

The Planning Board for the Town of Derry held a public meeting on Wednesday, November 04, 2015, at 7:00 p.m., at the Derry Municipal Center (3rd Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman; Michael Fairbanks, Secretary; Mark Osborne, Town Council Representative; Frank Bartkiewicz, Lori Davison, Jim MacEachern (7:12 p.m.), Mirjam Ijtsma, Members; Marc Flattes, Alternate

Absent: Randy Chase

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

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

Mr. Flattes was seated for Mr. MacEachern

Escrow

#15-25

Project Name: Cowbell Corner

Developer: David & Catherine Frahm

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 04126 and 04127, Route 111 and Island Pond Road

The request is establish Letter of Credit #FHA-1015-P, in the amount of \$374,913.36 for the above noted project. The expiration date will be October 28, 2017.

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

#15-26

Project Name: Derry Senior Development, LLC

Developer: Same

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: 07058, 6 Drew Road

The request is to establish cash escrow in the amount of \$26,697.60 for the above noted project. This escrow account is non-interest bearing.

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

#15-27**Project Name: AEC Office/Garage****Developer: American Excavating****Escrow Account: Seven Hills Development****Escrow Type: Letter of Credit****Parcel ID/Location: 31013, 5 Madden Road and 31011, 15 Madden Road**

The request is to renew Letter of Credit #22413 for the above noted project in the amount of \$22,137.51, drawn on Enterprise Bank. The new expiration date will be December 23, 2017.

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 October 21, 2015 meeting.

Motion by O'Connor, seconded by Flattes to approve the minutes of the October 21, 2015 meeting as written. The motion passed with Granese abstained.

Correspondence

Mr. Fairbanks reviewed the correspondence. A request has been forwarded to the Board from Travis and Dawn Snell and Lori Van Curen to rezone their properties from residential to commercial. The Board will schedule a workshop to discuss the request. Escrow expiration reminder letters have been sent to Yvon Cormier of Yvon Cormier Construction Corp., Bradley Benson of Martin Gate, LLC, Jean Gagnon, of JEMCO Builders & Development, and Robert MacCormack of 70 Fordway.

The Board has also received a letter from residents abutting the 6 Drew Road project: Joanne Loisel, Jim and Michelle Furtado, David and Fran Foucher, Robert and Monserrate Marinelli and David McLaughlin. Mr. Fairbanks read the letter into the record. The letter has been placed in the project file. The complaint is with the amount of trees the applicant is cutting on the property and the residents would like the developer to be held accountable for the number of trees cut. A request has been made to ask the developer to replant fast growing trees.

The Board has also received information regarding a recent federal court decision involving sign regulations that will have an effect on NH law. Mr. O'Connor advised he attended a webinar on

this subject at SNHPC today. The July 2015 federal ruling affects sign regulations. Attendees today received a preliminary review of what happened during that hearing. NH law makers will need to review NH sign laws and bring them into compliance with this ruling. Several of the NH RSAs would now be considered unconstitutional and will need to be revised. Mr. Granese said once the state law has been updated, the Planning Board can review its sign ordinance in workshop and make any necessary changes.

Mr. Granese asked the Board to discuss the letter from Mrs. Loisel. Mr. Sioras advised the plan was recently approved by the Planning Board. This applicant went before the ZBA and was granted a variance and the plan went before the Conservation Commission. The parcel has 30 plus acres that will become conservation land. The applicant had stated they would do some selective tree clearing and they did that along the frontage lots. The applicant does have a timber permit and has the right to perform timber cutting. The abutters did not raise any concerns during the Planning Board hearing. The Board did not put any conditions regarding buffers on the plan. There is no requirement in the town regulations for a residential buffer between residential lots. A landowner can cut trees on their own property. He advised Mrs. Robidoux had spoken with Mrs. Loisel and the developer. Mrs. Robidoux reported she spoke with Mrs. Loisel on two occasions. The issue was that the timber crew was starting operations very early in the morning. When Mrs. Loisel called back the second time, Code Enforcement was investigating the complaint. Mrs. Robidoux phoned the developer and he immediately spoke to the timber crew and advised they should not start until 7:00 a.m. During conversations with her, Mrs. Loisel did indicate there was excessive cutting going on. Mrs. Robidoux said with an Intent to Cut, so long as the applicant does not exceed the board feet, there is no recourse. Mr. Fairbanks asked if the Board can do anything about the tree cutting. Mrs. Robidoux explained the legislature removed any authority Planning Boards had over the regulation of timber harvesting activities several years ago. Mr. Granese asked staff to respond to Mrs. Loisel's letter and let her know the Board had discussed her concerns.

