

CANDIA ZONING BOARD OF ADJUSTMENT

Minutes of July 24, 2018

APPROVED

Place: Town Hall; Meeting room

Call to Order: 7:00 pm following the Pledge of Allegiance

Members Present: Bob Petrin, Chairman; Judith Szot, Vice Chair; Ingrid Byrd; Boyd Chivers, and Ron Howe.

Present: Dave Murray, Building Inspector

Approval of Minutes: June 26, 2018

MOTION:

I. Byrd **motioned** to approve the minutes from June 26th, 2018 as presented. B. Petrin **seconded**. **All were in favor. Motion carried (5-0-0).**

Continuation of Case 18-632 Applicant: Frank and Myra Reynolds, 296 High Street, Candia, NH 03034; Owner: same; Property Location: same; Map 405 Lot 16; for a Special Exception under Article XV Section 15.04E Accessory Dwelling Units; a Variance under Article VI Section 6.02: Table of Dimensional Requirements and a Variance under Article V Section 5B (b-2); tourist home, hotel, motel. Intent: To create an in-law apartment within the existing home within the front setbacks and with the potential for short term rentals.

A. Bickum said I'm just going to read what the continuation is for. The Special Exception was already approved and the Variance for the dimensional requirements was already approved. The continuation is to approve or deny the variance under Article 5B (b-2); tourist home, hotel motel to use for short term rentals.

Present: Applicant Frank and Myra Reynolds of 296 High Street, Candia, NH 03034

Abutters Present: None

B. Petrin said we continued this so we could seek legal counsel. The abutters were notified on the original meeting so they had the opportunity to show this evening. Did you have any other points you wanted to make before we proceed?

F. Reynolds replied if it's possible to hear the results of legal counsel. B. Petrin replied legal counsel is a confidential matter, client attorney privilege. We get guided to stay within certain parameters so that we're not breaking the laws or rules so we are not at liberty to disclose the details of our conversations due to client attorney privilege. One main sticking point that did come up is that the use is inconsistent with the ordinance when it comes to the rental portion of it. We had three areas we had to cover; the special exception which got approved; the setback got approved and now we're talking about the tourist home portion of it and it is inconsistent. We ought to go through the criteria.

J. Szot said there are five conditions you have to meet in order for us to grant the variance.

The variance will not be contrary to the public interest. Basically that means that it must show that there will be no harm to the public if granted. It says does it alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public. To be contrary to public interest it has to unduly and a marked degree violate the basic objectives of the zoning ordinance and to determine this does the variance alter the essential character of the neighborhood or threaten the health safety and

general welfare of the public. Does it alter the character of the neighborhood? It changes it from residential to commercial because renting to short term rentals is a commercial use. RSA 674:72 which is the RSA that governs the Accessory Dwelling Units calls them dwelling units. It means that it's a place where you live, where you give your license (meant address) when you apply for a license, it's not a place where you stay for two or three days so and it states specifically that these dwelling units allow the Town to meet their requirements for workforce housing so they were intended to be long term, to live in, not to be rented. I. Byrd corrected they can be rented long term, not short term. J. Szot reiterated yes, not to be rented short term. Does it change the essential character of the neighborhood? You're running a commercial business in a residential area and the result of granting this variance means you can't deny someone else the right to do the same thing. So now you can have many places having a commercial use in a residential area. B. Petrin asked shouldn't we be voting on these.

J. Szot replied we're explaining them and read:

1. So the first is *not contrary to the public interest*. Does it unduly and to a marked degree violate the basic objectives of the zoning ordinance? All agreed it does.
2. *The spirit of the ordinance is observed*. The courts have emphasized in numerous decisions that the characteristics of the particular parcel of land determine whether or not a hardship exists. If an ordinance prohibits industrial and commercial uses in a residential neighborhood, granting permission for such activities would be of doubtful legality. The board cannot change the ordinance. All agreed no.
3. *Substantial justice is done*. It's pre-existing. A board of adjustment cannot alleviate an injustice by granting an illegal variance. Any loss to the individual which is not outweighed by a gain to the general public is an injustice. Whether the proposed development is consistent with the area's present use. All agreed, no.
4. *The values of surrounding properties are not diminished*. All agreed no on that. B. Chivers said no on that but they have to meet all five criteria.
5. *Literal enforcement of provisions in this ordinance will result in an unnecessary hardship*. If the hardship that is shared by all property owners than no hardship exists. What is it about this property that makes it substantially different from any other property in Town that is zoned residential that you can grant this variance? B. Petrin said it's not different.

