

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Kahn; Dever; Flanders, Selectmen's Rep.; Edgar, Community Development Director; Angela Labrecque; Harvey, Clerk

PUBLIC HEARING ON PETITIONED ZONING AMENDMENT

Vadney – The purpose of this public hearing is to hear your comments on a petitioned zoning article which will go before the voters the day before Town Meeting in March and one of the requirements of State Law is the Planning Board on all petitioned articles referring to zoning and planning, has to vote either to recommend or not recommend the petitioned article, we do not have the right to stop it or change it in any, all we can do is say we agree or disagree or recommend approval or non approval.

This particular article is in relation to changing the definition of Accessory Apartments and we'll get into the details but the primary change would be to allow accessory apartments in free-standing buildings which have some other accessory use, they just couldn't be an apartment building, but they would not have to be attached to the primary residence as it's currently worded in our ordinance.

Mike Faller, Petitioner – I'm here before you tonight because I've reviewed this ordinance for the past 3 ½ years. Three years ago, I tried to put an in-law apartment over a barn, it was approved by the Zoning Board, appealed by the Selectmen and then denied by the Zoning Board. I tried to work within the existing ordinance by attaching the barn to the house by a deck which I felt was within the spirit of the ordinance. It's an area that's not very detailed in the zoning ordinance so my attempt to try to work within the existing ordinance did fail so I felt it was important and had hoped over the 3 years that the Planning Board would bring this forward, it didn't so I'm here before you tonight with a petition. I think this petition speaks for itself. "The undersigned registered voters of the Town of Meredith present this petition to amend Article VII, Section B-1., of the Zoning Ordinance as follows: Please forward this to the Planning Board for a public hearing, recommendation and inclusion on the official ballot for March 11, 2008 Town Meeting in accordance with RSA 675-:4.

Amend Article VII, Section B-1, Accessory Apartments, such that:

- a. The accessory apartment shall have a minimum of 300 square feet of net floor and shall not exceed **forty percent (40%)** of the sum of the net floor area of both the finished primary dwelling unit and the finished accessory apartment.
- b. Accessory apartments **shall be** permitted in accessory structures.
- c. [To remain unchanged]
- d. Accessory apartments may be created either through the internal conversion of an existing housing unit or through the creation **of an accessory structure such as, but not limited to a barn or garage.**

That's the way it was written. At last week's meeting we did discuss a little bit about some things that may have been inadvertently left out, however, the petition is before you so I do support having the capability of putting an accessory apartment in an

accessory structure. I've looked at it many different ways, I'm sure there are varied opinions on it and the original intent was to have an area for future care of either in-laws or parents and to also have an area that if somebody came over and wanted to stay for a few weeks, they were able to use that area for themselves. Currently, the ordinance allows that the structure needs to be attached. I question some of the attachments that have been approved out there. I don't think they look good on all of them, I'm not saying that all of them don't look good but there are several of them that I feel when you drive by just don't have what I call "curb appeal". I know some of the arguments have been that if you share a wall you have better control over the tenant that might be in that accessory apartment. Whether you're sharing a wall or its 30, 40, 50 feet away and you can see the building, I think you're going to have the same control. Recently a duplex was approved behind my property where the landlord is an out-of-state landlord, both sides are rented, same zone, I question that difference of opinion there. I think we need to look at different ways of providing opportunities to people out there where it's used for an apartment, an in-law apartment or whatever the person deems necessary, but the spirit of the ordinance where the landowner is living in the primary dwelling and the accessory apartment could be used as such. In closing, I support this wholeheartedly, I think we need to look at newer ways to come up with opportunities for this and I think its time Meredith takes a real hard look at this. Vadney – Some of the points that Mr. Faller has raised here tonight, the Planning Board has studied this in depth and Mike already pointed out that there are some problems with his petitioned article, however, even he doesn't have the right to change that petitioned article, it is what it is and that's what goes to the public. The Planning Board has a few specifics that make us very wary of it. One is there is no distance listed in his where if we could have these accessory or free-standing buildings with some limit like 100 or 200 feet away from the primary dwelling, that would offer some control but we are not in favor of just an unlimited distance where a lot of buildings have been built on lots in order to meet the 3 acre and 10 acres zoning kind of thing, they have gerrymandered out a long skinny lot and if this was to pass as written, they could put their accessory building ¼ mile away from their house and it would be in effect a defacto subdivision of the property and so we do think there needs to be a limit on that and that's one of the things we've discussed. We think there ought to be some level of size management. He has certainly a size designated of the 300' sq. ft. or 40% of the total of the two residences but we think there should be some type of maximum on that. We've battered a couple of numbers around but I think something in the range of 1,200 sq. ft. We have considered there are already houses in Town that the basic residence is in the 6,000 or more sq. ft. of finished living, you could end up being able to put 4,000 sq. ft. accessory apartment and then you're starting to really fly in the face of common sense so we're recommending something in the vicinity of 1,200 sq. ft which is a good size apartment with room for a couple of bedrooms and we seem to think that would be something that wouldn't be wildly out of control. That being said, we have been thinking about how we would approach this if this didn't exist as is but we'll come more to that in a few minutes. I would like to ask if any citizens who want to speak to this as written. Warren Clark – I don't have a position either for or against this petition but as I read this something came to my mind that concerns me. The old zoning ordinance says accessory apartments may be created either through the internal conversion of an existing housing unit or