Mr. Sioras provided more information on the zoning change request on Lenox Road. The two residential properties front on Lenox Road and are located behind Sal's Pizza. They also face Walgreens. Sal's Pizza and Walgreens are in the General Commercial zone. The two properties on Lenox about 23 Crystal Avenue. He suggested the December 2nd meeting as a workshop date.

Mr. MacEachern was seated and Mr. Flattes stepped down.

Other Business

Mr. Sioras advised there will be no meeting on November 18th and the next meeting will be December 2, 2015.

Public Hearing

**Arthur & Ruth Provencal
PID 07012, 246 Island Pond Road
Acceptance/Review, 2 lot subdivision**

Mr. Sioras provided the following staff report. The purpose of this plan is for a two lot subdivision located in the Low Density Residential District. There is an existing home on the parcel. One new building lot is being created. A variance was granted by the ZBA on August 20, 2015 to allow for noncontiguous frontage. They do have the required 200 feet of frontage. All town departments have reviewed and signed the plan. There are no waiver requests. State subdivision approval and the NH DOT driveway permit have been obtained and are in the file. One abutter has questions with regard to a boundary and will speak to that.

John Davis and Fred Hart of J. A. Davis & Associates presented for the applicant. Mr. Davis provided a copy of the plan, NH DOT driveway approval, and the heritage report to the Board members. This is a seven acre parcel that will be divided into two parcels. The proposed property line is indicated on the plan. A variance was granted to allow for noncontiguous frontage. The applicant has obtained state subdivision approval and a driveway permit. All the required approvals are in place. Tim Winings was before the ZBA and Conservation Commission with this plan. Mr. O'Connor confirmed the intent of the plan is to create one lot for a single family dwelling and that the dwelling would meet all the appropriate setbacks. Mr. Davis advised the next step would be to obtain state septic approval when they are ready to build the home. They will also need to apply for a shoreland permit because of the location of the lot. Mr. Fairbanks commented the TRC notes had a question about whether this plan had a proper viewing before the Conservation Commission. Was this plan seen by them? Mr. Sioras said the Conservation Commission saw the plan, held a site walk, and allowed the Chair to sign the plan. Mr. O'Connor noted the Commission signed the plan on October 19, 2015. The plan copies provided to the Board did not have that signature on them. Mrs. Robidoux confirmed the file had a copy of the plan containing the TRC signatures.

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

Kimberly Armstrong, 252 Island Pond Road, advised she is a licensed Civil Engineer. Her issue is that the lot line shown on the plan for her property does not match her deed. She and her husband purchased the property in September of 2005. When they initially went to look at the property prior to entering into the contract with the sellers, the rock walls on the back side of the low side of the property did not exist. Their mortgage company hired Northern Associates, Inc. to perform a survey prior to the closing. That survey confirmed the deed metes and bounds description matched the boundary lines set out by the iron pins. She has a copy of the survey as well as the warrantee deed if the Board wanted a copy for its records. The rock walls were installed prior to the Armstrongs closing on the property. The limits of their property are delineated by iron pins. The location of the pins is tied to the rock wall on the other side of the Provencal's driveway. TJW Survey is contesting there is a law that monuments will hold over