MOTION

B. Chivers **motioned** to deny the request for a variance as they haven't satisfied each of the five criteria. I. Byrd **seconded**. **All were in favor. Motion carries (5-0-0)**.

B. Petrin said the variance was denied to rent that out on that kind of a rental basis. The two conditions we settled last month are still in effect. That puts an end to case 18-632.

R. Howe said we discussed the potential of the Planning Board doing something in terms of this whole deal everywhere, if we deny this and the Planning Board comes up with something that approves this same use and then our denial is moot, is that correct? B. Chivers replied yes. I. Byrd added it has to be voted by the Town. R. Howe replied I agree, but if a change is approved, then the fact that we denied this doesn't mean anything. B. Chivers said the remedy here is to change the law. B. Petrin agreed.

A. Bickum noted in the minutes that Mr. Frank Reynolds did submit a letter from Carl's Septic inspecting and attesting to the adequacy of the septic system, a condition for approving the Special Exception for the Accessory Dwelling Unit 15.04E in the Notice of Decision dated June 26, 2018. This condition has been met.

Case 18-633 Applicant: William Nicosia, 676 Old Candia Road, Candia, NH 03034; Owner: same; Property Location: same; Map 413 Lot 57; for a Variance under Article V Section 5.02C (c-2); heavy equipment. Intent: To operate and run a hired hauler small trucking business on this property.

Present: Applicant William Nicosia (Max); Andilee Colprit-Huckins, William's wife.

Abutters Present: None

William Nicosia introduced himself for the record and Andilee Colprit-Huckins introduced herself for the record.

B. Petrin said we left off with a continuation as we wanted to consult legal to make sure we weren't breaking any laws or rules; staying within the parameters and procedures that we need to follow. We were guided to stay true to the variances. Last time we met, you did not meet the five criteria; you have to meet all five of them. We can go through those again this evening for the record unless you have something you want to state before we move on.

W. Nicosia said I do, once again a couple of issues. One, I'm not heavy equipment, I am labeled as commercial motor vehicle, many other people in Town do the same thing that I do. B. Petrin replied we did get a chance to see the correspondence you sent through Andrea, right after that meeting. We're up to speed on what you're talking about. B. Chivers said but we need to stay on your case tonight. W. Nicosia replied I understand that. There was another business that was run out of there even though...I. Byrd said it was nothing like yours, I was there. B. Chivers asked when did that business terminate. I. Byrd said four years ago? B. Chivers said 2013 and you bought it in 2017 so that's an abandoned use. W. Nicosia said so it gets abandoned after that; okay. I. Byrd said and he had a truck, like an F-150. B. Petrin said it's a moot point as we're not talking about that case we're talking about your case.

