

The Planning Board for the Town of Derry held a public meeting on Wednesday, December 06, 2017, at 7:00 p.m., at the Derry Municipal Center (3<sup>rd</sup> 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; Brian Chirichiello, Town Council Liaison; Randy Chase, Administrative Representative; Jim MacEachern, Lori Davison, Frank Bartkiewicz, Maya Levin, Members; Elizabeth Carver, Alternate (7:08 p.m.)

Absent: Mark Connors

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.

## **Escrow**

### **#17-43**

**Project Name: Indian Hill**

**Developer: Indian Hill Derry 2015, LLC**

**Escrow Account: Same**

**Escrow Type: Cash**

**Parcel ID/Location: 04003, Indian Hill Road**

The request is to approve Release #2 in the amount of \$138,569.75 for the above noted project. The amount to retain is \$15,018.05.

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

### **#17-44**

**Project Name: Martin Gate, LLC**

**Developer: Same**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 30047, 1 West Broadway**

The request is to renew Letter of Credit #19981 in the amount of \$45,961.34 for the above noted project. The new expiration date will be December 04, 2018.

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 November 01, 2017, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the November 01, 2017, meeting as presented. The motion passed with Chase and Chirichiello abstained.

The Board reviewed the Site Walk notes of November 18, 2017.

Motion by MacEachern, seconded by Bartkiewicz to approve as presented. The motion passed with Levin abstained.

## Correspondence

Mr. Fairbanks advised the Board is in receipt of a copy of the minutes of April 15, 2015, meeting concerning the Central Business District rezoning public hearing. The Chair had asked that the minutes be copied to the Board members. Two escrow renewal reminder letters, one for MartinGate the other for Seven Hills Development, are copied to the Board. A note has been provided that both renewals are in hand. The Board has also received the most recent editions of *Supply Lines* and *Town and City*.

## Other Business

Mr. Sioras invited abutters to the 3 Nutfield Court project to meet with the engineer prior to the public hearing.

### Request to Amend Fire Protection Note, PID 10012-001, 2.5 Village Brook Lane

Mr. Sioras explained 2.5 Village Brook Lane is located adjacent to Holy Cross Church. The developer, Steve McMaster, is requesting an amendment to the fire protection note on the plan approved by the Planning Board in 2000. There is a hydrant within 500 feet of the property which can be used as the source of fire protection. There is a notarized affidavit, signed by Assistant Fire Chief Scott Jackson who was present this evening. AC Jackson confirmed he is in agreement with the request. Mr. L'Heureux advised DPW has no issues with the request.

Motion by MacEachern, seconded by Bartkiewicz to accept the Affidavit – Plan Note Change with regard to the subdivision plan approved for the Holy Cross Church Building Committee on December 06, 2000 (recorded at the Rockingham County Registry of Deeds as Plan D-28589) and to have the Affidavit recorded at the Registry.

Chase, Levin, Chirichiello, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.
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### Board Discussion of Site Walk Held on November 18, 2017

Mr. Sioras recalled most of the Board members were in attendance at the site walk. He and Ms. Levin drove the area the other day. The Board reviewed Madden and Folsom Roads and then walked Claremont, Exeter and that area. The intent was to see what is in the area and to start to think about what could be done in those areas. The Board members should forward any ideas for zoning adjustments to the Planning Office for a workshop. Mr. MacEachern felt there was good information in the notes of the site walk. The task before the Board is to determine what they will do on the Police Department side of the road, potentially adding to the zones that exist. The Board will then need to discuss what is to be done on the south side of the road, which is residential. What should be done and how far back should it go? He recommended scheduling a workshop at the beginning of the year which gives the Board members a month to get ideas to the Planning Department. The suggestions can then be tabulated; he volunteered to work with Planning staff on this. Mr. Granese was in agreement.

*Ms. Carver entered the meeting.*

### Discussion – Letter to NH DOT regarding 10 Year Highway Plan – Exit 4A Suggestions

Mr. Sioras said there had been some discussion during the site walk about sending a letter to NH DOT containing improvement suggestions for the Exit 4A corridor. The maps are fairly clear with regard to the potential layout of the road improvements for the exit. Mrs. Robidoux recalled Board members suggesting right turn lanes on North Main Street and Tsienneto. The Highway Plan is at the Governor & Council. Mr. O'Connor advised the next public hearing to be held at Hazen Drive in Concord will be on December 20<sup>th</sup>. He will be attending. Mr. Granese said any suggestions should be forwarded to Planning.

