The Planning Board for the Town of Derry held a public meeting on Wednesday, January 18, 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; John O'Connor, Vice Chairman, Michael Fairbanks, Secretary; Charles Foote, Town Council Liaison; Randy Chase, Town Administrative Representative, Frank Bartkiewicz, Lori Davison, Members; Mark Connors, Marc Flattes, Elizabeth Carver, Alternates

Absent: Mirjam Ijtsma, Jim MacEachern

Also present: George Sioras, Planning Director, Elizabeth Robidoux, Planning Assistant; Mark L'Heureux, Engineering Coordinator; Robert Mackey, Code Enforcement Officer/Building Inspector

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. Flattes was seated for Ms. Ijtsma; Mr. Connors was seated for Mr. MacEachern

Escrow

None

Minutes

The Board reviewed the minutes of the January 04, 2017, meeting.

Motion by O'Connor, seconded by Flattes to approve the minutes of the January 04, 2017, meeting as written. The motion passed with Davison and Bartkiewicz abstained.

Correspondence

Mr. Fairbanks advised the Board is in receipt of copies of escrow reminder letters for Tupelo Hall and 17 South Avenue Condominiums, Notices of Public Hearings from the Towns of Londonderry and Bedford for proposed cell towers in each town, a copy of *Supply Lines with the Source*, and the most recent issues of *Town and City.*

Other Business

Mr. Sioras reminded Board members that any member with a term expiring in March of this year who wishes to be reappointed should contact Sheila Bodenrader in the Town Administrator's office.

Public Hearing

New Wave Diversified, LLC
154 Hampstead Road, PID 09081
Review, 2 Lot Subdivision
Continued from January 04, 2017

Mr. Granese and Mrs. Robidoux noted corrections to the agenda for this item: The hearing was continued from January 04, 2017 not 2016 and the application has already been accepted. This hearing is to continue review of the application.

Tim Peloquin, Promised Land Survey, advised he represents the applicant, New Wave Diversified. The application is for a two lot subdivision on Hampstead Road. The lot was the subject of a variance granted for insufficient frontage. This is a flag shaped lot with a long driveway to the back. The Board has walked the site, reviewing concerns identified during the first meeting on this plan. In December, the Board voted to deny a waiver request and is requiring the extension of water service to the property. They have not designed a water line to the property. It is very expensive to extend the water 568 feet to the property. There is a New Hampshire Department of Transportation (NH DOT) culvert to cross the road, a wetland, and an abutter's driveway. These are all elements to be considered in expanding the line; the line itself is quite expensive. Attorney Cronin is present this evening to request the Board reconsider the waiver.

Mr. Granese noted Mr. O'Connor had recused himself from previous discussion of this application.

Mr. O'Connor recused himself and stepped down; Ms. Carver was seated for Mr. O'Connor for this public hearing.

Mr. Granese did not believe Mr. Peloquin was present at the January 04, 2017 public hearing at which the developer asked for a continuation so that plans could be revised. He confirmed there are no revised plans for the Board to review. Mr. Peloquin advised the applicant was considering whether or not he could feasibly extend the water service. The developer, Mr. Peretz, received the cost figures and it appears it is not feasible.

Mr. Granese stated this is the third hearing on this application. Will the applicant waive the 65 day clock? Attorney Cronin said they were willing to extend the clock an additional 30 days. He has no intention on invoking the time frame, and is happy to consider continuing the hearing again if necessary.

Attorney Cronin explained he had been before the ZBA a few years ago to speak with regard to a variance for this lot. He does not normally get too involved in the Planning Board end of things, but received a call a week or so ago from his client requesting he look at the project in relationship to the waiver that was denied. Attorney Cronin thought the subdivision application was fairly straightforward, even given the configuration of the lot. The December hearing minutes reflect some Board members had issues with the configuration of the lot and with the ZBA. The Board correctly noted it may not like the decision of the ZBA, but those issues did not fall under the province of the Board for review and the Planning Board must abide by the decision of the ZBA. He has reviewed the Land Development Control Regulations (LDCR) Section 170 and the waiver request. He looked at the waiver request in comparison with the minutes. The waiver request was to not extend public water to the lot. The regulation itself is confusing and says nothing about the extension of public water to the lot.

