

The Planning Board for the Town of Derry held a public meeting on Wednesday, October 04, 2017, 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; Michael Fairbanks, Secretary; Brian Chirichiello, Town Council Liaison; Frank Bartkiewicz, Jim MacEachern, Lori Davison, Maya Levin, Members; Mark Connors, Alternate

Absent: John O'Connor, Randy Chase, Elizabeth Carver

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 then noted the emergency exits, the location of meeting materials, and introduced the Board members and staff.

Mr. Connors was seated for Mr. O'Connor.

Escrow

#17-36

Project Name: 8 Lot Subdivision of 2 Beaver Lake Road

Developer: Donahue Family, LLC

Escrow Account: Donahue Family/Paul George

Escrow Type: Cash Escrow

Parcel ID/Location: 09045, 2 Beaver Lake Road

The request is to approve Release #2 in the amount of \$6,474.82 for the above noted project. The amount to retain is \$3,175.20.

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 September 20, 2017, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the September 20, 2017, meeting as amended. The motion passed with Fairbanks abstaining.

Correspondence

None.

Other BusinessZoning Amendment

Mr. Sioras noted the public hearing to discuss a change of some lots from MHDR to MHDR II is on October 18, 2017.

Capital Improvement Plan Committee

Mr. Granese reported he had been contacted by David Caron, the Town Administrator, with regard to appointing a Planning Board member to the Capital Improvement Plan Committee. He spoke with Mr. MacEachern who will oblige by sitting on that committee.

62.5 Bedard Avenue, Board discussion

Mr. Sioras explained Pennichuck Water Works (PWW) is in the process of selling some of its properties located in Derry. One, located at 62.5 Bedard Avenue, is in the Maple Hills Water System which includes Brady and Bedard Avenue. Town water now runs through that area. The town has right of first refusal on this lot, and Mr. Caron is inquiring if the Planning Board sees any value in purchasing the lot. The other Boards, Committees, and town Departments have also been contacted for their input. If the town has no interest, PWW will likely sell it to a developer. This is a 4.3 acre lot, sitting in a one acre zone. There is an existing right of way accessing the property. The well house/pump house noted in the lot overview will be removed. Approximately three single family homes could be constructed on this lot. Mr. MacEachern suggested this would be a good lot for the neighborhood to purchase as a joint venture to create a neighborhood forest. Mr. Sioras advised the town does not contact abutters when a private lot goes on sale. If the town has no interest in this lot, it will go on the open market. Mr. Connors asked if public utilities pay taxes on land they own in town. Mr. Sioras believed they did. This lot was constructed in the 1960s. There are two other lots in town owned by PWW that will also be offered for sale. Mr. Connors said he reviewed the zoning for this area and was concerned a campground, which is allowed in the zone, could go on this lot. Mr. Sioras advised the lot could only be constructed with single family homes. Mr. Chirichiello asked if the Planning Board recommended the town purchase this lot. If there are no recommendations by the Boards, it will go to the public and Town Council will make the final determination after it has received input from the other Boards and Committees. One member thought this might be a lot the Conservation Commission should consider acquiring.

Public Hearing

**Jay Goga Realty, LLC
East Derry Improvement Society
PID 39033, 39034, 39035
50, 52 and 54 East Derry Road
Review, Site Plan
Addition of parking lot for East Derry Store/Restaurant
Continued from September 20, 2017**

Mr. Sioras reported the applicant has made some changes to the plan per the last discussion with the Board, and added the waivers as requested. There has been discussion between the applicant, Mr. Patel, and the East Derry Village Improvement Society (EDVIS).

Tim Peloquin, Promised Land Survey, represented the applicant, Sam Patel, sole proprietor of Jay Goga Realty, LLC. Mr. Patel was present. Mr. Patel owns and operates the East Derry General Store and is hopeful he can add the 25 seat restaurant to that use. Two weeks ago, the Board asked Mr. Peloquin to meet with Mr. L'Heureux and work out the issues surrounding the waivers attached to this plan and to clean up the plan details. They have made an attempt to do so. Mr. Peloquin met with Mr. L'Heureux and addressed the waiver requests which were submitted to the Board for consideration at the hearing this evening. They have also been provided an escrow amount from Public Works.

