatever someone's building is now nobody is going to have to change because the board does this. Residential uses are currently allowed and if your building is residential it can stay residential he said.

Mr. Pimental asked the board to be as specific as possible and to delineate where the last parcel having to meet the specific requirements would be located on each street.

Consensus of the board was to include Main Street from the bridge to the old Town Hall and Central Street from Main Street to the intersection of Spring Street and Lilac Street.

Mr. King said these limits can be revised at the Public Hearing.

**Percentage of Commercial Floor Space** – Chairman King said the board discussed requiring a certain percentage of floor space for non-residential uses on the first floor. He said Mr. Pimental had proposed that 50% of the gross floor area of the first floor be reserved as commercial space and that he would like to see that increased to 60% at a minimum.

Mr. Henry said another option they discussed was to require a minimum depth and that a

minimum depth combined with a minimum residential size unit eliminates the need for any percentages.

Mr. King asked what would happen if the depth requirement was 30' and a building is 44' deep so this would not work.

Mr. Henry said that would mean they couldn't do it (have a mixed use on the 1<sup>st</sup> floor) and the same thing could happen with a 60% space requirement in this instance. He said he suggested having some flexibility for some of the deeper buildings not for one 40' deep.

Mr. King said they also discussed requiring an access to the rear of the building and asked if someone had space at the back of the building and there was no access to it why they would encourage mixed use on the first floor there.

Mr. Pimental said he liked the idea of a depth requirement and the percentage requirement and to use one or the other in conjunction with each other. He said Rochester has a depth requirement of 30' x the building's frontage or 750 sq. ft. whichever is greater.

He said he would not use the minimum size for a residential unit for the rear space because the owner may want to use it for another use such as for utilities or parking. He suggested they may want to offer some flexibility by coming up with a sq. footage number and/or a depth number or a percentage.

Mr. Pelkey said that in Dover a lot of buildings are coming up off the ground and the parking is going in underneath the building.

Mr. Pimental said Dover and Rochester have recognized that commercial space is harder to fill and are allowing mixed uses on the first floor. They realized that a store front doesn't need much more than 750 sq. ft. and if they need 2,000 sq. ft. and they have it, great. If they don't need it they can use the back of the building to make the most out of their investment he said.

Mr. King asked if he has a building with 2 store fronts if he could have access off of Main Street to the back of the building for apartments. He said he wouldn't allow it because there could be some creative plans for that and they won't like what they would be opening the door to.

Mr. Henry said if the apartment was on the second floor he could have a door to get upstairs from Main Street. He said the building his business is in has such a door and he didn't think that it looks out of place downtown.

Mr. King said an argument could be made for a door but he didn't want to see it turn into a bay where there is living space directly behind the door.

Mr. Henry said they would need to add that they will allow an ADA compliant hallway and stairs to the second floor that is accessed from the front of the building or we don't allow it.

Mr. King asked where the cars would be and that if the parking is in the back but the access to the 2<sup>nd</sup> floor is in the front the residents will park on the street in front of the building.

Mr. Bridges said when he had his business downtown the apartment residents parked on the street and it was a big problem.

Mr. Henry said they could prohibit residential access from the commercial street front for new

buildings.

Mr. King said they could require residential access from the back except for the existing front accesses.

Mr. Pimental said if the amendments pass and the town wants to increase the density in the VC and keep the store fronts on the bottom floor, the board can decide how to address the access and the parking and make those changes to the site plan regulations at any board meeting.

Mr. Pelkey added they don't have the ability to go out and tell the town to create some parking places for these people. The people in town may have to decide if they want to increase the density downtown they may have to set aside some space there for parking he said.

Mr. King said it may not be the municipality's responsibility and some handle it by demand and then someone will buy a lot for parking as a business or a parking garage.

Mr. Bridges asked if by increasing the density and allowing residential units in the back of the buildings if they were causing a bigger parking problem because they are doing both.

Mr. Henry said he didn't think where you allow people put apartments is the parking problem. It's the density that is your parking problem he said.

Mr. King said maybe it was time to back up and say residential units are not allowed on the first floor and by increasing the density it's going to have a big effect on the redevelopment. We have to address the parking and this whole access issue when you add apartments to the back of the building which will exacerbate the problem he said.