He then reviewed the record of the amendment of that section of the LDCR. He reviewed past minutes of the Board, beginning with the January 2014 workshop which is when the Board began consideration of the amendment of this regulation (§170-30). It appears the Board proposed amendments based on the state regulation that prohibits towns from requiring residential sprinkler systems in one and two family dwellings. Derry had Fire personnel look at the regulations to make amendments while providing fire safety. In February of 2014 there was discussion about safety and the purpose. Generally, there is 1000 feet of hose on the trucks. Nowhere in the process does it mention the 500 foot distance that appeared during the public hearing on April 2, 2014, that was approved. To Attorney Cronin's knowledge, that (distance) was implemented on the night of April 2, 2014. He was provided a copy of the document which was referenced during that meeting and provides a markup in red and blue. The 500 feet was added at that meeting, which raises some procedural questions as to the validity of the amendment process. He has no intention to challenge the regulation; that is not necessary.

Attorney Cronin said the regulation talks about having a hydrant 500 feet from the premises. The hydrant they are discussing is located 560 feet away. If they were at 500 feet, they would not need a sprinkler system. They are proposing a residential sprinkler for the new home. That was agreed to at the ZBA level and discussed at the Planning Board. The sprinkler is in addition to having a hydrant 560 feet from the lot, which is an adequate, safe distance according to Assistant Chief Jackson, who wrote a letter today. It is well within the 1000 foot distance and seems to make a lot of sense. Assistant Chief Jackson is fine with either option.

The second issue is procedural and important to look at in terms of reconsideration. He looked at the meeting in December. A few members came to the meeting and did not sit for the first meeting. One member said he read the minutes, but did not vote. Mr. MacEachern said he read the minutes and was comfortable voting. He seemed to be the catalyst to persuade people to vote against the waiver. Mr. MacEachern seems very knowledgeable and had a lot of information based on its (water system) history; he does not challenge that.

Attorney Cronin advised he did a little research and found a few homes around Derry that have sprinkler systems that are at a far greater distance away from a hydrant. The Board in December said it had to strictly enforce this particular section of the ordinance. When it voted on the

Doolittle application in September of 2016, the Board was offered the same waiver and granted it, stating the waiver met the spirit and intent of the regulation. He is requesting the Board reconsider to see if this particular waiver before it meets the spirit and intent of the regulation. There is a hydrant less than 600 feet away from the lot and the home will have residential sprinklers. The state felt it was imprudent to impose the expense of sprinklers on homeowners at a cost between $6,000 and $8,000.00; he feels it is unreasonable to move a water line at the expense of $50,000 to $70,000.00 for one house. The regulation talks about 'development'. All through the workshops on this particular regulation, the Board talked about subdivisions with many homes. This is one house on one new building lot. He feels this is an appropriate case for a waiver. The Board has procedures that deal with reconsideration and he would ask the Board to consider that this evening.

Mr. Granese asked if the hydrant being discussed is shown on the plan. Mr. Peloquin said it was not, but he could point it out. Attorney Cronin indicated Exhibit 3 in the packet he had handed to the Board (a copy has been placed in the file). In that, Assistant Chief Jackson gives a measurement of 570-580 feet from the lot line.

Mr. Granese asked Mr. Peloquin what he had for a distance. Mr. Peloquin believed the distance to be 568 feet.

