

The Planning Board for the Town of Derry held a public meeting on Wednesday, February 06, 2019 at 7:00 p.m., at the Derry Municipal Center (Third Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman; Lori Davison, Secretary; Randy Chase, Town Administrative Representative; Brian Chirichiello, Town Council Representative; Frank Bartkiewicz, James MacEachern, Members; Matthew Leavitt, Alternate

Absent: Maya Levin, Mark Connors

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning and Economic Development Assistant; Beverly Donovan, Economic Development Director.

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. Granese then noted the emergency exits, the location of meeting materials, and introduced the Board members and staff.

*Mr. Leavitt was seated for Ms. Levin*

## **Escrow**

### **#19-04**

**Project Name: Ashleigh Drive Self-Storage**

**Developer: Yvon Cormier Construction Corp.**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 08280-004, 17-27 Ashleigh Drive**

The request is to approve a final release of Letter of Credit #09150 in the amount of \$9,590.40. The amount to retain is zero.

Motion by O'Connor, seconded by Bartkiewicz to approve as presented. The motion passed with all in favor.

## **Minutes**

The Board reviewed the minutes of the January 16, 2019, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the January 16, 2019, meeting as written. The motion passed with Chirichiello and Leavitt abstained.

## Correspondence

Ms. Davison advised the Board has received a legal notice from the Town of Atkinson relative to a Lot Line Adjustment at 25 Waters Edge Road and 45 Conleys Grove Road. Both properties have land in Derry. The Board is also notified of a Shoreland Permit application for 53 Conleys Grove Road.

The Board has two proposed zoning changes for which the Board will need to decide if the changes will move to workshop or to table them. The first is to add Medical Office as a permitted use in the General Commercial zone. Medical office was included in the Professional Office definition until it became its own use in 2013. The second proposal is to add a section in the Ordinance relative to Electronic Vehicle Charging stations in multiple zones. Mr. Granese recalled discussion about the electronic vehicle charging stations during the workshop at the last meeting. Both changes will be scheduled for a workshop.

## Other Business

The Board acknowledged Mr. Bartkiewitz' birthday and wished him well.

### Schedule a public hearing for proposed changes to the Town of Derry Zoning Ordinance, Section 165-30

Mr. Sioras advised the Board discussed this proposed change at a workshop. The proposal takes parcels in the area of Maple and Elm Street and moves them to the Medium High Density Residential zone. The change will help the town market 19 Elm Street. In looking at this area, it was found that when the Board rezoned 444 parcels from MHDR to MHDR II, six parcels were missed. This change will clean that up and move the six parcels to the correct zone.

Motion by O'Connor, seconded by MacEachern to schedule a public hearing for February 20, 2019, to amend Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map to move five parcels from the Central Business District to the Medium High Density Residential District and six properties from the Medium High Density Residential District to the Medium High Density Residential II District.

Chase, Leavitt, Chirichiello, O'Connor, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Mr. Granese noted the landowners will be notified of this proposed change and the date of the public hearing.

## Public Hearing

**Peter and Amy Simon**

**PID 52007, 54 North Shore Road**

**Manuel & Heather Gendron**

**PID 52008, 2 Lake Avenue**

**Acceptance/Review, Lot Line Adjustment**

Mr. Sioras provided the following staff report. The properties are located near Beaver Lake. The application is for a lot line adjustment. All town departments have signed off on the plan and there are several waiver requests. Staff supports the waiver requests and approval of the application. For the waivers, HISS mapping and wetland mapping are not required for lot line adjustments but are on the submittal checklist.

Tim Peloquin, Promised Land Survey, presented for the applicants. Manuel Gendron was also present. This is a lot line adjustment. He reviewed the plan with the Board. The lines shown in pink represent the area to be removed, which will make the area all one lot. The current lots are configured very differently. The existing garage owned by Gendron is located on an easement area on the Simon parcel. A variance was granted this past summer to subdivide the Gendron parcel into two lots, creating a separate lot for the garage. When this plan went before the TRC, staff felt the plan was very confusing and it would be cleaner to have a lot line adjustment. The applicant went back to the ZBA and requested that instead of a subdivision, the applicant be allowed to have a detached Accessory Dwelling Unit (the garage); the only connection to the existing residence is the attached deck. The ADU area is in conformance with the current requirements; places the dwelling unit over the garage where an office exists now, and keeps everything owned by the Gendron's on one lot.