through the creation of a new principle dwelling unit accessory apartment structure. In the modified wording, a new principle dwelling unit accessory apartment structure is left out and replaced by an accessory structure such as but not limited to a barn or garage. I don't expect it was Mike's intention to preclude someone building an accessory in a new structure when they build it but I'm wondering if the wording of it could be construed as prohibiting that. Vadney – I'm glad you asked that question because that's one of the things that concerned the Board and we are looking at that but it is something that has to be left in. It could be covered in a way that you could build a new building and leave a space available and afterwards get it approved for an accessory apartment but that would be a cumbersome way to do it and it wouldn't lead to good planning right from the beginning so we look at that as a weakness as well. Clark – I'm also wondering it said an accessory structure such as but not limited to a barn or garage, if someone said they wanted to build an accessory apartment out here and I'm going to call it a shed that's an accessory apartment, would that be legal? I kind of assumed that it was and then after hearing Mike talk I kind of came to the conclusion that it wouldn't be. Kahn – We have a concern that an accessory apartment should be an apartment in something else rather than just a free-standing home. Clark – I don't read that into it. Kahn – It seems to permit that, it doesn't limit the kind of accessory structure in which an apartment can be located. Clark – If somebody had a shed or garage that was non-conforming, is there any constraint that perhaps something that's too close to the neighbors property, could that still be converted? If it's already an existing building and now the owner wants to convert it into an accessory apartment but its only 3' from the neighbor's property, could it still be converted to an accessory apartment. Vadney – I believe that would make it more non-conforming and would be disallowed. Kahn – We have rules about non-conforming structures with which I am not familiar but I think when its non-conforming, there's not much you can do with it. Edgar – If we're talking about structure not uses and if the structure's not changing in configuration, its grandfathered. Clark – But it's grandfathered for its current use not for a different use, right? Edgar – I think the law makes distinctions between structures and uses and it's not the use that's at issue, it's the structure. I'd have to think about it. Whatever the answer to that is, Warren, it's not changed by the petition. Flanders – In regards to a non-conforming structure, if the use changes then essentially you have to start over again. If you've got a non-conforming structure and the uses changes, it then has to conform to the ordinance or the use change is not allowed. Edgar – Even if its accessory use categorically. Flanders – That's correct. Vadney – We do even define it as not grandfathered buildings but grandfathered uses so I think that would be covered. Clark – The other thought I had, it occurred to me that perhaps have the Planning Board offer a competing warrant that had the problems corrected and I don't know what would happen if they both got approved but I just wonder if that's a possibility to get us out of this dilemma. Kahn- We have noted that and the other things that we've been discussing here and this is a hearing on the petitioned article. At some point after we've dealt with the petitioned article, we may put forward a proposal of our own. Unfortunately what it means is that we can discuss another proposal tonight but it means another public hearing. At that public hearing, we can't change it because we're going to be right up against a time deadline so whatever we discuss tonight, that's going to be it, either that or nothing. I did have one comment about something that kind of

surprised me, going from 25% to 40% is effectively doubling the size of the accessory apartment that could be added so if you have 2,400 sq. ft. house instead of being able to add an 800 sq. ft. accessory apartment, you can add a 1,600 sq. ft. accessory apartment. Vadney – I'd have to do the numbers because you have to look at the total. Kahn – In the absence of a cap, I don't know if your math is right but that is the effect. Kahn - 25 to 40 is not double. Clark – If you have a 2,400 sq. ft. building, if the accessory apartment can be 25% of the total, 800 sq. ft. would be 25% of 3,200 and if it's 40%, 1,600 sq. ft. would be 40% of 4,000 sq. ft. so it effectively doubles. Kahn – Whatever it does, we see that as a problem. Flanders – In regards to the square footage, the percentage of square footage refers to the original structure so if you had a 2,400 sq. ft. building 25% of that is 600 sq. ft. or you'd be allowed to go to 3,000 sq. ft. Vadney – It's of the finished total of the building, 25% of the total of the two once the second one is built. It's in the old one that way and it's in the new one that way if I remember correctly. Flanders – I'm kind of coming in here at the last minute but we've had the existing accessory apartment ordinance in the zoning ordinance for an extended number of years and I think it has functioned pretty well to perform the purpose it was intended to do, it does not eliminate the accessory apartment yet it puts reasonable criteria on it and I feel that this petitioned article is probably not good planning. This discussion about maybe the Planning Board should put one forward of its own and that's probably not a bad idea but we don't have time to do it for this zoning cycle and do it well. Every time you change something there are always unintended consequences and you have to be very careful about it. We're working on the septic ordinance now and we had a meeting with Bill Evans from DES last week and a number of things were brought up and he pointed out unintended consequences that could be a result of each one of the things we were talking about and we have to be careful that by trying to make a minor tweak and fix something that we're not taking something and putting a hole in it that you could drive a tractor-trailer through. First off, in my opinion, to change this in a manner similar to the petitioned article and do it across all zones in Town I think is a mistake. We have the shorefront district where a conforming lot is 40,000 sq. ft., we have a lot of lots in that zone that are less than that but this would allow somebody to put an accessory structure as long as they could meet the setbacks on those smaller lots so essentially we could be turning the majority of our shore frontage into duplexes. I'm not sure we want to do that and I'm not sure the people who own those properties want to see that happen in their neighborhood either. Kahn – Bob, duplexes are permitted by special exception in the shoreline district and this is also a special exception. Flanders – I just think we need to be really careful, there's been a lot of anxiety in the past about things that would increase traffic. Now you can do it as long as its attached to the main structure, it allows for accessory apartments. I don't think its good planning or makes good sense to allow an accessory structure to have an apartment in it in some of these zones with smaller square footage. If you're talking about the downtown residential district or whatever, it's probably not such a big deal but I think it is a big deal especially in the shoreline district so I just disagree with the concept. Vadney – I would add one thing to what Mr. Flanders has said, there is one other way and this was a concern I had on this but part of the limitation would be on septic systems. If you were going to add one of these, you would have to meet the bedroom requirement in the septic system and that would be another way that would