Mr. Bridges suggested they take baby steps and not mess it up.

Mr. King said there are not that many existing buildings are deeper than 30' and have enough room for a residential unit in the rear of the first floor. He suggested that they start with increasing the density and make it a requirement that it is non-residential on the first floor on these streets. After a season we may open it up a little more or throttle it back some he said.

Mr. Henry said he would rather fix the parking issue because where the residents live is not the problem.

Mr. Bridges said it is not their job to fix the parking and it is the owner's job to figure that out.

Mr. Pimental said there are 2 options and the first option is if they are going to allow any residential units on the first floor within the sub-district of the VC or not. The other option would require that a certain percentage of the space has to be commercial. He suggested both options be presented to the public at the Public Hearing and get some feedback on the issues.

Mr. King said the board should go to the Public Hearing with option A which would require that 70% percent of floor space (with a cap for larger buildings) would be reserved as commercial space and option B would be no residential units allowed on the first floor. After getting some public feedback they would decide how to move forward on this he said.

Mr. Henry asked if they were kicking the can down the road again with the parking issue.

Mr. King said it will have to be addressed in the site plan regulations and on a case by case basis.

Mr. Henry asked what would happen if this passes at Town Meeting and someone puts in an application the next day and the 2 Public Hearings on changing the site plan regulation have not been held yet.

Mr. King said they would have to go by the existing regulations at that time.

**Warrant Article #8: Amendment #7: Section 3.09 Signs**

**Amend the Sign Ordinance on Route 11** - Mr. Pimental said he spoke with the Attorney about amending the ordinance to allow larger signs and reviewing it on a case by case basis as part of the site plan review regulations. He said there could be problems with that as someone may want to change their sign but it wouldn't trigger a site plan review. A way around that might be it is a revision to their site plan which would require them to come back to the board he said.

Mr. Henry said there are businesses in town that pre-date site plans.

Mr. Pimental said the Attorney also advised that they can't treat Route 11 differently for sign purposes under Equal Protection without a substantive legal review that results in identifying non-discriminatory reasons to treat Rte. 11 differently such as the high speed of travel. She recommends postponing addressing this issue until next year he said.

He asked the board to consider that although they could probably consolidate everything regarding Section 2.0 and the permitted uses into 2 warrant articles there will be about 10 amendments for people to vote on.

He said the only recent issue with signs on Rte. 11 was when New England Furniture wanted to change their signs at both ends of their u-shaped lot and he was able to get what he needed through the variance procedure.

Mr. Henry said the Metal Farm also wanted to put up an auction sign at their other entrance on Paulson Road and had to get a variance to allow a second sign.

Chairman King said the sign ordinance does need some work but he didn't have any hard and fast problems with good solutions so he was okay with postponing this until next year.

Mr. Henry asked why the Equal Protection clause doesn't apply to chopping out streets to require commercial store fronts.

Mr. Pimental said it does apply and that in Warrant Article #5 the Attorney mentions that "singling out" isn't allowed by law.

Mr. King said once the amendments are finalized into actual warrant articles they can get a more thorough legal review.

**Warrant Article #9: Amendment #8: Section 3.16 A-6: RV Parks or Campgrounds**

Mr. Pimental said the Attorney REALLY recommends they allow RV parking on lots only if there is a primary use on the lot and no parking by itself on vacant lots. She said not to allow occupation of RV's on lots for even one night except for their temporary occupancy through a permit process. He said she also asked that this proposed amendment be reviewed by the CEO.

Mr. King said the Attorney's recommendations are stricter than the current regulations and he did not partake in this discussion to be more restrictive.

Mr. Pimental said an RV can be parked on a lot with a primary use and their biggest issue is that they don't want it to be on lots that don't have a principle use.

Mr. King said when the zoning amendments regarding principle uses for barns, sheds and sawmills pass, someone is going to have their RV parked next to their saw mill or shed.

Mr. Pimental agreed that if that amendment passes a shed would become a principle use.

Mr. Pelkey asked why they couldn't allow accessory uses on an empty lot by special exception.