Mr. Peloquin provided an overview of the proposal. Mr. Patel's lot contains a general store with an addition to the back which he would like to open as a 25 seat restaurant. He has an active lunch crowd who currently park in front of the store in the 10 available parking spaces. He would like to move that traffic to the back in a paved parking area. The plan before the Board shows the parking area, drainage, and a redesigned septic. Deliveries would now take place to the rear of the building, rather than on East Derry Road and the food patrons would be directed to the back. This would be considered a betterment. This is a small but good expansion for a popular location. Mr. Patel wants the General Store to thrive, retaining the general store feel, and would like to be able to expand in a small way, enabling him to compete with the larger stores. Attorney Andrew Myers was also present this evening to address questions for his client, Mr. Patel. David Milz was present, representing EDVIS.

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.

There was no 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. Chirichiello asked for confirmation the plans before the Board this evening have been revised since September 20, 2017. Mr. Peloquin reviewed the changes. The revision date has been updated; the waivers have been added to the plan sheets; the plan now consists of an overview sheet, existing conditions, site plan, detail sheet and septic plan. The existing conditions had previously been shown on the site plan sheet. Sheet 4 contains construction details such as the sidewalk ramp, the accessibility tip down ramp, trench detail, and drainage manhole details, etc. Sheet 5 has not been changed.

Motion by Chirichiello to accept the revised plans, seconded by Fairbanks.

Levin, Chirichiello, Connors, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Mr. Granese asked Mr. L'Heureux if his concerns had been addressed from the last meeting. Mr. L'Heureux stated the plan in place shows the agreed upon changes. The Board may want to receive further explanation with regard to the waivers as the applicant has to provide evidence of hardship in order for a waiver to be granted. Most of the details on the sheet have been addressed. He is reluctant with regard to the gravel versus pavement arrangement on a common access drive and part of the parking because of the liability. Pavement allows for better traffic flow and is safer. That is the position from Public Works.

Mr. Granese confirmed the parking on Mr. Patel's lot will be paved. Mr. Peloquin confirmed. They will pave the parking spaces and the proposed loading dock access. Each parking space will be paved for the store, the restaurant, and the post office. The access from East Derry Road on EDVIS' property will be enlarged to 24 feet wide and will be constructed to the appropriate gravel standard. This is shown on Sheet 3 as a hatched area. The access is ample for fire truck access. They added rip rap beside the Upper Village Hall to address the erosion issues and will gravel the parking lot for EDVIS. The Heritage Commission and the Conservation Commission have both stated they would prefer to see gravel due to its pervious nature and because is more in the spirit of the historic building. The intent is to pave Mr. Patel's area for safety.

Mr. Connors noted the applicant is applying for access across another's property. EDVIS is shown on the plan as an applicant. Is there anything wrong with this? The suggested motion speaks to an "easement/agreement". He wants this project to succeed but he does not want to set a bad precedent. Will there be a formal easement or a written agreement for the access? There will be a written agreement.

Attorney Meyers explained. There is an easement which will be amended to allow the expansion of the existing septic. With regard to the access to the restaurant across the EDVIS property, they are working on a contract/lease. That is not complete yet. They wanted to make sure the document captured anything the Board wanted as a condition in the lease. It is likely the lease

will be recorded at the Registry of Deeds and it will be signed by both parties. In essence, the primary goal is covered: access across EDVIS' property to the parking area for the restaurant.

Mr. Chirichiello asked if the agreement will be between the two properties or between the individuals. Attorney Meyers said it will be between EDVIS and Jay Goga, the two entities that own the properties. Mr. Chirichiello asked if Mr. Patel sold his property in the future, would the rights then transfer to the new property owner. Attorney Meyers explained that is one of the issues they are discussing. Right now, it binds the current property owners, not the properties themselves. Mr. Connors had a concern that the Board would be approving a restaurant with no parking on its own property; parking is only allowed because of the agreement with the adjacent property owner. If the property owner changes and the agreement becomes null and void, there will be an approved restaurant with no parking or access. Attorney Meyers stated the agreement is renewable. EDVIS is working amicably with the current owner, Mr. Patel. EDVIS wants to make sure the same type of amicable relationship continues with any future owner.

Mr. Granese advised he did some research. There are currently at least three businesses in the downtown that have parking agreements because there is no onsite parking. When the Derry Steak House was opened it had an agreement in place with Derry Feed and Benson's for employee parking. That was in place and renegotiated when Sabatino's purchased the lot. Cask & Vine leases from the Ambrose family, as does C & K. Mr. Connors noted those businesses are located in the downtown, adjacent to public parking. The only way this lot can have a restaurant is with the parking access. Mr. Granese agreed to disagree because public parking is not always available for the businesses. He noted the regulations require parking.

