



**Town of Seabrook  
Planning Board Minutes  
Tuesday, November 1, 2016  
Seabrook Town Hall, 99 Lafayette Road  
603-474-5605**

**MEMBERS PRESENT**

Jason Janvrin, Chair, Donald Hawkins, Vice Chair, Michael Rabideau, Aboul Khan, Ex-Officio, David Baxter, Francis Chase, Alternate (voting member tonight), Tom Morgan, Town Planner, Rick Friberg, TEC, Maria Brown, Planning Board Secretary

**MEMBERS ABSENT**

Ivan Eaton, Michael Lowry, Alternates – Paula Wood, Robert Fowler, James Sanborn

**Janvrin opened the meeting at 6:37pm**

**MINUTES**

<b>Motion:</b>	<b>Hawkins</b>	<b>To approve the October 18, 2016 Minutes as written.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Hawkins, Janvrin, Rabideau, Khan, Chase</b> <b>Abstain: Baxter</b>

**CORRESPONDANCE and ANNOUNCEMENTS**

Election Day is Tuesday November 8, 2016 and will be held at the Seabrook Recreation Center from 7:00am -7:00pm

Coastal Adaptation will show the screening "Before the Flood", November 3 to be held at UNH

**Case #2016-12**

Waterstone has come forward with a cash security for the Emergency Center.

## **Case #2013-15, 21 Chevy Chase Road, Security Update**

We have no security for 21 Chevy Chase Road at this time. They have not reached out to replace the Security and we will discuss later on this evening.

Attorney Mitchell sent some suggestions regarding Security Agreement. This will be discussed later on this evening.

Public Notice for zoning and site plan changes we will discuss these items during the Public Hearing this evening.

## **SECURITY REDUCTIONS, EXTENSIONS, ROADWAYS**

### **NEW CASE**

#### **CASE #2016-23, 2 & 2A Felch Lane, Condominium Conversion, Felch Realty Trust – Brian Felch-Rios, Trustee, Map #12, Lot #19-2 & 19-20**

Henry Boyd from Millennium Engineering will be presenting the case this evening. The property currently has two existing homes. Morgan had questions about the size of the units. At one time the Town allowed three structures but the owner must have 45,000 square feet of land. If you look at the lot calculations they total 42,535 sq ft which prompted Morgan to ask how the applicant had two structures on one lot. Boyd has worked on this property and others for a long while now. Boyd stated the easterly boundary had the property line 23' too far east. When Allen and Kathy Felch purchased the piece near the east side Boyd was asked to survey the land. Boyd noticed a big problem with the original boundary line. Boyd believes that what happened if you look at Ernie's plan and then later the other where Brian is at now you will see it. Boyd believes the building inspector issued the permit off of Ernie's plan. After several lot line changes Ernie's plan shows that they have 46,322 square feet of land. Boyd thinks the record survey was taken and believed to be true and that is how the two different buildings got there. Now they pre-exist as a non conforming situation. Boyd does believe this lot is grandfathered. The action taken in the Courts fixed the lot line and Boyd was involved in that plan where all parties agreed on the lot line adjustment. Boyd stated that this should be considered as a pre-existing non conforming grandfathered situation. Boyd stated the other issue raised by Morgan was that the plan for 2A showed no utilities. The Water Department has since marked the location of both of the units separate shut offs. The service ties have since been added to the plans. Boyd has had no further request from the Board. Morgan asked if Boyd has separate shut offs depicted on the plan. Boyd stated he tied them down and they both have separate offs. The power goes over to the pole and then goes underground to Brian's garage. The line then goes underground from 2A from the same pole as 2 Felch Lane. Chase asked when the jog took place as the lots original showed 3 lots and they were square. Boyd stated that it happened on this plan as a lot line adjustment approved by the Board. Chase stated that Ernie never put the total square footage on the documents. Boyd stated the footage is noted on the plan as a total of 46,322 square feet. Chase stated it seems the purpose of the change was to make the lot conforming.

Boyd believed the change was to accommodate a home for Brian's mother. Rabideau asked what the space where the jog is off to the left and what the squeeze between the proposed property lines is. Boyd stated this is not a sub division it is only limited common area not a lot line. Morgan stated the lots are none conforming and Boyd gave a fine explanation and the size issue is a mute point now.

