

PLANNING BOARD PUBLIC HEARING**TOWN OF LITCHFIELD****Held on December 17, 2013**

Minutes approved January 7, 2014

The Litchfield Planning Board held a Public Hearing in the Town Hall conference room 2 Liberty Way, Litchfield, NH 03052 on Tuesday, December 17 at 7:00 p.m.

MEMBERS PRESENT: Russell Blanchette (Chair), Michael Croteau, Michael Caprioglio(Late), Bob Curtis, Tom Young, Joel Kapelson

MEMBERS ABSENT: Kevin Bourque (Selectmen's Rep), Frank Byron (Selectmen's Rep)

ALSO PRESENT: Jen Czysz (NRPC Senior Planner), Joan McKibben (Administrative Assistant)

CALL TO ORDER

Mr. Blanchette called the meeting to order at 7:10 p.m. and joined the Board in the Pledge of Allegiance.

Public Hearing in accordance with NH RSA 675.7 for changes to Bylaws, Zoning, Subdivision, and Site Plan Regulations. (see separate posting)

Mr. Blanchette read over the Introduction.

Over the past year, the Litchfield Planning Board has been working to understand Litchfield's residents' vision for the future of the community through a future land use mapping workshop, one-on-one conversations with local residents and business owners, and a community survey. Based upon what residents stated, the board has been working to update regulations to balance future opportunities to protect the town's agricultural character and allow for non-residential development in a way that blends with the community's character. Additionally, the Board has been working to update regulations such as its bylaws and description of zoning boundaries - both last reviewed in 1989.

1) Planning Board Bylaws:

Amendments have been proposed to be consistent with current State law and practices

and include updates to:

- Membership
- Roles of Alternates
- Roles of officer and recording minutes
- Disqualification and Conflicts of Interest
- Meeting Schedule
- Hearing Procedures

Mr. Blanchette Opened the meeting for public comment.

Public Comment: - No members of the public wished to speak on this.
No Board members wished to speak on this.

Mr. Blanchette closed the Planning Board Bylaws.

2) Agriculture Overlay District:

The proposed Agricultural Overlay District is a new zoning section designed to promote the preservation of existing agricultural land and character along Route 3A while maintaining the existing development rights of landowners. The draft overlay applies to all parcels 10 acres or larger and allows any new development to be clustered onto smaller lots in exchange for permanently protecting quality agricultural land and keeping development back from Route 3A. The overlay district boundaries are proposed to be all parcels west of Route 3A and agricultural and open lands east of Route 3A that are south of Robyn Ave and north of Jamesway Drive, excluding existing conservation lands and developed lots. The ordinance refers applicants with lots 20 acres or larger to the Town's existing Conservation Open Space Ordinance.

Public Comment

Mr. Don Wilson of 10 Pleasant St. Lexington, MA . Owner of Wilsons Farm came in front of the Board to express his concerns about the overlay district. Don mentioned that what he see in the overlay proposal and what has happened in different parts of the State, Farmers that have had conservation easements or overlay districts, any additional action on agricultural land seems to take away from the land, it does not preserve it. One of the latest ones they saw was over in Dover, at the Tuttle Farm, there is no conflict of interest but they are distant cousins of the Tuttle's. The Farm is the oldest operating farm in America; consistent of about 175 acres of very developable land. They ran into hard times a few years ago and was put up for sale at a price of 3.25 million dollars. A lot of farmers

looked at it if it does not work they can get their money back and develop some of it or all of it, but it might not be practical which came from a couple of sources. Don stated that there were no bidders whatsoever, it languished for over two years and was finally sold to a farmer in Massachusetts for a retail outlet at 1.1 million dollars. In the restrictions of the land to preserve farming, killed the sale price of the land totally by two thirds. The more restrictions you put on a land, the harder it is to borrow money, the bank says you have no collateral, the first thing the bank looks for if you have to expand is what you have for collateral. After seeing what happened to the Tuttle Farm, most of the lending community knows what happened to the farmers. We do have the right to farm law in New Hampshire. Most of the protection we get out of this, outside of future development is already in the State Right To Farm Land. Don stated that he is speaking on this because he farms the largest parcel of land that this affects, and it will affect them. The other thing is that agriculture is changing, it is changing all the time. What happened ten years ago, we don't even know about now. Under the new food safety act, it is going to be very difficult for most New England Farmers to survive on fruit and vegetables and edible products, especially leafy greens. The big push right now is in covered agricultural productions areas, there is a 50 acre greenhouse project in Madison Maine totally covered, 50 acres in one building. Just to stand inside a building and look around and see 50 acres covered with leafy vegetables is tremendous, but the cost of building something like that for any average farmer in Lexington, is totally prohibited. The company that built that is one of the largest investment companies in the United States. Don stated that he does not know anybody in Litchfield that can afford this. Don stated that he feels we should leave it as it is, there is a few tweaking that is going to be done in the transitional, but the agricultural overlay, he feels is just too complicated for them and their families and if they do have to change some things down to the next generation. , Don stated that they have no intention of developing or doing anything and as smaller parcels came up, they tried to add them to the farm, the farm has grown over the years and they would probably just continue the way they are going.

