

The Planning Board for the Town of Derry held a public meeting on Wednesday, February 20, 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; Frank Bartkiewicz, Maya Levin, James MacEachern, Members

Absent: Mark Connors, Randy Chase, Brian Chirichiello, Matthew Leavitt, Elizabeth Carver

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning and Economic Development Assistant; Mark L'Heureux, Engineering Coordinator; 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.

Escrow

#19-05

Project Name: Villages at Oakwood

Developer: Lifestyle Homes of Derry NH

Escrow Account: Same

Escrow Type: Performance Bond

Parcel ID/Location: 08039, 42 Tsienneto Road

The request is to establish a performance bond in the amount of \$1,418,006.74 for the above noted project. Bond #GM200101 – Great Midwest Insurance Company.

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

#19-06

Project Name: Kendall Pond Apartments

Developer: DJ Development LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 24037, 19 Kendall Pond Road

The request is to approve Release #3 in the amount of \$17,949.60 and request a replacement Letter of Credit in the amount of \$6,804.00 for the above noted project. Upon receipt of the

replacement Letter of Credit, the Board will release Letter of Credit #82248751 in the amount of \$24,753.60.

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

Minutes

The Board reviewed the minutes of the February 06, 2019, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the February 06, 2019, meeting as written. The motion passed with Levin abstained.

Correspondence

None.

Other Business

Terms of Members

Mr. Sioras reminded the Board members that if they have terms expiring on March 31, 2019, they will need to contact Sheila Bodenrader in the Town Administrator's office if they want to request re-appointment.

Presentation of the FY2020-2025 Capital Improvement Plan

Town Administrator David Caron presented. The Capital Improvement Plan is a planning document used for long term budgetary planning. The Board has in their packets a copy of the proposed six year plan, beginning in Fiscal 2020. Town Departments submit their requests to the Finance Department which reviews the projects based on the level of existing service and available revenue. Once the CIP is compiled, the Town Administrator reviews the draft and presents it to the Planning Board for recommendations. The Town Council then adopts the plan as is or with amendments.

Projects for Water/Wastewater are generally funded through its customers or from the State Revolving Loan Fund for large projects. Cable projects are funded through the cable franchise fees paid by cable customers; the majority of town projects are funded through the capital reserve funds, or trusts, which are replenished annually through a transfer from the unallocated fund balance (general fund surplus). Traditionally, the CIP has been funded with an annual transfer of \$1,500,000.00 from the general fund surplus to the Capital Reserve fund. The Town is trying to move away from reliance on the general fund surplus because it can be very

unpredictable. In FY2019, the Town began to budget a \$250,000 appropriation in the operating budget for capital improvements to assist in decreasing the reliance on the unfunded balance. The long term goal is to eliminate reliance on the unallocated fund balance to fund capital improvements.

In Fiscal 2019, 20 out of 21 projects in the CIP were included in the FY2019 budget. It is anticipated that \$1.27 million will be transferred this cycle to the capital reserve funds which would include the \$250,000 budget appropriation. The long term projections had been structured on 1M per year.

This year, the Police Department has an increase to \$13,169,549. This includes plans to replace the existing facility which was constructed about 30 years ago. It is not anticipated that will happen within the next several years. Also included in this CIP is a \$1 placeholder to relocate some of the fire stations. Because of the tax cap, it is a challenge to fund these types of requests. The town needs to find a reasonable funding source for these large capital projects, otherwise the projects get pushed out to year five or six of the plan. Water/Wastewater requests a total of \$9,855,800, but is self-sustaining. Included in this amount is \$1.2M for Manchester Water Works. The Town has a commitment for the upgrade of the Cohas Pump Station. Derry receives a preferable rate and this commitment is part of the agreement with Manchester Water Works. Sewer is at \$6M and DPW is at \$13,055,000; of that \$1.4 M is raised annually for road reconstruction. Cable is at \$750,000. The Fire Department is requesting \$5,326,002. The majority of that is for replacement of equipment, apparatus and vehicles, and EMS training equipment. The Fire Department does not need to replace apparatus frequently, but when it does, it is costly. The Department took delivery in FY2019 of a Quint (small ladder truck); that cost \$950,000. In General, \$2.8 M is predominantly for Buildings and Grounds to plan for repairs of municipal buildings and includes additional revenue in the event an emergency arises. Last year, the generator at Station 2 failed and had to be replaced. The balance in General is for Information Technology projects over the next six years.