Janvrin read the opinion from the Planning Board Attorney. They suggested the Planning Board must hear the case request for a condominium conversion and there is absolutely no reason that the Board should not approve the case. The Planning Board was advised so long as they have no changes to the lot the Board should precede. Boyd will note the one change is that the shed needs to be moved to 2A and the larger shed by Josh's lot has been moved completely. Boyd had added the unit area for the shed but it has since been removed. Friberg recommends no proposed infrastructure for this project, any new sewer or water connections. He suggests that the sewer and water department find the plan acceptable as a condition. The utility information has been added to the plan. Friberg stated that they may need an easement to access the water shut off. Friberg stated the only other way would be to run a line all the way to the main road. Boyd stated that could not be done either. Boyd pointed out that the water shut offs were not dug up and he will ask the Water Department to come and do that before we get in to the need for an easement. Usually they will add a riser and paint the circles. If it is in Felch Lane they will deal with that at that point. Friberg feels as long as Curtis is satisfied they should be all set. Boyd will talk with Curtis.

Janvrin stated water and sewer is already in place and asks if the easement is already in place. Boyd stated you can actually do sub divisions on private ways and he cited Moores Lane as an example. Boyd stated that it is a privately owned public right of way which allows delivery trucks, ambulances, fire trucks, police vehicles, and any other department to come down the Road. Janvrin understands that the Road was never dedicated. Janvrin noted that the shut offs should be satisfactory to the Water Superintendent and an easement may need to be provided.

Allen Felch an abutter stated he disagrees with this and it is a private way that he has a court order for. A judge already made a decision on this it didn't work for the judge than and it's not going to work now. You can try to do what you want but you're not going to be able to give anyone a right of way. Janvrin stated that he has a legal opinion unless something is way off the Board cannot deny the condominium conversion request.

Janvrin stated that the concerned parties are allowed to file a civil suit and the Board doesn't have a leg to stand off if they don't approve it. Allen Felch stated the Board can try to back door it but the Road will stay private even when he passes it on.

Paul Lepere represented Brian Felch for the sub division which was withdrawn. Lepere stated nothing is being added to the structures and they are asking for a condominium conversion. The Town has dozens of these condominiums in Town. At this point in time he is not sure what the abutters objection is and in New Hampshire a homeowner has a certain number of rights called the bundle of rights. They have a right to have a cook out, people over for the Holidays, and Santa over if you would like. Mr. Lepere stated that Brian has the right to rent out his property or to sell his property.

Neither this Board nor any other Board can object to Brian selling his home. At this point in time Mr. Lepere feels the abutter is trying to stop Brian from selling his property. The abutter has the right to appeal it for a 30 day period if he disagrees with the Board's decision. The case has been tested in Court and the proof is in the pudding as the Palmers currently live at the end of the Street and they are not Felch's. Brian Felch – Rios stated that his brother had the right to sell his property. Brian Felch - Rios wonders why the abutter is trying stop him he feels it is a personal vendetta.

Allen Felch stated he has no issues with Brian selling his home but not dividing it to sell. Lepere stated that Brian would like to stay there and no court in the World says he cannot sell his property.

Lepere explained the possible ramifications as they have the fiduciary obligation to their client Brian Felch - Rios. Brian Felch has hired Mr. Lepere to sell his property and one of the lots are under agreement and slated to close in the next 35 days. If you do appeal and Brian Felch loses the sale he has the legal right to tell you Allen Felch that you caused him to lose the sale and you interfered with a legal contract and his bundle of legal rights as a homeowner. Mr. Lepere stated that Brian Felch - Rios could than sue you. Janvrin asked that everyone address the Board.

Mr. Lepere repeated that the abutters have rights but Brian Felch - Rios has rights also. Brian is part of the New Hampshire Realtor Commission and they have been watching this case closely. Due to the bundle of legal rights that a homeowner has in New Hampshire if Brian's rights are stomped on the NH Real Estate Commission will defend his rights. The homeowner will have 7,000 Realtor's on his side so as I said you do have the right but Mr. Lepere would really like you to think twice about what you're doing for all parties involved.