J. Szot asked Mr. Nicosia did you check with the Building Inspector before you did anything on that lot or before you purchased it to see if in fact you could do what you wanted to do there. W. Nicosia replied I actually did not; I didn't because I assumed, I apologize, I actually thought it was on 43 which went all the way through number one and I was told a gentleman ran a business out of there before, which we had spoken about as well, so I did not. But I'm also within the guidelines too I'm only down to one employee. J. Szot responded employees aren't the issue. B. Petrin said that was clarified for us. J. Szot continued ownership is not the issue, employees are not the issue, the issue is the business. W. Nicosia replied so I can't run, I can't park my own commercial motor vehicles and leave and come back with my own truck. J. Szot said if you're running a trucking company, no. W. Nicosia replied so I can run it as a DBA. J. Szot replied it doesn't matter. The ownership is not the issue, if it's not allowed in the ordinance. If we don't have it in the ordinance, then you can't do it. You're saying well it's not under trucking. Well then we don't allow trucking then. It's nowhere in the ordinance. W. Nicosia said because it's not in the ordinance, okay. B. Petrin said there's another detail to running a business in residential, the business has to be run in the home like a dog groomer. I. Byrd said home business. J. Szot said hairdressers, teachers, some kind of office. A home business takes place inside the home. So you could be a secretary transcribing, hairdressing salon, teach piano lessons or a dance studio, but it takes place inside the home. Your business doesn't take place inside the home. Your trucks are you're business. W. Nicosia replied right which come and go once a day. J. Szot said I know all of that but the point is commercial business in a residential area and it's not allowed. And if we allow you to have a commercial business in a residential area then we can't deny anyone else. The next guy that comes in...we can't grant a variance because you're a good guy, because you keep a nice place. W. Nicosia replied I understand that. J. Szot continued it means the next guy that comes in and he wants to repair cars or something and we see the place that he has and it's a mess and we don't want them there, we can't deny them because we've allowed something. It's about the business, it's not about the ownership, it's about the business. W. Nicosia said okay. I. Byrd said it's about what the law is. W. Nicosia continued so I understand we're hearing my case but now that Mr. Ford and the other gentleman there brought this upon me, so now you're going to have to deal with everybody in Town. J. Szot said but that's not our issue for tonight. We can't look at that. W. Nicosia replied it's not but it will be, it's going to have to be. A. Colprit-Huckins said that will be tomorrow, not today. B. Petrin said that's correct. W. Nicosia said I'm being discriminated against. I. Byrd said this Board deals with your issue and the law. W. Nicosia replied there's obviously an appeal process as well. J. Szot replied yes there is. If we deny you then you have the right, you're first step is to appeal to this board for a rehearing. In order to appeal for a rehearing you have to present evidence to us that was not in

your possession at the time, that you didn't have, that could possibly change our minds about it and then we either decide to rehear you and hear your case again or we deny you a rehearing and then you go to superior court. B. Petrin said that is the process. W. Nicosia said right; okay, good. B. Petrin said and so you understand that we can't concern ourselves with the things on the edges, the periphery, what's happened before and what's going to happen later. W. Nicosia said I do, I do and it's a shame because one of the gentleman that has a business right in Auburn on the Candia Auburn line that complained about me that's in the room, he has more commercial vehicles. J. Szot and I. Byrd said please don't. J. Szot continued that is not our issue here. I understand that there is resentment on your part because of something that happened but that's not our issue. We need to look at the information that we have. We have an ordinance that our job is to apply that ordinance but also to look for situations where there are hardships, where there is something about your land or something that would make it different that would allow us to grant you the variance. We're bound by that. We cannot change our ordinance. Since trucking is not stated anywhere in our ordinance, we don't allow trucking. That's what we have to deal with with you. If there are other things that's for our Building Inspector and our Town Attorney. W. Nicosia said so I can't even keep my own truck in my yard that I own. J. Szot said if you're using it for business, no. W. Nicosia said okay, I want that very clear because there's going to be an appeal because I'm being discriminated against. I know it's not your fault, your following the guidelines. I. Byrd said we have to follow the rules. W. Nicosia replied I understand that but this is...B. Petrin added the appeal is part of the rule and we'll accept that and deal with it when it comes up. W. Nicosia said just so you two know, the whole Town will know what you two started (*addressing audience*). J. Szot replied come on, really that's not...I. Byrd said this does not help you. B. Petrin said let's go through the criteria please and stay on topic please. W. Nicosia said I'm sorry; I'm sorry. B. Petrin said so we'll go through and record the results of this.

