

# **HARRISVILLE PLANNING BOARD**

## **POTENTIAL ZONING AMENDMENTS FOR TOWN MEETING MARCH 2019**

**FOR REVIEW AND DISCUSSION AT  
THE COMMUNITY CONVERSATION  
MONDAY, OCTOBER 29, 2018**

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## ARTICLE XIX PERSONAL WIRELESS SERVICE FACILITIES

19.1. PURPOSES: (1) to regulate the erection of Personal Wireless Service Facilities (PWSF) pursuant to authority conferred by the Federal Telecommunications Act of 1996 and to the applicable New Hampshire Statutes, Title LXIV, Planning and Zoning; and (2) to facilitate access to wireless services in furtherance of economic development, educational opportunities and public safety in the Town of Harrisville.

19.2. APPLICABILITY: The terms of this Article and any applicable sections of the Town's Subdivision and Site Plan Review Regulations shall apply to any Facility proposed to be located on any private or public property.

19.3. DEFINITIONS: In addition to relevant definitions found elsewhere in the Town's Zoning Ordinance, Subdivision or Site Plan Review Regulations, the following definitions apply specifically to PWSFs. The attached Appendix contains several photo examples of the facilities defined below.

19.3.1. Attached Antenna Mount. One or more antennas externally attached to any building, barn, silo, or other fixed structure that does not extend more than twelve (12) feet above or two (2) feet beyond the structure. An antenna for personal radio services use, used only for providing service to the attached facility, or covered by the Federal Communications Commission's OTARD rule (47 CFR 1.4000) is not subject to regulation by this Ordinance.

19.3.2. Camouflage. To disguise or hide a PWSF and any component thereof.

19.3.3. Collocation. The placement or installation of new communication equipment on existing towers, mounts, or other structures.

19.3.4. Limited Height Structure. A Wireless Communications Facility that does not exceed 50 feet in height in a cleared area or will not exceed 20 feet in height above the average tree line measured within a 100-foot radius from the structure in a wooded area.

19.3.5. Modification. The replacement or alteration of an existing Facility within a previously-approved equipment compound or upon a previously-approved mount.

19.3.6 Personal Wireless Service Facility. Means the set of equipment and network components and devices, exclusive of the underlying tower or mount, for the reception, transmission and/or broadcasting of fixed wireless signals.

19.3.7. Small Wireless Support Structure. A lamp post, utility pole, or other structure that supports devices for the reception, transmission and/or broadcasting of fixed wireless signals, is no more than 70 feet high, has a footprint of no more than 4 square feet, and supports antennas whose total surface area does not exceed 15 square feet.

19.3.8. Tower. A guyed or freestanding structure, such as a monopole or monopine, designed to support PWSFs.

### 19.4. PERMITTED USES:

19.4.1. Principal or Secondary Use. PWSF's may be considered either principal or secondary uses. Having an existing permitted use on a site shall not preclude the addition of a Facility as a secondary use.

19.4.2. Existing Structures. Pursuant to RSA 12-K:10, collocation and/or modification applications are exempt from zoning or other land use regulations including public hearing review, but shall be reviewed only for conformance with applicable building permit requirements.

19.4.3. Small Wireless Support Structures. Small Wireless Support Structures may be constructed or utilized without Planning Board review, but do require a building permit.

19.4.4. Attached External Antenna Mounts. Attached Antenna Mounts are not permitted in the Historic District, unless the applicant can demonstrate that no suitable alternative is available and best efforts

have been made to minimize visual impacts of the antennas. Putting an attached antenna array on a commercial building may require Site Plan Review in addition to a building permit.

19.4.5. Internal Antennas. If antennas and associated equipment are to be installed entirely in the interior of a building or concealed inside a structure (e.g. church steeple or barn silo), and are not visible from outside, such installation may be located in any zoning district and will require only a building permit and approval by the Historic District Commission if proposed within the Historic District.