Mr. L'Heureux stated part of the problem that has evolved is that during the initial meeting, the developer was asked for more information regarding the water system abutting the lot. There was back and forth discussion about this being a Pennichuck system, and public versus private water systems. At that point, he recalls specifically requesting more information with regard to the water system such as the spatial information on the plan and that they show the hydrant and water main on the plan. The applicant needs to provide evidence to support a hardship. A new plan was not supplied to the Board. He is not a voting member, but in his observation, there has been no new, compelling evidence to sway anyone that there is a hardship to support granting a waiver request. If an applicant is requesting a waiver, then the applicant needs to provide information and evidence that is complete and accurate. Numbers cannot be thrown back and forth. He feels it is prudent to get the information on the plan so that there can be a reasonable discussion if the Board chooses to reconsider. There needs to be exact information on the plan; they should find out if this would be serviceable by Pennichuck, and if a hydrant needs to be added on the other side of the road. In some cases Derry has installed hydrants on both sides of the road on busy arterial roads, and did so recently on Route 28. The applicant may want to add information about counts to further support the waiver request.

Attorney Cronin said he had no objection to taking time to provide details to the Board. He believed there is no dispute the distance is less than 600 feet. That can be shown on the plan and the applicant can give the extensions required to get the information to the Board. As far as a serviceable location, that is not what the regulations say. The regulations say within 500 feet. There is no reference to where it needs to be on the side of the road. He will speak with Mr. Peloquin and his client and recommend they show whatever location they can. These regulations are important. He is not sure the regulation is valid given how it may have come about. He is assuming for today that it is valid. Even if it is valid at the 500 feet, they are talking about a

minimal distance. The compelling part of the argument is that the Fire Official said he is fine with it.

Mr. Granese did not believe AC Jackson said he was totally fine with it either way. Mr. Granese also felt numbers should be shown on the plan and the Board should have all the information in front of it.

Mr. Fairbanks said at the last meeting (December 7) there were things that got the Board down the road to disapprove the waiver that were based on the statement that Pennichuck had inadequate pressure. He thought when they discussed that back and forth it was found that is not the case, so the Board questioned the need for the waiver. Regarding the distance of 500 feet or whatever the number is, he may be fine with it provided the distance gets documented. He inquired if Attorney Cronin's stance was this Board denied the waiver because of thoughts about the ZBA?

Attorney Cronin said it was concerning. There were comments that were made about whether or not the Planning Board could do anything about the decision of the ZBA. In other research he did, there appears to be some concerns of this Board with some of the actions of the ZBA. That is not unusual. He wants to make a record and preserve whatever rights he has.

Mr. Fairbanks noted members of the Board have voted to approve plans even though they did not agree with the decision of the ZBA. In this case, their action did not affect his vote. Attorney Cronin commented he made note of that in his opening remarks. This Board correctly noted the ZBA decision was not their province.

Attorney Cronin felt it made little sense to move a hydrant 68 feet at the expense of tens of thousands of dollars when the applicant will install residential sprinklers and the Fire Department believes that will provide them with adequate time and they have capable equipment to fight a fire.

Mr. Granese said Mr. Peloquin asked for the waiver and it failed. If the hydrant had been on the plan with a distance noted, there may have been a different outcome. The Board did not have all the information before it.

Attorney Cronin admitted he was not present for that hearing; the Board has a right to reject verbal evidence, although verbal evidence would be acceptable in Court. He is here this evening hoping to plea that the Board will look at reconsideration of the waiver. It does not make sense to get Pennichuck involved and dig things up just to move it 70 feet.

Mr. Connors recalled the original discussion was about §170 and talks were about being within 1000 linear feet of the property, the Pennichuck system and not ~~begin~~ being able to use that system; there were never discussions about 500 feet. It was stated that Pennichuck would not let the applicant use their system. With regard to the definition of "subdivision" it is the creation of one lot or 50 lots. There are many provisions put in place for safety and the improvement of the town. If the Board waives it for 80 feet, why not 100 feet? If it is waived at 100 feet, why not 250 feet? If the Board finds it is unreasonable distance, then the Board may need to look at

amending the regulation at some point. If it is a reasonable distance, where does the Board draw the line? If the Board was to reconsider the waiver, he would want to look at an actual measurement on the plan.

Mr. Granese asked Mr. Peloquin to revise the plan to show the hydrant location, with the number of feet from the hydrant to the driveway, as well as the existing water line. Mr. Peloquin said he will note the distance from the hydrant to the center of the driveway; he felt that was the best intent. He can do that within a few days and get a plan to staff.

