

1 **PLANNING BOARD**

2  
3 Minutes of January 5, 2011

4  
5 Attendees: Arnie Rosenblatt, Chairman, George Infanti, Gordon Leedy, Marilyn  
6 Peterman, Sally Wilkins, Mike Dell Orfano, Cliff Harris, Rich Hart, and Charlie  
7 Tiedemann, Planning Director

8  
9 The meeting was called to order at 7:35 by Chairman Rosenblatt

10  
11 **Minutes of:** December 15, 2010

12  
13 Line 16: change regarded to ‘regraded’

14 Line 20: change unit to ‘easement’

15 Line 86: change 60 to 65 and add after for ‘action after’

16 Line 97: change extension to ‘expansion’ and non-complying to ‘non-conforming’

17 Line 133: strike ‘of the motion’

18 Line 147: add after Town ‘as long as the Zoning Administrator agrees:’

19 Line 150: change restrictions to be put on to ‘review of’

20 Line 192: change suggested to ‘observed’

21 Line 208: change would to ‘may’

22 Line 209: add after include a ‘permitting’

23  
24  
25 **Public Hearing on Zoning Changes for 2011**

26  
27 *George Infanti moved to open the public hearing, Mike seconded. All in favor.*

28  
29 Sally Wilkins read the Ordinance dealing with Art. IV and Art. IX (changes number 1  
30 and 2) to the audience. She said this was separate from the Equestrian Ordinance. The  
31 decision of whether an application is commercial or not is determined by Zoning  
32 Administrator. The State of New Hampshire has issued documents to encourage farming  
33 and quoted from the RSA’s. Urban farming is becoming popular across the state. People  
34 have come to me and said that they couldn’t do things because they would be considered  
35 commercial. Milford has adopted the NH RSA’s on farming for an Ordinance. They do  
36 not restrict farming at all. They are taking it out of their residential A and B Zones. This  
37 Ordinance would allow the Planning Board to place conditions on a case to case basis.  
38 Should we allow and encourage commercial farming. If we say yes, should the Town  
39 have oversight over those uses, what is the scale, or threshold. Alicia Wight asked for a  
40 copy of the proposed Ordinance. Sally read the proposed Ordinance to the audience. The  
41 definition of farm comes straight out of the NH RSA’s.

42  
43 Arnie outlined the procedure the Board will follow. We will start off with comments  
44 from folks in the audience. Mrs. DeBruyn Kops asked to read the comments to the  
45 audience from her husband. Alicia said she received the email Peter DeBruyn Kops and  
46 was under the impression the Town has no guidelines. I thought there was a per acre

47 requirement for horses. I called the Farm Bureau and several people said these issues  
48 don't come to Planning Boards. Why do we have to think about how many animals is  
49 there to a lot? Sally said the Farmers Market had to go before the Planning Board. Sally  
50 explained to her that her issue has nothing to do with what we are talking about tonight.  
51 Sally said she was approached by several residents who told her that they could not do  
52 what they wanted because those uses would be considered commercial. Cliff explained  
53 about making applesauce and commercial uses. The NH RSA says that would be  
54 allowed. We are trying to specify that in the Ordinance. Marilyn said this is a farming law  
55 and this is an expansion of the Ordinance so that people who are engaged in an existing  
56 farm would be allowed to continue. Alicia said aren't we trying to maintain this if I have  
57 to have the Town police my operation? Sally explained about the number of chickens.  
58 The Board of Selectmen are the enforcement. Sally explained the process. Alicia then  
59 talked about her stone wall and why hasn't anyone come to fix it? Marilyn's issue is the  
60 number of animals - we have had issues with people with many animals on one property.  
61 Sally explained the impact on the land from the animals. It's all about nitrates and  
62 phosphates. Sally explained about animals pooping on the land and what happens to the  
63 animals. Most people in New Hampshire bring in food supplies for their animals and that  
64 means animals eat more. That's why they use animal units for counting.