In major projects for FY20, the plan includes amounts for Police cruiser replacement, Fire Department cardiac monitor replacement and mobile radios, DPW pavement management, Highway, Parks and Rec and Cemetery trucks and equipment, water main upgrades and the Cohas Pump Station upgrade, Cable broadcast servers and HVAC replacement/upgrades at the Municipal Center, Derry Public Library, Central Fire Station and Police Station. The HVAC system is older; the estimates for the repair/upgrade is \$450,000. That will likely be funded by a 10 year bond. \$100,000 is being allocated to replace the scales at the transfer station. The 25 year old scales broke this year and need to be replaced. The scales are used to measure the revenue.

Mr. Granese asked with regard to a new Police station. Is there any thought in combining the Fire and Police Departments in one complex? Mr. Caron said they are considering it. Last year, they began the process by reviewing Fire Department response times. They now need to consider the size building required for Police functions. The current building is too small. The Town will maintain a joint maintenance facility but may not be able to have the Fire and Police Departments in one building.

Mr. O'Connor asked with regard to the Water/Waste Water Enterprise Fund. With the push to bring water to the towns south of Derry on Route 28 within the next five years, is there consideration in the CIP to expand town sewer down Route 28 to further economic development efforts and get better uses on some of the lots? The soils are poor and sewer will allow opportunities for better development. Mr. Caron explained at the state level, there is a move to bring Manchester water south on Route 28. There will be a wheeling charge which will generate revenue. The town will need to develop a policy which will dedicate money to Wastewater for that expansion and for operating costs.

Mr. MacEachern requested a copy of the slide presentation be sent to the Planning Board members.

Mr. Granese asked if one of the vehicles to be replaced for the Police Department was a support vehicle. Mr. Caron confirmed it was in the plan.

There were no further questions or comments. Mr. Caron advised this CIP will be presented to the Town Council at the beginning of April. If the Board members have any additional comments or questions, he encouraged them to reach out to him.

Schedule Public Hearing – Zoning Amendments – Section 165-33, CBD and Section 165-49, TBOD

Mr. Granese said the Board has held several workshops and discussions on the proposed zoning change. Mr. MacEachern recalled the Board members had been tasked to review some of the categories in the zone. Mr. Sioras explained that was for the Office Business District expansion; the continued workshop will be on March 6 for that discussion. Tonight, the Board is discussing removing the second floor restriction from multifamily in the Central Business District and the Traditional Business Overlay District.

Motion by MacEachern, seconded by O'Connor to schedule a public hearing on March 06, 2019, to amend Article VI, District Provisions, Section 165-33.B.5.b.iii (Central Business District), and Section 165-49.B.1.b (Traditional Business Overlay District), Permitted Uses. The purpose of the amendment is to allow residential uses in the Central Business and Traditional Business Overlay District on the second floor of a mixed use building.

Levin, O'Connor, MacEachern, Davison, Bartkiewicz and Granese voted if favor and the motion passed.

Mr. Granese confirmed there is no individual notice to property owners for this amendment.

Public Hearing**Pennichuck Water Works, Inc.
PID 10062-020, 8.5 Richardson Road
Acceptance/Review, Amended Subdivision
To designate a lot as buildable**

Mr. Sioras provided the following staff report. The Planning Board heard this application last September. This is an old well lot on Richardson Road. The purpose of the plan was to amend the 1985 Planning Board approval by removing the restriction that the lot is not a buildable lot and identify it as a lot of record for residential development. The water system wells have been decommissioned and the area is supplied by the Maple Haven System. This plan was before the Planning Board in September of 2018. The vote was deadlocked at 4-4 which is a failed vote. Mr. MacEachern and Mr. Connors at the time suggested the applicant go to the Conservation Commission. The applicant went to the Conservation Commission in January; the minutes are attached. The Commission is not interested in acquiring the lot as it is less than 10 acres in size and recommended the Planning Board approve the subdivision.

Donald Ware, Chief Operating Officer, Pennichuck Water Works, presented. The history of the application is as follows. They came before the Board last year after they went to the ZBA in June of 2018 and requested a variance to allow frontage at 50 feet which allows the lot to be recognized as a buildable lot. They went to the Planning Board in September. The Planning Board at that time had a concern that the plan had not been before the Conservation Commission. The Planning Board recommended they go before the Conservation Commission to see if the Commission had any interest in the lot, objected to the plan, or had items under their purview relative to the development of the lot. They were before the Conservation Commission in November, December, and January. The Commission did hold a site walk of the property. The Conservation Commission has stated they have no interest in the property. The Commission did review the setback from the wetlands. With regard to setbacks, all state and local requirements are met. The Conservation Commission has no objections to this plan moving forward.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the application before the Board for Pennichuck Water Works, Inc., PID 10062-020, 8.5 Richardson Road.