19.4.6. Allowable Facility Locations. The table below illustrates which Facility type is permitted in which zoning district. Setback requirements for structures in the district where it is located are applicable to the supporting structure (i.e., tower) and associated buildings (i.e., equipment hut), but are not applicable to Small Wireless Support Structures or Attached Antenna Mounts.

TYPE OF FACILITY	DISTRICT		
	Residential/ Agricultural	Village/Lake	Historic
PWSF	Yes	No	No
Limited Height Structure	Yes	No	No
Small Wireless Support Structure	Building Permit Only	Building Permit Only	No
Attached Antenna Mount	Building Permit Only	Building Permit Only	Building Permit and HDC Approval
Concealed (in a building or other structure)	Building Permit Only	Building Permit Only	Building Permit and HDC Approval

19.5. APPLICATION REQUIREMENTS:

19.5.1. Visual Impacts. The applicant for a PWSF must demonstrate that effort has been made to cause the facility, within reason, to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites and the need for the proposed height.

19.5.1.1. Wherever any tower or mount of a PWSF is proposed to be visible above the tree line, every effort shall be made to camouflage the structure by whatever means works best for the particular location, such as but not limited to color, type of structure (e.g., monopole or monopine), location or shielding. All ground level equipment and structures shall be screened from rights-of-way by either vegetation or other means appropriate to the particular location.

19.5.2. Noise. Every effort shall be taken to ensure that associated equipment (e.g. air conditioners or emergency generators) do not create a nuisance from undue noise.

19.5.3. Fall Zone. In order to ensure public safety, any proposed PWSFs shall have a fall zone that forms a circle around it with a diameter equal to the height of the facility.

19.5.4. No tower or mount of any PWSF shall be lighted.

19.5.5 All applications for a PWSF shall contain a scaled plan and further information including: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200’ away), all information associated with supporting structures and equipment (e.g. generators) and any other information deemed necessary by the Planning Board to assess compliance with this ordinance.

19.5.6. Co-location Requirements. Any new tower or mount of a proposed PWSF shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instrument to other wireless communication services.

19.5.6.1. The Town may request, and the applicant will consider, whether space will be made available on a tower for equipment for local public safety agencies at no cost to the Town.

19.5.7. Unless the proposed PWSF is a Limited Height Structure, the applicant must demonstrate that a proposed PWSF is necessary to provide adequate service not available from other facilities. The application shall identify all existing wireless communications facilities within the area to be served by the proposed structure, except those that are not available for additional collocation, and, for each such existing facility, shall include a projection of the coverage and an estimate of additional capacity or coverage range that would be provided if the applicant's proposed telecommunications equipment were located on or at the existing facility. The applicant also shall compare each such projection and estimate to the coverage and capacity that would be provided at the site of the proposed structure.

19.5.8. Regional Notification. In accordance with RSA 12-K: 7, public notice of an application shall be provided to all municipalities within a 20-mile radius of the proposed site.

19.5.9. Balloon Test. The Planning Board may require that the applicant conduct a crane/balloon test at the proposed location and at the height of the proposed PWSF. Public notice shall be given of the date and time of the test not less than 10 days prior to the day. The applicant shall provide photographs of the balloon from various locations around Harrisville; a visual representation of the proposed tower or mount must be superimposed over the crane or balloon and attached cable. If requested by neighboring towns, the Board may also require that photographs be taken in those towns.

19.5.10. FCC Compliance. Applications must include documentation that the proposed Facility meets or exceeds the current regulations of the FAA, FCC, or any other agency with the authority to regulate such facilities.

19.5.11. Plan Review. The Planning Board may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal and the testimony of the applicants or their agents relating thereto.

19.5.11.1. Upon the filing of an application, the Board must determine whether additional information is needed, and has 30 days to request it.

19.5.11.2. The Planning Board must render a decision within 90 days of receipt of an application for a co-location or modification of existing structures; or 150 days for new construction.