Mr. Flattes asked if the applicant could provide the projected cost of the improvements to support his case for hardship. Attorney Cronin said they could do that. Mr. Peloquin added they have already solicited some estimates from local excavators the town has approved.

Mr. Granese stated the applicant is willing to update the plan with the requested information and to add thirty days to the 65 day clock. The information will be available to discuss at the February 01 meeting. He advised he would like to poll the Board to see if members were in favor of reconsidering the waiver request, to make sure all members were on the same page. A 'yes' vote would mean the member wanted to see additional information and an updated plan in order to reconsider the waiver. A 'no' vote would mean the member wanted to reconsider the waiver this evening.

The following are items the Board would like to have provided in order to reconsider the waiver: the hydrant location, the Pennichuck Water Works line which runs to the west of Olesen, some detail, the plan should show the distance from the hydrant to the center of the driveway, water line details, the DOT culvert, the wetland fronting on Olesen/Hampstead Road, and cost estimates for the expansion of the water line.

Mr. Fairbanks noted in the email from AC Jackson, his item #3 states: "Based on staffing levels, our tanker may not be available and therefore we would prefer the pressurized system." What does he mean by 'pressurized system', is that the cistern? Mr. Chase explained it means the municipal system; cisterns are not pressurized. Mr. Fairbanks asked if that sentence meant the Fire Department would prefer coming off the water system. Mr. Chase said the Fire Department will always prefer the municipal water system; the next best thing is a sprinkler.

Mr. Chase noted the waiver letter from Promised Land Survey dated August 16th said "per Capt. Jackson the existing fire hydrant they are discussing did not have adequate pressure." If at all possible, Mr. Chase would like to know the pressure and flow at that location. He understands the regulations. One dimension given is 560 feet from the hydrant; the house is an additional 450 feet from that point. Combined, the distance is almost 1000 feet from the hydrant. If the hydrant is inadequate, that distance compounds the issue. The information needs to be on the plan.

Mr. Connors recalled that the Board discussed the inadequacy of the water pressure and that the inadequacy is not documented anywhere. That statement triggered discussions.

Attorney Cronin thought that statement was consistent with the December minutes; there had been references to the lack of pressure, which was refuted.

Mr. L'Heureux said it is important for the Board to have before it fiscal costs of the improvements and spatial information. It would be beneficial to pursue documentation from Pennichuck Water Works so that the Board can have good, valid information and data so that erroneous information can be put to rest. Pennichuck should be able to provide access fees and anything else required.

Mr. Granese moved to a poll of the Board, reiterating a yes vote meant the member wanted to wait to receive a revised plan before reconsidering the waiver; a no vote would mean the member wanted to move forward with reconsideration this evening.

Chase, Flattes, Foote, Connors, Davison, Bartkiewicz, Fairbanks and Granese voted yes; Carver abstained.

Motion by Fairbanks, seconded by Flattes to continue the hearing for New Wave Diversified, 154 Hampstead Road, PID 09081 to February 01, 2017.

Chase, Flattes, Foote, Carver, Connors, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed

Mr. Granese reminded those present there will be no further notification of the continuance. Attorney Cronin advised they would provide the requested information to the Board and thanked the Board for its consideration.

Mr. O'Connor resumed his seat and Ms. Carver stepped down.

Workshop

Workshop #3 - Review of proposed changes to Article III, Section 165-25, Accessory Dwelling Units

Mr. Sioras advised the primary issue would be the changes noted on page 3 of the handout having to do with the size of the Accessory Dwelling Unit (ADU). What would be the maximum size? Mr. Mackey is present to answer any questions.

Mr. Granese asked for confirmation that the town should have a minimum size noted in the ordinance. Robert Mackey, Code Enforcement Officer/Building Inspector said the intent of the law is to make sure that towns can't force someone to have an ADU less than 750 square feet. The law means the maximum has to be at least 750 square feet. He does not feel the town needs to cite a minimum size. While towns may establish minimum and maximum sizes for ADUs, towns must not restrict the size of the ADU to less than 750 square feet. Mr. Fairbanks confirmed the town can't force the ADUs to be smaller than 750 square feet.