The Simon family has frontage on North Shore Road, but the driveway access is off Lake Avenue, through a parcel that they also own.

Mr. O'Connor confirmed the ZBA voted to allow an ADU, separate from the main dwelling unit. Mr. Peloquin said it was felt this was a betterment rather than subdividing to create two lots. It is more normal and appealing to have the garage as an ADU. The Lot Line Adjustment with an ADU made more sense than the subdivision. Mr. O'Connor questioned the gravel access shown on the plan and asked Mr. Peloquin to further address that.

Mr. Granese inquired as to the date of the second variance. Mr. Peloquin advised the second variance was granted on January 03, 2019. Access for the Simon lot is through Lake Avenue. The Simon's own 8 Lake Avenue. This lot gives access to 54 North Shore Road. Mr. O'Connor inquired what would happen in the future if 54 North Shore or 8 Lake Avenue were sold. Mr. Peloquin said at that time, the Simon's would have to secure a recorded access agreement. He noted all of these lots are on town sewer.

Motion by MacEachern to accept jurisdiction of the lot line adjustment application before the Board for Peter and Amy Simon, PID 52007, 54 North Shore Road, and Manual and Heather Gendron, PID 52008, 2 Lake Avenue. Bartkiewicz seconded the motion.

Chase, Leavitt, Chirichiello, O'Connor, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern to open the public hearing, seconded by O'Connor. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by MacEachern to close the public hearing, seconded by O'Connor. The motion passed with all in favor and review of the plan returned to the Board.

Mr. Chirichiello confirmed the lots are serviced by wells, not town water. Mr. Peloquin advised there is no plumbing in the garage at this time. Mr. Chirichiello asked where will the water come from. Mr. Gendron explained they may add an additional well, or have a shared well with 2 Lake Avenue, depending on the yield. This will not be a condominium. Mr. Peloquin reminded the Board the lot has only one owner and they are proposing an accessory dwelling unit, not a stand-alone residence. With regard to the sewer connection, he does have an email from Mr. L'Heureux advising a sewer plan and detail connecting the garage to the sewer system will need to be completed as part of the plan set. The plan will need to note the requirements of a trench opening permit and the work must be completed by a contractor approved by the town. He is aware this will be a condition of approval and that the property will need to be connected to the sewer system.

Mr. L'Heureux added the existing dwelling sits higher on Lake Avenue than the proposed ADU. They may need to attach to the system through North Shore Road which would require a road excavation project. That would also be a condition of approval.

Mr. Chirichiello confirmed the ADU will be sized under the required 800 square feet; Mr. Gendron believed it to be 749 square feet.

Motion by MacEachern, seconded by Bartkiewicz to grant waivers from the following sections of the LDCR, Section 170-24.A.12, HISS mapping and 170-24.A.13, Wetland mapping as after review of the waiver request the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

Chase, Leavitt, Chirichiello, O'Connor, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to approve, pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to owner's signature; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds, or certify the bounds have been set; establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-24/170-61; the sewer connection detail/plan relative to the connection of the existing garage shall be added to the plan; the plan shall note the requirements of a trench opening permit and a town approved contractor must do the work; note approved waivers on the plan; conditions precedent must be met within 6 months; a \$25.00 check, payable to the Rockingham County Registry of Deeds, should be submitted with the mylar in accordance with the LCHIP requirement; submission of the appropriate recording fees, payable to the Town of Derry.

Chase, Leavitt, Chirichiello, O'Connor, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

**High Meadows, LLC  
PID 29046, 46 High Street  
Acceptance/Review  
2 Lot Subdivision**

Mr. Granese advised an email was sent by Deni Oven to Mrs. Robidoux on January 24, 2019 requesting this hearing be postponed to March 06, 2019.

Motion by MacEachern, seconded by Chirichiello to continue the public hearing for High Meadows, LLC, PID 29046, 46 High Street, to March 06, 2019. Discussion followed.

Mr. O'Connor asked with regard to protocol. Some abutters are present this evening; how are the abutters notified the meeting date has changed? Mr. MacEachern asked Mr. Granese to explain the process to the public.