65

66 Gordon said Sally didn't just make this up it came from the USDA.

67

68 Arnie said that since many people are here for Peter DeBruyn Kops letter then we should  
69 read the letter into the minutes (see letter). Arnie then read the letter. An e-mail to  
70 George from Bill Overholt questions who would enforce it (see email in record).

71

72 Scott O'Connell lives on Mack Hill. I don't believe this is ready for prime time yet. I'm  
73 an attorney. As Peter said that uncertainly creates questions. It's uncertain and unclear. I  
74 have had many conversations with the Zoning Administrator. Charlie has had to make  
75 some calls and follows the law. This is so not right. Do not do it. He offered his skills as  
76 an attorney to help. We can help you make this better, but it takes a lot of work. I am a  
77 horse guy. We use best management practices (BMP's) on our farm. Lets do it the right  
78 way. He told a story about Fox Brook Bed and Breakfast. This is becoming a difficult  
79 Town to be have a home business. We have to study this and what are the impacts.  
80 Uncertainty will cause problems. Don't rush into this. Cliff asked him how it will hurt  
81 his business. Scott mentioned the units, do I have to come in for a permit? The Bed and  
82 Breakfast permit ran out so I closed the doors. This Ordinance does not square with the  
83 Equestrian Ordinance . Sally noted the Equestrian Ordinance is stricter. This is less  
84 restrictive. Scott did admit he let his permit expire. Cliff asked how will it hurt you? Scott  
85 said I can't answer that now. Cliff said this is a an agricultural use. It refers back to NH  
86 RSA's.

87

88 John Bachman – I'm not a farmer. But I am trying to solve this problem but you are  
89 creating a bigger problem. I see the State Statute is very weak and broad. The way its  
90 worded is extremely vague and general. He read the RSA. Everybody in Amherst tills  
91 their land. Sally explained about the tilling of soil. We will have different people in 10

92 years reading this and taking different interpretations. How do you define the land for  
93 farming?

94  
95 Linda Kaiser said the biggest objection to this is that it was first brought up a week before  
96 Christmas and heard only on TV. I'm hearing now a whole new Ordinance. We don't run  
97 this Town by one woman doing her homework. I request not to put this on the ballot. The  
98 Town respects the Planning Board and people vote the way the Planning Board  
99 recommends this is not a good Ordinance. We can study this for awhile. Someone has to  
100 enforce this they should have a degree from UNH to count cows. Stop this passage of law  
101 just because as a Planning Board you have the right to recommend to pass a law. I agree  
102 with Peter DeBruyn Kops. You don't have the expertise on chickens. You are not an  
103 expert (the board) and should not be putting yourself in that position. Not ready for prime  
104 time. Don't want to spend my time doing this protesting about this. My husband is upset  
105 about this. Peter DeBruyn Kops wrote a fine letter time to study, time to wait. Look at it  
106 with expertise. George explained to Linda that this is a public meeting. No one on this  
107 Board has agreed or disagreed with this proposed Ordinance. Sally said the person who  
108 asked 'can we get something in the zoning' was Peter DeBruyn Kops he was the one who  
109 came to me to get something in the Ordinance.

110  
111 Dan St James said he does not have animals. Plain and simple as control on my land is I  
112 like to think I could do things with my land. All here is limits on animals. Voice my  
113 objection to this motion.

114  
115 Mary Waterman –noted that two Board members were in the wrong seats – Peterman is  
116 over there and Wilkins is over here, Mary pointed out Sally's and Marilyn's signs were in  
117 the wrong place. She note she was very much against changing everything again. Amend,  
118 amend, amend: haven't you got anything else to do? Leave well enough alone. That's  
119 enough.

120  
121 Elizabeth Esmial said I am against this and I agree with Scott. I'm grandfathered in. Why  
122 are we in a rush to get this on a ballot? I would like to help. I have 20 ac. There are a lot  
123 of people in Town to help with this.