Mr. Pimental said the Attorney said there is case law regarding this and that every Planner he has talked to about this has said that is not a good idea.

He said the Attorney said an RV can be parked and temporarily occupied on a vacant lot for temporary recreational purposes only for 5 consecutive days at time and for 25 days total in any calendar year. He then read her recommended permit process that she suggested as a way to get rid of the current "30 days in any 90 period" requirements as it is difficult to interpret.

Mr. King said with the new requirements the RV owner would be required to get revolving permits all summer and that you could do that only if the CEO likes you.

Mr. Pimental said the board may want to change the total number of days occupancy allowed in a calendar year.

Mr. King repeated his previous suggestion that they define the start and end date for the permitted time period and go through a permit process to address things such as trash and waste disposal, etc. and if they are not addressed properly he doesn't get the permit.

Mr. Pimental said the Attorney was trying to get to a permit process to allow a RV to be occupied on a vacant lot within a boxed in set of days to limit the number of days it can be there.

Mr. King said they could argue the number of boxed in days at the Public Hearing.

Mr. Pelkey said he would give them a longer period of time as some people want to take a vacation for a couple of weeks and stay on their vacant lot in their camper.

Mr. Henry asked about RV's on lots that are not vacant.

Mr. King said they should go through the same permit process.

Mr. Henry asked if the in-laws are coming for a visit if that means they would have to get a permit.

Mr. Pelkey said this proposal would only limit the use of RV's on vacant lots. He said if they are not prohibiting or permitting it on non-vacant lots they are not controlling it in any way.

He said they also need to consider that someone could move their in-laws into a camper beside their house and they stay there forever.

Mr. King said they need to address accessory incidental use of RV's on lots that have a primary residential dwelling and to define incidental use and set a time period for that use.

Mr. Pimental said the permit process was intended for RV use on a vacant lot.

Mr. King said temporary RV use should be allowed on lots with a primary residential structure without a permit.



Mr. Pimental said that the intent of a recreational vehicle is to take it somewhere and use it and not to keep it on your property and have people staying in it for long periods of time creating 2 residential dwelling units on the same lot. He asked the board if they agree with the approach to handling vacant lots and to come up with some language for incidental use on a lot with a primary residential dwelling that includes a threshold.

Consensus of the board was to agree with Mr. Pimental's suggested action.

**Warrant Article #10: Amendment #9: Section 6.00 Accessory Dwelling Units (ADU's)**

**D (2) Restrictive Covenants** -Mr. Pimental recommended that ADU's be allowed in all districts that allow single family dwellings and to take it out of the Planning Board's administration. He said that the biggest change was to D (2) which requires the principle dwelling and the ADU to remain in common ownership and prohibits conversion to any other form of ownership. He said a paragraph was added to ensure compliance with this provision by requiring the owner to record a restrictive covenant at the Registry of Deeds and provide a copy to the Town. Mr. Pimental said he asked the Attorney about the legality of restrictive covenants and she said this occurs in multiple communities and provided an example from the Town of Hanover. He said this will come into play in provision #5 in their decision on whether or not to allow detached ADU's. He said there has been much discussion about how allowing detached ADU's further opens the door to other forms of ownership but the Attorney said that provision #2 would ensure that doesn't happen.

Mr. Pimental said that if the board decides to allow detached ADU's he recommends that "If located in a detached accessory structure, the accessory dwelling unit shall be located entirely on the second floor of the structure" be added to provision #6. He then asked if the board was ready to make a decision on this or they wished to get public comments before deciding.

Mr. Henry said requiring the owner to file a covenant is putting an additional burden on the applicant that isn't there now. He asked if they decide to allow detached ADU's if the covenant could only be required for detached ADU's.

Mr. Pimental said it would be required for both attached and detached ADU's.

Mr. Henry asked how big of a burden it is to file a restrictive covenant.

Mr. King said it is an amendment to the deed for the property.

Mr. Pimental said using the Hanover example it doesn't appear to be burdensome as they provide the draft language, the owner fills out the tax map and lot numbers, signs it and then has it recorded at the registry.

Mr. Henry asked what happens if the owner decides to remove the ADU and convert it back to its original purpose because it isn't needed anymore.