put a break on the idea pretty much, you can't just take a house that has a 4-bedroom already and throw up a two-bedroom accessory apartment and not enlarge your septic and therefore you've got to have the bigger footprint and the like. Is it a big break, no but at least it's another control that would help put limits on it. Flanders – When you bring up septic systems, there's a common misconception and I've run into this a number of times in my code enforcement capacity and discussed this at length with DES and if you have a 4-bedroom house, they require a 150 GPD capacity in the leachfield per bedroom so that's a 600 GPD system that's capable of handling that. If you were to have a 3-bedroom house with a 1-bedroom accessory apartment, now the requirement is 675 GPD because they require the capacity of half a bedroom for the additional cooking area and residence so if somebody had a 4-bedroom house and a 4-bedroom system and wanted to have a 1-bedroom accessory apartment, without a modification to the septic system that can't legally be done. Vadney – I think Bob just reinforced my argument. Pat Mack – I'd like to speak against this ordinance change. I have several concerns, one of which is the fact that we have zoning areas throughout the Town for different types of uses just for that purpose. There are places apartments can be constructed but now we're talking about doing that in residential areas where people have invested in their single-family homes and prefer the quiet and privacy that comes with that. My concern as Mr. Flanders mentioned was lakefront with the increased cost of taxes on lakefront property, I think if this change were to go through, it would be an interesting proposition for some property owners to try and offset their taxes by throwing up another structure that they can rent out for some ridiculous amount per week all summer long and then close it down for the winter. The way it is currently written where it needs to be attached to the main dwelling, I feel is a deterrent from renting it out to people who are coming and going only because if you're living that close to someone, you would want it to be family members, elderly or whatnot and so being attached to the house wouldn't be a problem. I would just like to speak against this because I think it's unfair to change a whole section of the zoning area, I really don't think people are aware that this is going through and how it may impact each and every residential neighborhood in Town. Vadney – I would say with a quick comment, the petitioned article is going before the public, I would assume it has a reasonable chance of passing. The Planning Board is equally concerned if that were to happen so that's why we are considering a modification to it, we can't stop this action from going forward but we can say here's another one that at least fixes these problems and that's our attempt to make it a bit better. Kahn – I would like to add that the existing zoning ordinance and the petitioned amendment both would require a special exception for any accessory apartment in any district so the petitioned article doesn't change the need for a special exception. Mack – I understand that but is it not true that if you meet that criteria there's no way the zoning board can tell you that you can't do it. This criteria's pretty broad, it's a special exception but as long as you meet what it states, you get your special exception and there aren't any controls. Kahn – The special exception has a whole series of requirements but the fact of the matter is, anyone who wants to attach an accessory apartment to an existing structure in any district other than B & I can now do so if they can get a special exception. This doesn't change that at all. I have a lot of problems with this petitioned article but it doesn't change the zoning ordinance insofar as a special exception is required in every district in which an accessory apartment can

be located. Mack – Is the Planning Board going to put this on and say whether you support or not. Vadney – By law we have to. This will go forward to the public because it's a petitioned article, it will go forward with either a Planning Board recommends approval or Planning Board recommends disapproval. Edgar – Just to reiterate that, the statute says that the ballot must state the Planning Board's approval or disapproval and it shall immediately file the questioned description. The Board would have to at some point before we finalize the warrant take that position on the petition but the petition as the Chairman said is locked and has to go on the warrant. The only thing the Board has discretion on is the notation to its approval or disapproval. Kahn – I would add, we can't state reasons. Mike Faller – Again I want to point out the fact that under the existing ordinance in any zone we can build an accessory apartment by special exception if its attached. If it's unattached, that's the question here, attached versus unattached. If your neighbor decided to build it attached and got the special exception, it would be legal. Unattached, that's what I'm having a problem with, the parking, a lot of the lots outside of Town are bigger and they provide for the parking. I don't know how many times we approve businesses and other things like that and there is no parking, its public parking that they have to use. Getting the stuff outside of town will help provide parking for one or two spaces and it will blend in with the environment. There are existing accessory apartments in accessory structures in areas in town. They blend in with the environment, there's no impact, I think they work well. It also comes back to the control having the landowner there. I think we really need to focus on the attachment versus the unattachment and then look at what the Board would feel comfortable with and after last week's meeting I did realize that there were some shortfalls in my petition, however, I'm willing to work with the Board to look at this and move forward. I'm willing to do certain steps to make it right but I think the quality of life shouldn't hinge on the attachment and that's kind of the stumbling block I have with this. Pat Mack – I have to disagree with you, Mike. I think attached versus unattached is important. If its an unattached structure at the far end of your property and ends up closer to your neighbor's house than your own house, it will make a difference versus being attached to your house where you're going to hear what's going on if things get crazy or wild. Clark – Further, to the Board's concern relative to the shoreline district, I just want to say my wife and I counted the garages or accessory structures that could be converted on our street and we counted 14 out of 16 houses. We did not do a septic audit and those are old houses so probably aren't even valid for the septic system. Vadney – Do we have any idea how many accessory apartments are in Town? Edgar – Not that I'm aware of, I'd have to go back to the Assessing Department to see if they code it that way and try to mine it out of the tax data. I know we may have permitted about 5 or so in the last 12 months. For planning purposes they consider on average 10 trips/day per dwelling unit so you've added one dwelling unit, 10 more trips across Meredith Neck Road (5 each direction) so there's a tremendous number of houses on Meredith Neck Road if only 25% of them did that, the traffic count would be in the hundreds and I think that's an unintended consequence we need to take a careful look at. Justin Van Etten – I went through this process once before on a house that we built on Wagon Wheel Trail and the Zoning Board was nice enough to give us the exemption and we have an accessory structure that we call a guest house adjacent to the other house we had to get it connected and once we went through all of this, we decided it