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

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

Susan Buck, 6R Richardson Road, stated several of the abutters have concerns about the construction of a single family home in this area. All of the homes are condexes and a single family home would be out of character with the neighborhood. She is not sure this lot would have been able to be considered buildable in the 1980s. She showed the Board a picture locating the Cole Marsh and the old well. There are no homes anywhere near the Cole Marsh. The

Conservation Commission discussed the location of the driveway easement for this lot and she does not feel the driveway will be large enough to accommodate two way traffic or EMS if they need to access the lot. The Board needs to consider the width of the driveway; two cars cannot pass at the same time. With regard to wildlife, she has observed or seen the tracks of the following: coyote, deer, fox, barred owl, an otter, great blue herons, hooded mergansers, Canada geese, wood ducks and bobcat; there are also beaver and turkeys in the area. A single family home will interfere with the passage of the animals on this lot. This is not a ten acre lot which is the Conservation Commission minimum, but the Cole Marsh is adjacent to the lot. One of the abutters (24 Damren Road, 24 acres) has no plans to develop near the pond. This is a nice area of greenway that can be used as habitat and for recreation. On 94 Louise Way (27 acres), the other lot abutting this lot to the rear, a single family home is being built but the rest will be left for recreation and wildlife. She understands Pennichuck has a burden with respect to paying the taxes and she recalls the company pays around \$6,0000 in taxes each year for the lot. She suggests they donate the lot to the town as a gift; the company might receive a tax benefit. She does not feel the only option is to sell the property. The neighbors enjoy the quiet and the wildlife and she feels it is an imposition to have this property developed.

Bill Reinelt, 10L Richardson Road, also has concerns if a home is built on this lot. Once the lot is sold, the homeowner is the only one who will be able to access the land. He believes the neighborhood might then have issues with dirt bikes and ATVs on the lot as any potential owner who purchases a 6 acre lot is likely to have that type of vehicle. He enjoys the quiet. The driveway will go right by his deck. Pennichuck had put a gate up to keep the dirt bikes off the road, but there will not be a gate for a home.

Judith Arnold, 236 Hampstead Road, has concerns with the pond and the proximity of the home to the pond. There will now be a road going back toward the pond. There is already enough development in the area. No one wants a house in the middle of the woods. There will be lights on at night and noise. The wildlife will be disrupted. She does not feel anyone wants this approved and Pennichuck should find another way to deal with their problem. Maybe they should donate it to the town. It will be a nightmare to have a driveway between two homes on 50 feet of frontage. She could not build another structure on her lot, and she has 200 feet of frontage. The rules should not be changed on a whim.

Deborah Heckman, 8L Richardson Road, said in order to develop the lot, they need to clear trees and create a cellar hole. This will destroy wildlife habitat. Adding 6 acres of conserved land is a good thing and will add space for the wildlife to live. She does not feel anyone wants wall to wall houses in the town.

There was no further comment.

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

Mr. MacEachern commented the ZBA placed the Planning Board in this position. He feels there should be a site walk. He would like to see the property.

Motion by MacEachern, seconded by Bartkiewicz to hold a site walk. Discussion followed.

Ms. Davison thought it would be a good idea to hold a site walk as she does not understand the access and someone has mentioned it will be very narrow. Can the Board hold a site walk this time of year? Mr. O'Connor asked if there is a site walk, that areas be marked out.

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

Mr. Granese asked if DPW had any issues with the plan. Mr. L'Heureux advised the applicant fulfilled all of the obligations requested by DPW for this plan.

Mr. O'Connor confirmed the access to the lot is through a driveway not a road and thought given the length of the proposed driveway, there would need to be a turnaround at the top for fire apparatus. Mr. L'Heureux agreed the driveway length dictates how the driveway is constructed with regard to width and whether a turnaround is required. Mr. O'Connor asked if this plan triggers the change of addresses for Richardson Road. Mr. Granese explained the Fire Department had previously advised the Board it would not move forward with the address changes at this time. Mr. Sioras added the state will eventually change the addresses when all addresses become compliant with E-911.