Claudette Durocher of 158 Charles Bancroft Highway, Litchfield. They have the Blueberry Farm and their farm stands on both side of Route 3A which kind of present an interesting dilemma. CLaudette stated that she was there in June when the Farmers and other Town speakers were invited by the Planning Board to discuss the future of Litchfield and the main thrust of that meeting is that they just like Litchfield the way it is, to leave it alone, don't change the zoning to allow gas stations, fast food restaurants and strip malls all along 3A, and that was the jist of it. Claudette stated that they never heard about proposing an agricultural overlay district and when she read this multi page proposal, which is described as a vision for the future; to her and her family, it looks like a nightmare. There is a maze of restrictions and mandatory one use or non use of the land, it is five pages but it

is actually more because the first State Laws by statute number without elaborating, so you can put that in there and it goes on for a few more pages. Under design standards for development, it says "all residents and structure developed along Route 3A, on the west side shows that a setback of a minimum of 250' from the highways right of way and a setback of 150' from the Merrimack River", if the lot is 10 acres or less than 20 acres, the setback shall be 75'. The distances from the river are not the same throughout the town, the river winds around and so does route 3A. For example, when you look at the Golf Course, at the north end there is kind of a distance there, but when you come south to the fire station, the river and the highway are together, and then they broaden out, so some of these farms are wider than others, some are deeper than others, they are not all the same. Claudette stated that in their neck of the woods, the land between 3A and the river is slightly less than 1500', it is 1488", so you subtract 250' from the frontage, 150' feet from the river; you are now sliced off 400' from the depth. Add a few wetlands and buffer zones, you probably diminish the length of that place by a third which is asking a lot of a Farmer to just leave alone and enjoy it. Do they get compensated for that? Claudette mentioned that she had another question. If you do develop that and sit back, a lot of these farms are old and along the frontage they already have farmhouses on them, they have farms, storage, greenhouses and all kinds of other little buildings, so to develop they need 250' from the highway setback; what happens to these existing buildings? Do they become non-conforming uses, so if you want to tack on a little addition or porch, now you have to go through the Conservations Commission, the Zoning Board of Adjustment, the Planning Board and the inspector which is an awful lot of hoops to have to go through. Claudette stated that she does not know what the answer is to that question. Then she read that parcels that are 20 acres or greater or at least 25% net acreage remain if you are developing after the net area of all wetland is subtracted shall be retained as open agriculture land for development purpose, that is another 25%. By the time you are finished with all these 25 here and this set back, etc., you are left with little spots of farmland, little spots of farmland don't make a great farm. For a real farmer you need a big spread because it is costly to maintain and you need the crop, you also have a problem when you scatter farmland around subdivisions and whatnot, you may curtail access to a set back. Farmers when they plant 5 acres, they look for what they can use for water, because inevitably you do all the right things from spring on and then comes late June and July, no rain for weeks, your corn dries up and you can't revive it. You look for either rivers, spring fed ponds, or a stream. If you have houses all along or you have streets in the way, you can't run pipes over that, you are stuck and the farmers are going to have nothing to farm that kind of stuff, it is not a practical thing to do. Claudette stated that it also says that after your land is developed, it is going to be protected by a permanent conservation easement. Claudette stated that she thinks this proposal was drawn from some other community somewhere and tweaked to be part of Litchfield, but it is so complex and very burdensome.

It should go back to where it came from, and not put it on the ballot. It is incomprehensible right now to most of the Townspeople and incomprehensible to some of them who will be affected and it really takes an awful lot of land, it is a very cumbersome piece and thinks the answer if you want to preserve farms, you should look to your Conservation Commission. The Conservation Commission over the years has done a good job of protecting wetlands which are important to a Town. Claudette mentioned that she was kind of sad that no one made a bid to buy the Rodonis Farmland, which is beautiful farmland on the east side. Claudette thinks putting this kind of ordinance is one of the most discouraging things, they have been farming their farm for 70 years and you get to love your land. They want to keep their land for as long as they can. Unfortunately, when they completed the turnpike system, they put them into a competitive with some of the big roads in New Jersey and New York State. They come in and buy fleets of stuff and depress the market sometimes. There are all kinds of conditions and as you keep farming you keep your eyes open because things change and what worked 15 years ago, does not anymore. This ordinance is unbelievable and respectfully asks that the Planning Board withdraw it and think it over some more, but do not put it on the ballot. Mr. Tom young stated that just for the information; the 250' setbacks on 3A and the 150' from the river is not theirs, it is existing zoning in the Town of Litchfield which has been there for years. Mr. Young stated that it is in the 2010 open space. Claudette stated that they were never consulted about that at all. Mr. Young stated that they are not trying to add this in, this is already existing.