record measurements. Although that might be the case with natural monuments such as streams and ridge lines, artificial monuments do not receive the same superiority, especially if there is evidence they are not in their original position. The monument controlling over metes and bounds is only a presumption and it can be defeated by evidence that the pins were moved. The evidence is 1) in the 1971 subdivision plan, these pins were placed in connection with the subdivision which included specific metes and bounds for her property and 2) the mortgage inspection confirmed in 2005 that the pins matched the metes and bounds description. Logically, there is no other conclusion than that the iron pins were moved, most likely at the time the rock wall was constructed. Not one of the iron pins delineating the property corners is plumb. Mrs. Armstrong said she brought pictures she took yesterday to illustrate this point. The majority of the pipes are spray painted for the top 8 inches or so, but only one pipe is still installed to that depth. The pipe on the east corner for example, has 41 inches of pipe above ground, which results in about 7 inches of embedment. There is evidence the monuments are no longer in their original position and therefore the deed should prevail over the iron pipes. Her property is record plan D-2664, which is referenced on the [Provencal's] plan. The surveyor, Edward Herbert, in 1971, located the iron pipes to the 1/100th of a foot. Since her property was subdivided out first and sold, it retained senior rights. There is also no reason to believe that Herbert measured those pins inaccurately. Additionally, the TJW Survey plan submitted in conjunction with the Zoning hearing listed the length of the back of her property as being 253.62 feet. The subdivision plan currently before the Board for review lists the back of her property as being 253.23 feet. It is over a four and a half inch difference and it makes her question the validity of the TJW survey even more. The 1971 subdivision plan should supersede the TJW survey, and the current subdivision plan should be corrected to match her deed. Mrs. Armstrong stated that she and her husband are concerned that when they go to sell their property there will be issues based on the proposed subdivision plan becoming a record document. She therefore requests that the boundary lines for 252 Island Pond Road be corrected prior to the approval of the subdivision plan.

Mr. L'Heureux advised he is not a Licensed Land Surveyor but his understanding of monumentation is that if everything has been moved, it would be difficult to meet the prior closure. During construction activity, he always stresses that developers need to take care when working near a boundary. It does not take much to move a bound a half inch. Plans need to have an error of closure. He does not feel anything was done intentionally here. Where a survey point is grabbed during a survey can make a difference, especially if a lot pin is not plumb. He cannot comment on this survey.

Mr. O'Connor asked if this issue was within the purview of this Board. This appears to be a civil matter. Mrs. Armstrong explained they had been advised to present this information prior to the plan being approved. Otherwise, they will need to go to court to resolve the issue. Mr. Sioras advised both he and Mrs. Robidoux spoke with Mrs. Armstrong. Traditionally, this type of concern is a civil matter. The Armstrongs need to get their own surveyor. The Board cannot get in the middle of it. When preparing a plan, the survey needs to certify the bounds are accurate. When the plan is stamped a surveyor puts his professional reputation on the line. If the Armstrongs are disputing the boundary, they need to hire a surveyor and work that out in court.

Mr. MacEachern felt at the end of the day, the issue was a discrepancy of a few inches. Mrs. Armstrong said the ZBA plan showed the boundary line to be 253.62 feet and on this plan the same line is shown at 253.23 feet. It is supposed to be 253.70 feet. This reduces her property to less than an acre which makes it nonconforming. She does not want to be in court over a deed that should never have been approved. She does not know how Mr. Winings came up with this measurement. If there is evidence the pins have been moved, a surveyor is not supposed to hold the monument. Mr. MacEachern said there was no evidence the pins had been moved. Mrs. Armstrong maintained her pictures provided that evidence. Mr. MacEachern felt the pictures would not show where the pins were before; they just show the current location. Mrs. Armstrong said a surveyor will not set a pin crooked. Several Board members disputed that and stated they have property bounds that are crooked. Mrs. Armstrong said approval of this plan would suggest that if pins are moved, ownership of the land can change. That is rewarding an illegal act. Mr. MacEachern noted this Board is not a court of law. Mr. Granese asked if someone could explain what happens when someone goes out to survey the land.

Ms. Ijtsma commented property in her neighborhood had been recently surveyed and it was found the measurements were off by a good distance. She can understand Mrs. Armstrong's frustration in seeing the land reduced, but she is not sure of the Board's authority on this issue.

Mr. L'Heureux said pins are set to the base of the ground. The point on the ground gets adjusted. Mrs. Armstrong interjected these are not "slightly" off; it is more than 5 ½ inches. All of the lines are slightly off. She has an issue with a plan going on record that changes her boundary lines. Mr. L'Heureux explained the surveyor needs to certify the bounds within a certain closure. Mrs. Armstrong said there is evidence the pins have moved. The surveyor is holding those as monuments. This needs to be corrected to match her deed. They are creating a discrepancy with this plan. Mr. L'Heureux did not believe the discrepancy was enough to cause a problem if her property changes hands. This survey will not reduce the marketability of her lot. Mrs. Armstrong said it will make her property less than an acre.