124  
125 Katrina Holden asked what is the difference now between Residential / Rural and  
126 Northern Rural. How does grandfathering work? Charlie explained about grandfathering  
127 and farming. If you have been planting pumpkins all along and you wanted to plant  
128 vegetables instead it is still farm – in Amherst you have a right to farm. Charlie said that  
129 it doesn't matter what kind of veggies you grow. Sally explained about her 7 cows if she  
130 wanted to bring in 7 more its okay but if I put in a dairy then that would be a change of  
131 use. Marilyn this would give farmers this expansion. Katrina asked if there is expertise to  
132 understand this on the Board?

133 Sally noted this board reviews site plans and no one on this board is an expert at anything  
134 we look at. If a farm application rises to the level of needing a permit, Sally explained  
135 what the Board would require. Katrina said it's vague, I can see you telling people to get  
136 a traffic report, etc. Sally explained about the review process. Marilyn noted if you want  
137 to have a larger commercial use you can not do it now.

138  
139 Susan Clark said just wait for a year. Put it all together. Pushing it thru now creates lot of  
140 gray areas. Wait a year.  
141  
142 Steve Cooper said he heard on TV about animals. I raise chickens. Most of my yard is  
143 vegetables. I came in to find out how many chickens I can have. I am glad I thought more  
144 about manure problem. This isn't a bad idea. After reading this now I can have Bee  
145 Hives. It's a relief because my neighbors cannot object. Maybe you should wait. It could  
146 be a lot worse if we stick to these guidelines. I am for what you are doing. Good job  
147 Planning Board.  
148  
149 Cheryl Tulley said the problem is interpretation - if we can't understand what your  
150 intention is then maybe it should be clarified.  
151  
152 Alicia asked do surrounding towns feel the need to do these rules? When I talked to the  
153 county extension service they said other town's aren't doing this. Sally said I have copies  
154 from other towns. The language in this was lifted from their stuff. Why aren't the  
155 Towns' people working this out? Someone asked why we can't market goods and  
156 foodstuffs here?  
157 Gordon said in Manchester you can't have livestock. Sally explained again why she  
158 thought this Ordinance was written, people came to me. That's all I know. I promised I  
159 would try to do something about the problem. Arnie asked if there was any more  
160 comment. Alicia doesn't think we should go on any further with this.  
161  
162 *Arnie asked for a motion and Mike moved to close the Public Hearing, Gordon seconded.*  
163 *All in favor.*  
164  
165 Marilyn said It is not about agriculture expansion and if anybody comes in with a use  
166 deemed to be commercial it will be denied because its not allowed by the Zoning  
167 Ordinance. Sally was just trying to expand use. If a use needed to come in and you were a  
168 neighbor you would want the Planning Board to review this application. It's not greedy  
169 just a fact. If someone came in to expand the use to where they would be harming the  
170 environment. I accept what you're saying your not understanding.  
171  
172 Rich asked is farm stand not allowed now. Charlie says it is allowed.  
173  
174 Cliff noted you can sell your own produce if I grew pumpkins and made pie can I do it?  
175 Charlie said the Ordinance doesn't define that.  
176  
177 Gordon said I think that this goes a long way toward doing what Sally set out to do but it  
178 doesn't go all the way. Additional issue this would address explicitly allow anyone who  
179 has property to have animals. Sally told Gordon what the current Ordinance is. Gordon  
180 replied that I have neighbor that has rooster and he crows at 3 in the morning. If someone  
181 has beehives and spreads them all over Town is that commercial use. Sally said what  
182 Peter DeBruyn Kops said to me that placing 6 beehives in yard would be a commercial  
183 use. He still thought it was commercial use. Gordon noted I have a bug-a-boo with this

184 language. Sally asked Charlie about his interpretation of selling honey. Gordon says that  
185 this does not say this. There is no definition of commercial and some of these other terms.  
186 Gordon said I agree with the intent. I am concerned about the commercial aspect,  
187 Concerned about this and equestrian. Sally noted this is less restrictive than the  
188 equestrian. George said he not going to say anything.