Mr. Rick Charbonneau of 401 Charles Bancroft Highway stated that he owns a fair amount of acres and where he lives he has 95 acres. Rick stated that he thinks that the Planning Board should leave it up to them to do what they want with their property. Rick stated that he bought the property around his house, he does not want neighbors and as Claudette said, they love their land, he likes to go look at his fields and that is what he wants. He does not think that anybody should tell him that he can't develop or do something with it, you should leave it up to them, if they want to sell the development rights, they should be able to do that. They shouldn't have this hung over their head that this is the only thing they can do with their property. The farms have done a very good job protecting the farmland, it has not changed over the years. Rick stated that he can understand that people that live in the subdivisions want to see the farmland, but when that farmland comes for sale, the Town can buy it and can protect it. But what happens when the Town buys property, as they have in the past, it never gets farmed again. It grows up into trees. The land across from the Library used to be all farmland, it is not anymore because nobody takes care of it. We take care of our land so it can be farmed. It should be left the way it is, there isn't any proposals to do any developments out here. We like our land the way it is and want to enjoy their land the way it is as much as the other people in town like looking at their land. You have Passaconaway in this overlay district, Passaconaway is not going to

get developed, we have a subdivision that is in Passaconaway in the overlay, there are houses there already developed, it is not going to go back to farmland and shouldn't really be in a overlay district. There is so much land along the river that is in the 100 year floodplain, it is not going to get developed anyway. Rick stated that they are preserving their land and keeping the character of 3A, then to get this thrown at them, he has spent a lot of money to buy the land around his house and the Wilson's have spent a lot of money to buy the farms that they have bought and between them they probably have the most land that is affected here and it should stay the way it is.

Gerry Parent of 6 Talent Road, Litchfield stated that he is not a large land owner but he see this as a land taking. They are always being asked to sell their developable land to the Town and have it left as farmland, everyone says no because they want to keep it that way and now you are trying to pass laws to take it away from them. There is no compensation. It is kind of like, if you have a house and he says get out because I want to put your land back to farmland, it just does not make sense.

Margaret Parent of 6 Talent Road, Litchfield stated that she is there representing her family that owns over 50 acres in this area and there is just a couple comments she has: First of all, Litchfield is a beautiful community, if you drive down 3A and you have farm stands, you have the old farm houses; people tell you it is a very nostalgic feeling, we have been very lucky that we have stayed with this, our country flavor, we are kind of stuck between Manchester and Nashua, the 2 largest cities in the State of New Hampshire, and we have really stayed rural along 3A. It has been a farming community, there used to be cattle, timber for farming, so there has been different kinds of farms and most of the farm people have kept it as long as they could, there are still a lot of farms now, but as Don Wilson said, farming is changing, much of our land used to be farmed at one time. There is not people not to come and farm our land, at one time to help with taxes, she had checked with a couple of people to see if they wanted to rent the property, they did not. So keeping it as farmland sounds good, but if you can't get people to farm it then what are you going to do for the taxpayers that are paying the taxes on it. It would be burdensome on them if they are not able to take the property and if they have a chance to keep it as farmland, they will. They don't have people in the family that would take over and farm as their grandparent used to. They have a piece of land that they did have 25 acres in conservation as wildlife sanctuary, so they have done a lot for conservation. Being restricted and penalizing people because they held on to the property and did not sell it, now you are saying they have to keep it as farming, but if no one wants to farm it you are not going to have income on this property, but you are still going to have to pay taxes. If this is something that you are going to do, then you need to do something to the Landowners to help compensate if you want to keep it that way, it is not fair to do this to a small group of people and the rest of the Town is

not being penalized to be put in this zone. Much of the building now where many of the homes are, used to be wild life areas. It is now built up, that is where the 1 acre houses are, they have kept them off 3A, so when she looks at this and sees the restrictions going on here, you are actually penalizing the people who held onto their property.

Mr. Rick Riley of 4 Rotterdam Drive, Litchfield stated that he also attended the Public Outreach meeting of the Planning Board back in June. Rick stated that he also recalls very clearly that the outcome from the public feedback was try to preserve the current character of Litchfield and he concurred that was echoed by the Planning Board members that were in attendance at that meeting as well, there was quite a bit of discussion about the farming and how that is a large part of what makes up the character of this town and a lot of desire to keep that, but the discussion was really how to find creative ways to encourage that type of continued use of this property. He thinks there was some discussion about the overlay district and believes the discussion from the public perception was why would you take away the rights of these landowners. Mr. Riley stated that he is a little bit surprised to see this being proposed today. Rick stated that he knows there was a survey that the Planning Board put on their website, which had a question that mentioned how you would encourage having an overlay district, and does not believe that he has ever seen the results of that survey, so he would like the board to tell him if there are results of that survey and also stated that Claudette proposed a couple of questions, one of which was who wrote this particular overlay ordinance, where did it come from, did the Planning Board draft this or did it come from some place else and the Planning Board is approving it and putting it to a vote; how did you guys come to this exact wording and where you are with this thing. Mr. Blanchette stated that it has been a work by the Board that has been going on for several months. Mr. Riley asked if it was help from the State or just the Board. Mr. Blanchette stated that it has been the Board working with some consultants (NRPC). Mr. Riley asked if there are results from that survey. Mr. Riley stated that he believes this was the second survey, there was one that you put the results up and knows there was a second follow up survey that had some similar questions, but slight changes, etc. but does not believe he has seen any results. Jen stated that they are on the website. Mr. Riley stated that one of those questions involved an overlay district and was there any response for that specific question. Mr. Riley stated that he felt from the outreach meeting he attended that the majority didn't feel like this was an appropriate thing to do. Jen stated that page 14 of the second survey (Question 8) . Russ stated that is what led them to where they are today, with this proposed ordinance. Rick stated that he thinks what he has heard from the folks that have spoke today is that they don't think it is right to take a landowner's ability to do what they want with their land, as much as he loves the character along 3A and would like to see it continue, he would prefer other ways of encouraging that continued use rather than putting something like this in place which pretty much puts handcuffs on these

particular landowner's and what they can do with their property and does not think it is right.