Mr. MacEachern felt all of the issues raised at the last meeting had been addressed. He asked if the Board wanted the waivers voted on together or individually. Mr. Connors inquired if Mr. L'Heureux could go over the individual waiver requests; he was not comfortable with them if staff still had concerns. Mr. L'Heureux explained most of the waivers are related to the access drive. The town wants to see the slope at less than 6% and wants to see pavement on the access. The applicant will be putting in gravel. If this was to be a formal access, the town would make sure there is no bedrock. All of the construction standards are the same for roadways and access drives for safety reasons. The remainder of the waivers are related to parking. The applicant had to request a waiver because they were not paving on the EDVIS property. It is important to have the waivers voted upon before formal approval of a plan, not after the fact. This is a unique site. The town would like to see as few waivers as possible on projects and to see projects meet the regulations. He has never been involved in a situation where there is access from a town road, to gravel, to pavement, all on someone else's property. There are many legal issues and he hopes the easement agreement is also addressed. Mr. Connors asked if town legal counsel should be involved. Mr. L'Heureux said this is a private issue between the property owners. Most of the time, an easement is put in place. It is cleaner and provides protection for the applicant because the easement remains with the property. Mr. Patel is investing a lot of money on EDVIS' property.

Mr. Fairbanks said he understood the town would rather have the access paved. Is Mr. L'Heureux comfortable with the proposal, even though it is not being paved? Mr. L'Heureux advised the applicant is putting the gravel to standard, but one can't line a gravel parking lot. For

ADA purposes, it is difficult to have a gravel surface. The waivers listed are based on the LDCR Articles. The gravel thickness will be met; there is adequate gravel thickness.

Mr. Granese reiterated all of the parking spaces at the East Derry Store and Restaurant will be paved and striped. The access at the Upper Village Hall and the parking area behind the Hall owned by EDVIS will be gravel.

The Board was polled by a show of hands to see if they wanted to vote on each waiver individually or as a group. The majority of the Board wanted to vote on them as a group.

Motion by MacEachern, seconded by Fairbanks, to grant waivers from the following sections of the LDCR. Because of the unique nature of the properties known as the Upper Village Hall (owned by EDVIS), and the East Derry Village Store and Post Office which provide unique historical interest for the Town of Derry; therefore the waivers should be granted. In the future there is potential to expand the parking lot and at that time if EDVIS determines it is appropriate to do additional paving of that parking lot, at that point the Board will address the concerns. Given the nature of the site and building, MacEachern recommends the following waivers:

Section 170-26.a.13, Roadway test pits to determine estimated seasonal high water table

Section 170-26.A.14, Vertical granite curbing

The following subsections of Section 170-26.A.15, Table of Geometric Standards

Subsection 7, maximum street grade (± 8)

Subsection 8, maximum grade within 75 feet of an intersection (± 8)

Subsection 10.d, sand sub-base to rock

Subsection, 10.e, minimum road sub-base thickness for bank run gravel and coarse sand

Subsection, 10.f, minimum road base thickness for coarse gravel

Subsection 10.g, minimum bituminous pavement thickness- base course

Subsection 10.h, minimum bituminous pavement thickness – wearing course

Section 170-61.A.12, High Intensity Soil Survey Mapping

Section 170-61.A.13, Jurisdictional wetland mapping

Section 170-63.D.3, Three inches of pavement on all parking surfaces, driveway, aisles

Section 170-63.A.5, Paved parking surfaces

Section 170-61.30, Traffic Impact Analysis

After review of the waiver requests, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waivers would not be contrary to the spirit and intent of the regulations. The purpose of doing this is to encapsulate the waivers discussed between the town and the surveyor.

Discussion followed.

Mr. MacEachern stated several of the waivers, such as those for HISS mapping, and wetlands are waivers that are commonly granted by the Board. There is nothing unique in the waiver set being requested; the uniqueness is the nature of the property itself and the amount of waivers. Given the fact that there will be an access agreement forthcoming he sees no unnecessary burden to the town or applicant. Mr. Peloquin noted the lot was mapped for wetlands in 2007 by his office; it was not updated for this application. Mr. Connors asked if the hardship is financial in

that EDVIS cannot afford to pave their parking area at this time. Mr. Peloquin stated some of the reason has to do with funding. The main issue is that the Conservation Commission and Heritage Commission both clearly stated they want the area to remain gravel because it is better for the environment and it looks more historical; they want to retain the look to the right of the Upper Village Hall. The Robert Frost Farm parking lot is also gravel and that is a nice, historic lot. He agrees it is not very ADA accessible; however, Mr. Patel's portion will be accessible.