B. Chivers said we're required to go through Section 14.02 C of the ordinance under variances; *the Board of Adjustment shall hear and decide requests for variances from the terms of this ordinance. No variance may be granted unless all of the following criteria are met.*

1. *The variance will not be contrary to the public interest.* All were in favor it would be. (5-0-0) J. Szot said because it changes the essential character of the neighborhood.
2. *The spirit of the ordinance is observed.* B. Petrin said it is. R. Howe, J. Szot and I. Byrd said it's not preserved. I. Byrd said it's a commercial use in a residential area. B. Petrin asked Boyd to repeat it. B. Chivers said it's not. B. Petrin said I beg your pardon. J. Szot read if an ordinance prohibits commercial uses in a residential neighborhood, granting permission for such activities would be of doubtful legality. The board cannot change the ordinance. B. Petrin said agreed, that's correct.
3. *Substantial justice is done.* By granting the variance. J. Szot read (from the Board of Adjustment in NH Handbook) The Board of Adjustment cannot alleviate an injustice by granting an illegal variance. B. Chivers said so what's the Board's consensus on that. There is no, substantial justice would not be done. I. Byrd said it will not be done. J. Szot replied substantial justice is done because there is no injustice. Granting the variance; it would be an illegal variance.
4. *The values of surrounding properties are not diminished.* I. Byrd said yes they would be. All agreed.
5. *Literal enforcement of provisions in this ordinance will result in an unnecessary hardship.* J. Szot read the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to his property would not advance the purposes of the ordinance provision in any "fair and substantial" way. It includes when the landowner's proposed use would alter the essential character of the neighborhood. The proposed use is a reasonable one owing to special conditions of the property that distinguish it from other properties in the area. What make this property different from any other property in that area that we can allow them a

variance to do trucks? B. Petrin said it's not, any of the properties could do it if we allowed this variance, it's not a unique property. All agreed.

B. Petrin said that is number five of the five criteria you had to meet in which case you didn't meet, is there a motion to deny based on missing the criteria.

MOTION

B. Chivers **motioned** that the variance request under section 5.02C (c-2) be denied. J. Szot seconded. **All agreed. Motion carries (5-0-0). Variance was denied.**

B. Petrin said it's unanimous. Mr. Nicosia you have been denied the use and you will receive a formal notice of decision on that and we've briefly discussed you're appeals process. W. Nicosia said I have two questions. Who do I go to to appeal this, who do I file with? And who do I go to to bring this to everybody else that has the same business in Town, everybody. R. Howe said that's a good question. I. Byrd said it's not a question we're dealing with. That's your problem. J. Szot said to appeal you need to file a notice of appeal with our secretary (land use) within 30 days. W. Nicosia said I have to wait for that notice correct. B. Petrin said you'll get that within a matter of days. W. Nicosia said okay, great. B. Petrin continued the situation is you have to provide some compelling argument as to why we need to hear it again. If there's not a compelling argument, then you go to step two. B. Chivers said information you didn't previously provide. I. Byrd said something new. R. Howe said we've denied this. Obviously tomorrow you don't have to move the trucks out of the yard. The decision becomes the Building Inspector's. D. Murray said let's assume this is probably going to litigation so until litigation is solved. R. Howe said so until litigation is done, you're basically where you are if that's the route that you go. D. Murray said unless it is a safety issue which it's not. B. Petrin reiterated it's not, it's an ordinance thing. He applied, he did in this case the right procedures and got denied, rightfully so and now you get to appeal. Until then it's an enforcement issue and I don't think Dave's in a position to enforce it because I don't think it's done yet. W. Nicosia said right, okay.

J. Szot said it says motion for rehearing; within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground thereof; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefore is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove (so it starts tomorrow) the application in accordance with RSA 21:35; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds thereof, within 30 days after the date on which the written decision was actually filed.

B. Chivers said just for tonight he needs to know that he files a motion for rehearing within 30 days. W. Nicosia said from tomorrow, thank you. I didn't mean to upset any of you. B. Petrin said that puts an end to 18-633 for now.