would be uglier and take up a lot more space to put a connector between those two structures so even though we got the approval, we decided not to do it. It just logically didn't make sense to me that we would have to put up a fairly significant structure to connect those two buildings on the waterfront just to have a cooking appliance in there and from a logical and rational standpoint that didn't make sense to me so we went through the next process and this time I bought a separate lot for that purpose and I realize I'm fortunate in being able to do that but the more I looked at and reviewed this, the more I discussed this with people in Town, I understand your concerns Bob, I don't want a huge increase in traffic and I don't want to see two houses on every lot in the shoreline district. There's got to be some more logical or rational approach as to how we handle that. I don't think I should have had to put up a large connecting structure between two buildings which would have been visible from the water just to put a cooking appliance in and I don't think buying two lots necessarily makes sense either. like I said, I would just like to see something that's maybe a little bit more in between the various options. Public Hearing closed at 7:40 p.m.

Board Discussion: Vadney – I sit in a lot of public meetings, transportation committee and all kinds of things and one of the most common questions that arises is the question of affordable housing and in my opinion housing pretty much has never been affordable for everybody and probably never will be so what is affordable housing, I think its pretty hard to define. I do know the price of land in Meredith pretty much precludes what you would call true low-cost housing. Just the payments on the lot alone are going to put the mortgage payment high enough to be troublesome. That being said, count the number of multi-family dwellings that have been built in Meredith over the last few years. You'll find very few. There may be a couple of duplexes but very few triplexes or bigger because there's no land for it. Maybe that's a good thing, we probably don't want high-rise apartments but the only big one we've approved as a Planning Board in the last many years is the one on Boynton Road which is 32 units. The only reason that was affordable is it was federally subsidized. That wouldn't be there I would guess if it weren't for the federal funding. I view the expansion of accessory apartments as a way to build some less expensive housing for elderly parents, young people getting a start in life but it seems logical to me to expand this use of accessory housing. I welcome comments from other members of the Board. Kahn – Mr. Chairman, I'm not quite sure how we proceed except my view is what we ought to do is deal with the petitioned article and then as we know, there is a counter proposal. My view on the thing is we can't stop the petitioned article, the most we can do is say we disapprove, we can't stop it. To me it makes a certain amount of sense that an accessory apartment can be in a detached structure. My issue is what the rules are with respect to that detached structure and I have problems with the petition in that it doesn't set the rules I think we need, but I think we can come up with, indeed I think we have come up with an alternative that I think will solve those issues so the first thing I think I'm going to suggest is what the problems are that I see with the petitioned article and then I would suggest that we discuss the petitioned article and take a vote as to whether or not we're going to recommend approval or disapproval and then we can go on to deal with the potential of an alternative. The problems I have with the petitioned article is more than just the detachment, it's also a matter of size and the size increases

from 25% to 40% of the net floor area. While I'm not happy about that, I could live with it if there were a cap as the Chairman pointed out earlier, depending if you've got a 6,000 sq. ft. house, you could have a 4,000 sq. ft. accessory apartment which I think is ridiculous so we've got to have some sort of a reasonable cap so the thing is an apartment. I would disapprove of the petitioned article because it has no cap; it increases the potential size without limit. The only limit is the size of the floor space of the existing structure. The next major problem I have is when you have something attached as Mr. Van Etten has pointed out, there are limits as to how far you can go to attach it before it looks really weird and I for one don't have a theoretical problem with having it detached as long as its close enough so it clearly is a subordinate structure and so in the middle of the night when the tenant plays the drums, the landlord hears it and he's going to be the first one to hear it. The next major problem I have is there is no restriction on the location of the accessory apartment. I think what's needed is a proximity restriction, I don't mind that it's detached, it's just got to be close. There are a couple of other issues. It was averted by Warren that in the course of drafting the paragraph as to how one comes up with an accessory apartment, the provision for building a new home with an accessory apartment was omitted. Mike has told us at our past meeting that this was accidental but its gone so I don't see it as major an issue as size and proximity but it is an issue and needs to be there. Another problem I have is there is no limitation as to what kind of accessory structure we're dealing with, it says such as a barn or garage but its without limitation so you could have a house. It's not a barn, it's not a garage just another house and keep in mind under the petitioned article that other house can be 40% of the combined floor structure and it can be anywhere on the lot so I think it's a problem. If it is a barn or garage, that's one thing and if it's a barn or garage close to the house and if it's a small enough size, I can live with it but the petitioned article doesn't have any of that so I would not be in favor of our recommending approval of the petitioned article. There is one further problem with the petitioned article and that is while it dealt with amending the special exception rules, it forgot to amend the definition of accessory apartment and the definition of accessory apartment in the zoning ordinance is in conflict with the petitioned article, although I understand we've been advised by counsel that if the public were to see fit to amend the specific rules for special exception, you probably sort of just ignore the definition as being kind of bad draftsmanship, but that's another problem. For the reasons I've expressed, I think we should vote to recommend disapproval of the petitioned article. Bayard – I just want to concur. I think our concern is that this, in effect, could lead to de facto subdivision which we have zoning ordinances, we do allow some duplexes and this and that but if Chemung is 10 acres, they wouldn't be happy with it being de facto 5 that's for sure. I think it kind of has a potential to do some damage to what we have in the way of zoning so for that reason alone, I think I would be against it as worded. Vadney – The petitioned one as worded? Bayard – Yes.