Levin, Chirichiello, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor. Connors voted no because he would have preferred to vote on the waivers one at a time; there were some he would have granted if they had been done separately. He wants this to be a successful project but some of the town staff seems to have remaining concerns, primarily related to the paving. The motion passed.

Motion by MacEachern to approve, pursuant to RSA 676:4, I, Completed Application, with the following conditions. Subject to owners signature, subject to onsite inspection by the Town's Engineer, establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received, operable and complies with LDCR Section 170-24/170-61, note approved waivers on the plan, written easement/agreement between the East Derry Improvement Society and Mr. Patel with regard to access and parking to be recorded with the Notice of Decision upon completion of said agreement; update plan as necessary to properly indicate the tree line between Parcels 39030 and 39035; conditions precedent shall be met within 6 months, and snow and ice removal shall be performed by a "Green Sno Pro" certified contractor following Best Management Practices for the application of de-icing materials. Bartkiewicz seconded the motion and discussion followed.

Mr. Fairbanks asked who would be securing escrow for the project. Mr. MacEachern stated it would be Mr. Patel as he is doing the work.

Levin, Chirichiello, Connors, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

DAR Builders, LLC
PID 03162, 7 Gulf Road
Waiver Request, LDCR Section 1170-31.A
To allow overhead utilities on 3 new lots

Mr. Sioras provided the following staff report. A subdivision plan was approved in December of 2016 to create four lots on the corner of Island Pond and Gulf Road. DAR would like to ask for a waiver to allow overhead utilities to three of the lots. Traditionally, the regulation calls for underground utilities when lots are being subdivided and proposed on a new road. These are frontage lots and the utility poles are in place. Staff supports the waiver.

Eric Mitchell, Eric C. Mitchell & Associates, presented for the applicant. The subdivision created 4 lots and this waiver is for three of them, parcels 03162-001, 03162-002 and 03162-003. The remainder portion, parcel 03162 is a large lot (30 acres) and will have underground utilities.

When the original subdivision was approved, Mr. Mitchell went before the TRC and there had been discussion of a telephone pole in front of lot 2. The pole is touching the edge of pavement and is hazardous. They were asked to move the pole back and also widen the shoulder; they did other work along the roadside as well. The TRC recommended the pole at the edge of pavement be moved back and they agreed to do that. There was also discussion about moving other poles near the edge of pavement but they were to discuss it with the utility company. The poles in front of lots 3 and 1 have been in place for less than a year. A new pole has been set in front of lot 2 and the wires will be transferred from the existing pole at some point in the future. Eversource did not want to move the pole in front of lot 1, but a new pole has been placed in front of lot 3. The poles that are either in place or scheduled to be moved are located in the middle of the front of the lots, not at the edge of the lot corners. Lots 1 and 3 have septic systems in the front yard. Given the placement of the existing poles, if they were to run underground utilities, the lines would run from the pole at the roadway, through the middle of the lot, to then skirt around the septic system, have to be run under the existing driveways and then back around to the house. With overhead wires, using the existing poles, they have direct access. In this particular case, underground utilities do not serve a public purpose.

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.

There was no 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 came back to the Board.

Mr. L'Heureux stated he was surprised when he reviewed this plan. He had been focused on the waiver request to allow overhead wires and was not aware that two of the existing poles would not be moved. He has not looked at the current locations of the poles recently to determine if they are impacting sight distance, or would hinder snow removal. Keeping the poles in place was not discussed with him.

Mr. Mitchell stated the pole in front of lot 1 would not be moved. The poles at lots 2 and 3 are new poles but the wires have not been moved yet. It is just the pole in front of lot 1 that would not be moved. Mr. MacEachern asked why the pole in front of lot 1 would not be moved. Mr. Mitchell stated during TRC when they were discussing the poles, it was suggested he speak with Eversource to make sure any issues with the poles could be worked out. Eversource does not want to move the pole in front of lot 1 because the pole is so new. Eversource would also have to cut brush and go onto the abutter's property in order to move the pole. The TRC meeting was held over a year and a half ago. Mr. L'Heureux was present and Mr. Mitchell's office was told to get input from Eversource about the movement of the poles. Eversource said they would move the poles in front of lots 2 and 3, but the pole in front of lot 1 would not move.