Case 18-634 Applicant: James Wilson, 283 High Street, Candia NH 03034; Owner: same; Property Location: same; Map 405 Lot 118; for a Special Exception under Article XV Section 15.04E Accessory Dwelling Units. Intent: To add an attached 750 sq. ft. accessory dwelling unit to the current home.

Present: Applicant James Wilson of 283 High Street, Candia, NH 03034.

Abutters Present: None

J. Wilson introduced himself for the record and presented plans. I'm the homeowner and I'm looking to put on an accessory dwelling unit, an in-law apartment for my mother to move out of the main house. Things have changed as I have my son primarily full time now; she takes him every other weekend. He'll be 6 in December going into the first grade in school here. I have a wonderful girlfriend who moved in with us and as mothers' know; two women can't live together in the same house so we came up with making a little addition off the back for my mother to reside in where she's still close to her one and only grandson, which is all that matters in her book. J. Szot asked what's your mother's first name. J. Wilson replied Denise. When I was here last month, I did have my septic inspected because I knew that was a concern you guys had last month. So I knew you'd be looking for that. B. Chivers said this is the original from 1973. J. Wilson said right, that's the plan but this is added and I did not get it to Andrea, I apologize for that. This shows we just had it inspected by Kent's in Hooksett to say that the leach field is good and clean and all that good stuff.

B. Petrin said so you have a rendering now, a drawing of what his plans are. J. Wilson said I took pictures of the current house and then what it will look like with the addition on it. So this is the back portion of the house looking towards the street. Here's a picture of the front of the house where you won't see any of the addition because it won't be higher than the current house. Everything will be behind it.

The Board reviewed the plans and renderings. B. Petrin asked will it have a footing. J. Wilson said yes those are in here. J. Szot asked and a 2 stall garage? J. Wilson replied yes with a two stall garage underneath. Here are the footing plans that Dave looked at and agreed with. We're taking this white enclosed porch off and stick building from the same spot but it will connect to this addition. The chimney separates the deck so the deck will be extended. We're putting a full wall under it with a basement underneath that 3 season porch that will be accessed. This is wrong, I changed plans. There won't be a door there the only access will be from inside. B. Petrin confirmed so you're adding an accessory dwelling but while you're doing that you're adding a two stall garage and more living space here where the deck is and underneath. J. Wilson confirmed not living, it's just a 3 season porch because the roof will continue, we're taking this off because it's 30+ years old and we're stick building a 3 season porch, no heat, just to give a common area for my son to be able to run over to Grammy's whenever he wants as it will be connected to the new accessory dwelling.

The Board continued to discuss the plans. J. Wilson said the basement area will be storage. J. Szot said do you have a floor plan of the accessory dwelling unit. J. Wilson said this is the existing house and this is the new addition. This is the 3 season porch, the roof that will continue to the end of the current house and this is the 750 square foot accessory dwelling and this is 19' x 14'. This deck is there but we're going to bring it out. The deck's 14'; put on however many years ago and then my parent's added this room 30 years ago on top of the deck. So we're taking this off, we're leaving the actual deck but extend it this distance because of the chimney, 24" I don't even know the measurement. Build a new 3 season room to connect it all. I. Byrd asked who's your builder. J. Wilson replied North Point Construction out of Derry.

J. Szot said underneath this deck there's space underneath? J. Wilson reiterated basement space that you can get into from inside the garage. J. Szot asked do you have an attached garage now. J. Wilson said not attached. We have a separate little garage in the back. J. Szot commented that's a good way to do that. Nice plans by the way I want to thank you, it helps us to understand.