Kahn moved, Bayard seconded, MR. CHAIRMAN, I MOVE THAT WE RECOMMEND DISAPPROVAL OF THE PETITIONED ARTICLE. Voted 5-0 in favor of the motion.

Vadney - The petitioned article will go before the public in March and will carry the statement that the Planning Board recommends disapproval. That being said, I think we need to discuss how we think we could make it better and we have looked at the schedule and it is possible to get a hearing and go forward. Up front I will tell you we do not have time for two hearings so it would have to be put forward. Kahn – I'm just sort of picking up and talking about what we've got. As you will recall from last week, I came up with a draft that I ran past Herb and John and it has been changed a little bit and John has run it past Tim Bates so he's got a couple more changes but basically my view on the thing is we've got a petitioned article out there, we can't get it out of there it's going to be there and could pass. It might very well pass and if it does, it has in it the possibility of some real harm and damage before we could get around to trying to correct it and we might not be able to correct it so my own suggestion is and this is another version of what you saw last week. It deals with the size issue in terms of picking up the petition 40% from 25% but putting on a cap which I have suggested should be 1,200 sq. ft. It also requires that the accessory apartment be in an accessory structure that has some purpose other than simply an accessory apartment so we don't have a freestanding house. It also has a requirement that while there is no requirement of attachment, the accessory apartment be within 100 feet of the living area in the principle residence so you can hear the drums at night. Paragraph d. merely reinserts the language about the accessory apartment being built at the same time the principle structure is built that was accidentally omitted in the petition and then it goes on in #2 to try to fix the fact that the definition of accessory apartment wasn't changed by the petition and then in #3 we had to face the issue of what happens if, despite our recommendation, the petitioned article is disapproved, the public in its wisdom approves both and they are in conflict. We can't say that the petitioned article doesn't go forward but we can kill our own version so we don't have a conflict and that's all that paragraph 3 does, I guess John called it a poison pill. If both articles are approved and they are in conflict, the article proposed by the Planning Board will die. A limitation cap on size, a requirement that the accessory structure be a real accessory structure and not just another home, a requirement that the accessory apartment be within shouting distance of the principle structure and we fixed the issue about it being built new and we tried to fix the definitional thing by simply referring it over to the special exception requirement. I would point out that the special exception requirements do have provisions regarding traffic congestion and parking. These may not be sufficient if everybody and his brother decides to build an accessory apartment but they are there, they are there now and the petitioned article doesn't propose to change them and the substituted article that I would suggest the Planning Board put forward doesn't try to change them either. Vadney - In effect, what Lou has just reiterated is an attempt to deal with all of the issues the petitioners asked for without infringing upon anything any of them were thinking about at the time they signed but at the same time to correct some items that I think even the petitioners would agree were omissions and shortcomings of the petitioned one so we will be the first to admit that this probably isn't a perfect zoning ordinance proposal that we have recommended. If we had started from blank paper, we'd probably be somewhere close but not the same as this but because we started with a petitioned article, we feel this is the most efficient and pretty good negotiated position so to speak that would get us through the next couple of years. If we start to see problems with it,

then we could modify this in some way with some specific modifications wherever we saw problems. We might want to look at the zoning, Mr. Flanders mentioned the zones may not all apply. We have found when you try to change the zones in the middle of a functional change and descriptive change, it gets extremely complicated for us as well as for the voters. Not to say that having two of the same thing isn't going to be a bit complicated this year, the two items where we recommend disapproval for one and approval for the other but that seems to be a good move in our direction to protect the Town and at the same time answer the mail so to speak because we have had petitioners ask a good valid question. Flanders – I believe if the petitioners sent a letter signed by all the people that signed the original petition asking to have it withdrawn that that could be done if we went forward with this so we would only have one presented to the public. Edgar – We did look into that. That was everybody's first intent that if we had everybody on a reasonably similar page, why have the confusion if we don't need it. A couple issues, first off there's no statutory language in any way shape or fashion relative to withdrawal of petitions and generally we look for enabling authority, there is none. There is no case law so that's usually Plan B that is you don't have a statute on it, let's see who got sued over the same issue and what was the outcome. There's no case law. Then you say what if we had all parties to the petition if they all granted some release, would that be adequate? The practical side is it probably reduces your legal exposure to next to nothing possibly but at the end of the day there's always the risk out there of some variety, even coming from someone that wasn't a party to the petition, but there's always the chance somebody could raise an issue because there is no authority that anybody could cite as to withdrawals of petitions. It's probably very low risk and if you had all the petitioners sign certainly that would be an absolute not 98% but 100%. I've talked with Tim about it and basically that's the way it came down. There's that element that's unmistakable, however, if you had all 43 you've reduced the risk to the point where who would be aggrieved if all the petitioners changed their minds so that's sort of where it was left. It's not absolute but there was a similar read from LGC. Flanders – I think if all of the petitioners were to sign a request to withdraw that first one if we decide to go forward with this second one, that would give me a pretty strong comfort level and I think common sense would prevail even if it was taken to court. Vadney – If they want to do that that's their business but in dealing with John and Lou and Tim Bates over the last two weeks, I made the decision since there is no statutory law on it and there is no case law, I did not want in any way to intimate or leave the impression or in any way have the Planning Board look like it was trying to ignore, pressure or change any petitioned article, the law allows for us to recommend approval or disapproval and we're going to do that, as far as any pressure to get them to sign it is off the table. Flanders – I agree with that position, I think if we decide we are going to go with Lou's or a couple minor tweaks, it would be in the petitioners best interest to withdraw because if the public becomes confused, whenever there's confusion on an issue with Planning Board changes, people just lock up and vote no on everything so the potential of getting one or the other passed will go down, in my opinion, if they are both on the warrant. I'm not suggesting we say we'll put this forward if you withdraw yours, that would not be appropriate and I agree. Vadney – What they want to do is fine but the Board I believe needs to remain neutral on any idea that they should carry forth such an idea. I don't think it's a Board issue that we should