The Board discussed a date for the site walk. They would like to see the centerline of the driveway marked out, the four corners of the proposed home staked out, as well the corners of the proposed leach field. Mr. MacEachern was especially interested in seeing the location of the wetland setback and questioned whether the proposed leach field was more than 75 feet from the wetland or more than 150 feet from the wetland as this is a prime wetland. Mr. Sioras said the setback needs to be at least 150 feet from a prime wetland. Mr. Ware pointed out the wetland boundary and the 150 foot wetland setback on the plan. The setbacks meet the requirements. Mr. MacEachern said he wanted to be able to have a sense of the elevation where the leach field would be located.

Mr. Ware explained he would need time to have the property staked out. The proposed driveway follows the existing gravel access and would need to be cleared. It goes along Parcel 10062-006R and transverses an easement. It terminates at the old pump station which is the proposed location of the house. The tree line is noted on the plan and the Board can see what area of the lot is cleared. He advised the staking of the lot would not be done prior to this weekend. Mr. Sioras suggested the Board continue the public hearing to March 20, which would give the Board time to hold a site walk. The date can be voted upon at the next meeting once Mr. Ware has a better idea of when the lot would be ready to be viewed by the Board.

Motion by MacEachern, seconded by Bartkiewicz to continue the public hearing to March 20, 2019, pending the site walk.

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

Mr. MacEachern confirmed if a Board member could not attend the site walk they could access the lot.

Mr. Granese stated the Board should have a site walk date and will discuss it under Administrative Business at the next meeting which is March 6. They will vote on the date of the site walk at that time. The site walk will be held on either March 9 or March 16.

Linda Rutter

PID 06058, 52 Lane Road

Kathleen B. Brooks Rev. Trust

PID 06058-001, 32 Lane Road

Acceptance/Review

Two lot subdivision and lot line adjustment

Mr. Sioras provided the following staff report. This is a unique plan. The Board saw the lot as part of a frontage subdivision last year. The applicant is back to create another lot. She was granted a variance to allow a single lot off Fox Hollow Road. The zone is Low Medium Density Residential which requires 2 acres per lot. All departments have reviewed and signed the plan and there are several waiver requests. Staff recommends approval of the waivers and the subdivision and lot line adjustment plan. NH DES Subdivision approval has been received and is in the file. He has spoken with several of the abutters who have some questions about the plan.

Tim Peloquin, Promised Land Survey, presented for the applicant who was also present. Mr. Peloquin advised the plan has been before the Board previously when the applicant subdivided off four lots on Lane Road and left an existing homestead with a large tract of land containing over 30 acres. At that time, the Board was advised the applicant would come back with a subdivision plan to create a lot to the rear with access through Fox Hollow. A variance was required even though the lot has the required 150 feet of frontage. The access to the lot is off of Fox Hollow which currently ends in a cul de sac. The right of way goes to the edge of the lot but was not constructed past the cul de sac. The Town Council officially dedicated that remaining right of way as a Class VI roadway, and then the ZBA granted a variance to allow access off of the Class VI road. The existing home at 52 Lane Road will be subdivided off on 2.78 acres of land. The Rutter family desires to build a home on the rear lot which will be designated as 06058-010. This lot will contain 34.96 acres. Approximately 19 acres will be placed in a conservation easement and donated to the town. This will leave approximately 15 acres for the residential development. On the north side of the existing lot, they are proposing a lot line adjustment of about 2.38 acres which will be added to lot 06058-001. The Rutters have allowed the owner of that lot the use of the land for a horse pasture. The lot line adjustment will clean up the lines and transfer the land to the owner of 06058-001, Kathy Brooks.

Mr. Peloquin directed attention to Sheet 4 of the plan set which shows the driveway detail. This shows the extent of Fox Hollow. The intent is to construct a single family home facing the woods pond and a 600 foot long driveway. The applicant has offered to place a vegetated buffer near the existing stone wall to act as a screen for the owner of 8 Fox Hollow Road, Loren

Thompson. The trees should block headlights coming from the new driveway onto Fox Hollow. They had to squeeze the driveway in between the wetland and stone wall. Knowing the headlights will face the house, they wanted to help maintain the privacy of the abutters who have been enjoying this area for a number of years.

With regard to the waivers, the front lot has a new septic system so there is no need to do a test pit for that lot. The rear lot is greater than 5 acres so a test pit is not required by the state. When they prepare a septic plan for the new lot, they will perform test pits at that time. HISS mapping does not gain a lot on lots of this size.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the two lot subdivision and lot line adjustment application before the Board for Linda Rutter (PID 06058), 52 Lane Road, and Kathleen B. Brooks Revocable Trust (PID 06058-0010), 32 Lane Road.