Chase, Leavitt, Chirichiello, O'Connor, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Mr. Granese explained the protocol when a hearing is tabled or continued to a date certain. In this instance, the applicant is requesting the hearing be postponed to March 06, at 7:00 p.m. The Board voted to continue the hearing, so this is the final notice. Abutters will not be sent a second notice and he asked the abutters present to let their neighbors know. The agendas are posted on the website. If any abutters cannot attend that meeting, it is suggested they forward any comments to the Planning Office and the comments will be read into the record, just as if they were present at the meeting.

## Workshop

### **Workshop #1 – To discuss proposed amendments to Section 165-33, Central Business District and Section 165-49, Traditional Business Overlay District, specifically removing the second floor residential restriction**

Mr. Granese stated he has changed his position on this issue. Previously, he did not believe housing should be allowed on the second floor in the downtown. He believes it might be time to try something different and see what the market does. The Board can add restrictions on the use.

Mr. Chirichiello said it has been about 15 years since the Central Business District was created. The zone was created in different times when the schools were bursting at the seams. In the last 15 years, there has not been a lot of development in the two zones. He believes it is time to make a change and see if there is redevelopment. Mr. Granese noted the only change proposed in the two zones at this time is to remove the second floor residential restriction.

The Board agreed this matter should move forward to public hearing.

### **Workshop #3 – To review the permitted uses in the Office Business District, review the definitions of those uses, and to discuss an expansion of that zone**

Mr. Chirichiello noted this proposal was developed from meetings of a subcommittee.

Mr. Sioras explained for the record, the area under discussion was from West Broadway near Storer Court, past the Marion Gerrish Center, west to Dickey Street and Valley Street and the Londonderry town line. The plan is to extend the district down Valley and Ela to Fordway. This area is also part of the Opportunity Zone on the southern side of the road. The second part of the proposal is to amend the permitted uses and requirements of the zone.

Mr. MacEachern said this is part of what the subcommittee worked on last year. He reported the subcommittee discussed delaying any changes in this area until after the Master Plan update. There is a lot of work going on with the Opportunity Zones and he is not comfortable doing much in this area without the Master Plan results, but in order to enhance the Opportunity Zone he agrees they need to extend the zone to at least Aiken Street. He believed that was the consensus of the subcommittee comprised of himself, Mr. Chase, Mr. Chirichiello and Mr. Bartkiewicz. The other part of the conversation did not have consensus, but the Subcommittee did discuss extending the zone east to the Derry Public Library and calling it all one zone. This would create consistency in the downtown from the town line to the Library. Then the question becomes how deep should the zone be? There are many groups working on downtown visioning. It would be nice to get their input. Maybe a representative from each group could

become part of the discussion. He does not want to have the Master Plan completely done and find out that the Board has made a wrong turn.

Mr. Granese stated at the last meeting the Board discussed including all of the properties along Lowell and Valley because townhouse style development is allowed and currently exists in that area. Mr. MacEachern said some of the land will never change and the Board needs to be fair to the neighbors. Aiken Street is an easy dividing line. He can see the old Ritz camera lot being redeveloped. He cannot see the properties on the southern side of Aiken Street being redeveloped. Mr. Granese said the proposed change will not alter those existing lots much; the Board is always talking about doing more in the zones when it has the opportunity. Mr. Sioras spoke to extending the zone along Valley, and Lowell, south of Aiken Street. Mr. MacEachern felt the Board should leave Lowell Street and that area as MHDR. Mr. Chirichiello asked if the Board wanted the smaller lots to be gobbled up and redeveloped.

Mr. MacEachern said the Board should first stop at Aiken Street and second, the land to the rear of this area is MHDR, and has a lot of apartments. The remaining lots are small and similar to the lots on Folsom the Board rezoned to MHDR II. Does the Board have an opportunity here to rezone the properties to MHDR II? Mr. Chirichiello said that type of rezoning might hamper the Opportunity Zone; the town wants redevelopment in this area.

Mrs. Donovan explained the Opportunity Zone spurs development which could be commercial or multifamily residential. Mr. MacEachern felt the town had enough apartments. Mr. Chirichiello said development in this area could be something other than apartments. Mr. MacEachern countered that the town won't see investment in properties south of Aiken Street; it is too close to the existing multi-family and he does not want more multifamily development in town.