Kim Felch abutter asked if you clarify what constitutes the legal allowance for a condominium as she doesn't know what that is. Morgan stated that RSA 356-B was passed awhile ago and it spells out the procedures and rights of a property owner to have a condominium conversion and it goes on for 30 pages. Ms Felch feels as an abutter she is not sure of what the laws are and she would like to be educated before she objects. Morgan stated the the Town of Seabrook have very little room for movement under the law and our attorney has advised that they can assure that the emergency shut off valve can be accessible to the Water Department and that the units involved are legal. The emergency shut off valves are for water. Kim Felch asked what if the shut off valve is not on the land. Morgan stated they need to spell it out. Kim Felch asked if they can install a shut off valve without an easement. As an abutter if that is not a legal option why are we having this discussion. Morgan stated that the Board will defer to the water superintendent and if he is comfortable with the set up its all set. If the Water Superintendent states he cannot get to the valve than it will need to be addressed. The access is needed in case someone doesn't pay their bill and the water needs to be shut off.

Kim Felch asked in regards to a pending sale on property that is not approved. How is it appropriate and how can they be threatened by legal action for following the procedure of addressing the issue in a timely manner when they were giving the letter to come to the Planning Board. Kim Felch stated they came to the Planning Board and addressed her concerns. Her concerns last time was the size of the property making an environment that is suitable to live in as it is very small. Kim Felch is not sure if anyone has seen the property but the applicant doesn't have a back yard even though the shed was moved. The shed was half on the driveway. Kim Felch stated again that it is a very small lot. Kim Felch again cited the threat of a sale and the threat of a law suit from Mr. Lepere. She asked how that is legal as the property is not legal to be sold. Kim Felch asked for the realtor on the Board to speak to her question. Baxter stated that you have to separate the Planning Board from the legal issues. The Planning Board's job is to look at the application see if it meets all the requirements and if it does we approve it. If for some reason it doesn't meet the requirements the Board disapproves it. The whole legal issue is germane to the hearing this evening. Here is the application, all the boxes are checked off and the Board has to make the decision. The one thing he is a little unclear with is the water and sewer and that is why the Engineer recommended the department head looks at the shut off. Kim Felch is looking for clarifications. Baxter feels that the Board should not be having the legal discussions. Kim Felch asked a question in regards for a condominium is there a need for an easement to access the house. Janvrin stated that is beyond the scope of what the Board is approving this evening. Janvrin stated that the Board is making sure the Town of Seabrook has access to the water shut offs. Kim Felch asked if that is all that is needed legal to have a condominium conversion.

Allen Felch stated there is not an easement to that property. Allen Felch stated they went to court and the judge made a decision. Janvrin stated that the Town of Seabrook has an easement to access the water. Allen Felch is talking from the driveway to the trailer. Janvrin stated that is not under the jurisdiction of the Planning Board. Boyd added that most Town's in New Hampshire do not take jurisdiction over condominium conversions. Usually what happens is the surveyor and a lawyer will work together and present the plan to the Rockingham County of Deeds to be recorded. Seabrook has for some reason chosen to get involved in condominium conversions. Boyd stated that the Planning Board is right there is very little they could do so long as the applicant meets the requirements.

Kim Felch asked with a condominium sale are they selling just the unit and not the land. The land will not be divided and they will get tax bills addressing the limit common area. The line on the plan shows how it is divided by limited common area only.

Kathy Felch asked how the one driveway will work for the other building as there is no right of way. Kathy Felch asked where the valves are and are they shown on the plan. Boyd wants to be able to see the actually shut offs so he will have the Water Department come and dig them up.

Allen Felch asked if we will come back to the Board for this approval. Allen asked what all the other water and sewer pipes are that go all over his property and he wants to know how they got permission to do it. Janvrin stated the Town of Seabrook had to have had permission. Janvrin stated that Allen Felch will have to look at the easement when they were installed. Allen Felch stated he never gave an easement. Hawkins stated that he is pretty sure the Town would not go on that property and place water and sewer lines without having something. Allen Felch asked if we wanted to bet. The public hearing closed at 7:17pm as no one else wished to be heard.

