

**LINCOLN PLANNING BOARD  
REGULAR MEETING MINUTES  
TUESDAY, MAY 22, 2013 – 6:00PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**APPROVED**

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**Present:** Chairman Pat Romprey, Vice-Chairman Jim Spanos, Clerk John Hettinger, Selectman O.J. Robinson, Paula Strickon, Norman Belanger (alternate) and Taylor Beaudin (alternate).

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Town Manager Alfred “Butch” Burbank, Planning and Zoning Administrative Assistant Carole Bont, Fire Chief Ron Beard, and Police Chief Ted Smith

**Guest Speakers:** Wayne Richardson, CBO, Building Inspector for the Fire Department’s Code Enforcement Division of the Town of Bedford and President of the New Hampshire Building Officials Association (NHBOA), Bruce Buttrick, Building Inspector and Code Enforcement Official for the Town of Bow, and Carrie Rouleau-Cote, Building Inspector Code Enforcement Health Officer for the Town of Auburn.

**Guests:** Andrew Noyes, representing NCCA (North Country Center for the Arts) and Jean’s Playhouse; William (Bill) R. Davidson, Chief Civil Engineer, and Christopher (Chris) R. Mulleavey, P.E., Senior Vice President, both from Hoyle & Tanner Associates, Inc. for Riverwalk Loon Mountain, LLC, (formerly Southern Peaks Development), Rick Kelley representing Loon Mountain, Alvin H. (Al) MacQuarrie; Hal Covert and Rebecca Golding D/B/A Peaked Moon Farm.

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**I. CALL TO ORDER:** by Chairman Pat Romprey at 6:00 P.M.

*Mr. Romprey called the meeting to order.*

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**II. CONSIDERATION OF DRAFT MEETING MINUTES FROM:**

- May 8, 2013

*The Board agreed to move consideration of the minutes to later in the meeting.*

**Motion:** “To move consideration of the minutes of May 8, 2013 to later in the meeting.”

**Motion:** Hettinger.

**Second:** Spanos.

**Motion carried (4-0).**

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**III. CONTINUING AND OTHER BUSINESS** (Staff and Planning Board Member/Alternates).

- A. 6:00 pm – 7:00 pm.** Planning Board Work Session – Informational presentation by 3 speakers about building codes and building inspectors. Primary speakers were:
1. Wayne Richardson, CBO, Building Inspector for the Town of Bedford and President of the New Hampshire Building Officials Association (NHBOA).
  2. Bruce Buttrick, Building Inspector, Code Enforcement Officer for Town of Bow.
  3. Carrie Rouleau-Cote, Building Inspector Code Enforcement Health Officer, Town of Auburn.

*The speakers graciously traveled here to Lincoln to inform the town about:*

- A. NH State Building Codes that are presently in force authorized under NH RSA 155-A;*
- B. Building Inspectors duties and responsibilities;*
- C. The pros and cons of enforcing the state building code;*
- D. The pros and cons of adopting more stringent town regulations than the State Building Code;*
- E. Enforcement of stricter local building codes;*
- F. The advantages and disadvantages on enforcing stricter local building codes.*

*For a full account of the presentation see Appendix A.*

*The Planning Board and Town Manager thanked the speakers. They ended at 7:00 pm.*

*The Planning Board moved to take a brief recess and reconvened at 7:10 pm.*

**B. Site Plan Review Application (SPR #13-02)**

1. **SPR #13-01:** Site Plan Review Applications – Application to Extend Planning Board Approval of Site Plan Review.
  - a. **Map 118, Lot 044**
  - b. **Address:** 22 Smith Mountain Drive
  - c. **Applicant:** Riverwalk Loon Mountain, LLC formerly Southern Peaks Development, LLC, represented by William R. Davidson, P.E., Chief Civil Engineer, Hoyle, Tanner & Associates, Inc.
  - d. **Owner:** Riverwalk Loon Mountain, LLC formerly Southern Peaks Development, LLC  
33 Brookline Road  
Lincoln, NH 03251

**Proposal:** *Application To Extend Planning Board Approval of Site Plan Review – Riverwalk Loon Mountain, LLC formerly Southern Peaks Development, LLC. requested the Planning Board extend approval of the Riverwalk Project Resort Facility with associated drainage and parking on 22 South Mountain Drive (Mill Road) (Tax Map 118 Lot 044), in accordance with Article IX, Section I of the Lincoln Site Plan Review Regulations. Site Plan Approval may be extended in one (1) year intervals. The reason for the extension request is that the economy has been slow for this type of project, but has shown*

*signs of improving and there has been resurgence in the financial market. Substantial monies and effort have been invested in this re-development project, including the demolition of the paper mill.*

*Riverwalk Loon Mountain, LLC formerly Southern Peaks Development, LLC ("Riverwalk") was represented by William Davidson and Christopher Mulleavey of Hoyle & Tanner Associates, Inc. The Site Plan Review Regulations say active development or at least substantial progress towards implementation of the site plan must occur within two years or the approval became void. It can be renewed by the Planning Board for additional one year periods.*

*Riverwalk originally got the Planning Board's Site Plan approval back in June of 2008. They received two extensions in the past. The former Papermill was demolished. The Papermill Theater was rebuilt at the site. The principal person involved in Riverwalk is Dennis Ducharme. Dennis Ducharme was unable to be present because he is in San Francisco. Mr. Ducharme asked that Hoyle & Tanner be present on his behalf and answer any questions that the Planning Board might have.*

*Riverwalk through Hoyle & Tanner & Associates requested a two year extension instead of a one year extension. Given the past and present state of the economy, and the type of business that Ducharme is in, timing is a large factor in this whole process. The economy is improving, but not at a rapid pace. Ducharme has been actively pursuing investments for this project and he is very hopeful that it will go forward within that time frame.*

*The Planning Board responded that typically the Lincoln Planning Board has granted one year extensions. The Site Plan Review Regulations only allow for one year extensions. Lincoln has several contractors who have received one year extensions from the Planning Board, therefore, the Planning Board is reluctant to change its policy of granting more than a one year extension.*

*No changes have been made to the original plan. Even the makeup of the building has stayed relatively the same. The plans may change once they get restarted, however, they don't see that happening yet. All of the other permits have been kept up to date. All of the other permits have been kept activated for the project so those have not lapsed. Riverwalk is hoping to do site preparation this fall. They have gotten renewed interest in that site both from the companies that Dennis works for and the industries with people wanting to find access to properties.*

*Ducharme met with the Town Manager and a gentleman who coordinates investments. Ducharme indicated he anticipates moving forward with site preparation on that timetable in the fall of this year, providing the funding comes through.*

*There were no questions. OJ Robinson had no questions on behalf of the Board of Selectmen.*

**Motion to open public hearing.**

**Motion: Spanos.**

**Second: Hettinger.**

**Motion carries unanimously by all members present (4-0).**

*Any abutters in the audience? None. Comments or questions? None.*

**Motion to close public hearing.**

**Motion: Spanos.**

**Second: Hettinger.**

**Motion carries unanimously by all members present (4-0).**

**Motion to Approve Request to Extend the Planning Board Approval of Site Plan Review for Riverwalk Loon Mountain, LLC formerly Southern Peaks Development, LLC for the Riverwalk Project Resort Facility with associated drainage and parking on 22 South Mountain Drive (Mill Road) (Tax Map 118 Lot 044), in accordance with Article IX, Section I of the Lincoln Site Plan Review Regulations.**