## **Public Hearing**

### **Town of Derry Fire Department**

#### **Pursuant to RSA 231:133-a**

#### **Re-designation of three addresses on or adjacent to Damren Road**

Assistant Fire Chief Scott Jackson presented. The purpose of the hearing is to discuss re-designation of three addresses, specifically 2L and 2R Damren Road, and 246 Hampstead Road. Chapter 51-14 of the Town Code states the Fire Department shall designate property and house numbers. RSA 231-133-a states that prior to assigning or altering numbers, the governing body or Planning Board shall hold a public hearing for which a 10 day notice has been given. The notices were sent to meet the 10 day requirement. No public hearing shall be required where the property owners voluntarily consent to renumbering. Not all property owners consented. There is a three acre lot with frontage on Hampstead and Damren Road that is currently under construction. This initiated the change in addresses. AC Jackson showed a picture of the home from Hampstead Road; there is a 40-45 foot grade change from the road to the home. A

driveway would not be approved off of Hampstead Road because of this grade change. The house faces the ideal location for a driveway. The town approved the driveway; therefore they had to look at the house numbers. Currently, the numbering is as follows; 246 Hampstead Road, 2L and 2R Damren Road, 2 Richardson, 1 Richardson and then 10 Damren Road. There is no 4, 6 or 8 Damren Road currently. The decision was made to change 246 Hampstead Road to 2 Damren Road. This reassigns the existing 2L/2R Damren to 4L/4R Damren. The remainder of the road will remain the same. This affects two residents. This is not done lightly, but in the interest of public safety. EMS responding to a call at 246 Hampstead Road would drive right by as there is no driveway on Hampstead Road. The Fire Department tries to minimize the times an address is changed. They understand it impacts the residents. This change is not made lightly

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.

Patricia Verrengia, 2R Damren Road, stated they have had three different addresses in the time she has lived there. First it was 2R, then 2B Damren. It has also been 2 Damren, Unit B. She would like the address to be one address, not 'left' or 'right' if the address is changed. She would like it to be as the Post Office requested such as one address with two units, an A and B. The 2B address looks like '28' Damren Road and her mail was getting delivered at the other end of Damren Road. She has had complications with numbers and letters. The Post Office would like the address to be 4 Damren, Unit A and Unit B. She would also like to know when the address change would take effect.

AC Jackson advised the change is not immediate and she will be notified within 30 days of the effective date of the change. With regard to L and R and A and B, the Fire Department assigns the "A" and "B" designation to separate buildings. For example, 14 Tsienneto has building "A" and building "B". The "L" and "R" designate the sides of a duplex or condex. This is a standard numbering formula found throughout the E-911 system. They have assigned 4L and 4R Damren but he can consult with E-911. Placing an "A" and "B" would confuse emergency responders. They would be looking for a separate building. He understands her frustration and stressed this is not done lightly. This is done in the interest of public safety. With regard to the effective date of the change, there is a 30 day minimum waiting period following the original date of decision. The new address would become effective on or near January 16, 2018. The mail carriers and the State are notified of the new address and there is a one year period where the mail will be forwarded.

Ms. Verrengia stated she has lived at this address for twenty years. This is a lot to change – driver's licenses, bank accounts, checks, etc. Will there be any compensation from the developer? AC Jackson advised there will not. The Town will provide a letter that can be used for deed changes and a copy of the letter can accompany any documentation with the old address to prove the address change. Ms. Verrengia asked if the 4R Damren will be for town purposes only or can she still have her bills come to 2B? AC Jackson stated the post office will not deliver if the mail is addressed in that manner.

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 the public hearing was closed.