Rick Charbonneau stated that if you put this to a vote, we don't have a chance. Who wouldn't want to protect the farmland. The people are going to vote for it. There is probably 20 of us versus everyone else who would say leave it the way it is. We should leave our land the way it is.

Kevin Lynch 312 Charles Bancroft Highway, stated that he was speaking for his father who owns a little bit of land, they are on the floodplain, and they are undevelopable and can not build on it. The flood of 2008, was in their backyard as most of Route 3A, the Golf Course, they are all in the same situation, all the way down, that's the way it was designed and that is what it is for. Mr. Lynch stated that their point is which is going to go back to what Claudette Durocher said, we took the agriculture and came up with the overlay, put the conservation open space development regulations in it, which is something that was approved in 2010 for non-conventional subdivision regulations. One acre lots, big acre lots, frontage to use smaller areas which is what the open space development is. Kevin stated that this regulation the way it is written takes up a lot of the land which is a problem. Kevin stated that as Claudette mentioned; you take the 150 from the river, the 250 from the road and the way the regulations work in Litchfield, you got wetland, you have a 75' buffer that's non-buildable which is taken out of it, that is in the Aquifer protection regulations. Another glare in this that takes away land as was mentioned, is all these little easements that come across and you lose more and more. Kevin stated that one of the things he is going to say tonight is that he has lived here all his life, route 3A has stayed just about the same, Rick has bought up around him because he wants it that way. Kevin mentioned that when the Town or State bought some land they let it go. Kevin stated that he agrees with Don, Rick and a lot of the other folks in Town, we take care of ourselves, this regulations is just going to mean more restrictions, we are not gaining anything. Claudette asked what happens to the building that are in that 250' setback? Kevin stated that it becomes an existing non-conforming use. Kevin stated that the legal aspects of it are that you can repair it and maintain it in its present shape and condition, if you need to enlarge it you need the Zoning Board of Adjustments, if you need to alter it to change the use, you need the Zoning Board, then you will possibly need another creation, which would be the Planning Board for the site plan review. Kevin stated that when you do one thing, something else applies, for every action there is a reaction. Claudette mentioned that when they proposed this didn't they realize that not all of 3A is open. Not all farms have 250' frontage. There was more discussion between Kevin and Claudette. Kevin stated that he believes the intent or thought was not ready to go before the people. The major landowners are affected by this.

Gerry Parent stated that he wished the folks can come in front of the Planning Board and

try to do something, a couple of years ago, he came in and subdivided a lot line change in a lot that his wife's family had owned for 8 generations. After losing the 250' next to the river, the Town took an extra 10' from him in front of his house 600' long and somebody else wanted to take the rights of the trolley tracks to walk from nowhere to nowhere because the trolley tracks don't connect to anything. Mr. Parent stated that he felt that the Board was in his wallet, you have to understand the feelings of people coming in front of this Board and the Zoning Board who he feels is very anti-business in this town. We had a person, in this town who wanted to build a gas station, Gerry stated that he is not against gas stations but this man was going to be putting everything possible for safety and we turned it down. Where do you go buy your gas now? Out of Town.

Darlene Deblois 540 Charles Bancroft Highway, owns the Horse farm stated that she gives a lot of riding lessons to keep her property. Her mom bought it 49 years ago and does not understand what everyone is talking about. Darlene stated that she does not even know what this does to her, she takes care of horses everyday and when she gets older and has to sell her place, she wants to make sure she can so she can retire someday. Members of the public and board told her that this does not affect her. Darlene mentioned that she didn't even see the survey. The Board explained that it came in as an insert in the HLN and it was on the website. Members of the public and Board discussed different ways of getting the information out.

Mike Demarco, 16 Colby Road (Haley's Pizza). Mr. Demarco stated that he just wanted to comment on your mailing situation and stated that if they need some help he can definitely help them out with it. There is a program the post office offers that is called every door direct mail and it will cost 14.6 cents a piece.

Andy Proلمان, 31 Chase Brook Circle, Andy stated to the Board that he likes a lot of what the Board has done heading into tonight for Zoning, there is a lot of good change in your other zoning, but this is not one of them, the Agricultural Overlay. Andy stated that he does not think it is ready, it is not necessary because we already have the conservation open space zoning so this is an additional layer of government regulation that is not necessary. It has some serious legal problems; there is a provision in there that says development of any farmland would require 25% of that farmland to be set aside for conservation without a corresponding compensation to the landowner for what could be unconstitutional. Andy stated that he does not want to see his taxes go up more than anybody else to pay for an unattended taking of land. Andy stated that perhaps it should go to counsel but believes it is a real problem because the majority tonight stated the 25% set aside is just an outright land grab without any compensation to the landowner and thinks that it is a real problem the Board should look into. Andy also stated that he thinks Ms.