Mr. King said the covenant just ensures that the ownership remains as a single family home and prevents it from being "condominium-ized" and having two different owners.

Mr. Pelkey said that per the RSA the ADU can be discontinued and there is language in the provisions that alludes to that.

Mr. Henry asked if the covenant can be discontinued so in the event the property was to be sold it wouldn't cause any red flags during the sale process.

Mr. Pimental said that in provision #12 a certificate of use that ensures the owner is in compliance with all of the provisions is required to be renewed annually so any time there is a change and they don't want the ADU any more on Jan. 1 they could not renew the certificate.

Mr. Henry said that means the owner must pay money to the Town yearly to keep the ADU.

Mr. King said this requirement has got to go. It will stay an ADU until they decide it's not an ADU and if they want to remove the restrictive covenant they will have to prove that it is no longer an ADU he said.

Mr. Pimental said the owner could be required to re-certify yearly without paying a fee.

Mr. King asked what re-certification of an active ADU would accomplish.

Mr. Pimental said it is mostly a tracking method for the Town.

Mr. King said tracking was not needed and until the owner wants to change it and removes the restrictive covenant he will pay more taxes on the property with an ADU instead of a game room so he is not going to keep it in force any longer than he wants to use it.

Mr. Pimental asked if it is the owner's responsibility to let the Town know when the ADU is being converted to something else.

Mr. King said the owner will let the Town know when he wants his taxes to go down.

Mr. Pelkey said when the property is sold the CEO could pull the certificate and the new owner could apply for a new certificate if he wished to re-establish the ADU.

Mr. Henry said he was in favor of removing all of provision #12.

Mr. Pimental said they were attempting to streamline items H and I into one provision and maybe it would be better to keep one of the discontinuance provisions instead.

Consensus of the board was to keep item (I) Discontinuance of an Accessory Dwelling Unit as written and to strike D (12) and H 1(a, b).

Mr. Henry asked about D (1) where a proposed new sentence would state "An ADU shall not be permitted on a property where more than one dwelling unit currently exists". He asked if there was a large lot with 2 houses on it if an ADU would be prohibited.

Mr. Pimental said this is new language but that this is not allowed now on a multi-family lot.

Mr. Henry said if he has a 6 acre parcel with 2 houses which could be subdivided but has not he would not be permitted to have an ADU on the property.

Mr. King said that it would circumvent the zoning and when there would be more than 2 residential dwellings a site plan review is required.

Mr. Pimental said this provision follows state law.

**D (6) – Area of an ADU** – Mr. Pimental asked the board for comments on his recommendation to change the existing requirement that the area will not exceed 750 sq. ft to include a range of no less than 300 sq. ft. and no greater than 800 sq. ft.

Mr. Pelkey asked if 800 sq. ft. is the state's limit.

Mr. Pimental said he did not know if the state has a maximum sq. footage limit.

Mr. King said they could go to 1,000 sq. ft. which is 25' x 40' or 26' x 38' which is one floor of a reasonably sized house.

Mr. Pimental said he took the 800 sq. ft. number from Dover's regulations.

He said if they go to 1,000 sq. ft. closet space should be included in the area calculations.

Consensus of the board was to increase the maximum sq. footage to 1,000 sq. ft.

**D (10) – Parking** – Mr. Pimental said they clarified this provision to state that a minimum of 1 dedicated off-street parking space shall be provided for the ADU.

**Warrant Article #11: Amendment #10: Section 3.04 Development of Rear Lots**

Mr. Pimental said he asked the Town Attorney to review this amendment and ensure it is in compliance with RSA 674:4 which allows for rear lot subdivisions. He said she ran out of time to review it for this meeting and will provide her comments on it for the next meeting.

Mr. Pimental said he would like the board to vote to set the date for the first Public Hearing at the next meeting.

Mr. King said they also need to vote on which sections as amended will go forward to the Public Hearing. Once the hearing date is set the documents should be ready for public review he said.


**4). Next Meeting:** Tuesday, December 3, 2019

**5). Adjournment:**

**Motion:** (Bridges, second Place) to adjourn the meeting passed unanimously at 8:52 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary

 *vice-chair*  
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Charlie King, Chairman