Mr. O'Connor concurred with AC Jackson. The Census program follows the same numbering system; this creates conformity throughout with regard to numbering. Mr. Chirichiello asked if AC Jackson could touch base on the issue of the deed. Will the letter from the Town be recorded at the Registry? AC Jackson was not certain but the Town would have a copy. Mr. Chirichiello felt the letter should be recorded. Mr. Fairbanks agreed the letter from the Town should be recorded on behalf of the residents to help keep the record clear. AC Jackson stated he is not aware if this has been done in the past and he is unaware of any issues arising out of address changes of this type.

Mr. Fairbanks asked where the Town was in the E-911 renumbering process. AC Jackson advised that is still in process and the town will be due to go through the renumbering within the next few months. It was noted that change will involve public hearings. For the most part, the house numbers are in line with the system but when an old lot is subdivided, it can create issues. Mr. MacEachern said he has seen this done a few times over the years and agreed it is not done lightly. The Town and Fire Department take all due diligence before making a change of this type.

**McMaster Development, LLC**  
**PID 10012-001, 2.5 Village Brook Road**  
**Waiver request, LDCR Section 170-31.A**  
**To allow overhead utilities**

Mr. Sioras provided the following staff report. The applicant, Steve McMaster, is requesting a waiver to allow overhead utilities rather than running them underground. Photos of the utility pole in front of the new home are provided. Mr. McMaster is present this evening. Staff supports the request to allow overhead utilities. This lot was subdivided years ago. The request is fairly self-explanatory. There is also an email in the file from one of the abutters, Mr. Kling, who has no objection to the request.

Ms. Davison disclosed one of the abutters is a family member. She had verified with Planning staff that she did not need to recuse herself but wanted to make sure the Board was in agreement. The Board members agreed she did not need to recuse herself as she has no direct interest in this request. Mr. L'Heureux had no issues with the request.

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.

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 application returned to the Board.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-31, Other Utilities, to allow overhead utilities for the lot, where the regulations require the utilities to be underground. After review of the waiver request, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

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

**Ajit Kumar (MPV Development, LLC)**

**PID 27094, 3 Nutfield Court**

**Sandra L. Willand**

**PID 27095, 2 Highland Avenue**

**Acceptance/Review, Lot Line Adjustment**

Mr. Sioras stated the purpose of the plan is for a lot line adjustment between 3 Nutfield Court and 2 Highland Avenue to eliminate the garage encroachment. A site plan for a townhouse development is to follow. No town signatures are required and there are no waiver requests. Staff would recommend approval of the lot line adjustment plan. This is fairly straightforward. It is a small adjustment along the lot line of the adjoining home. The garage encroaches onto 3 Nutfield Court. The applicants would like to revise the lot line to allow the entire garage to be on 2 Highland Court. This cleans up that lot line.

Doug MacGuire, The Dubai Group, represented MPV Development. He advised he had a successful meeting with the abutters and answered questions up front. He thanked the Board for the opportunity to hold that discussion. The lot line adjustment is straightforward. They are proposing a small adjustment because of the garage encroachment. They thought it was better to clean this up and allow the garage to be on its own lot.

Mr. L'Heureux had no comments with regard to the application. Mr. MacEachern believed the house would now be too close to the lot line. Mr. MacGuire stated the new configuration makes 2 Highland Avenue more conforming. Mr. MacEachern said it looked like the house crosses the line. Does it meet the minimum required 15 foot setback? Mr. MacGuire stated they did not move that line during the adjustment to meet the full setback. He believed the lot line was negotiated out prior to The Dubai Group taking over the project. He will need to speak with his client. Mr. MacEachern stated the lines if being moved, need to meet the current zoning requirements. Mr. MacGuire thought that was a good suggestion but will need to discuss this with his client and the abutter to solidify it. The intent of the lot line adjustment was not to meet today's setback requirements, but rather to bring the garage and house onto the 2 Highland Avenue lot. Mr. Chirichiello agreed the lot lines should meet today's requirements. Mr. Fairbanks confirmed the property will be deeded from Mr. MacGuire's client to the abutter. Lot lines can't be changed willy nilly. Mr. MacGuire said his client wanted to limit the amount of land being adjusted because it affects the density and other calculations. He would like the opportunity to look at this again.

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.