Mrs. Donovan explained the thought was to extend the zone down to Fordway; the lots on the west could be redeveloped as commercial. Does the Board want to allow for the possibility? It may not happen, but the opportunity is there.

Mr. MacEachern said Valley is a paper street and does not legally exist even though it is shown on the map. The easiest and cleanest thing to do is to go to Aiken Street from the town line and extend the zone all the way east to the Library. The Board can go back to the other things later and see what the other groups wanted. He does not feel the Board is ready to move forward on this at this time. The Board needs to decide what will fit and clean up the areas, to see what will make sense. The housing would not leave anytime soon. The Board needs to make sure it has the right uses in the area.

Mrs. Donovan said she was amenable to having the line end at Aiken Street but asked for clarification about extending the zone east to the Library. Mr. MacEachern said during the Saturday morning subcommittee meetings, there had been discussion about making this area all one zone from the town line to the Library, rather than having the three separate zones (CBD, TBOD, OBD). The subcommittee wondered if it could be defined as a single zone; most of the uses overlap. Mr. Chirichiello said this piece is the expansion of the OBD. Mr. MacEachern felt the rezoning should be done one step at a time. Mr. Chirichiello said Exit 4 will be rebuilt and

this will be an entryway into Derry's downtown. This is an opportunity to dress the area up. Mrs. Donovan added that this is also an opportunity to get the orphan General Commercial lot adjacent to Dickey Street into a zone.

Mr. Chirichiello suggested the Board look at the list of proposed uses. He was concerned about including "workforce housing". Mr. MacEachern said he did not want "workforce housing" as a permitted use. Mr. Chirichiello believed Derry to be exempt from the requirement because Derry meets its fair share of housing for the region. Mr. Sioras explained the town is not exempt. The town does have its fair share of housing, but there is no ordinance in place. Mr. O'Connor asked if the town would survive an appeal in court. Mrs. Robidoux said the town is not in compliance with the RSA because the town does not allow it in any zone. The town would definitely be challenged and would lose. That is why it is proposed here. The law says there must be a workforce housing ordinance, which the town does not have. The law says workforce housing must be allowed in a zone; it is not. The intent is to correct that deficit in baby steps so that the town does not get sued. The town does meet its fair share of housing for the region, but lacks the other two requirements.

Mr. Sioras stressed the town needs to provide for workforce housing in the ordinance itself even though it has the housing stock.

Mr. MacEachern felt workforce housing was similar to sexually oriented businesses and telecommunications where it had to be listed in the Ordinance as an allowed use somewhere. He felt there could be a workforce housing overlay district that adequately covers the areas where that type of housing already exists, which in the past, has far exceeded the requirement for the region. The ordinance can cite workforce and provide the numbers. He is in favor of supplying the calculation.

Mr. Chirichiello asked how that would affect the Opportunity Zone. Mrs. Donovan said the cost of building anything today is so expensive, that anything that is not market rate will not be built. Workforce housing is not always Section 8 housing. Mrs. Donovan felt the town would more likely see market rate condominiums in this area of town; the lots are so small there would not be a large apartment building.

Mr. MacEachern said he cared about the climate today, but also wanted to protect the residents 10-15 years into the future. It is easier to say these things will fit in this area and the town has x in the ordinance that meets the dossier. This Board has to say yes if a plan meets all the requirements. He is asking to define the criteria and location similar to what the Board has done in the past. It is easier to say make an overlay and criteria that allows a developer to come in and do what they want, and the criteria can be changed later as needed without having to amend a whole zone and the uses each time something changes. Maybe a good place for workforce housing is the West Running Brook district. The criteria can be defined such that a developer cannot exceed x number of units; similar to the triggers built into the Growth Management Ordinance which encouraged business growth and minimized residential growth. The town needs to minimize the increase in population but enhance opportunities for business.



Mr. Leavitt thought common sense would say if the Board allows the use in the zone, it could happen, but the worry is six properties could be combined and an apartment building constructed. His opinion was anything that limits residential development is good.

Mr. Chirichiello said there is not a lot of commercial property along Valley Street, with the existing multifamily it might be a good area to allow multifamily as a use.