in any way suggest it, recommend it or endorse it. Kahn – I just wanted to point out that we have an e-mail from Ed Touhey and I just wanted to comment on a couple of things that he's raised. He would like the area restriction to be tighter and so would I but if we put the area restriction tighter both in terms of percentage and the cap what we find is there was probably very little chance that the petitioned article will be withdrawn and indeed very little chance that the petitioners and whoever may be supporting them will support our versions. It's kind of facts on the ground, we have to deal with the requirements, we are kind of stuck with what the petition has. On the other hand, I would say that what the petition has in terms of 40% isn't crazy, it isn't outlandish so I can live with it and the cap of 1,200 sq. ft., I came up with that with a view to what 40% of someone's needs would be and I don't think that 1,200 sq. ft. is outrageously large. The other thing that Ed had raised was he didn't want accessory apartments rented on a seasonal basis. We don't have that now and anyone who can build an attached accessory apartment can rent it to anyone he pleases for any period he please and I think you might find with a detached situation, as close as it may be, maybe there would be more accessory apartments and maybe some of them would be rented on a seasonal basis. You do have in the Shoreline District the issue that was raised by Warren of septic requirements and the likelihood that you're going to see accessory apartments springing up on every lot I think is probably next to nil. If we approve this tonight we have to either use the 1,200 or some other number, we also have to go with the 100 feet or some other number and down in paragraph 2 there's brackets around [intended to be]. When I was working with the definitions I discovered that the definition of apartment contains this language. It says that it's a room or suite of rooms in a multiple dwelling intended to be designed for use. It's either designed for use or its intended for use but its not both so my suggestion would be we strike out the words [intended to be] or you could strike out the words [designed for] but you're got to strike out one of them in order for it to make sense. There's an "s" that's crawled in on the word uses and it should be [intended to be] or [designed for] use so I would take the "s" off. I would drop [intended to be], I would use 100' in 1.B. and 1,200 sq. ft. in 1.A. and I'm prepared to make a motion. Bayard – I did want to just say that Bob did have a point about unintended consequences and just leave it at that. I think maybe if we cut the 100' down to 75' it might just make it a little more realistic, I think if we start going too far afield they become less accessory and more kind of subdivision or different setups. That would be my recommendation, other than that I'm perfectly fine with the 1,200' and the 40% because I do have a little concern about the shoreline district. Do we want to encourage or discourage people getting additional rental income out there; I'm not sure about that. As an economist, I would say its great for the economy but on the other hand there is traffic congestion and there are your neighbors and all sorts of water problems and things like that so my suggestion would be 75'. Flanders – I don't have a problem with the 1,200 sq. ft. As far as Ed's suggestion about seasonal rental, whenever you're creating an ordinance, you have to have an eye singled toward enforcement. Whether it's a seasonal rental or not would be something that's absolutely unenforceable. Are we going to hire 2 people to go around and check on these so I would suggest that part of it is not appropriate? I could buy into the 75' and with the other language changes Lou suggested, I think we've got something that's probably worth considering. I don't think we should ever change a regulation or an