Durocher makes a very good point; you are creating hundreds of nonconforming uses with this ordinance and if one of our farmers want to do something with one of their buildings, they have to go through an elaborate process . The creation of the nonconforming uses will create more business for him, which he does not want this type of thing. Mr. Prolman stated that he thinks the comments from Rick and Kevin are dead on, if you put this on the ballot, which he does not think this should go forward on the ballot. If it is put forward on the ballot with the magic language of approved by the Planning Board, it will pass. People do not know the details and people are not affected like the people in the room. All people really do is look at the language, say it is too long and is recommended by the Planning Board and vote yes. Please do not let this go forward, work on it, there is no urgency, we are very good stewards of our farmland , the McQuestens have owned their land since the 1700's, folks here tonight are not developing and have no intention to develop. The impact on this passing is just going to undercut the value of a lot of property in town and asks that it not go forward. Andy stated that some of the other ordinances he does like and wants to go forward but not this one.

Comments from the Board

Mr. Young stated that he thinks that the Board does need to do some more work on this before they do anything with it. Russ agreed, that this is premature and needs a lot more work before they bring it forward. Mr. Croteau stated that he would also like to get recommendation from Town Counsel about the constitutional implications on this being a taking. Mr. Blanchette stated that before bringing this to Town Counsel they need to talk amongst themselves as a Board on how best to handle this. Mr. Caprioglio stated that this needs more work and needs to be reviewed further. Mr. Caprioglio stated that he agrees the zoning ordinances will help with Route 102 less frontage for some of the commercial areas which we need. We want to attract businesses to areas that we have business already which is the Route 102 corridor and funnel it in that direction. Mr. Kapelson stated that they heard some great comments tonight which is plenty of reason to table this. Mr. Croteau stated that he does not think this type of ordinance fits. The Board agreed to table this because it needs work. The Board asked Jen if this would affect the Grant at all. Jen stated that there would be no repercussions.

3) Aquifer Protection Overlay District:

Minor amendments are proposed to the Aquifer Protection District to clarify existing provisions. The definition of impervious is updated to reflect current science and practice. A reminder that a current use permit is already allowed for applications will exceed 15% impervious is added earlier in the ordinance. Lastly, the referenced zoning districts are amended to correctly cite the current zoning districts.

Public Comment:

Mr. Prolman stated that he had no comments to these particular changes this year but would encourage the Board going forward into 2014 to consider moving the permitting of uses in the Aquifer Protection to a full conditional use permit approved by the Planning Board to remove from the Zoning Board's jurisdiction if something does not apply.

Rick Riley, Zoning Board Chairman, stated that he wanted to know the reasoning behind Mr. Prolman's comment because if he is not mistaken, today the Zoning Board is a Board where the use permit is either granted or denied based on an application that the applicants presentation or response of a criteria that would allow the Board to grant or deny. Why does Mr. Prolman feel the need to cut the Zoning Board out of that process. Mr. Prolman stated that the reason is that most Town's have discovered is that the Planning Board has the greater resources and tools to put an application under scrutiny , than is the one time application/presentation to the Zoning Board. There are different bodies and they put different levels of expertise and analysis to an application and there are different standards of approval and believes the Planning Board can do a better job at certain things, not everything. The Zoning Board certainly has its role. Mr. Prolman stated that was just a generic comment for next year.

Mr. Blanchette stated that in 2014 the Planning Board will be revisiting this additionally and solicit input from both gentlemen and the community at large.

Mr. Riley stated that from the Zoning Board's perspective, they have the ability to bring in independent expertise to look at all the applications presented to the Board. Y

Mr. Chris Columbus of 15 Cummings Drive, stated that there is the minor amendment of striking the concrete from the list of impervious surfaces, what is the purpose of striking concrete as an impervious surface and is that in relationship to stormwater? There are other provisions in this that speak to impervious surfaces.

Jen stated that concrete is eliminated, concrete by itself is impervious and even regardless of this change would be considered impervious. The piece was that this implied of the concrete had cracks in it, it would be considered pervious which in fact the infiltration that you get from a few cracks in your concrete does not actually render that surface pervious. This is more just keeping it consistent with current science. **Mr. Columbus** stated that also applies to the asphalt thats called out in that provision as well, that as long as it is not cracked, the asphalt is also an impervious surface. **Jen** stated that the next line is actually confusing. The point there is that if however that asphalt, earthen, wooded or other gravel structure is constructed, could react or dissolve if it comes in

contact with a regulated substance, then it can't be considered impervious. The main point here is making sure that regulated substances do not infiltrate into the groundwater and contaminate residents wells. The caveat is that they do not count as impervious if they could dissolve, so as long as the asphalt is applied correctly and cannot dissolve and permit the infiltration of unregulated substances then it is all set. Mr. Kevin Lynch stated that we are talking about a chemical now. Concrete or Asphalt as an impervious surface is added for water infiltration, we are talking about acid protection. Kevin stated that all his gas tanks, fuel tanks, storage containers have to be over concrete impervious surface, so impervious surface including concrete unless sealed correctly. If the impervious system has failed then it is not impervious. Jen stated that Kevin is right and should not strike that sentence.

Public comment closed

4) Commercial, Transitional and Commercial-Industrial Zoning Ordinances:

The intent of the proposed amendments to the Non-Residential Zoning Districts (Commercial, Transitional, and Commercial-Industrial) was to promote development with a small New England Town character and set standards and boundaries that match existing parcel configurations. A new section (408) of General Requirements for Non-Residential Uses consolidates all common requirements, which are in turn struck from the individual districts to eliminate redundancy, and adds new standards (landscaping, lighting, screening unsightly features) to protect community character. Amendments to sections 600 - 1000 include reduced frontage requirements (200 feet on Routes 3A and 102), amend permitted uses to be consistent with existing desired development (expand agricultural uses, limit large scale or more industrial uses such as vehicle salvage yards), and amend zoning district boundaries to reduce instances of split lot zoning and update parcel references to correspond to the current assessing maps.