Kevin Gilcreast, 9 Norton Street, spoke on behalf of Sandra Willand, who was also present. The lot line adjustment is being done for the garage. There was no concern with the back lot line. They did not agree to move the line behind the house; they just want the garage to be on her property, 2 Highland Avenue. Mr. MacEachern agreed the property is non-conforming, but the Board wants to make it conforming. Otherwise there cannot be any additions to the house in the future. If the lot becomes conforming, then it would be the proper size. Mr. Gilcreast reiterated the concern is the location of the garage in relationship to the existing lot line. They never looked at the back property line. Mr. MacEachern stated the garage will still not be conforming with regard to the setback. Mr. Gilcreast said so long as there are no changes made to the garage, Ms. Willand will be okay because it is existing.

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 returned to the Board.

Mr. O'Connor suggested this plan should have jurisdiction accepted and then be continued. This would give the applicant time to look at the lot lines and conformity. Mr. Chirichiello added that conforming lot lines would be better for a future sale.

Motion by MacEachern, seconded by O'Connor to accept jurisdiction of the lot line adjustment application before the Board for Ajit Kumar (MPV Development, LLC), PID 27094, 3 Nutfield Court and Sandra Willand, PID 27095, 2 Highland Avenue.

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

Mr. MacEachern suggested Mr. MacGuire work with the landowners to see if they could make the Willand lot conforming by a slight adjustment to the lines near the house and garage.

Motion by MacEachern to continue the public hearing to January 17, 2018, seconded by O'Connor.

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

Mr. Granese advised there would be no further public notice regarding dates for this hearing.

**Ajit Kumar (MPV Development, LLC)**  
**PID 27094, 3 Nutfield Court**  
**Acceptance/Review, Site Plan**  
**32 Unit Multifamily Residential Development**

Mr. Sioras provided the following staff report. The purpose of the plan is for a 32 unit, two bedroom townhouse project. The property is located in the Industrial I zoning district but received a variance for the use on November 5, 2015. All town departments have reviewed and signed the plan. There are waiver requests outlined in a letter prepared by The Dubay Group on November 14, 2017. The NH DES Alteration of Terrain permit is pending. Staff recommends a site walk and perhaps continuing this plan to January. This is the site of a former shoe factory and most recently in the last 30-40 years, Chism Machine. All around this lot is multi family residential. This is the last industrial piece of land along the former railroad. The Chism property was tax deeded and then auctioned off to the current owner.

Mr. Granese noted the lot line adjustment just discussed by the Board affects this plan. Mr. MacGuire, The Dubay Group, presented for the applicant. He explained this industrial site has been vacant for some time. There are dilapidated buildings and debris areas on site. There is no landscaping or drainage control and there is open impervious surface. The site is in bad shape. The applicant obtained a variance from the ZBA for multifamily use. The ZBA approval stipulated conformity with MHDR regulations. That is what they have done. The current multifamily regulations would allow 34 units on site; they are proposing 32 units. They meet the regulations with regard to the amount of required open space; they are requesting two waivers which speak to the road, not the development itself. They are proposing two story, town house style units which will be 16 x 40 feet in size, with a total square feet of 1280 each. The garages will be under with the exception of the 5 units to the rear which cannot have garages because of the slope. The building style would be similar to the redevelopment of the Floyd School on Highland Avenue. All of the units in that project have been sold and there is a high demand for this type and size of housing.

Mr. MacGuire reviewed the existing conditions plan. He then explained the proposed site development. Nutfield Court will be fully upgraded and brought to town roadway standards. It will remain a private drive. The existing roadway is 20-22 feet wide and will be expanded to 24 feet wide. They will add vertical granite curbing, closed drainage, ADA accessibility ramps at the entrance, continuing the sidewalk from South Avenue, and will improve the entrance radii. They will work with the abutters as best they can, including discussing the proposed lot line adjustment to make the lot more conforming. Also adjacent to the project is an existing apartment complex. The existing lot (PID 27093) was substandard and had parking issues. The project was discussed with the abutting owner and they will share access on Nutfield Court. The applicant will add parking for the abutter on Parcel 27093 and expand the access to 24 feet wide. This is a safety improvement and also improves circulation. For this project, there is a lot of snow storage area. The cul de sac loop has good turning access and meets the Fire Department requirements for the ladder truck. The units will be built into the slope so that the garages will be at grade. The land steps up in grade so the living areas will walk out to the backyard, with bedrooms upstairs.