189  
190 Cliff said I thought this was kind of clear. I think it opens it up much more than it is  
191 today. I don't see how people are being short changed. People want to have meetings on  
192 this we had three years of Master Plan meetings no one showed up.  
193 To think that this was just thrown together and Sally did it alone - this is not the case. I  
194 will rest.

195  
196 Mike said all those people that raised their hand do you think its worth while enough for  
197 participants to form a committee.

198  
199 Arnie said will this pass or not that's the issue. I do not agree that it wasn't thought out  
200 but the bottom line it is a mistake to pass this tonight. I don't and do agree with  
201 comments tonight. I can't clearly understand what the problem is and what an appropriate  
202 solution should be. The language could be improved. What is our goal - I'm not there yet.  
203 People out there have concerns. Other people in Town are concerned. Figure out our  
204 problem and solve. I don't think we should do it tonight.

205  
206 *George motioned to place this on the warrant. Gordon seconded. Two (2) in favor, three*  
207 *(3) opposed.*

208 Will not go on the ballot.

209  
210 Arnie said he thinks Mike's comment was good. George feels it's good to form a  
211 committee about roosters crowing. Gordon said if we are going thru this process we  
212 should outline a process so we don't get to the same place one year from now. Arnie  
213 suggested a couple people from the Planning Board and a couple from the townspeople  
214 outside.

215 Charlie said Rich can post a notice on the Town website. People started to volunteer from  
216 the audience for the committee. Arnie said at the next meeting lets have some volunteers  
217 from Planning Board.

218  
219 **Lots 5-46+47 Amherst Street:** *Subdivision* - Deblyn Stevens – Luongo and Care Real  
220 Estate, LLC

221  
222 Arnie read a letter for a waivers from TF Moran: waivers from fiscal impact, and  
223 environmental study, traffic study, drainage, water, and hydrogeological study.

224  
225 Mike said the purpose of this meeting is to approve the subdivision of three (3) lots.  
226 Gordon asked for a point of clarity. Sally noted we asked if this is coming in as  
227 Workforce Housing or Affordable Housing.  
228 Charlie explained to Sally about what was happening here. The Board discussed the  
229 Workforce Housing between the state RSA and the Town Ordinance. Gordon explain to

230 Sally that we don't want anything to imply that this goes in under Work Force Housing.  
231 If they say it is Affordable Housing it is okay. I think they should change it.  
232  
233 Robert Tourigny, from NeighborWorks noted that Sally wants to strike Work Force to  
234 Affordable Housing and that was fine with him to use Affordable Housing.  
235  
236 Nicole Duquette, from TFMoran, the engineer, got a call from a butter asking for farm  
237 animals on our land. We are here for a lot consolidation and subdivision. Both lots are  
238 Residential / Rural and in the Historic District. They are surrounded by new  
239 developments. She explained to the Board where land was. Currently used as logging site  
240 and residential site. We are asking for three (3) lots - one being the Affordable Housing  
241 lot of 15 acres and a Class A lot, two lots are Class B lots and are to share access for all  
242 three in one common driveway. The existing residential building and the proposed other  
243 residential lot will both use the existing driveway across the wetland to rear. The new lot  
244 is a little more than 6 acres. The Affordable Housing lot will be serviced by Pennichuck  
245 Water Works and will have underground utilities. The existing lots in the rear of the  
246 property will have private septs, private wells and overhead utilities. The Access  
247 Easement over lot 5-46-1, the easement across the existing dwelling lot is for access and  
248 utilities. The last utility easement is for the existing dwelling.  
249 We are asking waivers from the studies. All were done previously. A new Drainage study  
250 will be part of the site plan for lot 5-46-1.  
251  
252 Sally asked about the overhead utilities - where will they come in from road. Nicole  
253 responded that they will be shown when we do site plan for the Affordable Housing.  
254  
255 Marilyn asked if the smaller lot – is the intention to build? To have a single family lot.  
256 Nicole said the area is buildable and cleared at this time.  
257  
258 Gordon asked that there be no further subdivision on this lot. If we approve this  
259 subdivision and perhaps the site plan does not be used we still want to have covenant  
260 about no further subdivision. Charlie explained about the subdivision. You can't just ban  
261 it from future subdivision without a reason.  
262 Nicole noted that we would have to come back for approval of any other subdivisions.  
263 Nicole said this is the intent. They would have to come back to the Planning Board for  
264 approval. She noted that the 14 acres are high and dry, but do not take out steep slopes.  
265  
266 *Gordon accepted the waivers and Mike seconded. All in favor.*  
267  
268 *Gordon moved to accept the plan. Mike seconded. All in favor.*  
269  
270 Charlie asked that any approval be subject to minor changes that he had agreed with  
271 Nicole to do and that the Access Easement language was also being revised.  
272  
273 *Gordon moved to approve the subdivision with those conditions. Cliff seconded. All in*  
274 *favor.*  
275