19.5.12. Conditions of Approval. Before receiving final approval, the applicant agrees to the following conditions:

19.5.12.1. The owner of a PWSF agrees to give notice to the town of any change in ownership of the facility.

19.5.12.2. The owner of a PWSF agrees to remove all facilities and associated equipment within one hundred eighty (180) days from the date of cessation of operations.

19.5.11.3. Record of such conditions shall be recorded in the Cheshire County Registry of Deeds.

19.5.11.4. Any alteration of the original permitted use and device configuration of a PWSF will require a new approval.

19.6. ADMINISTRATIVE PROCEDURES:

19.6.1. All projects involving the construction of PWSF require a Conditional Use Permit (CUP) and Site Plan Review approval from the Planning Board. The requirements of this Ordinance and applicable requirements of Harrisville Subdivision and/or Site Plan Review Regulations shall apply.

19.6.2. Bonding and Security. The applicant will be required to post a bond in an amount to be determined by the Planning Board that represents the cost for removal and disposal of any Facility that is abandoned and the owner is unwilling or unable to remove it.

19.6.3. Waivers. Pursuant to RSA 674:21, the Planning Board is hereby authorized to waive or modify any portion of these provisions when, in the opinion of the Board, strict conformity would pose an unnecessary hardship and such waiver would not be contrary to the spirit and intent of these provisions. Any request for waiver must be submitted in writing to the Board and shall state fully the grounds for the request.

19.6.4. Appeals. Pursuant to RSA 676:5, any decision made under this Ordinance cannot be appealed to the Board of Adjustment, but to the superior court as provided by RSA 677:15.

**APPENDIX:**

**Photographic Examples of Personal Wireless Service Facility Types**

*Figure 1:  
Limited Height Structure*



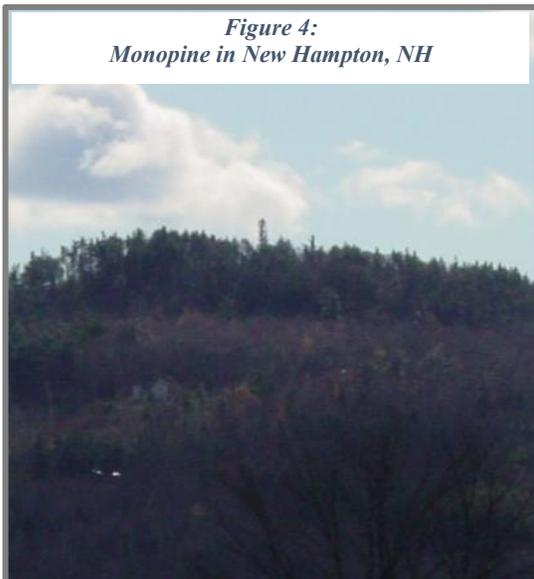
*Figure 2:  
Small Wireless Support Structure*



*Figure 3:  
Attached Antenna Mount*



*Figure 4:  
Monopine in New Hampton, NH*



*Figure 5:  
Stealth Tree in Dublin, NH*



*Figure 6:  
Flush-Mounted Monopole in Bedford, NH*



*Figure 7:  
Water Tower Mount in Amherst, NH*



*Figure 9:  
Stealth Flagpole in Hudson, NH*



*Figure 8:  
Chimney Mount in Exeter, NH*



## ARTICLE IV. GENERAL PROVISIONS - HOME OCCUPATIONS

### Existing

4.1.18. Home occupations are permitted in all zoning districts provided they are carried on only by residents of the dwelling, involve only a service provided or product produced by those residents, are operated entirely within a principal and/or accessory structure, and results in no external evidence of the enterprise except for a permitted sign.

4.1.19. Home-based businesses are permitted by special exception of the Board of Adjustment subject to the following conditions:

4.1.19.1. It shall be carried on by residents of the premises, and not more than two (2) on-premise employees who are not residents.

4.1.19.2. It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties as a result of noise, odor, smoke, dust or lights; soil, water or air pollution; excessive increases in traffic or in parking requirements; or as a result of other nuisances.