ordinance just because we're afraid somebody else has got something that's flawed that might go through. I think at the end of the day, we have to do what's right because it's the right thing to do. I think Lou's done a good job drafting this up and I could support it. Bayard – I do think the idea of accessory apartments does make sense and to have them detached does to some degree make sense. I think there does need to be that distance limitation so they get that closeness and I think a number of people on the Board tend to think that additional accessory apartments given the way the economy is working and demographics and some our kids are not moving out as quickly as we might like, frankly putting them in a detached apartment might help having them live at home. Vadney – We have discussed this at a number of Planning Board meetings in the past and other meetings as far as the work force housing and I don't expect every house to pop up with an accessory apartment that's used for work force housing but in addition to young kids looking to start a home, elderly parents coming back for a place to finish up and for some low-cost housing. Maybe some will end up putting in an accessory apartment and live in the small one and rent the big one. Only one of the two has to be occupied by the owner. It does have the advantage of offering a way to have some less expensive housing units without opening it up to large conglomerations or apartment buildings uncontrolled. This just offers more control with owner on-site so it seems to be a relatively painless way to expand the housing and make it a little more livable as the baby boom ages and other things happen demographically. I personally think we should stay at 100', it's an easy round number. Flanders – You made reference to one of the units being owner occupied, that's not in this amendment, is that in the language of the existing ordinance? Vadney – It's in the current ordinance. This is a Planning Board discussion but we always do like to hear input from the public. Mike Faller – Like we talked last week, I understand there were some shortfalls in the petition. With some of the language that just came forth tonight, I would want to make sure that my attorney kind of took a look at it and OK'd it. I do support what Lou did. I understand that putting two warrants on the ballot could raise some questions. I'm not opposed to trying to go after those signatures and look towards removing my petition, however, one of the things I want to make clear is that this gets approved, moves and blessed by the Planning Board before I go ahead and submit my signatures for removal. The other thing is I agree with Lou with the 1,200 sq. ft. and I think that's reasonable when you get two bedrooms, a living area, a kitchen and a bathroom, you're there and I do support the 100', I think that gives a little flexibility where you're not tied to having it too close to the house but yet if you need to have a little room or a yard in between, you're capable of having that. I think that will give that curb appeal I talked about earlier a little bit nicer look. I do support this, again I just want to question some of the wording in it I want to make sure it's going to meet what I'm looking to do and go from there. Vadney – As far as the withdrawal, in my estimation is totally your business. I think the Planning Board should be neutral on whether you withdraw that or not. As far as the 100' goes, it came in with no limit at all and we felt in the extreme cases as I mentioned earlier in the meeting if it ended up being several hundred feet away or ¼ mile away that would fly in the face of good planning and the intent of the original accessory apartment idea. We are not trying to be overly restrictive here, we could make it 20', we could make it 0 and be right back where we are now with attached, so we said 100' is a reasonable amount and they can go closer if they want, but I think we owe it to them to

say here's a little bit of flexibility. Pat Mack – I think this is a good compromise and keeps everybody happy, I think. My only comment is regarding septic and whether or not that will prohibit additional apartments. Our water source does have quite a bit of sewer line around it so I just don't want us to get a false sense of security that we are going to be limiting accessory apartments on the waterfront when indeed there is sewer line which would not have any bearing. Warren Clark – One question I have is whether or not the term floor area is defined someplace in the zoning ordinance and does that include the garage floor. The Chairman made a comment earlier that we seem to use a different term every place in the zoning ordinance, perhaps we should use a term that is used elsewhere. It occurs to me that one of the goals is to make for more affordable housing. The smaller the accessory apartment, the more affordable the housing. I think that the desire to limit it to a true accessory structure, I don't have a strong feeling about that one way or the other but it occurs to me that the wording here does little to do that because the way my mind works is these small garden shed areas in one corner of the accessory structure would cover me as having it be two accessory uses even though its only 4' x 6' in one corner so that's something you might want to look at. Vadney – If you look at the last sentence in Paragraph 1.a. of the draft "and the net floor area of the accessory apartment shall not exceed the net floor area of the other accessory use or uses of the accessory structure." The thought occurs to me if we're worried about parking, why not require 2 parking places for an accessory apartment and maybe only 2 if it's detached. Vadney – We have looked at that to a degree, we don't put those limits on apartments today, you can have a one-bedroom or two-bedroom unit and still only have one parking space. Edgar – Although our parking demand requirements for all the different land uses as well as apartments, the parking rates are already one of the criteria that goes to the ZBA to demonstrate a minimum amount of parking and then as a safety net there's also a clause, one of the criteria for the ZBA to determine is whether there's any overcrowding so if you didn't have adequate parking or positioned in such a way as to create an overcrowding situation as a result of the apartment, the ZBA has the discretion to review the facts. There is a parking requirement, there is an adequate requirement for septic or sewer disposal as well as drinking water and surface drainage so those are all criteria that are currently on the books that remain essentially unchanged. Clark – The thought that comes to my mind is that our zoning ordinance was incorporated in 1971, I don't know when we decided we'd have 2 parking places for each primary and 1 for each accessory use but I suspect that since 1971 the average number of cars owned per person has increased significantly and perhaps if we don't have sufficient parking somebody's going to be parking on the street and maybe we don't want that and maybe that's getting into too much detail and is something that should be addressed later. One of the points that's not covered here, you're talking about it must be at least a certain distance from the primary dwelling but what about minimum distance from the neighbor's dwelling. Maybe it should be that it can't be closer to the neighbor than it is to the primary dwelling. Flanders – I think that's controlled by the setbacks in each zone. Clark - I know that some of them are 20' so we've got to think about the worst case so that means you could be 40' from the neighbor and 100' from your own house. Maybe there should be a constraint on this as well. I don't think we need to think about hiring people to enforce these things because I think they get enforcement when some