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

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

Loren Thompson, 8 Fox Hollow Road, advised she had submitted a letter with photos to the Board prior to the meeting. It was confirmed that correspondence was included in the member packets. She explained the driveway goes through what she thought was her property. She thought she owned the land to the stone wall and has been using the property as if it were her own. She has several concerns with this project. The installation of the driveway will be closer to her and not on the other side of the right of way which is all woods. Why does this need to hug her driveway if the road is 50 feet wide? The driveway will run along her driveway and circle her backyard. That is what they are trying to buffer – her backyard. There needs to be a buffer for all of her yard, otherwise it will look like she has two driveways – one that stops at her driveway and one that goes behind the house. She wanted to know if the right of way would be cleared of all trees for 50 feet, or just for the width required for the driveway which is 16 feet? If the entire width is not cleared, who is responsible when trees fall? The area gets wet during heavy rains and trees do fall. If her driveway floods, who is responsible for that? There is natural drainage there now that goes under her driveway; this project will add water to the area. She would like the right of way placed further from her property to allow room for plowing and drainage and a potential fence. Where will the power lines go – underground or will there be lamp posts along the new driveway? What happens to the temporary cul de sac once the road is constructed? That area was supposed to revert back to lots 6, 8 and 9. What is the timeline for completion of the driveway/road? The construction is going to be disruptive.

Mr. O'Connor confirmed the location of Ms. Thompson's lot and that she has a swimming pool with a few shrubs and fence around it. Mr. MacEachern confirmed Ms. Thompson moved into this home in 1993 and there has not been any expansion of the right of way since that date. Ms. Thompson explained in 1993, the listing said her property was surrounded by conservation land and the cul de sac was created because the road could not go back as far as the wetland. She thought she owned to the stone wall and has been using that land. The area is graded and

landscaped; it was like that when she purchased. It is concerning to her that she will have a driveway that will now go around her backyard; it will look odd because there is all this land around it.

Steve McMaster, 49 Lane Road, understood the concerns cited by Ms. Thompson. With regard to the proposed arbor vitae screening, who will replace those trees if they die? He noted the driveway is proposed to be gravel; that is going to be loud when it is plowed. Ms. Thompson has already discussed the sheet flow of water across her driveway if it is directed that way, are there any utility easements proposed? He has a particular concern about the logging operation that is taking place on 52 Lane Road. He is aware the owner has an Intent to Cut in place and wonders how much is planned to be cut. There are many fingers of wetlands on this lot. Are there any wetland crossing permits in place for this cut? The water sheet flows from East Derry Road behind the lot to Lane Road; will this sheet flow be disturbed? Did the wetlands get delineated before the logging began? The logger was dropping off equipment tonight when Mr. McMaster was on his way to this meeting. Based on the equipment, it is a fairly large operation. Will the logger maintain the buffer zones to the wetlands? How open will the woods be after the cut? They will need to cut the area near the pond for the house. Will they use erosion control? Equipment can break and leak. When the ground is not full of frost, it would not take much to have equipment disturb the ground and the existing sheet flow. His lot is on the downside of this operation. What is the protocol for dealing with the invasive species that are likely on this lot? Where will that go? The property bounds along the rear lot lines of the homes that were just subdivided have not yet been set. Will the logger stay off those properties? There is a high water table in this area and soils are not great. The water is not draining now; it is going down slope. He is most concerned with the drainage issues and does not want a contaminated well. There are erosion issues on the other subdivision which are affecting his property now.

There was no further public comment.

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

Mr. Peloquin addressed some of the questions and concerns raised by the abutters. The logging operation is outside of what is before the Board. Logging is permitted in a separate area. Code Enforcement would need to verify compliance with those permits. The Conservation Commission is aware of the logging operation as there will be an easement on that property. Charlie Moreno is the Forester managing the logging operation. He is the State Forester; it is assumed the operation will be done well and in the correct manner.

Mr. Granese asked if the trees will be removed abutting the pond or abutting the lots along Lane Road. Mr. Peloquin said they will be removed along the backside of Lane Road. All of the bounds should be set along those property lines and not bonded so that people know where those bounds are. The logging operation is taking place on the entire 33 acres. He does not believe the entire 33 acres will be clear cut. The wetlands have been flagged and marked; there are rules that apply when someone cuts near a wetland. They will not be able to stump the land. The logging operation will be governed by the rules relating to logging operations.