Mr. L'Heureux explained the intent of the comment was to have the applicant go see Eversource to get the ball rolling to see what Eversource wanted to do; it takes a while to get these things scheduled with Eversource. Mr. Granese asked if Eversource is requesting the wires go overhead, or is the developer requesting this. Mr. Mitchell stated Eversource has nothing to do

with the service to the house and whether that is done with overhead or underground wires. The developer wants that. Eversource just said they did not want to move the pole in front of lot 1. Mr. MacEachern thought the reason Eversource would want to keep the poles in their current location is because they are already installed and are relatively new. He does not have a problem with overhead wires there because they are frontage lots. It is a different story if the three lots were inside the 30 acres and the applicant was constructing a new road. These are frontage lots with existing poles.

Mr. L'Heureux said he is not concerned with whether the wires go overhead or underground. He had a discussion with Eversource and they were reluctant to move the pole in front of lot 1 because it is a relatively new pole. They move a lot of new poles throughout town. He did not have an opportunity to get a good look to see if the pole is obstructing site distance or snow removal. There is a 12 foot easement along the roadway in this location for the town.

Mr. Granese reviewed the minutes of the December 7, 2016 meeting minutes where Mr. Mitchell stated, "They have spoken with Public Works and will relocate existing utility poles." Mr. Mitchell reiterated they intended to move the poles per the request from Public Works. It was confirmed the developer would be responsible for the cost of moving the poles. If the town states the pole is too close to the roadway in an existing development, the town pays to move the pole. Mr. L'Heureux stated Eversource has a right to be within the Town right of way; they need a permit to set the pole. Mr. Connors asked if the town has a right to tell Eversource to move a pole because its location is unsafe. Mr. L'Heureux said the town could do that. In this instance, the pole was too close to the road. The town has a right to ask a developer for offsite improvements.

Mr. Connors asked what has changed since the Board approved the subdivision that they now need to request a waiver. Mr. Mitchell said lots 1 and 3 have septic systems to the front so as to leave the back yards open for the residents. It would be unorthodox to have the underground wires wind around the yard and septic to connect to the house. When the subdivision plan was approved, the septic systems and locations had not yet been approved by the state. The same developer did a similar subdivision on Drew Road where there were three frontage lots and one larger lot to the rear. The lot to the rear had underground utilities; the lots along the frontage had overhead. A waiver had been granted to allow overhead utilities. Mr. ~~L'Heureux-Connors~~ inquired if the abutters to the Gulf Road project had overhead utilities. Mr. Mitchell believed they did.

Mr. Fairbanks felt the minutes of the December, 2016 meeting accurately reflected the discussion. The builder spoke with Public Works and the poles would be moved. The utility seem to not have a valid reason to not move the poles. Mr. Mitchell indicated per his discussion with the builder, the pole in question is fairly new, as is the one that is located at the edge of pavement near 3 Gulf Road. In order for Eversource to move the last pole in front of lot one, they would have to cut brush in front of an abutter to string the wires. Eversource would prefer not to do that. Mr. Fairbanks felt there was no pressing safety reason to not move the pole, but the town had safety considerations that indicate the pole should be moved.

Mr. L'Heureux stated he has no issue with the request to allow overhead utilities, but would recommend a delay on the decision to eliminate moving the pole until he has a chance to get out in the field and see the area in person. The proposed new locations for the poles had already been staked out and he thought they were all being moved.

Motion by MacEachern to continue the hearing to the next meeting so DPW can view the pole. He shares the concern but has no issue with the request to waive the underground requirement. This is a windy road and he wants to make sure they have proper snow removal opportunities. There was no second.

Mr. Mitchell asked if the Board could act on the waiver request and make a decision with regard to the pole location at the next meeting. The movement of the pole is not part of the waiver request. This was a request from staff and they are trying to honor it. If the underground utility requirement can be waived, it will give the developer an opportunity to move forward with the sale of the home. He has a buyer lined up and needs to get power to it.

Mr. Granese asked if a condition of the December approval for the subdivision was to move the pole. Mr. L'Heureux stated it was not a specifically stated condition, but the new pole locations were shown on the plan the Board approved. The location of the poles is not a waiver item. They are now asking for a plan design change to keep a pole in the existing location. He thought the request was only a request to waiver from the underground requirement. He is just now seeing they are asking for a plan design change in addition to the waiver request.