**Motion: Robinson.**

**Second: Spanos.**

**Motion carries unanimously by all members present (4-0).**

### **C. Sign Permit Applications – Integrated Sign Plan (SP #13-07)**

#### **1. Sign Permit SP #13-07**

##### **a. Map 118, Lot 046 – Proposed Location of Sign and Business**

###### **1. Address: 25 South Mountain Drive**

##### **b. Applicant: Hal Covert (and Rebecca Golding) on behalf of Peaked Moon Market.**

The Village Shops

25 South Mountain Drive

Lincoln, NH 03251

##### **c. Property Owner:**

Village Shops ICH, LLC

PO Box 127

Lincoln, NH 03251

***Proposal: Application for a Sign Permit as Part of an Integrated Sign Plan – Hal Covert on behalf of Peaked Moon Market, a retail tenant presently located in The Village Shops owned by Village Shops ICH, LLC - a multi-occupancy property at 25 South Mountain Drive (Tax Map 118 Lot 46), would like to add some additional signage for the Market. Under Article VI-B, Section E, 10, j, ii, c) Multiple business properties like a shopping center are permitted one free standing sign with only 32 square feet per business, not to exceed 150 square feet, including the structure. Under the Integrated Sign Plan provision, Article VI-B, Section F, the Planning Board has additional flexibility as to the size and number of signs on a property within the Village Center Zone.***

*Hal Covert and Rebecca Golding d/b/a Peaked Moon Market have their retail shop in the Village Shops and the Village Shops has a lot of signage. The whole plaza itself is over-signed already. The Village Shops has two large mainstay signs, banners, sandwich board signs, freestanding directional-like signs and signs on the individual businesses. A number of the businesses advertised on the many signs are not even in business anymore. The problem is that Peaked Moon Market is a retail business that actually has an active business in the Village Shop and they need signage to direct customers to their store.*

*The applicants request the Planning Board to review their application for signage as an integrated sign plan. They are looking for two signs: a sandwich board sign and a free standing*



*sign near their retail store. They are proposing to take down the banner-style sign that is presently on the Village Shops main freestanding sign.*

*Under the Land Use Plan Ordinance they can only have 32 square feet of signage. Under Section F, 4, "As part of an integrated sign plan the Planning Board may permit up to fifty percent (50%) more signs or up to fifty percent (50%) more aggregate footage than required by this Ordinance within the ... Village Center (VC) Zones."*

*The following criteria are to be used by the Planning Board in determining whether an integrated sign plan may be approved. A positive finding on all of the following standards is required for approval:*

- Placement and design of signs meets the specific standards of the Ordinance*
- Signage will not create glare or excessive brightness*
- Signage is designed and located in a manner that does not create distractions or visual confusion on the property or in combination with neighboring properties and*
- Signage will not create traffic hazards.*

*They wish to put the free-standing sign where South Mountain Road forks near the back of the parking lot – and if you go right you go to Price Chopper. If you go left you go to Peaked Moon Market. This would make the direction to their market clearer to drivers. They wish to put a sandwich board sign near Route 112 advertising their specials. They would take this sign down at night when they close.*

*The Planning Board asked if the signs for the businesses that are no longer in business were removed would they be able to do what they want. No. Some of the signs are generic. Some signs are not specific to any particular shop. If the Planning Board grants their request, the only sign that they will have on Route 112 will be the sandwich board sign which will be taken down at the end of each day. It will be a temporary sign. The second sign will be a free standing sign with their in season specials hanging below on the changing part of the sign with a directional component. It will be located where on South Mountain Drive drivers have to choose whether to go right to Price Chopper (Lincoln Center North Plaza) or to go left to the Peaked Moon Market (The Village Shops).*

*Placement and design of the signs meet the specific standards of the Ordinance with the added flexibility given to the Planning Board. There will be no additional lighting so signage will not create glare or excessive brightness. The signage will make it clearer how to get to the Peaked Moon market because the signage is designed and located in a manner that does not create distractions or visual confusion on the property or in combination with neighboring properties. The signage will not create traffic hazards.*

**Motion to open public hearing.**

**Motion: Spanos.**

**Second: Hettinger.**

**Motion carries unanimously by all members present (4-0).**

*Any abutters in the audience? None. Comments or questions? None.*

**Motion to close public hearing.**

**Motion: Spanos.**

**Second: Hettinger.**

**Motion carries unanimously by all members present (4-0).**

**Motion to Approve Application for a Sign Permit for two additional signs as part of an Integrated Sign Plan for Hal Covert on behalf of Peaked Moon Market, a retail tenant presently located in The Village Shops owned by Village Shops ICH, LLC - a multi-occupancy property at 25 South Mountain Drive (Tax Map 118 Lot 46), to include a sandwich board sign out near Route 112 and a free standing sign on the island near the Peaked Moon Market and to take down the banner-style sign that is presently covering the South Mountain sign on the Plaza's mainstay sign in the center of the Village Shops Plaza. The placement and design of signs meets the specific standards of the Ordinance. The signage will not create glare or excessive brightness. The signage is designed and located in a manner that does not create distractions or visual confusion on the property or in combination with neighboring properties; and the signage will not create traffic hazards.**

**Motion: Strickon.**

**Second: Spanos.**

**Motion carries unanimously by all members present (4-0).**

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#### **D. Sign Permit Applications – Integrated Sign Plan (SP #13-05)**

##### **2. Sign Permit SP #13-05**

- a. **Map 118, Lot 002** – Proposed Location of Sign  
**Address:** L/O Main Street (just north of 148 Main Street)
- b. **Map 119, Lot 001** –Location of Tourist Attraction  
**Address:** Papermill Drive/Lumberjack Drive
- c. **Applicant:** Andrew Noyes on behalf of the tourist attraction, Jeans Playhouse.  
Papermill Drive/Lumberjack Drive  
Lincoln, NH 03251
- d. **Property Owner:**  
TFG Lincoln Properties, LLC  
**c/o The Finch Group**  
611 Broken Sound Parkway NW #150  
Boca Raton, FL 33487-2774

***Proposal: Application for a Sign Permit As Part of an Integrated Sign Plan*** – Andrew Noyes on behalf of the tourist attraction, Jeans Playhouse, would like to add some off-site directional and sponsor-related signage for Jeans Playhouse on (Tax Map 118, Lot 2) property owned by LFG Lincoln Properties, LLC. The sign would use the pre-existing wood frame & light formerly used by Rivergreen at its former entrance on Main Street north of Inn Season Drive. Under Article VI-B, Section E, 10, f, q & r, off premises signs are prohibited except by special exception, off premises directional signs are not allowed except real estate directional signs or by special exception; and directional signs must bear no advertising and must be located on the business property. Under Article VI-B, Section E, 9 businesses are limited to a maximum of four signs for any one location. Under the Integrated Sign Plan provision, Article VI-B, Section F,

*the Planning Board has additional flexibility as to the size and number of signs on a property within the Village Center Zone.*

*Andrew Noyes, represented Jean's Playhouse. Jean's Playhouse is not located on a main street (Route 112 or Route 3) and is a tourist attraction. The Planning Board is allowed some flexibility in granting permits for signage for tourist attractions. Jean's Playhouse has more than four signs, however, except for the large A-frame off-site sign near McDonald's, the signs are hidden away from the driving public. The goal for their signage is for travelers along Route 112 to be able to find them that no matter which direction they are traveling from on Route 112. Jeans Playhouse would like to put a double-sided free standing sign in the pre-existing sign frame formerly used by Rivergreen (just north of Inn Seasons Drive and the Town Offices). They have an offsite A-frame sign at McDonald's.*