Mr. Granese said he was asking the question because of erosion along 06058-005, 008 and 010. The land does slope down toward those lots and he believed if trees were removed, there was a requirement for erosion control. Mr. Peloquin said because they are not stumping the land they won't need to install erosion control. The logging is planned as a selective cut. This allows the forest material to come up. This will not become a field. Smaller trees will now be allowed to grow. This is a good thing for the forest. He assumes the Forester will take care of the invasive species per the state standards and regulations. With regard to the driveway on Fox Hollow, it is planned in the center of the right of way. The utilities will be installed on the north side of the driveway edge, within the shoulder. The utilities will be underground. The only clearing that will be done is what is necessary per these plans. There are areas that will need to be regraded within the 50 foot right of way. The driveway will meet the town regulations and be able to accommodate the fire department apparatus and have a turnaround. The home will be located 600 feet into the woods. Mrs. Rutter has hoped to live there for many years. The lot will not be fully developed; they are adding one home on 33 acres. With regard to the timeline for the driveway, the project is planned to be constructed this year, likely during the spring and summer. The first 40 feet of the driveway will be paved; the rest will be gravel.

Mr. Granese asked what would happen if the arbor vitae died. Mr. Peloquin said they are putting them in as a gesture of good faith; that is hard to regulate. The intent is to be accommodating neighbors. He would hope the neighbors could discuss this if there was an issue. The driveway does run parallel to Ms. Thompson's driveway. There is also a turnaround. There is unintended encroachment by the neighbors, but this plan does not intend to bother what the neighbors have enjoyed for all these years.

Mr. MacEachern asked with regard to the driveway in the middle of the 50 foot right of way. Why can't it be moved to the north away from Ms. Thompson? Mr. Peloquin felt that was a fair question. He directed the Board's attention to Sheet 4. North of the beginning of the driveway they would have to grade on the other property and drainage from the cul de sac would go through there. They worked with Public Works to extend the culvert to improve the drainage. There is not a lot of room to move the driveway.

Mr. MacEachern asked about the 25 foot private way off Lane Road that is an additional access for 52 Lane Road. Why can't that be used for the driveway? Mr. Peloquin explained a wetland crossing would be required.

Mr. MacEachern asked why they would not use the existing driveway for 52 Lane Road, extend it and create an access easement? Mr. Peloquin said shared driveways are not allowed per the town regulations. Lots need to have access through their own frontage. The owner would also prefer to not drive by her former home each time she used her property.

Mr. L'Heureux advised the applicant has satisfied the requirements. The driveway has been laid out in the correct location; it has to skew around wetlands and property bounds. They wanted to make sure there was no impact to the wetland and if they need a retaining wall to make sure they don't dredge into the wetland. A Class VI road is accessible to the public who can pass over it; but this is essentially a driveway to the new lot. The town will not maintain the driveway. The public can use the right of way to the property line.

Mr. MacEachern noted this is a large lot, but the area is tight relative to the home location and the wetlands.

Mr. Peloquin said they added Note 13 to the plan to state the driveway can only be laid out by a Licensed Land Surveyor. It may look tight, but the plan scale is small. There are acres of upland near the proposed house location. They did not want to impact any wetlands and will go along the stone wall for about 100 feet.

Mr. MacEachern felt Mr. Peloquin did a great job with the plan, but this is a tight area. He would like to walk this lot as well to see what the abutters are talking about, but he does not want to hold anyone up.

Mr. L'Heureux had comments relative to what had been expressed by Mr. McMaster. Mr. McMaster is correct in that the rear lot bounds have not been set for the new lots on Lane Road. It would be advantageous to require the applicant have those lot lines marked out so that the logging operation does not go onto property that is not owned by the applicant and to make sure there is no erosion in the wet area. Logging operations are not overseen by the town directly; but the forester has a responsibility to not cause siltation. If any issues arise, someone would contact the forester to repair it.

Mr. O'Connor asked if Mr. L'Heureux was satisfied with the 15" pipe under the driveway. Mr. L'Heureux felt it would be adequate. They like to make sure they are continuing the same alignment and he will review this during construction to make sure it is installed correctly.

Mr. Peloquin asked to address the request to require a buffer around 8 Fox Hollow. This application is for one house lot on 33 acres. That is a significant buffer. This proposal has gone through the right channels. They tried to make some concessions and are trying to be good neighbors.