Morgan viewed the documents and the attorney's letter stating that they were consistent with 356:B. Chase asked if the board should include something in references to the lot size. Morgan stated they didn't have to but it may be a good idea but the story is too involved and probably too much to add to plans. Chase would like this area to be cleared. Janvrin stated the board could do a finding of fact that would be appealable to the Zoning Board of Adjustment. Morgan stated that Mr. Boyd could write a note explaining what happened with this lot. Boyd stated that because the property line changed and they are based on a boundary line agreement which all parties agreed. Boyd stated that one of the plans are relevant to the case he could put a note referencing it on the plan from the recorded document. Chase feels something like that should be done.

<b>Motion:</b>	<b>Hawkins</b>	<b>To Approve Case #2016-23 as Administratively Complete.</b>
<b>Second:</b>	<b>Rabideau</b>	<b>Approved: Hawkins, Janvrin, Rabideau, Khan, Chase, Baxter</b>

<b>Motion:</b>	<b>Janvrin</b>	<b>To Approve Case #2016-23 for a condominium conversion at 2 Felch Lane with the following conditions; 1) Water and Sewer depiction be acceptable to the Superintendents of the respected Departments and access agreement exists to the water shut off valves, 2) The Condominium Docs must be certified by an attorney, 3) Set the site security at zero dollars, 4) Conditions of approval be added to the final Plan, 5) All invoices must be paid prior to any signing of the recordable documents, 6) Add a note to the final plan referencing Document #C26692 recorded at the registry of deeds dated October 22, 1989, 7) Final Plan be acceptable to the planner, 8) Conditions must be met within 180 days or the approval will expire.</b>
<b>Second:</b>	<b>Chase</b>	<b>Approved: Hawkins, Janvrin, Rabideau, Khan, Chase, Baxter</b>

**Case #2016-22, 12 Folly Mill Road, Condo Conversion**

Wayne Morrill asked the Board for an update on the waiver request regarding the driveway. He is concerned about not having 2 driveways due to safety issues. The first one being residential that could have small children playing in the residential driveway. Janvrin felt that if the driveways existed prior to the date that the language changed than the action the Board had taken for that approval should be nullified. Hawkins asked if that is what changed in the regulations. Janvrin cited section E and it clearly stated that the existing driveway should be permitted. Wayne stated that they are less than 20' and they are both gravel driveways. Morgan stated that the Driveway regulations were adopted in 2004. Morrill stated that the driveways existing at least 20 years ago from what Mr. Starkey could see in his records. Chase asked if any conversation has taken place about putting up a fence to separate residential property from commercial. Janvrin stated that is it not commercial. Morrill stated they have no municipal services in that building.

<b>Motion:</b>	<b>Janvrin</b>	<b>To make a in the matter of Case # 2016-22 that the condition requiring one driveway has been met as the two driveways existed prior to the adoption of the new regulations and section E allows it.</b>
<b>Second:</b>	<b>Hawkins</b>	<b>Approved: Janvrin, Hawkins, Khan, Baxter,</b>

**Case #2013-15, 21 Chevy Chase Road, Security Update**

**Janvrin read the letter sent to the owner and read it into the record.**

The letter was sent certified and sent via email.

We have no security for 21 Chevy Chase Road at this time. They have not reached out to replace the Security. Janvrin stated that revoking site plan approvals are very complicated. Janvrin suggested that the Board could suggest that the Selectmen impose a daily fine of \$275.00. Janvrin reminded the Board that the applicant still has more buildings to fill and he can hold on signing off for OC until this matter is cleared up. Wayne Morrill from Jones and Beach stated that Mr. Richardson from Waterstone is working on a letter of credit and is expecting it to be ready by November 15, 2016. Janvrin explained that the Board has sent a letter to 21 Chevy Chase Road LLC. Khan asked what would happen if Waterstone came in before the Selectmen meet with the Letter of Credit. If that happened than they would be all set. Hawkins stated that the applicant knows what is going on and they came before this Board and told us they will take care of it and they have not communicated with the Board since that time. Rabieau asked why the Board had to wait until next week to start charging the fine. Janvrin stated that the Planning Board doesn't issue the fines the Selectmen do. Rabideau asked if we could back date the fines based on the date of the letter that went out. Rabideau stated we were all here and the applicant stated they would have it taken care