*Under Section F, 4, "As part of an integrated sign plan the Planning Board may permit up to fifty percent (50%) more signs or up to fifty percent (50%) more aggregate footage than required by this Ordinance within the ... Village Center (VC) Zones."*

*Andrew Noyes agreed to get rid of the Papermill theater sign on the Village Shops Sign.*

*The Board discussed the issue of Sponsorships. Is it an advertisement or not? No. It is a sponsorship. The Land Use Plan Ordinance allows for flexibility for tourist attractions. This tourist attraction is a nonprofit organization. It would be difficult if not impossible for the tourist attraction to continue in business without some form of sponsorship. There is only one sponsor. The sponsoring business (the Woodstock Inn) is located in Woodstock, not Lincoln. The blank in the middle of the lower portion of the sign is for upcoming events. The spot to the left is for what is playing. This new sign will look much nicer than what it there now – an empty sign frame.*

**Motion to open public hearing.**

**Motion: Strickon.**

**Second: Spanos.**

**Motion carries unanimously by all members present (4-0).**

*Any abutters in the audience? None. Comments or questions? None.*

**Motion to close public hearing.**

**Motion: Spanos.**

**Second: Strickon.**

**Motion carries unanimously by all members present (4-0).**

**Motion to approve application for a sign permit as part of an Integrated Sign Plan for the tourist attraction, Jeans Playhouse, to add an off-site directional and sponsor-related sign for Jeans Playhouse on (Tax Map 118, Lot 2) property owned by LFG Lincoln Properties, LLC. The sign shall use the pre-existing wood frame & light formerly used by Rivergreen at its former entrance on Main Street north of Inn Season Drive. The sponsorship portion of the sign will be allowed because of the special nonprofit nature of the tourist attraction being advertised. The Land Use Plan Ordinance allows for flexibility for tourist attractions. This tourist attraction is a nonprofit organization that would not be able to continue in business without some form of sponsorship. There is only one sponsor. The sponsoring business (the Woodstock Inn) is located in Woodstock, not Lincoln. Jeans Playhouse will remove the offsite Papermill Theater sign presently on the Village Shops Main Sign. The placement and design of signs meets the specific standards of the**

**Ordinance.** The signage will not create glare or excessive brightness. The signage is designed and located in a manner that does not create distractions or visual confusion on the property or in combination with neighboring properties; and the signage will not create traffic hazards.

**Motion:** Spanos.

**Second:** Strickon.

**Motion carries unanimously by all members present (4-0).**

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**V. CONSIDERATION** of meeting minutes from:

- May 8, 2013

**Motion to approve Minutes from May 8, 2013 as written.**

**Motion:** Robinson.

**Second:** Strickon.

**Motion carries unanimously by all members present (4-0).**

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**VI. PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

*A. Discussion about whether we could hire third party building inspectors to handle building inspection on a per application basis. Should Lincoln consider whether they should adopt the enforcement of the State of New Hampshire's Building Code? No decisions were made. They will look into this issue further.*

- 1. Look into contracting with a third party building inspector.
  - i. Bonded*
  - ii. Certified*
  - iii. Independent subcontractor*
  - iv. Could they issue Certificates of Occupancy?*
  - v. They would not need to address the planning and zoning issues.**
- 2. Should we adopt it as mandatory for commercial building?*
- 3. Should we adopt it as mandatory for houses greater than a certain size?*
- 4. How big? Greater than 2,100 square feet? Greater than 2,800 square feet?*

*B. Al MacQuarrie clarified with the Planning Board his understanding of what the Planning Board's expectations were for shimming and repaving of Black Mountain Road as described in the minutes for earlier meetings.*

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**VII. ADJOURNMENT:**

**Motion to Adjourn.**

**Motion: Hettinger.**

**Second: Strickon.**

**Motion carries unanimously by all members present (4-0)**

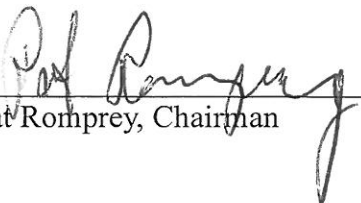
The meeting was adjourned by at 8:00 pm.

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Respectfully submitted,

Carole Bont, Planning and Zoning  
Administrative Assistant

Dated: June 26, 2013

  
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Pat Romprey, Chairman

**Appendix A****May 22, 2013****Planning Board Work Session****Presentation about the New Hampshire State Building Code****6:00 pm – 7:00 pm**

An Informational presentation by 3 speakers about building codes and building inspectors.

Primary speakers were:

1. Wayne Richardson, CBO, Building Inspector for the Town of Bedford and President of the New Hampshire Building Officials Association (NHBOA).
2. Bruce Buttrick, Building Inspector, Code Enforcement Officer for Town of Bow.
3. Carrie Rouleau-Cote, Building Inspector Code Enforcement Health Officer, Town of Auburn.

*The speakers graciously traveled here to Lincoln to inform us about:*

1. *NH State Building Codes in force authorized under NH RSA 155-A.*
  - *International Building Code, 2009 edition, with amendments*
  - *International Plumbing Code, 2009 edition, with amendments*
  - *International Mechanical Code, 2009 edition, with amendments*
  - *International Energy Conservation Code, 2009 edition, with amendments*
  - *International Residential Code, 2009 edition, with amendments*
  - *National Electrical Code, 2011 edition, with amendment*
  - *International Existing Building Code, 2009 edition (effective 6/18/2012)*
  - *State Fire Codes:*
    - *2009 NFPA 101 Life Safety Code*
    - *1009 NFPA 1 Fire Code*
    - *2006 NFPA 31*
    - *2010 NFPA 211 (effective 12/23/2012)*
    - *2009 NFPA 54 (effective 12/23/2012)*
2. *Building Inspector duties and responsibilities;*
3. *The pros and cons of enforcing the state building code;*
4. *The pros and cons of adopting more stringent town regulations than the State Building Code;*
5. *Enforcement of stricter local building codes;*
6. *The advantages and disadvantages on enforcing stricter local building codes.*

**How does the building code work?**

*Chapter 155-A is the State Building Code. Whether or not the Town of Lincoln chooses to enforce the Building Code, the State Building Code is in force in the State of New Hampshire. Contractors are required by law to follow it. NH RSA 155-A:7 says: Contractors are required to follow the State Building and Fire Code.*



**Is the code for every town different?**

*The State of New Hampshire adopted the State Building Code Back in 2000/2002. Now all of the communities in the State of New Hampshire are subject to the same minimal building standards. Whether or not the Town of Lincoln decides to supervise or enforce the State Building Code, builders are required to follow the Code. NH RSA 155-A:6 went into effect last year. Instead of having a separate code for each aspect of building the State of New Hampshire merged SBC and BOCA codes so that now there is just one IBC Master Code.*

**What does the code look like?**

*The speakers shared older versions of the two very large books with codes in them that the building inspectors use. The Residential Code Book is for residential properties, meaning one and two unit dwellings like townhouses. The Commercial Code Book is for everything else.*

**Can we hire a subcontractor instead of an employee to do the work?**

*Under NH RSA 155-A:2, VI, "Any municipality that has adopted an enforcement provision under RSA 674:51 may contract with a local enforcement agency or a qualified third party for these services as an alternative to establishing the position of building inspector under RSA 674:51, III(c), and such agency or third party shall have the same authority as a building inspector as provided in that section." This is a new section in the statute.*

*In this economy, most towns do not have enough work to justify hiring a full-time employee to do building code enforcement work. It can get pretty expensive. The Town of Lincoln can decide that it wants to tackle enforcement, but it does not have to hire a building inspector. Lincoln may put out an RFP for someone who is qualified to do this on Lincoln's behalf. Lincoln can work out a payment arrangement. The inspector can be a subcontracted company. Lincoln should insist that an inspector be certified, but you will have to pay for that.*