B. Chivers read under Section 15.04E there are 10 restrictions:

1. *There shall be no more than one accessory dwelling unit for any single family dwelling.*
2. *There shall be no more than two bedrooms in the accessory dwelling unit.*
3. *Adequate sewer and water service shall be provided. One septic system shall serve the entire property and the adequacy of the system shall be certified by a licensed septic installer. We can cross that one off.*
4. *There shall be a maximum of 750 square feet for the accessory dwelling unit.*
5. *On-site parking for one additional vehicle shall be provided.*

6. *All existing set back requirements shall be met.*
7. *The accessory unit shall be within or attached to the main dwelling unit.*
8. *Architectural enhancements will be employed for the purpose of maintaining aesthetic continuity with the principal dwelling unit resulting in both units appearing as a single family dwelling unit.*
9. *Either the primary or the accessory dwelling unit shall be occupied by the owner of the property.*
10. *The current State Building and Fire Codes for two family dwellings shall apply.*

J. Szot went through the Special Exception Standards:

1. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
2. *No detriment to property value in the vicinity or change in the neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
3. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
4. *No excessive demand on municipal services, including, but not limited to water, sewer, waste disposal, police and fire protection, and schools;*
5. *No significant increase of storm water runoff onto adjacent property or streets.*

J. Szot asked does it slope back there in the back of your property on High Street. J. Wilson replied it slopes off a little bit. J. Szot said you need to be careful when you're changing stuff there with the water so the water doesn't runoff to your neighbor's properties. J. Wilson replied it actually goes straight back, we have 6 acres. J. Szot said I just wanted to make sure because it says no significant increase of storm water. J. Wilson said all the water already drains to where it's going. It's perfectly flat where this is.

All agreed to the above Special Exception Standards.

MOTION:

B. Chivers **motioned** to grant the request for an accessory dwelling unit under Section 15.04E as the plans have been presented by Mr. Wilson. R. Howe **seconded**. **All were in favor. Motion carried (5-0-0)**.

B. Petrin said you've been granted your special exception and you will receive a notice of decision and thanks for a fine presentation.

Other Business

Review the DRAFT of proposed Zoning changes for the Planning Board.

B. Petrin said so we have proposed changes for the Planning Board. You're getting this submitted? What is the date?

A. Bickum reviewed the proposed schedules:

1. Zoning Review and Revision Committee meeting at 6 pm on Wednesday, August 1st, followed by a brief Planning Board meeting at 7pm and then back into the ZRRC meeting to continue the Major Site Regulations with Stantec.
2. Saturday, August 11th a ZRRC half day session starting at 8:00 am to continue going through the regulations here at the Town Hall.
3. Give the DRAFT to the Planning Board on August 1st but I'm not sure they will get to them that night as they're going over the regulations.

B. Petrin said so we have 8 different things we want them to consider. A. Bickum said and some of them may need to be rewritten and I threw another one in there this morning from the ZRRC meeting last week; Bryan from Stantec had said that HISS mapping is in the Subdivision Regs but in the Zoning

Ordinance it talks about Site Specific Soils and it's a problem every time there's a subdivision. Stantec will probably re-write that for us.

B. Petrin said number 6 is a proposed Home Services Contractor; landscaping, contractor, trucking. J. Szot said trucking shouldn't be allowed in any residential area. The truck that the landscaper has is incidental to his business. Trucking is the business and trucking doesn't belong in a residential area. B. Chivers said those arguments should be made to the Planning Board. The purpose of the Zoning Board tonight is whether these things are administered when hearings come here. Out of the 6 here, 5 of them are to clean up the inconsistencies in the ordinance we're constantly tripping over. Our Board tonight should be looking at these based on can we administer the ordinance. J. Szot replied you're sending it to the Planning Board and you're giving it our (unintelligible) that we're saying trucking is...B. Chivers said ok withdraw it. This is a function of the Land Use office. This guy right here is stuck with a big problem; there are a dozen people in Town. J. Szot said I agree with you when you say Home Service Contractor that includes contractors and landscaping, I don't agree that trucking should be in this. Take out trucking and put something in there; you need to address trucking. Where do want trucking to be and I strenuously object to it being in residential. B. Chivers said we'll strip trucking out of that section and have another section for trucking.

Discussion ensued among the Board that trucking is different from landscaping and construction; vehicle class etc. J. Szot added bulldozers, cranes, that's a contractor, that doesn't belong in residential either. You have to be specific as to what is allowed. If you put it in here with other things, they may not think about it. They may take what we have here and run with it.