Mr. Mackey recalled during the last workshop the Board discussed whether it wanted to impose a minimum size. The Board should definitely set a maximum size. In his experience in the Building Department, the issue typically is that people try to fit the ADU into ~~650~~ 600 square feet. There has never been an issue of it being too small. The bottom line is that it is built correctly, has an adequate septic system to support the total number of bedrooms connected to the system, and that if the space is converted, that it is converted to living space or a rental.

Mr. O'Connor felt the key element in the definition is that an ADU provides "provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies." New Hampshire Municipal Association (NHMA) says the same - towns can set a maximum but don't need to set a minimum.

Mr. Connors reported he spent time on reviewing the information available about ADUs. He now concurs the Board does not need to set a minimum size. If the Board sets a minimum, the size can be overruled by variance. He agrees there should be a not-to-exceed size. In reviewing, he does have some suggestions about proportioning the size of the ADU in keeping with the size of the primary dwelling unit. The town might not want to have an ADU of 800 square feet attached to a home that is 800 square feet, where an 800 square foot ADU attached to a 2000 square foot home might make sense.

Mr. Mackey said the size cannot be limited by the Board to less than 750 square feet. If the Board regulates a percentage of the primary dwelling that could cause issues for a primary dwelling that is 800 square feet.

Mr. Fairbanks did not feel there was a need for a minimum size but there should be a maximum size. Ranch style homes can be 900 square feet. If someone wanted to finish the basement as an ADU and the maximum is set at 800 square feet, what do they do with the remaining 100 square feet? The question was asked, where did the 800 foot figure come from? Mr. Mackey said as the minimum would need to be at least 750 square feet, per the building codes a living room might be around 150 square feet. 800 square feet might work well as a maximum.

Mr. Flattes stated with a maximum of 800 square feet, he can see Mr. Fairbanks' point. What do people do with the extra 100 square feet? Mr. Mackey noted that in an instance where someone finished off an attached garage as an ADU, they (building officials) would need to make sure the additional 100 square feet is not finished off as part of the ADU.

Ms. Carver had two questions. The first had to do with the functional difference between an ADU and rental property. Is there a legal difference between a rental tenant at an apartment and a renter living in an ADU? Mr. Granese said so long as the owner is living in either the ADU or primary dwelling, the other unit can be rented out. Ms. Carver confirmed it would be illegal to move out and rent both the primary dwelling and the ADU. Mr. Mackey said one of them should be owner occupied and the ADU cannot become a separate condominium. The ADU could be rented or leased.

Mr. Mackey advised he did have a discussion with the Fire Inspector to see if there were different codes between an ADU and a rental unit. They have always treated ADUs as an

accessory use to the single family residence and did not require fire separation as one would require with a two family residence. Now, with the new rules going into place for the ADUs that lead to the potential of rental units, they will treat the construction of ADUs and enforce them as they would for a two family. The building codes don't distinguish between ADU or two family, but they will require a one hour separation and the appropriate detectors.

Mr. Connors had comments on the rental aspects. If an ADU turns into a rental and the primary home is sold, technically it should not be sold as a two family but it happens. He feels the town needs to prevent that from happening. He likes the suggestion that the regulation should require fire separation, but would that give any seller an advantage to sell it as a two family?

Mr. Granese asked that the Board determine the size for an ADU. He would then like the Board to review the proposed changes from the start of the document.

Ms. Carver said her second question was why stipulate a maximum size at all. What is the benefit to the town in imposing one? Mr. Mackey said without a maximum size, people could build them as large as they want. A 2000 square foot home could have a 2000 square foot ADU. The intent of the law was to have a single family home with an ADU continue to look like a single family home, not a two family. Ms. Carver said the ADU would have to be constructed within the confines of two bedrooms. Mr. Mackey said anyone could exceed the maximum size limit by going to the ZBA and proving the 5 criteria for a variance. Ms. Carver asked if there was an extra 100 square feet as in the example cited earlier, would that extra 100 square feet play into the variance criteria. Mr. Mackey was not certain any extra space would play into the five criteria. Ms. Carver felt any 'extra space' led to weird designs of ADUs.