Mr. Blanchette showed a picture of the map on the screen.

Public Comment:

Claudette Durocher stated that they have a reference to the proposed agricultural overlay district, so if that is not going to go through that would be relevant on the first page under southwestern commercial. Jen stated as a point of clarification; the packets, the first several pages are just a summary because the proposed changes were so lengthy, they put a summary at the front so none of this front few pages would actually be going to the voters, the part that would go to the voters starts with 400 General Provisions at the top of the page. Ms. Durocher asked the Board if they have checked within other Towns on what they require for minimum frontages for different types of businesses. Russ stated that yes they did and NRPC does the research for them. to help them get the best information

available to them. Mr. Lynch gave his opinion regarding all the towns he has worked in regarding frontage. Mr. Caprioglio stated that Jen did give them 10 different towns when they first started doing this and gave them frontage requirements that all ten towns had which were comparable in size to Litchfield. It wasn't Manchester or Nashua, it was small towns like us.

Andy Prolman stated that the Board has done a good job on this, it has been a long time coming and applauds them for their work in this new set of ordinances. Mr. Prolman stated that he loves that they are eliminating split lot zoning, he has had to get a handful of split lot variances over the years, they are not hard to get but you shouldn't have to get them in the first place. It was bad zoning back in the 80's when it was done. Great job to the Planning Board and Jen. Mr. Prolman also mentioned that he loves what they did with the frontages, reducing the frontages. The frontages came from another time to keep out development. The 500 foot frontages were put to exclude commercial development. Mr. Prolman stated that he had one particular comment on the Route 102 zoning; 601t, you eliminate or prohibit automobile service garages from operating, and would ask why and suggest that there is anywhere in town that we would want autoservice, the Route 102 corridor is the place you would want it as opposed to 3A. This is a service people want and needs and prefer to keep it local. You are creating a nonconforming use problem if you prohibit that because there is an existing choppy garage on 102. Mr. Prolman believes it is healthy to have all different type sizes and business, and a garage is one of them.

Rick Charbonneau stated that on the northern district that is all going to be commercial between lots 21-20, 21-6 or is it going to be still industrial. Jen stated the whole piece will be commercial. Jen stated that is the proposed. Rick asked if there was any reason why this would not be the same as southern. Mr. Charbonneau stated that he owns that piece of property. Mr. Charbonneau stated the board is doing a great job and if they leave the way it is he will be okay with that too.

Claudette Durocher stated that on page 5 you are rezoning land on Route 3 on the west side. Mr. Young stated that we are not rezoning those properties, it is the boundary that encompasses that area, the southwest and commercial district. Ms. Durocher asked if that would include all the houses on that strip. Mr. Young stated that it is all the lots that are listed in there. It is the whole area. Mr. Young stated that the map shows all the areas that are affected. Claudette had questions about strip mall. Mr. Young stated that they are not proposing to put anything anywhere. Mr. Young stated that is what is allowed in that district. Claudette expressed her concern about businesses and houses being next to each other. Claudette did not think this would be a good idea. Mr. Young stated that they are trying to get rid of split zones. Mr. Young explained that there is still residential and commercial in

that area. Claudette expressed her concern about houses being in a mixed district. Mr. Young explained that they are not trying to add new zones, the only time they are changing the zone line is if it goes through the middle of somebodies property. If it is residential with a house on it , it would stay residential. Claudette thought that the vacant lots should also be residential. Mr. Blanchette stated that this is covered in section 701 Permitted Uses. There is language that states large department stores are not permitted. Discussion went on further about this.

Mike Demarco stated that he thinks that end of town is kind of a mix already. There is a tree farm, Jolt Electric, an ice cream stand, DLB paving and homes.

Mr. Charbonneau asked if the Board would consider putting the same stuff in the North end as the south end. Jen stated that the North end Commercial and the Southwestern Commercial are almost identical.

Pat Algeo of 17 Naticook Ave stated that he and his sister own the Technology Park. Your list of permitted uses, what if we want to do something different than what is on your list? Jen stated that you visit Mr. Riley of the Zoning Board. Kevin stated that he is actually light manufacturing. Mr. Algeo stated that if you want to bring jobs into Town. Mr. Algeo stated that they have 70 people that work for them. Mr. Algeo stated that they might want to expand their building someday to add more business and jobs to town, but this looks like you limit their ability to do that.

Darlene Deblois mentioned that between his property and Mels, it says there is a commercial land that is for sale, what could go there? What is the Board talking about going there, a Walmart, or is something smaller. Mr. Caprioglio stated that it is the list of permitted uses that is shown in the packet and excludes specifically the big box stores.