of by Friday and we gave them a pass on it and it didn't happen. Next we sent them a letter a few weeks later and they knew all that the long that the security was not going to be in place. Hawkins stated that it is our obligation to notify the applicant and we did by way of a letter. Hawkins stated that could have called the Letter of Credit and the Bank would have had to give the Town the money. Khan stated the applicant has not communicated with us since the letter went out. Khan asked the Town Manager if he should attend the ground breaking for the other project and he was told it was completely ok. Janvrin stated they have the security in place for Portsmouth Hospital and it is two separate entities. Janvrin stated this situation needs to be rectified and quickly. Hawkins felt a little lenience here would be the right thing to do. Khan suggested we give them a week. Hawkins stated that the Letter of Credit expiring is partly our fault. Hawkins stated that it is our responsibility to make sure this doesn't happen again. Baxter felt comfortable giving them another week. Janvrin asked what the pleasure of the Board is. Khan asked Janvrin if he can vote on this matter.

<b>Motion:</b>	<b>Hawkins</b>	<b>To recommend to the Board of Selectmen that if the Security for Case #2013-15 is not in place by November 7, 2016 at 10:00am, the Planning Board is asking that the Selectmen initiate the recommended fine pursuant to RSA 676:17</b>
<b>Second:</b>	<b>Chase</b>	<b>Approved: Chase, Hawkins, Khan, Janvrin, Rabideau, Baxter</b>

Janvrin stated we have two public notices one for site plan and one for zoning. He would like to do the zoning first as we have a cutoff date.

**Janvrin opened the Public Hearing at 8:05pm.**

**\*Please see attached Public Notices for more information and Tom Morgan's Memo dated September 19, 2016 regarding suggestions for changes made to ordinances\***

Hawkins stated that Morgan doesn't specifically refer to ADU in our table code. Hawkins stated how he would view this chart and as soon as he saw it he wondered are we allowing 2 dwelling units plus an ADU. Hawkins stated if we don't address the ADU specifically than we are going by the state law which says you must allow one ADU per property. We have not said anything about so we will end up being subject to state law. Morgan stated we do say it in the definition. Hawkins stated the state wrote a specific law for accessory dwelling units and he feels that if we don't address it in our ordinances than we will be subject to the state law. Janvrin asked in the chart if we were to say for the dwelling units per lot section instead of saying 2 changes it to 1 and accessory dwelling units 1 on each lot. Janvrin stated they are limited to one primary and one ADU. Morgan stated what we are faced with is a Town that already has hundreds of lots with more than one dwelling already. Hawkins stated that if we do