Mrs. Donovan advised New Hampshire is ranked number two in the country for the most aged residents. It is hard to attract employees to the state because people are not buying houses. People are having a hard time finding good jobs to pay for their homes. There is a shift happening in the overall way people are living. She believes people will no longer be looking for three acre lots. People are looking for condominiums and apartments; they want to be more mobile. The property managers and real estate agents are telling her that there is a real shortage in the type of housing people are looking for. Older residents want to downsize their homes and there is a demand for apartments. This is not going to change any time soon. She can appreciate where the town has been historically, she feels the Board needs to consider what is happening today and look toward the future.

Mrs. Robidoux noted the proposed zoning requires a developer to follow the same multifamily requirements as the CBD. Mr. Chirichiello took that to mean there could not be garden style apartments because the multifamily has to be part of a mixed use development. Does the Board want that in this area? Garden style apartments would change the neighborhood.

Mr. Chase recalled the Board discussing the ability to allow workforce housing if it was part of a mixed use development. That would be a building that would yield property taxes. If the requirements mirror those in the CBD, that would mean that any multifamily would be no more than 12 units and the units would have to be no larger than 800 square feet. Any changes made to the multifamily requirements in the CBD would apply here as well. The zone would not allow a free standing town house; that was the type of workforce housing the Board discussed at the last meeting. The housing would be close to the highway and on water and sewer. Mr. Chase suggested adding language that specifically states any workforce housing would need to be constructed to the CBD requirements.

Mr. MacEachern said he would only support workforce housing as an overlay. He does not recall these suggestions during the Saturday morning subcommittee meetings. Mr. Chase said this was all discussed at the last meeting of the Planning Board; Mr. MacEachern did not attend that meeting.

Mr. Granese suggested continuing this discussion to the next meeting so that people can read over the proposed zoning changes.

Mr. Chase said the document before the Board contained the changes proposed at the workshops. Areas outlined in yellow were discussed at the last meeting. During that meeting, the Board talked about allowing daycare in the zone as a use, and the Board was going to discuss setbacks in the zone at this meeting. Mr. Sioras said originally daycare was not listed as a permitted use in the OBD zone. The Planning Board did not want them in a congested area or on the main

street. When the Board looked at this at the last meeting, there was discussion that it might be a good idea to have day care adjacent to commercial uses. Times are changing again.

Mr. MacEachern asked if legal counsel had looked at this document yet. He believed that if the Ordinance did not expressly prohibit a use, it could be argued the use was allowed. He cautioned the Board may want to specifically prohibit sexually oriented businesses in this zone. He would want to see case law cited that stated if a use is not specifically listed as permitted, then it was a prohibited use. Mr. Sioras said legal counsel will review the proposed changes prior to the Board bringing it to public hearing. When the OBD zone was set up, the Planning Board did not want the area to look as commercial as Crystal Avenue with gas stations and fast food restaurants.

Mr. Leavitt said he had no problem listing the prohibited uses. Mr. Chirichiello agreed it would be a good idea to invite a member of the Economic Development Advisory Committee to attend a workshop and provide input so that everyone is on the same page. This is the entry way into Derry and people will want to go into the downtown.

Mr. Sioras suggested the Board members might find it helpful to walk the area to get a better idea as to the topography of the land and the existing uses. He did not want to delay this or impede development in the Opportunity Zone. How long with that zone be in place?

Mrs. Donovan advised the town has lost one year already for the Opportunity Zone. The program is at year 9 as it is a ten year program. If the town wants to take advantage of the program, it needs to consider the changing economy. She would not want to stall on the zoning changes when the Board could be moving forward. She is receiving inquiries on this area. Two members of the State Business and Economic Affairs office met with her last week and they are actively promoting projects in the Opportunity Zone. Mr. Chirichiello felt it would behoove the town to move forward on the zoning changes sooner rather than later. Mrs. Donovan admitted this zone does not have large tracts of land, and good points were made in the discussion tonight.

Mr. MacEachern did not feel the zone needed to be changed for developers to take advantage of the Opportunity Zone here. Mrs. Donovan said the issue is more about the allowed uses. Office buildings are not going to be constructed on spec. Developers are building mixed use because it is more profitable. She feels this area will see small retail development with market rate, high end apartments above them. Mr. MacEachern felt if the Office Business District is extended to Aiken Street, and the Board allows retail on the first floor, with residential on the second and third floors, it accomplishes what Mrs. Donovan wants. During the subcommittee meetings, he recalls also discussing the possibility of zero setbacks in the zone and extending a zone from the town line to the Library. Mr. Granese reiterated the discussion should be moved to the next workshop, and members of the Board should read what was discussed at the previous meetings. He confirmed the subcommittee did not meet on Saturday mornings, but rather on the Wednesday evenings that the Planning Board did not meet (May-September, 2018). Mrs. Donovan attended those meetings.