Colleen Ellis who is Pat Algeo's sister and lives in Londonderry, stated that their building was originally built as a grocery store, and if they couldn't expand their building and wanted to move to Manchester because it was zoned that they couldn't expand their building; most of their 70 employees come from Town, they hire kids right out of highschool and they raise their families and live in town; they would have to move to Manchester near the airport, and they have a lot more services for manufacturing in Manchester. If you change the wording, and she is not sure of the Board's definition of shopping centers and department stores is but it would limit their ability to sell their land , which they pay the taxes on and if it wanted to become a shopping center again. Colleen stated that she has a question about that change, what is the definition of small shopping centers; she does not understand what they are doing, you don't want to put the outlet stores in Merrimack on our property, which

she gets, but if they couldn't expand their building and wanted to move and sell their land, she thinks that the Board is handcuffing them. Mr. Young addressed Colleen's concerns stating that what he and some of the Board members are envisioning as a small grocery store is the Hart's market on 101, something on that idea, not a big market like Market Basket or Hannafords. Something on a medium scale or smaller scale. Colleen stated that these ordinances are going to be around long after this Board is gone, so what you envision and how you define it may be different than what the next Board defines it as. Colleen stated that if you are going to put that sort of restriction in here and have it be subjective, you should either define it better or not have it. Mr. Young stated that what people have told them is that they don't want a big box store, which is a Market Basket. The other ones are smaller scale. Kevin Lynch stated that zoning wise right now retail is permitted. Kevin mentioned that Churches should be in the residential zoning because they are tax exempt not in the commercial zone.

There was further discussion about this and permitted uses. Mr. Caprioglio stated that we can look at this for the January 21st meeting to address her concerns. and thanks her for her business in Town.

Public Comment Closed

5) Site Plan Review Regulation Amendments:

Amendments are proposed to three subsections within the Regulation's General Standards section. Amendments proposed to 120.1.5 Number, Spacing and width of Access points, require 300 feet of separation between driveways and encourage shared access points on Routes 3A and 102 to minimize traffic and congestion and maintain a more rural character. Amendments proposed to 120.8 Landscaping require any potential unsightly features be screened from view. Lastly, 120.11 Compatibility is proposed to be amended to ensure any future development is compatible with the existing surroundings.

Public Comment

No members of the public wished to speak on this.

Mr. Lynch stated that as a legal point, the DOT is going to take care of any driveway curb cuts on route 3A whether you like it or not, they are entitled to them and they have a right to them. On Route 102 and 3A the state is going to tell you how it is going to work. Their curb cut controls everything.

Public Comment Closed

6) Multi-Family Residential Overlay District:

The proposed overlay is updated from that proposed in 2013 to better identify the overlay boundaries based on public input. The new Multi-Family Residential Overlay District is proposed to provide opportunities for development of multi-family housing as required by state law. As drafted, the ordinance requires any new multi-family construction to maintain the existing character of the neighborhood. The minimum lot size proposed is 2 acres for the first 3 dwelling units, with an additional 5,000 square feet required for each additional unit and no more than 6 dwelling units may be permitted in any one structure. The proposed district boundaries are the Residential and Commercial Districts north of Leach Brook and the Residential, Commercial and Transitional Districts south of Page Road and east of Route 3A.

Public Comment

Claudette Durocher questioned how many acres the Board is proposing for this? Mr. Blanchette stated that they were just making it available as an overlay in the existing. Claudette asked if they had any idea how many acres there are for the overlay. **Jen** stated that they did not rerun the calculations this year but can give what the district numbers were last year, it is not a significant difference. Kevin asked that the plans for the Southern part be shown on the screen. **Jen** mentioned that going back and looking at the notes, they never calculated the total area that was included within the districts because a significant portion of what was in the proposed areas was already developed; at least in the portion that was north of Leach Brook, while the proposed boundaries were of one size, the actual potential was significantly smaller. **Kevin** used the map to show and explain to the members of the public where the multifamily residential overlay. Kevin explained where things were already developed and where or where not the multifamily could go and why. **Ms. Durocher** asked why you would include the land that is owned by the State of NH if it is dedicated to highway. **Joan** stated that the States surplus land goes to housing, the first choice goes to housing. **Mr. Young** explained that right now the circumferential Highway is 9 to 10 years out. Mr. Young explained that a lot of the areas they have dedicated have housing on it already. The State says we have to have an area in town where it is allowed, it does not say it has to have vacant land. Kevin further discussed on the map and showed what the actual available land. Kevin explained that it does not affect them tax wise, it just allows multi-use. Kevin stated that the way the zoning is written he can not get more than one house on the lots. Ms. Durocher expressed her concerns about the board creating conflict. Why just keep them on the east side of 3A which is vacant land. Conversation ensued.