what Janvrin suggested we would be saying that those lots already have their accessory dwelling. Hawkins stated we are also saying that the lots that are less than 45,000 sq ft also are allowed an accessory dwelling unit. Hawkins stated that if we said we are going to allow what we allowed before and every property will be allowed an accessory dwelling unit in addition to the primary unit. The people who have 45,000 sq ft already have it. If the property is less than 45,000 sq ft they may need to be attached. Zalewski stated that Morgan says you would be allowed two dwelling units and what do we do with property less than 30,000 sq ft. Morgan only put in these memo things he was looking to change. Zalewski stated that dwelling unit is something that provides all the things that a two family duplex would allow. Hawkins stated that size doesn't come into it and the beach is included. Even if you have a lot that is 5,000 sq ft they would still get an ADU. Baxter stated the RSA and asked if the statute says that the work force housing is a percentage of the Town. Morgan stated it is the whole town. Hawkins stated they have worked with RPC who sent back a whole different idea on how to address this type of calculation and it will be a court case if someone says you don't meet the work force requirement for your town. Morgan stated that all the units should be work force housing units. Baxter stated that every lot in town has the right to have 1 ADU and it must be clear. Rabideau asked about the two houses joined by a breezeway would they be considered primary in this matter. Hawkins feels the state needs to clarify this as every single one could become a duplex or a condo. He feels the intent of this law was geared toward the elderly to be able to stay in their homes. Morgan feels he can satisfy some of the concerns on page 2 instead of calling it a dwelling unit call it an ADU. Hawkins stated we will have a primary dwelling with an ADU. Only single family homes can add an ADU. Janvrin stated if we call it one primary residence and one ADU it will be all set. Hawkins asked about the model ordinances that we were given to deal with this. Hawkins feels that this is a minimal approach verses what we have been given from the NH Municipal Association and RPC. Morgan feels a lot of that language is optional. Hawkins feels we need to address it so it is not a gray area. Hawkins stated we could limit size but we cannot go any lower than 750 sq ft. Morgan cited the verbiage in page 3. Hawkins stated we need to look at the effect on the house that has the ADU and the neighbors. How will these decisions impact our School if we don't limit the size to two bedrooms? Zalewski would like to see us limit the ADU size for the lots that are less than 30,000 sq ft and he is suggested 800 sq ft. Janvrin stated we do have the potential of doubling the enrollment at the schools, police, fire, and doubling the population. Hawkins stated the only thing we are allowed to do is uphold our ordinances and if they meet all the requirements we have to allow it. We could say our maximum will be two bedrooms or it could be 750 sq ft. Morgan referred back to his memo and he wanted to change as little as possibly to increase the chances of it passing the Town Meeting. Chase asked if he delivered the OEP. They were passed out at a previous meeting. Janvrin feels that #7 is permitted by statute and he doesn't think we have a leg to stand on if we have a condo conversion. Hawkins feels that the law states the owner has to occupy one of the units and you can prohibit condo conversions through RPC and the guy from the Municipal Association disagreed with it. Janvrin asked administratively how we could go back in the assessing office which is the ADU and which is the primary. If we don't do that and they go through the Building Department how can we rule out a condo

conversion? Janvrin stated the easy way to regulate seems to be through the size. Hawkins feels allowing the building department who has to issue the permits to make the decision. Morgan stated we must address the lots less than 30,000 sq ft. Zalewski agrees and feels that is where we address the owner living on the property. Hawkins stated the law says we cannot tell the homeowner to live in the ADU or the primary home. Zalewski stated two dwelling units in the same building is a duplex. Hawkins stated that this is for a single home that can be divided or add an ADU. Khan asked about work force housing and the language doesn't seem to be clear or will it changed before March 2017. Hawkins stated we have to be done by that time. Chase is working with RPC on this matter and asked all Towns to submit ideas if something is needed to be drafted due to error or adjustment. Hawkins asked in terms of utilities Morgan has it paraphrased and it appears we don't have the option to regulate. Hawkins stated we can add in our ordinance that they cannot be condominiums. Chase stated as Boyd stated it is usually something that goes to the Rockingham Registry only. Morgan brings for the law that says everyone can condo their property if they want to. Hawkins stated that is why we should add it there will be a test coming. Hawkins would like to go through and discuss the individual options and if we should spell it out in our ordinance or we can just follow the state law the way it is written.

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Option 1) not allowed for an accessory dwelling unit

Chase stated we will see condo's and co ops on the rise in the future. Morgan tried to keep it simple in his proposal. Janvrin feels we need to address anything less than 30,000 sq ft. Morgan wants to avoid confusing Zalewski regarding this matter. Hawkins stated this is single family homes and it is not until it is in there that he can sell it to someone else. The battle may be can we have a condo or not. Janvrin stated the lots of 30,000 sq ft they are allowed an ADU. Hawkins stated we are talking about our zoning ordinance. If you own something that is 30,000 sq ft the owner is allowed to condo it at this time. If you own 29,000 sq ft you are allowed one ADU. If you own 45,000 sq ft you're allowed up to three dwelling on the lot. Janvrin stated the state is telling us we must allow another dwelling unit on less than 30,000 sq ft. Chase stated may be the building code should ask the ADU to the permits.

Option 2) No detached ADU units.