They are adding to the closed drainage system. There are excellent soils on site and they will have heavy recharge; the intent is to use perforated pipe along the middle where the catch basins collect any overflow. The treated drainage leads eventually to Beaver Brook. They believe they have kept a generous buffer to the Brook. The Conservation Commission walked this site and overall is happy with the plan. The Commission did ask that the grading for the buffer be tightened up, which they did. The landscaping plan is fairly robust. 45 trees are required by the regulation and they are proposing 99 trees. They emphasized the buffer to the abutters and are adding a 6 foot stockade fence along the perimeter of the project. The vegetated buffer on Nutfield Court will buffer the existing residential units across the Court. There are a few existing encroachments onto the property which will be handled with easements. They will maintain that and go around the easements with the fence. There are many deciduous trees on site and evergreens along the buffer. The lights are LED and conform to the regulations. The sewer will go behind the units to South Avenue. The majority are gravity fed, but the rear units will have pumps.

Mr. MacGuire discussed the road profile. Nutfield Court is very flat. They have adjusted the grade where they could but will need a waiver as they cannot meet the 1½% because of the existing driveways for the abutters. They made the grade better where they could. The sight distance profile is included in the plan set. The Highway Safety Committee was comfortable with the traffic study and proposed improvements to Nutfield Court. Mr. MacGuire then reviewed the recreation, open space and density calculations. The plan meets the regulations and it also shows the existing conditions. The improved plan has less impervious than the existing conditions on the lot.

Mr. Fairbanks noted the TRC notes reference the need for a shoreland permit. Has that been obtained? Mr. MacGuire advised they meet the State requirements and the permit is pending. Mr. Fairbanks asked if there was any information on the status of the monitoring wells. Mr. MacGuire said it was not clear. The plan proposes to maintain the wells and they will be kept in place. He did research but there are no open files on the State website. They may be decommissioned but not removed. Mr. Fairbanks asked if there was a history of hazardous materials on site. Mr. O'Connor wondered if they were in place because of MTBE.

Mr. L'Heureux advised open topics for the Public Works department include the construction easements for access to the drainage that is to be replaced. There will also need to be a construction easement for the adjacent property where they are planning the lot line adjustment so that they can get the correct slope. They will need construction easements for the work that will take place as the working area will extend beyond the existing roadway. They are planning ahead to replace the catch basin and drain man hole unless they find they are in good condition. Other items were corrected on the plan. The Keach Nordstrom report has some comments but they are not major. Mr. MacGuire added he reviewed the report from Mr. Keach and has no objection to the comments. They have begun to address them on the plan. None of the comments call for a significant alteration of the plan; most are housekeeping items.

Motion by MacEachern, seconded by O'Connor to open the public hearing. The motion passed with all in favor and the floor was open to the public.
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Ryan Campbell, representing Nutfield Court and Chelmsford Hardy Place, stated the plans before the Board are not the same plans they discussed with the applicant dated June 7, 2016. They had not seen the new plan until yesterday when they met with the engineer. The original plan had the access 4 feet from Chelmsford Hardy side of the road. This plan has the access 4 feet closer on the other side of the road. This plan brings the road 8 feet closer to the apartments, 13 feet closer to the windows, and 3 feet from the sidewalk. They will lose two trees and the stones on the side of the building. They want the original plan they agreed to which is four feet from the Chelmsford Hardy side of the road.

Sara Desaulniers, 10 Pleasant Street, represented the neighbors present who live on Pleasant and McGregor. They had been concerned there would be access out to McGregor Street and did not want that as it is a small neighborhood. After reviewing the plans, they see there is no issue and are quite happy with the application. There will be easements so Parcel 27106 will not lose its parking spot. Overall, they are happy with this plan and wanted to put that on record.

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.
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Mr. Granese asked if this would be a 55 and over development. Mr. MacGuire advised these will be market rate and not age restricted.