Mr. Sioras said staff could bring back the changes discussed in the zone. Mrs. Donovan needs to move forward with her efforts. The zone line needs to be established and then the Board can

look at the uses. He can see in the big picture looking at the other two zones going east but if Mrs. Donovan is working with the state on projects, the Board needs to move forward with the changes to this zone to compliment the Opportunity Zone.

The Board conferred and determined the zone line would be extended to Aiken Street. Mr. Granese thought about 18 lots were affected. Mr. Chirichiello noted extending the line will allow more opportunities for parking behind business uses.

Mr. MacEachern said this is the first step in a multistep process. He felt the Board could discuss other things such as extending the border of the zone down Fordway and how to redefine the zone later. It was confirmed staff will review the RSAs and report back on the law regarding non-permitted uses.

### **Workshop #3 – To discuss the proposed West Running Brook Village District**

Mr. Sioras reported at the last workshop the Board agreed upon the boundary of the zone. This area of town now has water and sewer. The Board is in the process of discussing the list of permitted uses and it is hoped there will be agreement on the uses. The Board also discussed adding lots to the zone. This would include the lots on the other side of Rockingham Road, beginning at the salvage yard, heading east, and then picking up the other mobile home park across from the Robert Frost Farm. Mrs. Donovan has spoken with developers who have a strong interest in this area.

Mr. Chirichiello had comments about allowing filling station as a permitted use. He is aware a gas station is planned for the corner of Island Pond Road and the owner has been working on the site plan. This will be before the Board at some point. The Board could remove this as a use and that would be the only one built in the zone. Mr. MacEachern said the use is allowed now. If the applicant came in with a plan, he would be allowed until the gas station use is removed from the zone. A member of the Board questioned if the three residential lots across from the Robert Frost Farm should be added to the zone as well. Mr. Chirichiello said those lots do not front on Route 28 and will likely always be residential; it did not make sense to add them. Mr. Sioras noted the topography at the mobile home park has a lot of ledge. There is water and sewer to the lot; that was accomplished with a CDBG grant. The lot will not be further developed because of the land constraints. It looks like a big lot on paper, but it is fully developed. Mr. Leavitt asked if the triangle shaped lot on the corner of Rockingham Road and Route 28 should be added. Mr. Sioras said that lot is residential and very steep. Mr. MacEachern recalled suggesting adding the lots to the east on Humphry and Island Pond to Cemetery Road to create a defined border. Mr. Sioras said the Board did discuss that at the last workshops and decided not to extend the zone that far east. The Board did not want mixed use east of the current Butterfield lots (3 and 4 Humphrey Road). Mr. MacEachern said the zone should be defined by an area that has natural bounds. As it is now, the former Grandview Flea Market lot (2 Island Pond) will be surrounded by residential uses. The Grinnell property will likely never be developed. The Board should create an area defined by roadways.

Mrs. Donovan recalled the Board had discussed the two parcels on either side of the Butterfield properties will be merged into one lot, the rest are frontage lots. It would be nice to have a natural buffer of residential use for the playground and the farms. The area is very rural there and creates a natural buffer; it also retains the historic character.

Mr. Leavitt asked how far back did Mr. MacEachern think the zone should go? If the border goes to Cemetery Road, it might be that the town will lose the farm. Mr. Chirichiello said the Board could do this in phases and add to the zone later. Mr. MacEachern felt there would be a different kind mixed of use development if the boundary stopped at 2 Island Pond, or Humphrey and Cemetery. Mr. Sioras felt Mr. Chirichiello had a good point; the Board could start with what it has and see what happens.

Mr. Leavitt asked if the Board was considering adding Assisted Living as a use. Mr. Chirichiello, Mr. Granese, and Mr. Leavitt had no issues with the use so long as it is done in the right way. Mr. Granese read the definition of Assisted Living from the Zoning Ordinance, "A residential care facility for elderly persons, the age restrictions and/or other requirements which shall not be inconsistent with federal and state law, that is licensed by the State, containing a common dining facility and accessory uses typically needed by elderly residents. Medication dispensing and assistance with daily living activities may be provided."