Mr. Granese felt Eversource needed to move the pole no matter what the Board decides about the waiver. If they don't want to move the pole, then the applicant will need to come back to the Board with that request. Mr. Sioras noted the waiver request letter submitted with the application is very clear and specific. It relates to the request to allow overhead utilities. They have been constructing the homes in the last nine months. The movement of the poles could be considered a field change.

Mr. Mitchell said he wanted the Board to know the pole did not move and wanted to discuss it with the Board because the approved plan said it should be moved. He felt there should be a discussion to determine if the pole needs to be moved or not.

Mr. MacEachern noted the original intention on the approved plan (movement of the pole) has not been met, so he would prefer to move this hearing to October 18. He would like to know that Public Works is okay with the field change with regard to utility pole locations. By granting the waiver for underground utilities, it appears the Board is predisposed to agree the pole does not need to be moved.

Mr. Fairbanks asked if a note could be added to the motion stating the construction is per the previously approved set of plans. If the applicant wants to change what is on the plan, that requires further action of the Board. The Board is voting on a new plan tonight that is different than the plan the Board originally approved. He understands what is before the Board tonight is an informational plan.

Mr. Granese felt the 2016 plan was not yet complete; Mr. L'Heureux has stated he has an issue with the plan details but does not have an issue with the utilities being underground or overhead.

Mr. MacEachern felt the Board needed to answer the question about moving the pole. The town will not issue a Certificate of Occupancy yet because the conditions on the original plan are not yet complete. The question needs to be answered: does the Board agree to not move the telephone pole? Mr. L'Heureux will need to tell the applicant whether the pole should be moved or not. Mr. L'Heureux felt the Board could vote on the issue of the overhead utilities tonight but not accept the change in the plan. Mr. Sioras suggested the Board vote on the waiver request this evening, but condition any approval on the applicant coming back before the Board in two weeks with a plan that shows the field adjustments. Mr. Connors said the escrow is being held for the project and will cover the poles.

Motion by MacEachern, seconded by Chirichiello to accept jurisdiction of the waiver application before the Board for DAR Builders, LLC, 7 Gulf Road, PID 03162.

Levin, Chirichiello, Connors, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-31:A, Other Utilities, as after review of the waiver request, the Board finds that specific circumstances related to the plan, or conditions of the land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations. Conditions are as follows: an amended Notice of Decision shall be recorded at the Rockingham County Registry of Deeds noting the waiver amendment to the approved subdivision plan (Recorded as D-40106). In addition, the application is continued to the October 18, 2017 hearing to allow the applicant an opportunity provide a new set of plans defining the location of the utility pole for Lot #1, following an agreement with Public Works.

Levin, Chirichiello, Connors, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Ramon & Tamara Salomon
PID 08214, 7 Arrowhead Road
John & Shona Davidson
PID 08215, 9 Arrowhead Road
Acceptance/Review, Lot Line Adjustment

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment between the two properties. Town department signatures are not required and there are no waiver requests. Staff would recommend approval of the plan.

Attorney Matthew Braucher, of Craig, Deachman & Associates, presented for the Davidson family. The Salomon's were not in attendance. Attorney Braucher advised this is a minor lot line adjustment of 735 square feet. The lot line at the front of the property is being moved over

by 7 feet and then goes back about 130 feet where it turns back to the original lot line. The reason for the adjustment is to finalize a dispute over the location of property line. This issue was resolved during court mediation on an adverse possession claim and this is the line the parties agreed upon. The line does not continue straight back to the rear of the lots as the Salomon's would have been left with a non-conforming lot that did not meet the lot size per the Zoning Ordinance. They wanted to keep the lots conforming. Mr. L'Heureux stated Public Works has no issue with this application.

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.

There was no public comment.

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

Mr. Granese commented this is a simple, straightforward plan.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the lot line adjustment application before the Board for Ramon and Tamara Salomon, 7 Arrowhead Road, PID 08214, and John and Shona Davidson, 9 Arrowhead Road, PID 08215.

Levin, Chirichiello, Connors, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant conditional approval pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to onsite inspection by the Town's Engineer; establish escrow for the setting of bounds, or certify the bounds have been set; obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24/170-61; addition of any professional stamps that may be missing from the plan; conditions precedent shall be met within 6 months; a \$25.00 check, payable to the Rockingham County Registry of Deeds shall be submitted with the mylar in accordance with the LCHIP requirement; submission of the appropriate recording fees, payable to the Town of Derry.

Levin, Chirichiello, Connors, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed and the meeting stood adjourned at 8:21 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____