Mr. O'Connor asked if the Board has before it the same plan that was before the ZBA for approval. If not, then he did not believe this plan had a variance. Mr. MacGuire stated he understood the ZBA utilized a conceptual plan and placed conditions on the plan such as subject to Planning Board review, state and town permits and inspections, and compliance with the MHDR district regulations. They approved a multifamily residential use in an Industrial zone. He noted his office was not involved during the ZBA process. Based on his understanding, they are in compliance. Mr. O'Connor said he watched the ZBA hearing; he is requesting a note be added to the plan that this is an industrial lot and a variance was obtained for the use. He also would like to see the calculation for the density that shows the wetlands and open space have been deducted. Mr. MacGuire said he went through the calculation with staff and believes he has it correct. Mr. O'Connor liked the idea of the E1 pumps. He noted the propane tanks will be relocated, but did not see them on the plan. Mr. MacGuire explained that half way through the plan design process, they were advised natural gas is available to the site. They will carry that into the property. They did relocate the propane tank for the abutter for the parking lot expansion, but the abutter may also connect to natural gas. Mr. O'Connor said he would like confirmation the monitoring wells are not there because of MTBEs. There are 3-4 monitoring wells on site; one is submerged. Mr. MacGuire said he would try to get more information. There is no active information available. He will contact NH DES. If they are decommissioned, they will note that. Mr. O'Connor asked Planning staff to obtain a copy of the Highway Safety Committee notes for this project. He also asked what the proposed height of the buildings will be. Mr. MacGuire stated the total height from the garage level is 31.5 feet. There is a difference in elevation on the garage side. The garage door is at the basement level. The first floor is a

walkout and the second floor has the bedrooms. Mr. O'Connor spoke with regard to Sheet 6, Note #9. The note speaks to the removal of snow to a dump site. Where is that site? He wants to make sure Beaver Brook does not get compromised by chlorides. Mr. MacGuire advised the Conservation Commission had the same concerns. There is ample area on site for snow storage. The landscape company truck will remove any excess snow as necessary and truck it to an offsite facility. Recreation Area II has ample room for snow storage and there is also an area to the side of the cul de sac. The snow storage areas will drain into themselves and not into Beaver Brook. The building is also between the snow piles and Beaver Brook. Any supplemental runoff will go into the treatment system. Mr. O'Connor asked if there is access to the rail trail. Mr. MacGuire said there is not as the applicant does not directly abut the rail trail. Mr. O'Connor suggested the Board hold a site walk. This would give the Board an opportunity to look at the lot line adjustment area as well. He asked that the distance from the garage to the buffer be marked off. Mr. MacEachern agreed there should be a site walk.

Mr. Granese spoke with regard to the gentleman representing Parcel 27093, he asked Mr. MacGuire to revisit that agreement. Mr. MacGuire stated the conveyance happened before The Dubay Group was involved in the process. He met with Mr. Campbell yesterday and believes they will have time to iron this out. There is a four foot encroachment. The original plan had been to widen the opposite side of the road. However, the applicant owns 75% of this side of the road and it makes sense to do the widening on his side of the road; otherwise they are widening 100% on the abutter's side. He will need to verify this with DPW. Mr. Granese indicated his concern is that the abutter's representative has stated this is the first time he has seen this plan; everyone needs to be on the same page and the agreements will need to be revisited.

Mr. L'Heureux stated this is why DPW is requesting the easements be deeded for each property accordingly and the construction easements as well. This clarifies everything. This is actually crucial for construction as the applicant will have to go beyond the easement areas for the access to get the construction work done. This is why it is requested as a condition of approval.

Mr. MacGuire said they have been back and forth with DPW to start the process. Over the next month, they will meet with the abutters and can get an updated plan that will reflect the comments provided by KNA and address the abutter's concerns. They can be ready for the January 17th meeting.

Mr. Fairbanks indicated he would be interested to see the comments from the Highway Safety Committee meeting as well. This is a tough intersection.