Mr. Osborne said this Board is not the final arbiter, but he would like to see the photos Mrs. Armstrong took of the pins as she brought them this evening for a purpose. Mrs. Armstrong said there is only one pin that is still in its original place. Mr. Osborne confirmed Mrs. Armstrong was saying the pins were about 3 feet tall when set originally, now they are raised. Mr. MacEachern said he has seen no evidence that the red on the pins has not always been visible; that is an assumption. He understands her concern but there is no evidence of what the pins looked like before. Mrs. Armstrong said typically the surveyor drives a pin into the ground and then paints it. Mr. Osborne asked when she first noticed the pins looked off. Mrs. Armstrong said about the time they closed on the property they were advised the rock wall had been installed and the pins had been moved. They left it at the time, not knowing what to do. Mr. O'Connor confirmed the pins could not have been moved during recent road work as the pins sit back 10 feet from the roadway. Mr. MacEachern said in the pictures, the pins along the rock wall are higher than some of the others. Mrs. Armstrong said what she called the northern pin is embedded but has shifted; but that is something that could be anticipated.

Paul Armstrong said if this plan is approved, it sets a precedent that anyone can submit a plan to this Board with an inaccurate survey and it can be approved. The Armstrongs are losing out on this and the applicants are gaining land. Mr. Granese stated the Board is not setting a precedent if this plan is approved. The plan has been stamped by a professional surveyor. Mr. Armstrong said there are two different numbers on the plans submitted to the ZBA and the Planning Board and the measurements are different from their deed. He feels this issue should be resolved before the Board approves the subdivision plan.

Mr. Sioras explained the surveyor went to the Zoning Board for a variance to allow a lot with noncontiguous frontage. This plan is not the exact plan seen by the ZBA and the Conservation Commission. Mrs. Armstrong brought up the issue of the discrepancy at the ZBA hearing and the surveyor corrected the plan and submitted this one to the Planning Board. Mr. Fairbanks added the discrepancy is noted on the plan as it shows the measured distance and the recorded distance. Mrs. Armstrong confirmed the 253.70 is what is on her deed. She repeated she did not want the discrepancy coming back to bite her later. The surveyor should have reset the pins. Mr. Granese said the record measurement, which is larger than the measured, will become part of the record. Mrs. Armstrong maintained if the measured distance is used, the applicant can gain the additional land through adverse possession after twenty years even if her deed says something different.

Mr. Osborne said in adverse possession situations, the complaining party (the Armstrongs) runs afoul when there is no record of a challenge. What they have done by coming to this meeting is to set a record and anyone would be on notice for the future. They have challenged the issue and not sat quietly. Based on what has been said, he does not believe this Board can do anything about the discrepancy. Mrs. Armstrong said they wanted the plan held until the pins can be surveyed. Mr. Osborne said this is likely not the first instance where there have been two competing surveys. Mr. Sioras agreed and said the town does not see this often. This is a civil matter. The Board has to move forward with the plan that is on the table and needs to go with the information provided. The Board does not have jurisdiction to make a decision with regard to the placement of the pins. Mr. Winings has put his professionalism on the line with his stamp.

Mr. Davis said that discrepancies in measures can be attributed to the way a surveyor takes the measurement. It is dependent upon the equipment, technology and precision. Frost can move pins. The plan notes the measured and recorded distances. That is how they handle these types of discrepancies; they note the measured and the deed [distance] on the plan. Mr. MacEachern said the deed says one measurement and the plan another. Would the "measured" be in the middle of one of the stones in the wall? Mr. Davis said if the measurement is off by 10 feet, that is a mistake. Mr. MacEachern asked if it was possible the construction of the wall moved the pin by 4 inches. Mr. Davis said depending on the soil condition, a pin can be moved by walking by it. Mrs. Armstrong said the drafting of the plan is inaccurate. The stone wall is on the other side of the pins, not as it is shown on this plan. Ms. Ijtsma asked if it is difficult to take a new measurement. Mr. Davis said it sounds like Mr. Winings did that between the submission to the ZBA and the Planning Board. He added it is possible for a pin to be off a distance of 4 inches from the top to the bottom of the pin. Ms. Ijtsma asked if the parties could get together and figure this out. Mr. Davis did not feel resetting the pins would enhance the situation. The pins

are for all intents and purposes, the property corner. He is confident in what has been shown on the plan. Mr. Winings has re-measured since the ZBA hearing and has done all he can to satisfy the concern.