Mr. Chirichiello said he would rather have an Independent Living (congregate care) facility in this area. Mr. MacEachern felt assisted living was bound by state and federal guidelines and does not define the quality of the facility. The Board could define it in the document and place restrictions such as independent living facility units shall not be less than 500 square feet, etc. Mr. Sioras advised the Board asked that Assisted Living be considered as a use. The population is getting older; the congregate care facility wanted to be close to the hospital. The Board held a short discussion about the difference between Birch Heights (Independent Living) and Aurora (Assisted Living). It was noted Birch Heights does not have rooms available very often and the town might be able to accommodate more of this type of use. Mr. O'Connor read aloud the definition of Congregate Care, "A residential facility for elderly persons, the age restrictions and/or other requirements which shall not be inconsistent with federal and state law, containing efficiency units, one and two bedroom units without kitchen facilities. The facility shall contain common dining facilities and other accessory uses typically needed by elderly residents. Services provided shall include but not limited to housekeeping, meals and transportation. Medical services are not required to be provided." Ms. Davison noted "not required" suggests it could occur. It is an increasingly common trend to age in place in a facility such as this. Mr. MacEachern said he is aware of a nice facility in Braintree where there are three units connected by hallways. An aging couple can reside in the independent living unit and then transition into other units as need dictates. This keeps the couples together, even if one partner has to be in a different unit. Mr. Chirichiello said that type of unit might be a good fit in this area. Mr. MacEachern suggested removing Assisted Living as a use. Mr. Chirichiello felt more research should be done before the Board removed the use. Mr. Granese felt it should be removed and the Board was in agreement. Mr. MacEachern said there should be some form of senior living facility, but the question is, what kind. This needs more research. Maybe the Board should allow facilities where people can age in place.

Mr. Chirichiello spoke to the single family residential use. There is a need for 1500 square foot, ranch style homes in this area. Mr. Chase said single family is not allowed now in this area and the Board fought for years to have the use removed. Mr. MacEachern asked for a list of uses allowed in General Commercial IV that are also proposed for the West Running Brook District. There was a list in the Board packet.

The Board discussed manufactured housing as a use. Existing manufactured housing is considered a legal, permitted use, so long as it was in place as of the effective date of the ordinance. With regard to 'expanding' the units could be replaced if there was a fire or it could be replaced in kind. Mr. MacEachern suggested adding the wording "no additional housing units are allowed". Mr. MacEachern asked where the proposed list of permitted uses came from and also inquired about the multifamily requirements. Mrs. Robidoux explained those requirements are new and do not mirror the requirements found in other zones. Mr. O'Connor felt there should be some height restriction on the multifamily.

Mrs. Donovan explained the topography in this area is hilly and, in some cases,, on the west side of Route 28, the land dips down. The thought was that height may not be an issue on those lots as a taller building constructed in the low area would not be seen from the road. The same is true for 2 Island Pond Road. Mr. O'Connor wondered if the six unit maximum for multifamily would mean that there would be one store with six units above it. Mrs. Donovan did not think anyone would construct a residential tower. There are two hotel groups looking in Derry for property. If something like that were to go in the bowl area along Route 28 at 4-5 stories, it would not overwhelm the landscape.

Mr. MacEachern stated he was not in favor of mixed use with multifamily or single family. Mr. O'Connor agreed. Mr. Chirichiello said the Board needs to discuss this further. There are longtime residents who have moved out of town because they could not find the housing they needed in town. Mrs. Donovan added people living on 3 acre lots in a 4 bedroom home looking to downsize do not have any options in town for a smaller house, on one floor. Mr. O'Connor suggested addressing that issue by changing the density requirement from 3 acres to 1 acre in East Derry so that people can build smaller homes; the town should not be allowing residential uses on land zoned commercial. Mr. Leavitt agreed. Mr. Chirichiello reiterated this would be mixed use. The residential could be to the back, along the residential zone line. People are moving out of town because they cannot find the housing they need. Mr. MacEachern felt the town had the type of housing people are looking for, it is just not for sale. Mr. Chirichiello said people are looking for a two bedroom, ranch style home with a two car garage, about 1500 square feet in size, with air conditioning. They want nicer quality with amenities. Mr. Leavitt noted the regulation does not specify the homes have to be one story. Mr. Chase added no one will build a ranch style home behind a restaurant. Mrs. Donovan said that is what is being constructed in the second phase of Woodmont. It is also being constructed in Hudson and Litchfield. The homes have a first floor master suite with a second floor loft. This is what people are looking for and not finding. Mr. Chase maintained Mrs. Donovan has not seen what has been done in Derry over the years. If commercial and residential mix so well, then people would be putting stores in residential neighborhoods. Mrs. Donovan said residential is only allowed in this district as part of mixed use; it has to be part of the master plan for the site.