Mr. MacEachern noted one abutter feels the plan have changed. The ZBA minutes reflect a proposal for 28 units; this plan proposes 32. Mr. MacGuire said this plan is proposed in compliance with the MHDR regulations. The concept plan was not well received by the Technical Review Committee. It lacked a turnaround and improvements. They basically started over and made the number of units meet the intent of the MHDR regulations; they are two units short of what is allowed. Mr. MacEachern said the ZBA approved 28 units based on the plan before them and the road that varied by a difference of 4 feet. He asked Mr. Sioras if this plan was submitted in timely fashion. The variance was approved on November 5, 2015. They had two years to submit a plan. It is now December of 2017. The plan is signed off by the TRC in

November of 2017. Mr. Sioras explained it has been interpreted that the applicant has two years from the time the Planning Board approves the plan to meet the conditions of the variance. This plan came in on November 14, 2017. Mr. MacEachern did not believe the applicant met the two year time frame. Mr. Sioras said the Code Enforcement Officer's interpretation is that they have two years from the time the Planning Board hears the plan, not the ZBA. Mrs. Robidoux agreed. Mr. MacEachern did not agree and asked that a legal opinion be obtained to clarify the question. Mr. Sioras said staff will reach out to the legal team at the New Hampshire Municipal Association.

Mr. Fairbanks noted the ZBA minutes reflect a concern on behalf of the ZBA with regard to density. What does Note 7 on the ZBA plan say? Mr. MacGuire explained he was not at the ZBA meeting; a different firm presented the plan to the ZBA. Mr. Sioras said staff would have a copy of the ZBA file available for the next meeting.

Mr. L'Heureux recalled one of the questions that came up during the hearings was the buffer to the stream. At the time, because the plan was a concept plan, they were not sure if they could put a building in the buffer zone because they were not sure where the line was. They drew the plan conservatively for the ZBA and did not include the last building. Mr. Sioras said the applicant has obtained a variance. The applicant used a conceptual plan for the variance which was a use variance. The use was granted. Once the plan came before technical review, the plan changed to what the Board has in front of it today.

Mr. MacGuire said many times a ZBA will include the maximum number of units in the conditions of approval if the number of units is an issue for the ZBA. He believes the condition was subject to the multifamily regulations, not a specific number of units. He understands why the Board is bringing this up but felt they had a fresh look at it.

Mr. MacEachern suggested continuing this plan to January 17, 2018 as well to give the engineer time to iron out some of the issues that have been brought up tonight. Mr. MacGuire felt if the Board was going to hold a site walk there would be merit to holding one before there was too much snow on the ground. He does not feel any major changes will come out of the discussion with the abutters.

The Board briefly discussed dates for a site walk.

Motion by MacEachern, seconded by O'Connor to hold a site walk on Saturday, December 30, 2017 beginning at 9:00 a.m. Discussion followed.

Mr. O'Connor asked that the boundaries and buffer areas be staked out. Mr. MacGuire said the four corners of the rear building are already staked out. Mr. O'Connor said he would like to see the lot line adjustment line relative to the residential buffer as any change there may affect structure setbacks on the applicant's property. Mr. MacGuire asked as to the Board's position. He is not sure the applicant will redesign the site plan to make an existing non-conforming lot more conforming when he has no bearing on that property. They could opt to not move the line. There is no benefit to the applicant other than being a good neighbor. The applicant could grant Ms. Willand an easement for the garage which has no impact but allows her a legal right to the

garage in that location. Mr. Granese said because the lot line adjustment hearing had been continued to January, they will have to discuss it then. He suggested Mr. MacGuire speak with those involved and bring the information back to the Board in January. Mr. MacGuire replied he just wants to do what is right in the meantime.

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

Mr. Granese asked Mr. MacGuire to make sure that anyone attending the site walk, including abutters, has the right to be on the property. Staff will keep an eye on the weather and if it looks like there will be inclement weather, the site walk will be postponed and the new date announced.

Mr. MacEachern reminded staff he would like clarification with regard to the RSA. The plan was submitted to the TRC on October 18, 2017, and there had been internal meetings with staff prior. He wants the clarification. Mr. Sioras said staff will check with NHMA, adding that this plan is an improvement over the original concept.

Motion by MacEachern, seconded by O'Connor to continue the public hearing to January 17, 2018.

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

There was no further business before the Board.

Motion by Fairbanks, seconded by Bartkiewicz to adjourn. The motion passed and the meeting stood adjourned at 8:41 p.m.

Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

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