Ms. Durocher asked the difference between multi-family and work force housing. The

answer was affordability. Jen clarified what some of the workforce housing statutes say. There are 2 pieces within the workforce housing statute: One piece says that it has to be feasible and the majority of your residentially zoned district to construct housing that is affordable to households at or below the median income. Jen stated that that definition is set in statute. The Town has gone through and looked at the regulations and looked at what has been constructed and what things sell for in Town and said we are good. In any of our zoning districts you can build something that would be affordable to a household at or below the median income. Whether market conditions would drastically change, that might impact it, but one of the things the Town benefits from is a look at a median income of the larger area which the median income that would apply to Litchfield is fairly high, so it makes it so it is fairly easy to build at or below that price point. The second piece is that the statute says that you must allow somewhere in town the reasonable realistic and feasible opportunity for multifamily to be constructed. It does not define what reasonable and realistic is in terms of that percent of your land area and so its left to a Town to say, do we feel that this is a reasonable offer of a percent of our land area where multifamily could be constructed. The bottom line is if a developer came in today and said I want to build multifamily and it is not permitted, the Town is not protected against a law suit. Jen stated that is part of what is happening here so the trick is to try and find that balance as to what is an appropriate location and what is an appropriate amount of land to allow multifamily to be constructed on. Jen stated that one of the things the Town had looked at in a previous iteration with previous towns counsel was only allowing multi family in that northern tip and counsel came back and said with the amount that is already developed there, in counsel's opinion, it was not a reasonable or realistically feasible percentage of land to be available, so counsel said we needed to find somewhere else in town where it can be permitted and so that is where that southern end of town was identified and one of the things the Board looked at was the northern end of the town and the southern end of the town were really kind of the more suitable places. Jen explained in terms of multi family meeting price points, there are no requirements for what price point a multi family development meets, it just has to be multi family. Jen explained that the Board nor the Town can not regulate who that home is sold to or rented to.

Mr. Parent asked that in Jen's past experiences, are the developers looking to get subsidized? Jen stated to do something that is subsidized is extremely complex and extremely difficult and there is a limited number of groups in the state that are actually building housing that is subsidized. Jen stated that the developers are looking for places that it is easy and existing infrastructure. If there is not easy access to water and sewer, chances are they are not even going to look at the property.

Mr. Riley stated that he needed some clarification and had a question. The clarification he

had is that he was looking for is that he thinks on one hand we are saying the town meets the requirements for workforce housing today. Mr. Riley stated that his question would be, is single family residences currently allowed in transitional zones. Jen stated yes. Then Mr. Riley asked if single family residences were currently allowed in commercial districts? The Board answered no. Mr. Charbonneau stated that single family residents are really not allowed in transitional. Mr. Riley stated so we are proposing to take some of the last remaining developable land in town and just allow this type of multifamily housing and not allow single family. Mr. Blanchette stated that it depends on the underlying zone is.

Discussion on this topic ensued.

Mr. Steve Ducharme of 131 Page Road stated that he had a lot that is close to 8 acres and was wondering if the Board can think about rezoning this up to Chase Brook. Mr. Ducharme explained that what is going to happen is that everybody on this side of the road could do multi family, across the street from him there is lot of 3 acres, 6 acres and 4 acres. Mr. Ducharme showed on the map the houses that were duplexes, and does not know if his lot would be included in the underlying district or moving the line up.

Ms. Claudette Durocher asked how wide the strip fronting 3A, is it just a lot deep or two lots deep. Jen stated that it is not even a lot deep, it is from measuring it on the GIS data it varies from 250' to 650' approximately.

Darlene DeBlois asked if this gets rezoned this way, it would be on the 21st and would be Public Hearing? The Board stated Town meeting. Darlene asked that if it gets passed does that change her tax base. Joan stated that she would need to check with the assessors.

The 21st will be a public hearing and March 13 will be Town Meeting.

Jen stated that from a procedural standpoint; what the Board is doing here is taking public comments, on the 7th they will hold a work session and try to work through the comments. Depending on what they are able to work through on the 7th, they will decide what they want to continue moving forward. At that time they will have to make a vote to send something to a 2nd hearing. If the Board gets to a point where they say they cannot make an adequate set of revisions to this to have a complete product, they may choose to table it and not send it forward to the 2nd hearing on the 21st. What would happen on the 21st is another hearing like tonight to present back to you, here is what we heard and here is how we revised the drafts, does it work. And then at that point, the Board has to stay here on the 21st until they are 100% confident and comfortable with the shape of a draft and at that

point they can either vote to table, toss it out or send to Town Meeting, but before they leave here on the 21st they have to have a draft in the final form that it would go and be presented to the voters.

Ms. Durocher stated that she finds that all these changes are very harsh for ordinary voters to comprehend.

Public Comment Closed.

Motion: by Mr. Young to approve the Planning Board By Laws.

Second: by Mr. Curtis

Vote Passed: 6-0-0

Motion: by Mr. Curtis to approve the Litchfield Site Plan Regulations.

Second: by Mr. Young

Vote Passed: 6-0-0

Motion: by Mr. Caprioglio to table the Agricultural Overlay District for one year.

Second: by Kapelson

Vote Passed: 6-0-0

Heron Drive recommendation of maintenance bond

Mr. Blanchette stated that we have a request here from Lou Caron for the recommendation of a maintenance bond. Mr. Blanchette read the letter out loud to the Board. The amount of the Bond is \$16,500.00

Motion by: Mr. Blanchette that the Planning Board recommend to the Board of Selectmen for the Heron Drive subdivision, a 2 year maintenance bond in the amount of \$16,500.

Second: Mr. Caprioglio

Vote passes: 6-0-0

Approve minutes of November 19, 2013

Table to next meeting

Motion: by Mr. Caprioglio to Adjourn

Second: by Mr. Kapelson

Vote: 6-0-0

The Next Planning Board meeting will be held on January 7, 2013 at 7:00 pm.

The meeting adjourned at 10:20 pm

Minutes taken by: Donna Baril