Mr. MacEachern asked what property will be able to do that, other than 2 Island Pond Road, 120 Rockingham Road or 74 Rockingham Road. Anyone else would need to purchase clusters of lots and the lots are not shaped properly to do this. Nothing can be put on the six lots on the west side of Rockingham Road once you are past Clam Haven. The Butterfield family has two lots that are not large enough for a mixed use development.

Mrs. Donovan said 74 Rockingham Road is a prime example of why the proposed zone is written the way it is. The land has not been developed because there is a lot of wetland and ledge. There are two spots where the land could be developed, but there is only one spot where a road could be constructed. Engineers have looked at this lot and created concepts. Mixed use could go on this lot, but the highest and best use may be a five to six unit single family node, or a 2500 boutique bank along the front. Mr. MacEachern said because of the wetland, a developer may not even be able to put homes there. The land is currently in the General Commercial IV zone and has 27 acres. 2 Island Pond Road and 120 Rockingham Road could possibly put medical/professional office with single family behind it. The Board noted 2 Island Pond Road has about 21 acres; 120 Rockingham Road is about 48 acres in size.

Mrs. Donovan advised developers are looking at other lots in the Opportunity Zone on the west side of Route 28. Ideally, the lots on this side should preserve the historic nature of the existing buildings in any development of the lots. In this area it is possible to site a hotel, restaurant pad site, a few banks, and first floor retail with market rate housing above. The owner of the land is interested in the available opportunities, as are other landowners in the area. Mr. MacEachern said without changing the zone, a developer could put a hotel, bank, and day care on those lots. Mrs. Donovan explained residential use brings in the dollars when one is talking about mixed use. Hotels and retail uses have changed over the years. Developers look to be part of a mixed use project because the amenities become part of the whole site. Residential is included because it becomes part of the overall income for the site. Malls are now adding residential components; this is how the formulas are working now. Mr. MacEachern asked if the town allows multifamily and single family in this area, it is possible the town could get a hotel on an 11 acre lot. Mrs. Donovan said it opened the possibilities up for the owners of the land. The lots become more marketable. Mr. MacEachern said if a hotel is looking to anchor near a residential component, there are 800 apartments right next door. Mrs. Donovan explained the point is to maximize the value of the investment by building a residential component. Hotels that would look in this area would have between 84-96 rooms; those can survive on 2-4 acres of land. The developer then might add a mixed use with market rate apartments above that will capitalize on the investment.

Mrs. Davison thought this was similar to what is seen at resorts in Florida where residents in the area can share the amenities of the hotel such as the pool, etc. This provides an alternative for people who are aging out of the three acre colonial lots. They can walk to a store or health club and not leave the neighborhood.

Mr. Chase said he could see having buildings with commercial on the first floor and residential on the second floor. He cannot see where single family residential fits that model, especially on these lots. If people want to downsize from colonials, they do not want to be next to a bank or hotel. They will want a ranch style home, on their own lot. Mrs. Donovan stressed single family

would not be constructed under this proposal unless it is part of a commercial plan. Mr. Chase cited the Londonderry development when there were two phases of residential use, and the first phase blocked the second phase from being constructed. He could envision multifamily as part of mixed use, but not single family. He cannot single family residential in this zone.

Mr. Granese said given the late hour and the icy weather conditions this evening, the Board will continue the workshops to March 06.

There was no further business before the Board.

Motion by MacEachern, seconded by Davison to adjourn. The motion passed with all in favor and the meeting stood adjourned at 9:24 p.m.
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Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

Approval date: \_\_\_\_\_