**Can you specify that the person you wish to contract with do Building Inspection and Fire and Life Safety Code Inspection as well?**

*Yes.*

**If they are certified inspectors, who is the certifying body? The State?**

*To be a certified building inspector in the State of New Hampshire you just have to be a warm body.*

*Back in 2000, BOCA and the Southern Building Code Group merged to become the International Code Council. These different groups understood that it would make sense to address all of the different codes across the country in the same way so ICC has different levels of certification.*

*The highest level of certification is the “Master Code Official” which is what Bruce Buttrick, Building Inspector, Code Enforcement Officer for Town of Bow is. They have to pass 17 different exams. A Master Code Official does not know everything by heart. He knows how to go to the various codes to find the answers.*

**If there is no common standard for certification for building inspectors on a state level, in general, what would insurance companies accept as a minimum requirement?**

*Check with your insurance carrier. There may be three dozen insurance carriers in a town the size of Lincoln.*

*[Typically, the ISO industry will come through a town and prepare an ISO rating for the town. ISO stands for Insurance Service Office. ISO is a for-profit organization that provides statistical information on risk. The ISO rating is from 10-1, with 1 being the best. In the past the ISO went to most towns with building departments and would assess a Public Protection Classification. The ISO would evaluate just about every aspect of a fire department in determining the ISO rating. They would give points for everything from the training aids a fire department owned, to training for firemen, hydrant locations, travel times, and apparatus. They reviewed past history, policies, procedures, and they gave towns a rating. They then sold this data to insurance companies. At one time almost all insurance companies calculated rates based upon the ISO rating. Now several companies have gone to a “subzone system” using an actual loss within a zip code, included all losses due to fire flood, lightening, hail, etc.]*

*The ISO ratings do not change the town’s liability. It might affect the rates that homeowners pay for insurance premiums in the town. The reality is that under the state statutes, the town is indemnified as a Building Inspector.*

**What is the Town’s legal liability if we make a mistake in trying to enforce the State Building Code?**

*Under NH RSA 155-A:2, VII says, in part, “No municipality shall be held liable for any failure on the part of a contractor to comply with the provisions of the state building code.”*

*We have been advised that we are going to put ourselves out of business as Building Inspectors. We are not too concerned about that. If every community goes that route we will just become independent inspectors. The need is there. The intent of the statute is to give communities the ability to contract with someone who can take care of everything. You will have to set some standards – some level of qualification for a Building Inspector. Now you can subcontract for those services to be provided legally.*

**What if a municipal building inspector points a contractor in the wrong direction? What if the contractor is right and the building code official is wrong and tells the contractor to redo it?**

*There are Building Inspectors who, based on their years of experience, are not satisfied with the IBC code requirements and want something else. A Building Inspector should not be doing that.*

*If he does, your Inspector is acting on his/her own stead or outside the purview of his job description. If he acts outside the scope of his area of expertise and job description, he could subject himself to personal liability and litigation.*

*Building Inspectors take a class about ethics, including malfeasance and misfeasance. Misfeasance is when you make a mistake. Malfeasance is when you do something with malice. If a building inspector acts outside the scope of his authority and he gives advice, he is on his own. He is no longer acting as a town building inspector. The town has not authorized him to say, "I don't think you need 2X8s you can use 2X6s". When the floor caves in the town is not liable, however, the building inspector may be.*

*If the building inspector makes a mistake, shame on him, but he and the town are not liable. On the other hand, if the building inspector gives advice and has the contractor take down the 2X8 boards and make him put in the 2X6 he is no longer making a mistake, he is considered to be acting with malice and may be liable.*

***What if the building code inspector says it is wrong and then the contractor says, "Well, what do you want"?***

*You should say, "I would like to have code compliance." When they start asking us "What do you want?", then they are asking us to become the designer. It is best to say, "Give me a set of plans and I will tell you if 2X10 boards will work or if 2X8 boards will work". You should not say "put in 2X10's instead of 2x8's" because then the contractor will say "Well the building inspector told me to put in 2X8's instead of 2X10s". The Building Inspector should not become the designer. It is laziness on the part of the contractor. It is not the job of the building inspector to advise the contractor. The job of the building inspector is to see that what contractors are building matches the requirements that are in the building code book.*

***How does that idea of refusing to tell the contractor what we want square with our duty to assist the applicant?***

*A building inspector can assist the applicant with understanding what is in the code and what the language in the code means, however, he should not design or to change the requirements. So typically when a homeowner calls and says, "I want to build a 10x12 deck; what size floor joists do I need?" It is not up to the building inspector to design it, because there are probably five different ways to design a deck, depending on the dimensional lumber. The goal is to give them the information and say, "These are the design standards; as long as you follow these you will be in compliance."*

*It gets very difficult because when people want your help, you want to be helpful to them. But there is a fine line you have to walk as a building inspector. There are a lot of options for building something. It is not the building inspector's job to design it or to tell the contractor which way to go.*

*Several years ago there was a situation in a town where the building inspector would say, "I think you should do X, Y and Z". His requirements went above and beyond the building code*

*requirements. The developer did as the building inspector asked and then as soon as the project was done, 600 houses later, he sued the town for the extra money he had been forced to spend to meet the building inspector's requirements vs. the state building code requirements. The contractor was smart. He did not want to cause a stink during the project. In the end, the town coughed up the money. I don't know what happened to that inspector or his relationship with the town.*

*Communities are allowed to amend the building code to be stricter than the State Building Code, but if towns have to do so by ordinance. A building inspector cannot just on his own say, "I want..."*

**What if the building inspector approves a building and then after he walks through, stops and says, "This is really not right!"?**

*Mistakes happen. Should the Building Inspector shoulder some of the blame? The bottom line is the mistake has got to be fixed. If the contractor made a change from the plan he submitted, he may be required to fix it so the contractor has got to be familiar with the code requirements. Likewise, whoever gets the Building Inspector job should be able to read blue prints well.*

*The Building Inspector has to perform a two-part permitting process – The "Plan Review" and then the "Record Review" as the project is being built.*

*I. The first part is the "Plan Review" performed prior to issuing a "Permit".*

*A. The applicant comes in with two sets of drawings or plans.*

- 1. The plans have to be clear and detailed. Documentation is important.*
- 2. Building Inspectors tell applicants to pretend they are going to send the Inspectors to Home Depot to buy all of the materials. The applicants need to give Inspectors enough information to buy all of the materials – to determine what size lumber they have to buy, how many, etc. The Inspector needs to see all of the details; he cannot presume anything. How high and how wide is it? How big are the rafters? What is the pitch on the roof? Is the contractor putting steel or shingles on the roof? What is the size of the span, the girder, the trusses, the rafters?*
- 3. The plans should include at least the minimum specifications – a floor plan and a cross section so the Building Inspector can review the construction details. Applicants have to submit a floor plan that identifies the rooms. For example, if the room is a bedroom then we need to look for ingress and egress windows and some other details. Is it just a family recreation room? Then the requirements are not as stringent as for a bedroom. When Inspectors do the plan review they look at the floor plan because they need to know how the contractor is going to build it. They need that information up front to evaluate the floor plan.*