4.1.19.3. It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.

4.1.19.4. The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign.

4.1.19.5. There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.

4.1.19.6. Home-based businesses may be subject to site plan review by the planning board.

### Proposed

4.1.18. Home Occupations are permitted in all zoning districts ***subject to the following:***

4.1.18.1 The activity is carried on only by residents of the dwelling and involves only a service provided or product produced by those residents

4.1.18.2 The activity is operated entirely within the dwelling and/or accessory structure.

4.1.18.3 The activity results in no external evidence of the enterprise except for a permitted sign.

4.1.18.4 The activity has no adverse effect on the environment or surrounding properties from impacts including but not limited to noise, odor, smoke, dust, light, traffic, electrical or electronic interference.

4.1.19. Home-Based Businesses are permitted by special exception of the Board of Adjustment subject to the following:

4.1.19.1. It shall be carried on by residents of the premises, ***and a maximum number of non-resident employees as approved by the Zoning Board.***

4.1.19.2. It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.

4.1.19.3. The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign.

4.1.19.4. It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties from impacts including but not limited to noise, odor, smoke, dust or lights; soil, water or air pollution; electrical or electronic interference; excessive increases in traffic or in parking requirements.

4.1.19.5. There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.

4.1.19.6 Parking for employees and/or customers shall be provided on-site.

## ARTICLE V. NONCONFORMING USES, LOTS, AND STRUCTURES

### Existing

#### 5.1. Intent.

5.1.1. Within the districts established by this ordinance or amendments that may be later adopted there may exist lots, uses, and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance or future amendments.

5.1.2. It is the intent of this ordinance to permit the continuation of these non-conformities until they are removed. Such uses are declared by this ordinance to be incompatible with the permitted uses in the districts involved. Nonconformity may be enlarged and expanded as determined by the zoning Board of Adjustment.

5.2. NONCONFORMING USE: Any non-conforming use may be continued indefinitely and subject to the following limitations:

5.2.1. Resumption after discontinuance: When a non-conforming use of land, structures, or buildings has been discontinued for twelve (12) consecutive months, the land, structures, and or buildings shall be used thereafter only in conformity with this ordinance.

5.2.2. Change or expansion: Any change in, or expansion of, an existing non-conforming use shall require approval of a special exception from the Board of Adjustment of the town of Harrisville. The change must not be a substantial change from the existing use. For a special exception to be approved, a petitioner must prove to the satisfaction of the Board of Adjustment that the proposed change in, or expansion of, the existing non-conforming use will not be more harmful or detrimental than the existing non-conforming use. It must also meet the findings of fact and conditions for granting a special exception as outlined in [Article XX](#).

5.2.3. Superseded by conforming use: If a non-conforming use is superseded by a conforming use, then it shall thereafter conform to the use regulations of this ordinance, and the non-conforming use may not thereafter be resumed.

5.2.4. Restoration, reconstruction and or replacement: Nothing herein shall prevent the substantial restoration, reconstruction, and or replacement within one year of a non-conforming building or structure destroyed in whole or in part by fire or other natural disaster so long as this use does not result in a new increased violation.

### Proposed

#### 5.1. Intent.

5.1.1. Within the districts established by this ordinance or amendments that may be later adopted there may exist lots, uses, and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance or future amendments.

5.1.2. It is the intent of this ordinance to permit the continuation of these non-conformities until they are removed or discontinued.

5.2. NONCONFORMING USE: Any non-conforming use may be continued indefinitely subject to the following limitations:

5.2.1. Resumption after discontinuance: When a non-conforming use of land or structures has been discontinued for twelve (12) consecutive months, the land and/or structures shall be used thereafter only in conformity with this ordinance.