Mr. Granese asked if there is anyway to address Ms. Thompson's issues along the driveway. Mr. Peloquin explained additional screening along the right of way would be a town issue.

The Board discussed holding a site walk on the same day they walk the Pennichuck property.

Motion by MacEachern, seconded by Bartkiewicz to hold a site walk on a date to be coordinated with the walk on the Pennichuck property. Discussion followed.

Mr. O'Connor stated the street is a paper street owned by the town and did not believe the Planning Board does not have purview on the road. Mr. Sioras confirmed the road is town owned. Fox Hollow was constructed in the 1980s, and that portion beyond the cul de sac was left as a means of access to the Rutter property. Mr. MacEachern added the Board used to leave right of ways to provide for additional ways into lots. This issue comes up every so often.

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

Mr. Granese asked if there were any other concerns. Ms. Thompson clarified her concern with regard to the screening. The driveway runs parallel to her driveway and cars will travel close if they come down the driveway. She would like screening where the land is already graded, not necessarily near the stone wall. Mr. Granese said the Board would look at this during the site walk.

Mr. McMaster said he knows this does not pertain to this meeting, but the logger will be on site in the morning. His main concern is the wetland impacts if the cut is done without erosion control. There will be some rutting if they are driving over certain areas multiple times. What kind of mess will be left behind? How will his land and his well be protected from the oils from the vehicles? He knows this is not under the Board's jurisdiction but this is part of the plan before the Board tonight and it concerns this property.

Mr. Peloquin reaffirmed they will reexamine the buffer along the driveway during the site walk to see if there is a better area for screening. With regard to the trees, Charlie Moreno should be doing the right thing; this is outside of Mr. Peloquin's purview and that of the Board. Mr. O'Connor confirmed Mr. Moreno has a well respected reputation throughout the state. The Conservation Commission hires him on occasion. Mr. Moreno is performing a selective cut and will be on top of any erosion issues and will regrade any areas necessary after completion of the operation.

Mr. Granese advised the site walk for the Rutter application will be held on the same day as the site walk for 8.5 Richardson Road.

Motion by MacEachern, seconded by Bartkiewicz to continue this public hearing to March 20, 2019.

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

The Board will have a site walk date finalized for both projects on March 6.

Solid Gold Investment Group, LLC
PID 03096-002, 6 Frost Road
Acceptance/Review
Two Lot Subdivision

Mr. Sioras provided the following staff report. The property is located on Frost Road, at the top of what is known as Ryan's Hill. The purpose of the plan is for a two lot subdivision, located in the Low Density Residential District. There are two existing buildings on the lot and this plan will have each building on its own separate lot. All town departments have reviewed the plan and signed it. There are several waiver requests. The plan essentially places a lot line between the two buildings. State subdivision approval is pending.

Tim Peloquin, Promised Land Survey, presented for the applicant. Mr. Peloquin provided a brief history of the property. The property was intended to be subdivided back in 2009. On November 19, 2009 a variance was granted to allow a two lot subdivision, creating a 1.03 acre lot, where there is a 2 acre minimum. He directed attention to Sheet 3, Note 1. The subdivision plan was prepared per the variance and approved by the State of New Hampshire, but Planning Board approval was not secured, which was a condition of the ZBA approval. These plans fulfill that purpose. The lot was under one owner for many years and contains a duplex and an auto garage facility. The current owner would like to subdivide the property and sell the units as a condex. The garage would be on its own property. Sheet 2 depicts the duplex which has its own well. This well currently services the duplex and the auto garage. As part of the approval, it is understood that the garage building will need to connect to the municipal water supply. The garage will have its own septic system. Currently, the garage is serviced by a holding tank, but a new septic system will be installed. They did field locate the wetlands, but would like a waiver to not flag the wetlands because the lots and structures already exist. They do not believe there will be any encroachment on the wetlands.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the two lot subdivision application before the Board for Solid Gold Investment, LLC (PID 03096-002), 6 Frost Road.

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

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

William West, 21 Frost Road, requested a restriction be placed on the auto garage with regard to the maximum number of vehicles and type of operation allowed. The lot is commercial, but the rest of the road is residential; he does not want to see a used car lot there, especially given the proximity of the lot to the wetland. Mr. Granese believed they could not increase the existing number of vehicles.