- B. The Building Inspector will approve the plans for a permit, according to the code span tables and other requirements and issue a permit based on a review of the plans that came into the office.*
- II. The second part is the "Record". The Building Inspector goes out to the site to inspect what is actually being built. The building inspector is going to prepare the final "Record" based on what he inspects in the field. This record is what is going to show up in the assessment file for the assessor to look at.*
- A. When the Building Inspector goes out to the site to perform the inspections he will use either the copy of the approved plan the contractor keeps on site or his own copy. At the inspection visit the Inspector will compare what has been built to what is on the approved plan.*
- 1. If what is being built matches the approved plan and the approved plan complies with the code, the Inspector can approve it.*
  - 2. If what is being built does not match the plan, the Inspector has three possible options:*
    - a. If what is being built still complies with the code based on the Inspector's knowledge and experience or some quick research in the code book on the site, the Inspector can approve the revised plan on the spot.*
    - b. If the Inspector is not sure if what is being built is in compliance with the code, the Inspector will ask the applicant to resubmit the plan with the change and the Inspector will re-review the plan using the code book and see if he can approve it on the site.*
    - c. If the changes are way too complicated for the Inspector to review in the field, the Inspector will tell the applicant to resubmit the plan with the changes to match what is on the site. The Inspector will have to take the revised plan back to the office to review with the new data and do a complete review.*

**Changes:** *The reality is that we know there is not a construction job that is done where there are not changes. From the contractor's perspective, the customer is paying the bill. The customers walk on to the job site. They want some change orders. Who cares? They are paying for the work.*

*One of problems when you have a community where you don't have a building code permitting process in place already, is that it is going to take some time for everyone - the contractors, the homeowners and the designers - to come on board. You need to do a good job of communicating about the building code process. They need to see it coming.*

*The Building Inspectors and the contractor's customers have different needs. The contractors draw out a quick sketch of what they are going to do for the homeowner. For example, they say, "I am going to build you a 10'X12' deck". That quick sketch is fine for the homeowner, but then*



*the Building Inspector has to approve it. The Building Inspector cannot approve that sketch. The homeowner's expertise is certainly not at the same level as the Building Inspector. All the customer/homeowner cares about is, "Can I put 25 people out there and have a party in three weeks?" It is our job to make sure that homeowner and his friends are not going to fall, and also that the contractor is not going to make a mistake because of some missed assumptions. Tell the contractor: "If you go to court, whose side do you want me on, yours or the homeowners?"*

*The negative part of adopting State Building Code enforcement is the litigation associated with having to enforce the State Building Code. Wayne Richardson works in Bedford, a very affluent community where lawyers seem to sprout out of the ground. His first year there he went to court within the first six months of starting the job. For the first six years he was in Bedford he was in court several times every year. He is not sure why, but Bedford has not had to go to court in a while. But, it is a reality. Sometimes there is an adversarial relationship between a contractor and the Building Inspector and sometimes it can be more like a working relationship where the contractors and Inspectors think of themselves as watching each other's backs. These days, in our litigious society, a contractor can lose a job over a miniscule amount of money from some less than forthright individual who is just trying to make a quick buck. Having a Building Inspector can help a contractor when through regular inspections he verifies the work that the contractor has completed.*

*As far as the town is concerned, the code books are very clear. The code book does address what happens at the time of the inspection.*

**If we were going out to hire a building inspector, what are the minimal credentials that that person would need? If the Town Manager were going to hire a building inspector, what would he want to look for?**

*If tomorrow the planning board told the Town Manager to hire a building inspector, by NH Statutes, he could hire Ron Beard (in the audience). Ron is not a certified Building Inspector; he is a fire chief. The community of Building Inspectors has a self-imposed certification process based on national standards. The Town Manager would like to either hire someone who was already CCI certified or share one with another town.*

*According to Carrie Rouleau-Cote, Building Inspector/ Code Enforcement/Health Officer for the Town of Auburn, Chester, the neighboring community to Auburn, has gone through several building code officials over the past few years. She has been invited to be part of the interview committee for the Chester. They expect a variety of applicants. Some applicants will be contractors who have been in the field for decades. Some will be architects and people in building design. Some will be ICC certified. Some architects will carry ICC certifications. When reviewing resumes, they are looking for applicants able to read and understand building plans, the building inspection process and code enforcement which includes zoning and planning regulations. Often communities who hire a Building Inspector will look for someone who is familiar with those RSAs and procedures because they will need to direct people to get a variance. The Building Inspector will need to go through that process with the applicant. For example, a builder or property owner will come in and say, "I want to build a deck". The Building Inspector will go over the construction details and he will go over the zoning*



*dimensional requirements for the location of the deck? How close are you going to be to the property line? You have to explain setbacks to them. You have to explain the process of how to request a variance from the ZBA. Those types of issues consume most of a building inspector's work hours.*

*In Lincoln today, the Planning and Zoning Administrative Assistant and the Town Manager/Planner answer questions on setbacks and zoning related matters. We dabble a little bit in plans, but we don't do building inspections. The Fire Department does some building inspecting to address Fire Codes and life safety issues.*

*The Planning Board needs to decide what kind of hours we would need to have a building inspection official either available to us as a subcontractor or on staff to cipher through plans and then inspect the different elements of construction of the six-story hotel/conference center that will be erected right behind the Lincoln Town Office. At a minimum, we will need to hire a third party contractor to represent the Town of Lincoln for the conference center. That is beyond the scope of the expertise of the Town Manager and Planning and Zoning Administrative Assistant. No one is worried about the 6x6 foot deck extension. We are looking at some big stuff here in Lincoln. We are looking at a potential building explosion here. We recently had a wall collapse. We don't want that kind of issue here. The Town Manager wants to make sure Lincoln has someone who is credentialed to shepherd the larger projects that we already know are coming. Getting public support for the financial cost of having a building inspector will be the toughest part.*

*Now the Planning Board is just gathering information from these folks who are in the business of building inspection. They are here to answer questions. They have already answered the liability question. The town is protected from liability just the way we are operating. However, since the Town Manager has been working here, issues have arisen that the Planning Board should be aware of. Since the Town Manager has been here at least twice we have had people who are planning to build upscale homes in town express their shock because they are not going to be up here while their house is being built. They did not realize that the town has no town official to inspect the building as it is being constructed. They could not believe it. We are still protected from liability, but some of our property owners are not happy about our lack of construction oversight. We understand the concept. We understand there is a lot of fear. We all know about how some building officials is a history of not using common sense and creating a lot of angst. We have a lot of hesitation here about a building inspection program.*

**What happens when you come upon a project that may either be beyond expertise of the Building Inspector or tie up the Building Inspector so that he cannot do anything else?**

*Even though Wayne Richardson has been working for the Town of Bedford for 16 years and he is a certified Building Inspector, and Bruce Buttrick, is a Master Building Inspector, and Carrie Rouleau-Cote, is a Certified Residential and Commercial Building Inspector, they have their limitations. If Wayne Richardson gets a hospital coming into Bedford, he does not review those plans. He sends the plans out to ICC for review. Review and inspection of a hospital is well beyond the scope of his knowledge and expertise. He would go to the Planning Board and tell them right away that they need to make ICC review and inspection a condition of the site plan*

*review. The contractors/applicants need to know right up front that they are going to need to have independent review because it is beyond the Building Inspector's capabilities. Such an independent review would be allowed under the NH State Building Code. Familiarize yourself with Chapter 1 – the Administration of the Codes. It allows some of the flexibility to make amendments which you have to do through town meeting.*