5.2.2. Change or expansion: Any change in, or expansion of, an existing non-conforming use shall require approval of a special exception from the Board of Adjustment of the town of Harrisville, ***notwithstanding Section 5.5 below***. Nonconformity may be enlarged and expanded as determined by the Board of Adjustment. For a special exception to be approved, the applicant must prove to the satisfaction of the Board of Adjustment that the proposed change in, or expansion of, the existing non-conforming use will not be more harmful or detrimental than the existing non-conforming use. It must also meet the findings of fact and conditions for granting a special exception as outlined in [Article XX](#).

5.2.3. Superseded by conforming use: If a non-conforming use is superseded by a conforming use, then it shall thereafter conform to the use regulations of this ordinance, and the non-conforming use may not thereafter be resumed.

5.2.4. Restoration, reconstruction and or replacement: Nothing herein shall prevent the substantial restoration, reconstruction, and or replacement within 12 months of a non-conforming building or structure destroyed in whole or in part by fire or other natural disaster so long as this use of the structure does not result in a new increased violation.

## Existing

5.3. NON-CONFORMING BUILDING: Any non-conforming building may be continued indefinitely and may be repaired or remodeled subject to the following limitations:

5.3.1. Alterations or replacement: Any non-conforming building may be altered or replaced on its original site, provided that such activity conforms with the dimensional controls for building height, yard requirements, setback requirements, and building separation requirements as adopted in this ordinance or amendments thereto. Such replacement must take place within twelve (12) months of the demolition of the pre-existing structure.

5.3.2. A non-conforming building may be replaced or relocated on the property to a more conforming location by special exception of the Board of Adjustment. Nothing herein shall prevent the replacement or relocation of a non-conforming building to a completely conforming location on the property.

5.3.3. By special exception, a non-conforming building may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions, however, roofed porches are.

5.4. NON-CONFORMING LOT: By special exception, a non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all the health and sanitary regulations for water and sewage systems as required by the state of New Hampshire and the Town of Harrisville and provided that it complies with all other requirements of this ordinance or amendments thereto other than the nonconforming aspect of the lot.

5.4.1. Unlike a non-complying structure, a non-conforming lot (a lot which is smaller than but predates current lot size requirements) is not “grandfathered” for any and all uses allowed in its zoning district.

5.4.2. A building on a non-conforming lot may be replaced or relocated on the property by special exception of the Board of Adjustment, provided it conforms with the dimensional controls for building height, yard setback, and building separation requirements as adopted in this ordinance or amendments thereto.

## Proposed

5.3. NON-CONFORMING STRUCTURE: Any non-conforming structure may be continued indefinitely and may be repaired or remodeled subject to the following limitations:

5.3.1. Alterations or replacement: Any non-conforming structure may be altered or replaced on its original site. Such replacement must take place within twelve (12) months of receipt of a permit for alternation or demolition of the pre-existing structure.

5.3.2. A non-conforming structure may be replaced or relocated on the property to a more conforming location by special exception of the Board of Adjustment. Nothing herein shall prevent the replacement or relocation of a non-conforming structure to a completely conforming location on the property.

5.3.3. By special exception, a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions, however, roofed porches are.

5.4. NON-CONFORMING LOT: Unlike a non-complying structure, a non-conforming lot is not “grandfathered” for any and all uses allowed in its zoning district. However, by special exception, a non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all the health and sanitary regulations for water and sewage systems as required by the state of New Hampshire and the Town of Harrisville and provided that it complies with all other requirements of this ordinance or amendments thereto other than the nonconforming aspect of the lot.

5.4.1. A structure on a non-conforming lot may be ***expanded in volume or area as set forth in 5.3.3., and*** replaced or relocated on the property by special exception of the Board of Adjustment.