Mr. Fairbanks confirmed Mr. Winings performed the measurements both times and added his tolerance appears to be 3-4 inches. Mr. Davis said some surveyors measure at the top of pin, some measure at the bottom of the pin. He would think Mr. Winings was consistent in how he took the measurement each time. Mr. Fairbanks asked why there would be two different measurements made by the same surveyor. Mr. Davis explained there are many tolerances and many items that go into the setup of a survey. Mr. MacEachern thought if Mr. Winings did not have all of his equipment and himself in the exact same spot as the previous survey he may not get the same exact measurement. Mr. Davis reiterated the monument is the corner.

Mr. Flattes confirmed the wood fence belongs to the Armstrongs and the stone wall belongs to the Provencal family. Mrs. Armstrong said the fence is within 6 inches to one foot of the property line. They installed the fence to protect her pets. Code Enforcement recommended the distance so that they could maintain the fence on either side of it. She said she just wanted her concerns on the record. They wanted the plan tabled until this was resolved.

Jennifer Jensen, 239R Island Pond Road said there was a previous residence on the proposed lot. She would assume there had been a prior septic system on the lot. She would like assurances that during development of the lot, appropriate steps are taken to make sure none of the existing wells in the area or ground soil is contaminated and that the state land is maintained.

There was no further public comment.

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

Mr. Granese asked if the concerns of the abutters are under the purview of the Planning Board. Mr. Sioras said the Board could add conditions to the plan. Some of the concerns put the town in a difficult position. The Board takes the abutters' concerns seriously but the Board can't question a survey.

Mr. L'Heureux reported no issues with the plan from a Public Works perspective. Mr. Granese asked Mr. Davis if he was aware of an old septic system on the lot. Mr. Davis said he was not aware of one but a new septic design would require state approval. Also, construction on the lot would require a shoreland permit. That would not be approved until the septic design is finalized. All wells will need to have a 75 foot radius. He is not sure how soon a home would be built on this lot.

Mr. Fairbanks asked how the Board would put conditions on an approval with the intent of seeking resolution for the Armstrong's concerns. Mr. Sioras said the Board can't put any conditions related to the boundary dispute. The Armstrongs would need to hire a surveyor. The town could condition that it receives copies of the state permits relating to the septic design.

Mr. Osborne noted the Armstrongs would like a postponement of the plan. Is that an option? If it is an option, is there any harm to the applicant if the decision is delayed? Mr. Granese said he was not sure there was any reason to table the plan. Mr. O'Connor said if the boundary issue goes to court it could take anywhere from 6 to 8 months to be heard and then an additional three to four months to receive a decision. He suggested adding a condition that Mrs. Armstrong's concerns be recorded in the minutes. Mr. Sioras said the Board is sensitive to the concerns of the neighbors and needs to be fair to the applicant. This plan meets the Board's requirements and the Board needs to base its decision with regard to the plan on the regulations.

Mr. Osborne asked if the parties end up in court, and the Board tables the plan, would it incentivize the parties to mediate the issues. Mr. MacEachern confirmed there is no immediate time table to build on the new lot. It might be possible to table the plan for 60 days and note the comments and documents in the record. If the Board approves the plan, the applicant has six months to meet the conditions. During that six months they would have time to work out the issues. If during the first 60 days they don't work out the issues there could be reference to the recorded information. Mr. Granese was not sure the Board could do that per the regulations. Mr. Sioras stated this is a rare circumstance. This plan meets the zoning and the subdivision regulations. It needs to be approved on that basis. He understands the Armstrong's concerns but it would not be fair to the Provencal family. Mr. Granese believed the concerns were on record now if the boundary issue goes to court.