*For example, in Bow the state is building a 240,000 square foot warehouse. It is going to be a state liquor store, but it is not located on state property. Although there is state funding for the project the building is not on state property so there will be other complicating issues. They expect to occupy the building in September and they just started building in January. That is a fast track project. Bruce Buttrick does not have the capability to do a Plan Review decently, so he contracted with a third party to do that. He found an architect that the applicant was agreeable with. The architect performed all of the plan reviews, inspections at the relevant stages and everything else: NEPs, Fire Protection, accessibility and all of the plan reviews. The applicant paid for their services and then Buttrick did his cursory review, but it was not in depth. The process was the same for a hospital. The hospital had "tree-sized" plans. The state building code allows for that kind of flexibility for the municipalities.*

*With the liquor store, Buttrick did not want to expose Bow to that much liability. He is certified in the Commercial Building Code. He can accept and approve the application, however, if he approves it and grants the permit, but later discovers that he missed something and the contractor is along in building before he discovers that he missed something, the contractor will ask: "How come you did not pick up on this during plan review?" The answer is, because he had such a huge stack of plans that he could not pick up on everything. A building inspector cannot be a warranty inspector. They are not on call 24-7. Bow does have specified phases of inspection and Bow tries its best at those phase inspections to catch certain significant issues that might occur. Nobody can guaranty 100% compliance.*

*The Building Inspectors advised Lincoln to check Chapter 17 of the State Building Code. If Lincoln had a building code official, the Planning Board could ask a developer to hire third parties to come in and do special inspections. If the town hired an "Architect of Record" or an "Engineer of Record" they would create a schedule of inspections and say: "At the time of the concrete phase I want an inspection and I want to see if the wheel welding and bolting are constructed properly." There is a whole schedule of inspections that they can go through. That is a benefit for the Town of Bow, because now the town knows that the owner, the architect and/or the engineer of record also are policing that phase of the structural elements. The benefits are primarily with structural issues. Now the Architect and Engineer also are watching construction of the project. The Building Inspector will get a call from the owner/architect or engineer: "It is the concrete phase of the project and it looks like they have already washed it." Then he goes to check the project out for rebar.*

**With the state law being written with immunity for communities and with contractors being responsible for complying with the State Building Code, what is the benefit for the town to adopt a building inspection program? Why would a town not continue with the way it is now?**

*It is a proactive approach to safety for towns to be involved in the permitting process – to help ensure the safe construction of housing stock in your town. We create a paper trail of the construction process. The Town is involved from the beginning in the construction process instead of waiting until five years later when a new home owner calls the town office and says “This house is falling apart!” or the property owner goes to sell the property and the surveyor says, “Wow, this house is only five feet from the property line! How did that happen?”*

*The only option Lincoln has now is to say, “We don’t know. We don’t police it.” In their opinion, it should not be that way. With local zoning laws, the town can keep track of whether the building complies with the zoning laws because zoning is a local issue and the town has local control. With the state building code, however, the contractor technically is liable if he does not follow the building code because that is what the state law says. Buildings shall be built to the standards in the State Building Code, however, no one is watching the contractor when he builds the building. Shame on the contractor if he does not build the house to the State Building Code standards, however, now we have building contractors that are no longer in business, what is the remedy for our citizens? The health and safety of our citizens is the town’s responsibility.*

*We are all human; we all miss stuff. With a large commercial job there are a huge number of plans. It is easy to miss stuff. That is why a schedule of multiple inspections is good. Because you are in the building all of the time you see things you would not notice if you only went in the building once. From a contractor’s perspective, the worst thing is to have a building inspector in the building who looks around because they look. As he stands there talking to the inspector, the inspector keeps looking around at his building. The more he comes in the more he looks and the more he sees. He thinks that contractors do not set out to build a house that will not meet the code. It is either (1) the contractors don’t understand the code or (2) they just miss stuff. He has to look at it this way, otherwise he would have to kill someone.*

*What is the benefit to the town? For your commercial buildings it is a public safety issue. With a mistake somewhere you can lose an entire building – just like that! With the residential contractors, Building Inspectors are sort of a quasi-consumer advocacy group. They don’t have control over whether the joints or the crown moldings are perfect, but they can help assure that the walls are not going to separate from the ceiling because the contractor made a mistake.*

*Contractors are under a lot of pressure to do stuff FAST. Time is money. Money is not made when you doddle at the job. They rely on subcontractors who may or may not have been schooled in good practices. New people who are coming into the industry do not have good training. They are just sort of picking it up as they go along. Building Inspectors are there to catch the mistakes. The chances for errors are great, even a small house. For example, the electrician is in there. He is putting in 5,000 feet of wire and seventy boxes. He has got to be in and out of that job in 4-5 hours. Things get missed. He makes a mistake. The mistake may not be huge, but these mistakes may become safety issues.*

**What is the cost of having a Building Code Enforcement Program?**

*You can design your permit fees to offset as much of that cost as possible. A municipality is not supposed to be a profit center, but by the same token a municipality is allowed to charge reasonable permit fees to cover its costs.*

**What kind of fees should you charge and what kind of paperwork is involved?**

*We have here a thumb drive to give to the Planning and Zoning Administrative Assistant. We brought all of Auburn's regulations for building codes, their department forms, and their job description. We brought Bow's regulations. We included Bedford's ordinance. Bedford has a Town Council form of government so it is a little different from how they adopt ordinances. But in addition to the ordinances we included a department handbook. The department handbook specifies fees and schedule of inspections. These are just to give you an idea about how it could be set up. It would pretty tough for anyone starting out to know what kind of fees to charge for permits. The best thing you could do would be to look at the surrounding communities that do state building code enforcement and figure out how much they charge for fees and charge your fees accordingly.*

**Have there been any studies about what the impact of certification would have on or add to the cost of building a residential building under \$200,000 for example? What would be the added cost?**

*If a home owner had to bear the cost of the inspection process how much would it be? It depends on how you set your system up. How many hours of inspection and review would it require for a \$250,000 value home?*

*In Bow, for a residential house they charge \$0.25/square foot for residential inhabitable space. They also have a \$25 flat permit fee. They charge \$0.10/square foot for uninhabitable space – like a basement. They had a \$0.25/sq. ft. flat fee, but then they had someone who was working on his basement over two years and we kept charging him another \$0.25/square foot each time the permit was renewed. He said, "I already paid that." So Bow modified the fee so it is now \$0.10/sq.ft. for uninhabitable space.*

*In Bedford, the fee is based on a straight square foot price. The nice thing about a flat fee is that the applicants cannot argue with that number. In Bedford for a 2,100 square foot house the fee would be \$525. The most the fee usually is for a residential structure is about \$900. That fee presumes they have a gas furnace and gas water heater. The fee for a deck or an unfinished attic runs about \$250.*

*In Londonderry, they have construction fees using standardized valuations from the ICC chart. Auburn uses the ICC standardized chart. In Auburn the fee for a residential house runs around \$900.*

**How much inspection goes on for that fee?**

*The State Building Code says the Building Inspectors inspect the building from the first hole in the ground up to the end. Inspectors are also checking the driveway. The Inspector is going to*



*be working with Public Works Department to check that the driveway meets driveway standards. They inspect septic systems if you ask them to do that (unless your health officer does that). The Inspector will do a basal when they excavate the hole. The state does the final now because there is no such thing as an "in kind" even though they call them that.*

*There is a lot for the residents to gain. As a building inspector we answer a ton of questions from residents who are looking for information. What if I do this? What if I do that? Another thing is real estate transfers. Somebody is looking at a house they are going to buy. Was this done legally? Was that done legally? Was this illegal? I don't know, but let us take a look at it. I just did one last week. A woman was selling her house and she wanted a home inspection. A home inspector hired by the buyer came in for the buyer and said, "This is wrong, this is wrong, this is wrong, the house doesn't meet code." He was wrong. He was wrong. He was wrong, because the house was built 25 years ago. He was looking at the house under today's codes. You cannot do that. You have to look at when the house was built. So for the homeowner, the fact that I was there was worth a whole lot to her. So, there is that intangible value to having a building code inspector.*