The Board reviewed the remainder of the recommendations.

B. Chivers said;

- #2; recreational vehicles, we have someone living in one in the C district so the revision applies to all districts, not just R district.
- #3 there were some items missing in the table of uses. Home Shop was missing from the table 5.02A. So you're adding #13, Home Shop. It's defined in Accessory Uses. Delete the proposed #6 Home Services Contractor/#14 here. We are just adding the #13, Home Shop; a previously omitted reference to the Home Shop.
- #6, Home Service Contractor proposed language was pulled but added later as an idea or a suggestion only in order for the Planning Board to discuss, consider and re-write. Discussion ensued regarding trucking and construction. Should there be a minimum acreage for trucking, etc.

R. Howe said Peter Ronson (*spelling?*) is two houses up from us and now it's a paving company. J. Szot said it's a paving company? R. Howe replied George Taylor runs Taylor Paving out of there and has ever since he bought the property. J. Szot said how did that happen? That's not allowed in a residential area. D. Murray said he probably didn't ask. I. Byrd added and Dave wasn't the building inspector then.

B. Petrin said regarding this document (draft) I should attend. Somebody's got to be there to explain it and say we're looking to you folks for some guidance for amendments to these things because it causes us angst when we have to deal with these things and we need you to consider rewriting some of these things. I think I should. J. Szot said I'll go with you. Let's get it on the Planning Board's agenda for August 1st. B. Petrin said let's get it on the agenda and make it aware that we need their help. They will need to digest this.

R. Howe asked what's this one regarding Stables and Kennels: A. Bickum said I found this one in another town because I get a lot of calls regarding horses and it doesn't really say in our regs. So under

Rural and Agriculture under Article V; I get calls from people regarding horses a lot. I had one call a couple of weeks ago where a guy called and asked about buying a 2 acre property with a 3 stall barn on it and he wanted to build an additional 8-10 stall barn with a riding rink. I said no, but it doesn't say that in our zoning. You also can't run a business in residential; lessons, boarding etc. I said I would recommend an acre per horse, (*best management practice*). This is just one zoning reg that I found but it can be reviewed and changed, it's a suggestion.

Suggestion Only:

Article 5.02 F (f-6): Stables and Kennels – The keeping of all non-pet horses, dogs, cats or other animals. The facilities shall conform to the following:

(1) Minimum site area – two (2) acres plus, in the case of horses, one (1) additional acre per horse, i.e., one (1) horse would require three (3) acres of land.

(2) No barn, shelter, or building used for boarding of said animals or the storage of feed and supplies shall be located closer than sixty (60) feet from any property line.

(3) Animal wastes shall not be stored any closer than one hundred (100) feet from any property line or surface waters.

(4) The area used for grazing, exercising, or training of said animals shall be securely fenced to prevent the animals from straying or a suitable restraint shall be provided to prevent straying.

The Board discussed the proposed ordinance and pro's and con's; think about amount of acres, lot sizes, sheep etc. non-pet, what are the other animals etc. R. Howe said there are issues here so before you propose it. B. Chivers said just propose it as an idea. J. Szot said I'm certain that there is something that says if it's not in the ordinance then it's not allowed. B. Chivers objected. I. Byrd said what Judith is getting at if it's not specifically permitted it's implicitly denied and that came from a law lecture. R. Howe said but agriculture in NH is permitted and encouraged. I. Byrd said let's define agriculture and 15 horses on 2 acres is not agriculture. B. Petrin said it's not best practice. Discussion about pets vs. non-pets, 2 acres etc. ensued.

MOTION:

I. Byrd **motioned** to adjourn at approximately 8:16 pm. B. Chivers **seconded**. **All were in favor. Motion carried (5-0-0)**. Meeting adjourned.

I. Byrd said to A. Bickum that she didn't need the minutes or agendas mailed to her anymore.

Respectfully submitted from recording,

Andrea Bickum

Recording Secretary

Cc: file