neighbor complains and the neighbor complains when it's causing a problem. Flanders – My comment about enforcement was directed specifically at eliminating seasonal rentals, that would be an enforcement nightmare. We already have the zoning ordinance and a code enforcement officer and if somebody wanted to build one of these they would have to get a building permit and it would have to pass muster for zoning and building codes or they wouldn't get a permit for it. Dever – The definition in the zoning ordinance of net floor area reads actual occupied area exclusive of space for wall thickness, structural features, fixed features, hallways, stairs, closets and storage areas so it's actually occupied area. Clark – I didn't check the ordinance and its great that it's already in there and that would alleviate any concern I might have had as to the term. VanEtten - I agree with Bob that regardless of petitions or anything else out there the most important thing is getting it right and doing something that makes sense. As a guy who's gone through this process before and is looking at going through it again, Lou I really think you did a great job in terms of the amendment. I think it makes a lot of sense. My biggest concern when I heard about this is obviously abuse in the shoreline district because that's where you're really likely to see guys putting up rental units, cottages and everything else and the one thing that gives me comfort is the fact that by the time this is approved in March, the new shoreline restrictions kick in in April and then they own everything 250' from the water and the chances of getting anything approved down there is very, very small. In your opinion, is that an accurate read? I could see people throwing up summer rental cottages and that's probably not the intent of this rule. Flanders – The new shoreline protection act is going to be extremely onerous and you are correct that besides getting your local permits, you are going to have to get a permit from the state. It's going to be difficult to get, they are going to regulate the amount of basal area you can cut, within 150' of the shoreline you have to set up 50' grids and have a surveyor come out there and identify every tree, calculate the basal area and you're not going to be able to take more than 50% of the basal area out of each 50 sq. ft. block. The permit just for the state process is going to be \$1,500 to maybe \$5,000 depending on the project. Surveying costs are going to be phenomenal if it stays in its current form. Pat Mack – Does the definition of apartment now as a residence by a single family, would that prohibit it from being a seasonal thing? The apartment definition now "designed for use as a residence by a single family." Vadney – I don't think I can answer the specific question. I do know just from a general law standpoint and common sense standpoint, it's pretty hard to put rules on things and say this can't be rented. Edgar – There's another complication on something like that too, a lot of times if someone has a second home they want to rent, they may occupy it for the summer and rent it seasonally for 8 or 10 months so people in the rental market are often chasing seasonal rentals even though they are here year round. That's another wrinkle that would make that difficult. The intent here is for a family to reside there as opposed to outright transiency like you might have in a hotel. From a process point of view if the Board decides to vote on what we've been talking about, we'll be setting up a hearing. This is not the hearing tonight, it would probably be on the 29th of this month which means we would need to finalize text tonight, our publication would occur in a couple of days and we would meet the statutory separation requirement between the day of the posting and the hearing. The warrant has to be to the Town Clerk a few days after so there's no more opportunity for hearing so its pretty

much on the 29th and as a result of that you'd have to decide up or down on what we've posted for the public hearing. Vadney – I have a comment on Paragraph 3, the poison pill, for our ordinance change. Can we change that in some way, I realize with enough analysis that paragraph says it like it needs to be said but I'm afraid it may be very confusing for the public if they are in the voting booth and come upon that for the first time. Kahn – I don't think this precise language will ever get on the ballot. Edgar – This is the text of the proposal. I have a question in to Tim on the draft of the Notice of Hearing to determine whether or not the notice needs to include a reference to the "poison pill" provision. The warrant itself in all likelihood would not. Vadney – The warrant article would only have the stuff but not that poison pill in it? Edgar – At this point that's my understanding but we're still in that process. Vadney – If it does require some statement on the ballot, I think we should write it in more layman's terms. Whether it's the ballot or the text per se in terms of the intent if it needs clarification, we'll clarify it. Whether it's the warrant, the notice or the text if you feel it can withstand textual improvement, then let's talk about it. Vadney – I just want to make sure it's a clarification for the non-attorneys so to speak. Flanders – It's standard practice and well known that when you have more than one ordinance applying to the same thing, the more strict will apply so I don't think we need this poison pill at all. Edgar – I disagree. We have been advised by our attorney that in the event of the passage of the petition and if we promulgate a competing change, we need to have a provision maybe not exactly this wording but the net effect is we need a clause like this in our proposal so its clear to the public what would happen if they both passed. Kahn – The rules are that on the 29th, the only things we can do are either go forward with this as it is or with so-called non-substantive amendments, if we had to change a word here or there apparently that would be OK. If we change the requirements, then this is dead in the water on the 29th so we better be happy with what we have here and we've got a pretty good chance of going forward with it on the 29th because there's not going to be an opportunity to change it in any significant way. Vadney – When he says non-substantive that includes the 1,200 sq. ft. and 100'. If we were to change those numbers that would require a second hearing and we do not have time for a second hearing, the whole thing would be null so those numbers have to be determined here tonight.

Kahn moved, Sorell moved, MR. CHAIRMAN, I MOVE THAT WE PROPOSE AN AMENDMENT TO THE ZONING ORDINANCE TO PERMIT DETACHED ACCESSORY APARTMENTS AS SET FORTH IN THE DRAFT THAT'S BEEN SUBMITTED TO YOU, AND IN THAT DRAFT WE TAKE THE BRACKETS AND QUESTION MARK OFF 1,200 SQ. FT. SO IT WILL READ 1,200 SQ. FT. AND WE DO THE SAME WITH RESPECT TO THE BRACKETS AND QUESTION MARK AROUND 100' IN PARAGRAPH 1.b., SO IT WILL READ 100 FEET AND THEN IN THE DEFINITION OF APARTMENT IN PARAGRAPH 2, WE STRIKE OUT THE WORDS IN BRACKETS AND WE TAKE THE "S" OFF USES SO THAT IT READS USE AND THAT WE GO FORWARD WITH THIS FOR PUBLIC HEARING. Voted 6-0 in favor of the motion.

Bayard – I would like to make an amendment that we change the 100' to 75'. No second.

Vadney - We will have another public hearing on the 29th where we will either officially adopt this or sink it.

Meeting adjourned at 8:39 p.m.

Respectfully submitted,

Mary Lee Harvey
Adm. Assistant, P & Z Department

The above Minutes were read and approved at a regular meeting of the Meredith Planning Board held on _____.

William Bayard, Secretary