*Folks who are building the McMansions these days are very particular people. They love to point the finger at somebody if they perceive that anything goes wrong. If I were a builder I would love to have a town building inspector come in because there is going to be disagreement sooner or later. I would want him to come in to explain things to the homeowner.*

*If someone wants to come in and build a small two story ranch because that is all they can afford we will charge them a fee of \$500 - \$600 maybe, at the most, based on our fee schedules. (Our fee schedules are on the thumb drive.) We do not charge the homeowner by gold-plating the process. We charge the homeowner by the square foot.*

### **How many inspections and what types of inspections should a building inspector do?**

*The Building Code Book has a number of proscribed inspections. The first one is the excavation prior to pouring the footings. Building Inspectors need to see the soil conditions and the slope at the bottom of the footing, and setting of the rebar. That is also the time to check the front, back and side yard setbacks. It is a lot easier to change the location of the foundation to meet the setbacks when the contractor still has the excavator on site than after the foundation is all poured.*

*In some surrounding communities the first inspection the building inspector does is when the foundation has already been poured just prior to backfill. In their opinion, that is too late. You don't know anything about the soil under the footings. Has soil been undisturbed or not? If the setbacks are wrong, then the homeowner may have to get a lot line adjustment. A lot line adjustment is a very expensive fix for the owner plus it delays the project.*

*Then there is one of the inspections in Bow that we call "The Footer". "The Footer" inspection includes inspection of the foundation, foundation drains, etc. We also have the inspection called "The Rough" for which we inspect the frame and we have a rough for the other parts. We have the mechanicals, the HVAC, the electrical and the plumbing.*

*Some towns have separate permits for the different sub-trays(?) that are in different code books: for example, plumbing and mechanicals. Sometimes the Fire Department will get involved with some of the mechanical inspections or if the building has gas piping. The building inspector needs to coordinate those visits with the Fire Department before the walls get covered up.*

*More recently, we have had to inspect for compliance with the NH State Energy Code. Inspection for compliance with the NH Energy Code has become a part of the “rough” inspection of the rough frame before the walls get covered up. We check to see that all of the notching cuttings have been done and any overcuts have been fixed if it has been overcut. Then there is the insulation inspection. Sometimes we need to inspect for fire-stop systems if it is required for some of the commercial buildings.*

**Does the town need to adopt the NH Building Code in order to have enforcement of the NH State Building Code?**

*No. What happens in order for the Town to enforce the State Building Code is the town needs to adopt regulations saying that the Town of Lincoln is going to enforce the State Building Code .*

*The Town does not actually adopt the state building code. In the Town of Bedford’s Regulations it says, “We are going to enforce the state building code.” Look at RSA 155-A. The reason we drafted the statute that way is because back in 2002 there was a lot of discussion about whether the communities would have to adopt the code first in order to enforce it. Wayne Richardson sat on the Building Code Review Board for seven years. The intent of the statute was to avoid the towns each adopting their own individual building codes. Instead all you need to do is to create an enforcement mechanism. You say, “The Town of Lincoln is going to enforce the state Building Code,” then you reference this statute. Then, if the State Building Code changes you don’t need to change your local regulations. The State says “Local Legislative Body” may provide for the inspection of buildings – in our case, the “Local Legislative Body” is the Town Meeting.*

*You have to sell the residents on the idea that suddenly you are going to have someone out there watching them construct buildings. It is a tough sell.*

**Can a Town decide to just enforce the State Building Code for Commercial Properties?**

*North Conway has adopted these only for commercial structures. You can do that. But just so we are clear. Townhouses would fall under the enforcement of the State Building Code. I don’t know how many townhouses Lincoln has. All multi-family houses would fall under the Commercial Building Code too. Those types of buildings are all considered “commercial”. The only types of buildings that would not fall under the building code would be one and two family dwellings.*

*I suppose you could say, you will only enforce the State Building Code for buildings covered by the IBC – then that would exclude townhouses. But, given the poor history for townhouses and their unique safety characteristics you may not want to exclude townhouses. The biggest*



*problem we all know you are going to have is, "It is my home; you are not going to tell me what to do!" Understandable. That is how they feel.*

**Is the homeowner held to the standard as the contractor?**

*Yes. Absolutely! It is the same code for everyone.*

*Wayne Richardson: What I find is that the average homeowner is innocently ignorant. They really don't know anything about constructing. For example, they want to build a deck. They saw someone build a deck on GTV. They come in. I ask them for a drawing. I ask them, "What size footings are you going to use?" They don't know. They want me to tell them what size footings they will need to use. I can't tell them that. I say, "Here is the span table; price it out." For example, they look at the span table and discover they can go 16 on center. They choose what they are going to make based on what they can afford. Then they check the span table. They pick it out and then price it out. Then they show me a little area of the stairs. I have to say, "Well, give me a little detail. The handrails and the stair geometry is probably going to fail if you don't show me details." For railings, it is no longer acceptable to take a 1x6 and just put it on the flat. It is not going to work. The 1X6 is too wide. It is not graspable. It is going to fail. If I just have a rough drawing instead of a detailed drawing for the plan review then when I go out to do the inspection, the railing is going to fail the final inspection. The owner will say, "Gee, you didn't tell me that." I would then have to say, "the details were not on the drawing." I need a detailed drawing for the Plan Review. I need documentation up front for a good plan review and to ensure that your project will pass final inspection.*

*There is a lot of documentation out there, addressing how the average home owner can build a safe structure. There are all kinds of handouts and flyers with checklists that you can give to people trying to decide about how to meet the code requirements for small projects. Go to the Bedford Website. Wayne Richardson has posted a lot of information on the website. For example, he has information on the website about stair rises and a deck building guide.*

*The Auburn Building Inspector spends a lot of time explaining building requirements to property owners. The permit fee is not the killer for them. Auburn charges only \$25 for a deck permit fee. She usually does a sonotube inspection and a final inspection for decks. That way she gets to know whether guards and handrails are in place; she checks to make sure it is safe. A lot of her time is spent helping people figure what they need to do to be safe.*

**If the average cost of a building permit is \$0.25 per square foot, that means a homeowner will have to pay an additional cost of \$600 - \$700 per application for a 2,000 square foot house. (Actually the cost is \$500.) You use that money to offset the cost of a building inspector. The cost of the building inspector is high. Can towns share the cost of a building inspector?**

*When Auburn and Chester first started with a building inspector, the two towns shared a building inspector. He worked 2.5 days per week in each town and was paid full benefits. Fortunately, their legal counsel was the same. Their zoning requirements were very similar so it made it a lot easier. It went on like that for 15 years until one of the communities got too busy and 2.5 days*

*was not enough to handle the load. At that point, Chester's Building Inspector position became full time. Auburn retained a building inspector for 25-30 hours per week. At this point Auburn has gone to full time. Last year contractors built only 5 new homes in Auburn.*

*In a peak year Bedford had 200 new homes. Last year Bedford had 15. One of the Building Inspector members just retired. He worked in five towns as their Building Inspector. This is something that a lot of smaller communities are asking about. You have got maybe four houses per year or the once in a while big project. I think we spoke briefly with Thornton in the last few years. I believe they asked us about hiring a Building Inspector too. You have surrounding communities that might be interested if they did not have to bear the entire cost.*