276

277 **Lot 1-23-3 NH Routes 101A and 122:** *Discussion of Revisions to Non-Residential*  
278 *Site Plan (NRSP) – Cintina Realty LLC – (The Shoe Box)*

279

280 Alan Yeaton, from Amoskeag Architectural Group, and representing the owner,  
281 introduced himself. Everyone was familiar with The Shoe Box. The owner wants to  
282 expand building by adding an addition on back of building where the old drive thru is. A  
283 new survey done and by observation got 19 parking spaces. We propose to reduce the  
284 pavement and improve handicap access; we have existing lighting and signage. There  
285 will possibly be some work on the landscaping by adding some around the building. Mr.  
286 Yeaton passed out a copy of plan to Board and also passed out photos and floor plans.

287

288 He also passed out a sketch of how he would like to add to the building. The Board  
289 looked over the plans and sketches of proposed plans. Mike asked about preserving the  
290 existing design of the canopy. By taking out the drive thru he can increase his displays.  
291 We are trying to remodel. He asked how much information will you need for a site plan?

292

293 Alan mentioned that we have to research the existing septic system. A new permit is  
294 required because it's older than 20 years. He asked about what to bring in for the parking  
295 design. Also indicated the traffic pattern by arrows. We have angled parking. The most  
296 cars I saw there at one time were 7, and 3 were employees. I would need 20 parking  
297 spaces.

298 Gordon said to show proposed spaces and here is where they go. The site is all ledge in  
299 the back.

300 Yeaton noted that the area for parking is all paved. He explained about the areas he  
301 doesn't need paved. That's why I am here tonight.

302

303 Mike asked if there are any other constraints. Yeaton replied just the vault. Marilyn said  
304 it looks good. We will be back end of month. The Board thanked the owner and Yeaton  
305 for waiting this evening and being so patient.

306

307 Arnie referred to the letter from Bill Drescher relative to the Heritage Commission's  
308 proposed zoning amendment. The bottom line is that Bill has several significant concerns  
309 about the ordinance. It cannot go on the ballot. My personal view is that we provide copy  
310 of the letter and authorize Charlie to send it to Wil Ludt. Mike asked what are you asking,  
311 Arnie replied to send Bill's letter to Wil Ludt. Sally asked shouldn't we ask Bill first?  
312 Arnie said no – we can forward it on to Wil.

313

314 The Board then went into non-public session to discuss a pending legal matter.

315

316 *Mike moved to adjourn, seconded by Cliff. All in favor.*

317

318 The Board adjourned at 10:30 pm.

319

320 Respectfully submitted by Michelle Crowley, Minute taker