***5.4.2. A non-conforming lot may be expanded, even though the expansion does not make the lot conforming.***

### **5.5. EXPANSION OF USES OR STRUCTURES**

***5.5.1. Natural, but limited, expansions of non-conforming uses or structures may be allowed, provided that:***

***5.5.1.1. The use reflects the nature and purpose of the existing use.***

***5.5.1.2. The use is merely a different manner of utilizing the same existing use.***

***5.5.1.3. The use does not have a substantially different impact upon the neighborhood.***

***5.5.2. Requests for expansion are submitted to the Building Inspector, whose decisions are appealable to the Zoning Board of Adjustment. The Building Inspector may also choose to send a request to the Zoning Board for its determination.***

**ARTICLE IV. GENERAL PROVISIONS – IMPERVIOUS COVER**

**Existing**

4.1.14. In no case shall any parcel or lot have an impervious cover of more than twenty (20) per cent of the lot area. The total shall include the structural footprint, impervious roadway or any other impervious cover.

4.1.14.1 For the purposes of this provision, “impervious roadway” includes any area installed or used as a driveway or parking area, regardless of surface material.

**CURRENT DEFINITION:**

IMPERVIOUS COVER: Any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, decks, patios, and paved, gravel or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or filter water.

**Proposed**

4.1.14. In no case shall any parcel or lot have an impervious cover, as defined in this regulation and its definition, of more than twenty (20) per cent of the lot area. The total shall include the structural footprint, impervious roadway (regardless of surface material), or any other impervious cover unless it is designed to infiltrate water through accepted water management techniques **that also reduce surface runoff** for that property. **Such examples may include: Pervious Paving systems, Infiltration dripline trenches, basins, level spreaders, Dry wells, Rain barrels, Rain Gardens, and vegetated swales and buffer strips.** The burden is upon a property owner to demonstrate with adequate scientific or technical support that a particular cover is made pervious as defined in this section, **that also effectively reduces surface runoff** for that property. See Article XXVI for definition of impervious cover. Possible resource examples to meet this requirement can be obtained from the Town of Harrisville.

4.1.14.1 For the purposes of this provision, “impervious roadway” includes any area installed or used as a driveway or parking area, regardless of surface material.

**PROPOSED DEFINITION:**

IMPERVIOUS COVER: Any modified surface that cannot effectively infiltrate water. Examples of impervious surfaces may include, but are not limited to, roofs, decks, patios, and paved, gravel or crushed stone driveways, parking areas, and walkways unless designed to effectively infiltrate, or manage water to avoid increased surface runoff from leaving the property. **Such examples may include: Pervious Paving systems, Infiltration dripline trenches, basins, level spreaders, Dry wells, Rain barrels, Rain Gardens, and vegetated swales and buffer strips.** The burden is on the property owner to show that a surface is made pervious as defined in this section that **also effectively reduces surface runoff** for that property.

## **DEFINITIONS TO CONSIDER FOR AMENDMENTS**

### A. Definitions that could be deleted (because they are not referenced in the ordinance)

- |                               |  |
|-------------------------------|--|
| 1. Alley                      | 13. Motel  |
| 2. Animal Hospital            | 14. Motor Vehicle Dealership                       |
| 3. Billboard                  | 15. Noncommercial Outdoor<br>Recreational Activity |
| 4. Dormitory                  | 16. Nursing Home                                   |
| 5. Drive-in Use               | 17. Permit Period                                  |
| 6. Garage, Public             | 18. Private Club                                   |
| 7. Gasoline Station           | 19. Privately Owned School                         |
| 8. Group Residence Facilities | 20. Research and Development<br>Laboratory         |
| 9. Growth Permit              | 21. Riding Academy                                 |
| 10. Healthcare Facility       | 22. Senior Center                                  |
| 11. Kennel                    | 23. Speculative Dwelling                           |
| 12. Laundromat                |  |

### B. Definitions to Amend

1. Agriculture
2. In-Law Apartments needs to be consistent with new ADU rules.
3. Home Occupation/Home-Based Business\*
4. Nonconforming\*
5. Impervious Cover\*
6. Cluster Development is no longer a use in zoning – now it is Conservation Subdivision.
7. Comprehensive Plan should be changed to Master Plan.
8. Hardship/Special Exception/Variance

\*These definitions can be included in the ballot question for the provision, so it would be a two-part question: to amend the definition and the particular provision. This would eliminate having three separate and additional zoning amendments.