Mr. Sioras explained the commercial zone used to be 600 feet back from the centerline of Rockingham Road. The automobile use was allowed in the 1980s. In the 1990s that was changed and the use became a legal, non-conforming use. The owner of the garage cannot expand the business. He suggested Mr. West speak with Mr. Mackey or Mr. Wentworth in Code Enforcement to make sure the garage is not operating beyond what it should be; that is beyond the jurisdiction of this Board. Mr. West was concerned they could expand when this was separated. Mr. Sioras said because the lot is no longer a commercial lot, they cannot expand.

There was no further public comment.

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

Mr. MacEachern felt this was a fairly straightforward application.

Mr. L'Heureux said Public Works had no real issues but two existing lots with occupants are unusual for a subdivision. They will need to connect to the town utilities. It is important to note this is a conditional approval. For final approval the lots will need to be dependent upon their own utilities before the Board can sign the final plat. The town needs to guard against the utility connections not being completed.

Mr. Peloquin advised he has spoken with Mr. L'Heureux and felt the request was reasonable and understandable. The customer knows the utility connection needs to be built, not bonded, prior to the signing of the plat.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-24.A.12, HISS mapping and Section 170-24.A.13, Wetland Mapping as after review of the wavier requests, 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.

And to grant a waiver from LDCR Section 170-26.16.a. & b, Driveway Design and Construction Standards, and Section 170-31.A, Installation of Underground Utilities, as after review of the waiver request the Board finds specific circumstances relative to the plan or the conditions of the land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations.

Levin, 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,I, Completed application, 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, provide water service detail on the plan, noting the size of the water service (1" copper), water service to be constructed to Town of Derry specifications, each lot has to be serviced individually by its own water and septic service prior the final execution of the plat, water/oil separator required for the garage, note approved waivers on the plan, subject to receipt of state or local permits relating to the project, the above conditions to be met within 6 months, a \$25.00 check, payable to the Rockingham County Registry of Deeds shall be submitted with the mylar; submission of the appropriate recording fees, payable to the Town of Derry.

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

Public hearing to amend Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to move five (5) parcels from the Central Business District to the Medium High Density Residential District and to move six (6) parcels from the Medium High Density Residential District to the Medium High Density Residential II District.

Mr. Granese noted the Board has held several workshops on this proposed change. Mr. Sioras explained there are two reasons to support the change. This change will facilitate development of the five lots located on Elm Street and Maple Street. The lots will be able to be marketed and redeveloped. For the six lots, they were missed when the Board removed multifamily use from the area. This will clean up that oversight.

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

Craig Savoie, owner of 42, 42.5 and 44 Hillside, wanted to confirm his lots were grandfathered. He wants to redevelop the lots as single family. Mr. Granese pointed out the location of the lots with regard to the rest of the MHDR II district. The lots should have been included when that zoning change occurred. This cleans up the zone. MHDR II does not allow multifamily, but single family is a permitted use. Mr. Savoie had no issues with the proposed change. Mr. MacEachern added the lots all around this area used to allow multifamily and it was changed a year ago. These were the few lots that were left off the list.

There was no further public comment.

Motion by MacEachern, seconded by Bartkiewicz to close the public hearing. The motion passed with all in favor and review of the proposal came back to the Board.

Motion by MacEachern, seconded by Bartkiewicz to forward the following amendment to Town Council for consideration and approval – amend Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to move five (5) parcels from the Central Business District to the Medium High Density Residential District, and to move six (6) parcels from the Medium High Density Residential District to the Medium High Density Residential II District.

Purpose of the amendment: To allow for the best and highest use of the properties moving to the Medium High Density Residential zone and to correct an oversight during a previous zoning change for the parcels moving the Medium High Density Residential II district. The parcels are as follows:

<u>Parcel ID</u>	<u>Address</u>	<u>Current Zone</u>	<u>Proposed Zone</u>
29128	19 Elm Street	CBD	MHDR
29150	34 Maple Street	CBD	MHDR

29149	18 Maple Street	CBD	MHDR
29129	15 Elm Street	CBD	MHDR
29130	13 Elm Street	CBD	MHDR
29086-003	44 Hillside Avenue	MHDR	MHDR II
29086-001	42 Hillside Avenue	MHDR	MHDR II
29086-002	42.5 Hillside Avenue	MHDR	MHDR II
29101-001	8 Elm Street	MHDR	MHDR II
26092-001	54.5 Hillside Avenue	MHDR	MHDR II
29007-002	17.5 Beacon Street	MHDR	MHDR II

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

Mr. Granese thanked the Board for its work on this proposed change.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 9:06 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____