We allow duplex's on 30,000 sq ft or greater, we allow 3 dwellings on 45,000 sq ft or greater, and we have a problem by saying we only ADU under 30,000 sq ft. Hawkins feels we should allow it everywhere. Hawkins stated we could add a common wall. The state is not requiring it but the building code does require it and maybe an amendment needs to be made. Recommend that ADU's are allowed without separation. Janvrin stated that the ZBA can waive it and Zalewski stated they cannot. Janvrin agrees with Hawkins that it is allowed everywhere and it should be an either or. Hawkins feels we need to deal with size.

Option 3) Leave it as is

Option 4) Leave it as is

Option 5) Leave it as is

Hawkins stated the ADU has to provide parking for two more cars and the driveway has to stay the same. Hawkins stated no one can park anywhere in Town on the side of the Road. Morgan stated the Beach will go through this same process.

Option 6) Leave it as is

Janvrin stated that any lot that has an ADU the owner should occupy one of the living spaces.

Option 7)

Hawkins states that the law says you cannot limit the size to less than 750 sq ft. Baxter stated so someone may build a 200 sq foot ADU and that is correct. New York has the micro apartments and the kids are building tiny houses. Janvrin would like to see a maximum interior living space which will limit the number of bedrooms. Janvrin suggested 750 sq ft.

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Accessory Building - Zalewski would like to see it state a detach structure containing no habitable space, not over 1080 sq ft in gross area, conforming to the general building design of the neighborhood, on the same lot as an incidental in use to the principle building on that lot. We have defined principle building last year. Hawkins asked if we have a limit on how many accessory buildings on a lot and the number of stories needs to be addressed per Zalewski. Rye is looking at the carriage house 1<sup>st</sup> floor garage area and the top as living space. Hawkins stated the one on the notice is what exist today except for the underlined area. Morgan wanted to make sure we don't confuse this with an ADU. Hawkins just wants to make sure it is easy to understand. The change is to lessen the confusion between ADU and an accessory building. The Board would like to go with the no habitable space in the definition. A home office is not a habitable space. Rabideau asked if we could add a non residential with non habitable space whose purpose is subordinate. This article is being written to understand easily. Rabideau asked what an Independent means of ingress and egress is for the ADU's. Zalewski stated that they have an outside door. Rabideau asked Zalewski if this is already covered by the building office so we don't need to clarify it under the ADU. Zalewski stated that it is. Chase asked Rabideau to repeat his comment. Rabideau stated the ADU shall have an independent means of ingress and egress they may have it through a common hallway or exterior door. This is in the proposed zoning from the NH Municipality. Rabideau is wondering how you would deal with it. Baxter asked if he could cover the November 7, 2016 Route 1 Meeting. Morgan is all set for Article 1.

Janvrin continued the public hearing to November 17, 2016 at 6:30pm in the Selectmen's Meeting Room.

Warrant Article 2 should look pretty familiar.

Janvrin brought up the security agreement question. Would the Board like to come back to this at the next meeting? Hawkins stated that the Planning Board Chair should work with council to come with whatever format that would be most appropriate. Istar and Portsmouth Hospital will need the security agreement. Chase added we have had a site agreement all the long. The modification will assure we don't run into the issues we just did. Khan asked if someone else can be designated besides the Town Treasurer to handle these matters such as the Town Managers Office. Chase would like to see a copy for the next meeting.

<b>Motion:</b>	<b>Hawkins</b>	<b>That the Planning Board Chair be authorized to work with legal council on the wording of our Security Agreement and whatever the two of them come up as a required format is what we use.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Hawkins, Janvrin, Rabideau, Khan, Chase</b> <b>Abstain: Baxter</b>

November 7, 2016 Route 1 Committee will be moved to the Library. Hawkins will take care of it.

Janvrin continued the Master Plan Hearing until November 15, 2016 at 6:30pm in the Selectmen's Meeting Room.

Zalewski asked if we have firm numbers on impact fee. Hawkins will bring a recommendation on which one fits better.

Chase stated the RPC link is on the website. The Legislative forum will be at the Unutil headquarters in Hampton all are invited to attend @ 6:30pm. The subject is Economic Development.

**\* Please see attached proposed changes**

## **WORK SESSION**

**Janvrin adjourned the meeting at 9:57pm**

**Respectfully Submitted**  
**Maria Brown, Planning Board Secretary**