*Bruce Bricker and Carrie Rouleau-Cote worked out a job sharing arrangement during vacations. They tried to figure out how they could get coverage in the event they wanted to take a vacation without interfering with the Town's ability to issue permits. Their recent conversations as fellow building inspectors have centered around trying to figure out how Building Inspectors could design a mutual aid agreement like our fire departments have mutual aid agreements in the event of needing coverage. Because it is not really an emergency situation they did not fall under some of the state statutes that address these issues. Included in the information under Auburn, the Town of Auburn and the Town of Chester created a mutual assistance program which can be tweaked. It was approved by Auburn's legal counsel and approved by LGC and Primex which are two of the primary municipal liability carriers. It is not copyrighted. They have the ability to share it with other towns. Lincoln can tweak it to meet our needs.*

**What if we have a big project that comes before the Planning Board? Could we just require an independent third party code review?**

*If that is Lincoln's real concern, the speakers suggested we make it part of the plan approval. It is a public safety issue. They suggested we write something in our land use plan ordinance and site plan regulations to give the Planning Board that authority. There might be something more in the Innovative Land Use RSAs and the Handbook that might help. Lincoln may want to adopt a requirement for an independent third party code review as part of some kind of procedure for this type of project. It depends on the situation. Try to figure out what the threshold might be. People should not be caught or blindsided by that requirement. Sometimes it is good not to have everything pigeonholed in your regulations, however, it is also good to have something in your regulations that you can show the applicant – see it is right here in the regulations. You are not being picked on. Everyone always thinks that they are being picked on.*

**Can a Town make a building requirement that is more stringent than the State Building Code?**

*Yes. The Town of Bow adopted 155-A the enforcement of the State Building Code. Later Bow adopted a local amendment that does not allow bulkheads. The Fire Department did not want to allow bulkheads on brand new houses because they were afraid that people don't clear them and consequently, they believe that horizontal bulkheads are a hazard. Town meeting approved a zoning amendment that required bulkheads with the extended stair in the doghouse style with a vertical door. It is a local amendment. So people are not caught off guard when the Building*

*Inspector does a review the Inspector always mentions that regulation – only on a brand new house. When the brand new house is built he takes his checklist with him. I look at the bulkhead. Even though the surrounding towns allow the old bulkhead, it is a local amendment. It went through Bow town meeting and was adopted. The towns cannot relax the State Building Code, but they can make it more stringent.*

*Every community is unique. Look in the NH Fire and Safety Code book and you will see that you can have a pretty large building without a fire alarm system. In Bedford, all commercial buildings, regardless of their size, require a fire alarm. Case closed. Early detection; early warning. That is what Bow is after.*

*If you follow the State Building Code, your building will not be a super deluxe building. The standards in the code are the bare minimum. A building built to the NH State Building Code is the WORST building you can legally build. The Commercial Code requirements can get somewhat cumbersome for certain projects but that is because these projects are really big. The Residential Code is designed for the little ranch, not some of these very big houses like McMansions. If you want to build nine (9) foot ceilings and marble countertops, that is nice, but the requirements will be more stringent because you are building such a big house. We are not forcing you to build a big house.*

**What happens if the homeowner is not happy with the Building Inspector's Decision? Can the Homeowner or contractor appeal? To Whom?**

*In the statutes, appeals of the Building Inspector's decisions go to the Zoning Board of Adjustment. Appeals have to be based upon the allegation that the Building Inspector is not interpreting the code correctly. We all get these questions from time to time. If you were to decide to do this, he would recommend that the Town become a member of ICC. At that point the town could get in touch with ICC and ask for a formal interpretation. It takes 2-3 days by e-mail, but you have to be very specific. There is due process that has to be – HAS TO BE – followed. People can read the same statutes and regulations differently.*

*The Building Inspector from Bedford had a contractor recently with a question. The Inspector discussed it with the contractor. He told the contractor that he needed to research it a little bit more. He told the contractor, "I hear what you are saying, but I have my own opinion, but I need to understand more about what I am reading." He did his part but he also sent out an e-mail to the Building Inspectors asking for their opinion and recommendations: "I am looking at this section. I am also looking at this section. This is how I am seeing it." He went back to the contractor and had the same dialog. Eventually, he went to ICC and said, "This is what I am being asked, this is what I am seeing, can I have your formal interpretation?" Basically you send ICC the issue in a question/answer format. It is very straight-forward.*

*As code officials, the Building Inspectors meet once per month for training on various general topics. At some point this summer during a round table discussion we will throw that same issue out for discussion. We will ask our members, "How do you see it?" Hopefully, after that discussion we will all look at the book the same way in the given situation. Sometimes we don't agree. For example, one area of disagreement within the Building Inspector community is a*



*hold-over from old theory that a certain rated type of sheetrock must be used to separate the residential living area from the garage area in a house with an attached garage. In the old days the sheetrock had to be Type X rated sheetrock. Now, however, the IBC does not require the sheetrock to be type X. There is a requirement that the sheetrock be ½ inch and there is a door requirement – wood or metal door and there are door opening requirements, but there is no rating for the sheetrock required. There are ratings for the sheetrock if there is living space above the garage, but for a true stand-alone with an attached garage, there is no rating required for the sheetrock. Some Building Inspectors still require the rated sheetrock and shame on them – they are the types that we call “my town, my way or the highway” types. The contractors say, “Show me in the code!” If they look at the code, the code only requires ½ inch sheetrock.*

*However, if a town feels strongly (and Bedford did) the town can amend their building code ordinance. The Bedford Building Inspector does not work for Planning or Economic Development; he works for the Fire Chief so as a Building Inspector under their jurisdiction, he has an atypical perspective. Bedford’s local amendment requires drywall/sheetrock between living space and an attached garage to be 5/8 Type X. Any changes in the Building Code are coming from the town itself. Bedford has a local amendment, duly authorized and approved written right in the ordinance. That is the way it should be. No Building Inspector is entirely happy with the State Building Code as it is written.*

*Another example of a change in the code that gives Building Inspectors pause is this. For years ladder-like horizontal bars for railings on decks were not allowed because they were considered unsafe. Now that requirement is gone! The IBC allows horizontal bars and even just a wire along the edge of a deck. A contractor can take a 2x4 and put it up as a railing. A little kid can crawl out easily. Changes like this are to be expected when we are moving towards a nationalized standard – it is part of the national vetting process. If a community has a real concern about deck railings they can change the State Building Code with a local amendment. As building code officials, however, we are required to apply the code as it is written. We in the Building Inspectors’ community discuss issues among themselves. Their goal is to minimize the variation from community to community to a plausible amount. However, differences of opinion will always be an issue because they can all read same thing and come away with a different idea about what is required.*

**If we followed the code to the letter and a homeowner wanted to put in a dishwasher he would need both an electrical permit and a plumbing permit. How broad would our permitting power have to be?**

*That will be up to your town. Bedford’s regulations say if they are running a new circuit they need an electrical permit. Bedford would not require a plumbing permit because the property owner is just going to tie into the tail stop that is under the sink. He is not adding new drain waste. The code does talk about minor repairs and changes. The code does say that we need a permit for minor repairs and changes, however, in Bedford they do not require permits for roofing. The Building Inspector tells them what the requirements are and answers any questions. Bedford does not give permits for siding or vinyl window replacements unless they are changing the window openings. There have got to be some reasonableness.*

*Under state law a homeowner is, allowed to do his/her own electrical wiring. However, the owner still needs to get a permit. The permit fee will be \$50 or \$25 whatever you decide to charge.*

*The Planning Board and Town Manager thanked the speakers. They ended at 7:00 pm.*