Mr. L'Heureux suggested the Board could accept jurisdiction and request the surveyor who performed the work come before the Board with an explanation of how he came up with his measurements and hear his explanation to obtain clarification. Mr. Davis said there is a measured discrepancy that is about 5 inches. The monuments are the corners of the lot. The measurements may fluctuate on a survey next year as well. Mr. L'Heureux felt it was important for the Board to hear why an existing bound would be held rather than being reset. The Board is looking for clarification on how the bound is set when there are discrepancies. Many times he has observed that things are not exact in the field. Mr. Davis said typically, they will prepare a surveyor's report. Mrs. Provencal advised she had one. Mr. L'Heureux said the abutters may obtain some sort of assurance about the measured versus the recorded distance and Mr. Winings' explanation could provide a better understanding.

Mr. Fairbanks confirmed the issue is the Armstrongs feel the validity of their deed in questions. Could a note be added to the new plan? Mr. O'Connor said the plan already notes the measured versus recorded distance. He inquired if a pin is out of place would moving it four inches put in back in accord with the deed. Mr. Davis said that might be the case. However, the original surveyor may have hit a stone when setting the pin and bent it and then someone came along later, did not like the way it looked, and bent it back. There are so many variables. The pin is the monument. There will be a measured distance noted on the plan. The measured distance can fluctuate annually. The plan notes the measured and recorded distances. That is all they can do. Mr. Fairbanks said he wanted to make sure the deed was protected.

Mr. Osborne said he cannot think of a better time when tabling a plan or placing conditions would apply. These are unique circumstances that might require a unique remedy.

Mr. Davis stated the new lot is completely isolated from the boundary of this issue. Mr. Sioras said the record is clear on how the measurements were put on the plan. A conditional approval is the best way to go. Mr. Granese wondered if the plan might get resurveyed in that six month time frame.

Mr. MacEachern said he wanted to make sure all the Board members understood that the Board is dealing with the division of the one big lot and it is not dealing with the rock wall and the fence. The Board is not dealing with the boundary around lot 0702-001. That is a different issue. The boundary near the stone wall and fence already exists. The dispute is with an area that already exists. This plan is not about the fence. The applicant is here to request the property line to the left. That is what the Board is looking at. That makes the Armstrong's complaint even more of a civil issue. The Armstrongs are expressing a legitimate concern with how their boundary is shown, but the boundary dispute and the subdivision are two separate issues.

Mrs. Armstrong asked why can't her boundary be shown correctly on this plan. Mr. MacEachern said the applicant is separating their big lot into two lots. The Armstrongs clearly have a civil issue because they feel their boundary is not shown on the plan accurately. The matter before the Board is separate from the Armstrong's lot. He is not sure the Board can put a condition on the plan that addresses the Armstrong's concern. The lot boundaries are on the same plan and involve the same people but there are two separate individual items, one of which is a civil case.

Motion by O'Connor, seconded by Bartkiewicz to accept jurisdiction of the two lot subdivision application before the Board for Arthur & Ruth Provencal, 246 Island Pond Road, PID 07012.

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

Motion by O'Connor, seconded by Bartkiewicz to approve, pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to owner's signature, subject to onsite inspection by the Town's Engineer, establish escrow for the setting of bounds or certify the bounds are set, obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24; subject to receipt of state or federal permits relating to the project; conditions precedent shall be met within 6 months; a \$25.00 check payable to Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirements; submission of the appropriate recording fees, payable to the Town of Derry; Mrs. Armstrong's concerns will be recorded in the minutes of this meeting.

Ijtsma, O'Connor, Davison, and Bartkiewicz voted in favor. MacEachern confirmed the Armstrong's comments will be in the record and voted yes. Osborne said he was voting yes because this plan if approved does not discount the Armstrong's side or endanger the other side

of the civil suit. Mr. Fairbanks said he was voting yes as he feels the Armstrong's deed has been protected. Mr. Granese said he felt the same as Mr. Osborne and Mr. Fairbanks, and voted yes. The motion passed with all votes in the affirmative.

There was no further business before the Board.

Motion by Bartkiewicz, seconded by Davison to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:25 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____