Mr. Granese asked the Board members if they were all in agreement there should be no minimum size for the ADUs. Each Board member present indicated their agreement. Mr. Granese polled the Board and asked for a maximum size limit. All Board members, with the exception of one, stated 800 square feet. The majority ruled and 800 square feet would be put forward as part of the amendment.

The Board began review of each proposed amendment in the document noted as "Workshop 3".

All members were in agreement with the proposed definition. Mr. O'Connor noted this follows the suggestion from NHMA. It was noted that "Accessory Apartment" had been changed to "Accessory Dwelling Unit" throughout the document. The Board had no issues with that change.

Mr. Connors recalled Mr. O'Connor wanted to make sure there was a minimum area available for septics. By deleting the requirement that the lot on which the single family residence is located must have the minimum area required for the zoning district, does that affect his request. Mrs. Robidoux said no.

Mr. Granese confirmed the Board did not have an issue with deleting the minimum lot area requirement.

The Board had no issues with removing the current text with regard to written approval for septic systems and replacing it with text that indicated provisions for water and sewer must be in accordance with state law.

Mr. Fairbanks asked for confirmation that the requirement for off street parking for four vehicles applied to the entire lot and included parking for the primary dwelling and the ADU. Ms. Carver asked if that should be spelled out. Mr. Connors noted the preamble under §165-25 states "an ADU in an existing single family detached dwelling", so that would be inferred. Mr. O'Connor mentioned the law stated a municipality may require on site, off street parking, used in combination with the primary dwelling. The Board determined the intent was that four spaces are provided for the entire lot – the single family residence and the ADU combined.

No members of the Board expressed an opinion about deleting the percent of floor area requirement. The Board had already addressed the size of the ADU.

The Board reviewed the wording for proposed subsection "g". It was suggested to switch the wording so that "one and two bedrooms" was at the end of the sentence. The Board was in agreement.

The Board had no issue with removing the stipulation that an ADU would not be permitted in conjunction with a special exception.

Mr. Connors asked why had the stipulation that an ADU would not be permitted if a variance had already been granted or would need to be granted for the lot had been struck from the draft. Mr. Mackey explained that even if there had been a variance before for the lot, the law stated ADUs are permitted with single family residences. The ADU needs to meet the external setbacks. If the ADU is going to be within the confines of an existing home, that home would have already been permitted.

Mr. Connors asked with regard to water supply and sewer. If there is a requirement that a property have a fire system, when they are building the ADU would they extend the service to cover the ADU; does the language cover that? They would. Also, can the Board legally add language that states a building that has a legal ADU cannot be marketed as a two family? Mr. Mackey said homes change hands all the time and people do not come to the town to verify information. It is tough for the town to police that. Mr. Sioras offered that when someone puts in an ADU, they will apply for a building permit and the construction will be inspected. Often, Realtors will look at the tax cards for the property prior to publishing the listing. ADUS are updated on the tax card and noted as such; the Realtors should be listing the property per the description on the tax card.

Ms. Carver asked if mortgage lenders review that information. Mr. Granese said those companies will look at tax records. Mr. Mackey said it was not uncommon for a Realtor or the Assessor to check the Building file. It does happen that people will build things without benefit of a permit.

Ms. Carver asked with regard to the size of the ADU if there was a way to add verbiage to the language so that people can have the size that makes sense in relation to the property. Mr. Granese said an applicant can have a size anywhere between 0 and 800 square feet. Anything over 800 feet would require a variance. They would not spell that out in the ordinance. Mr. Mackey explained the difference between waivers of the LDCR and variances from the Zoning Ordinance. Mr. Granese said the ordinances are in place to control growth and that is why people would go to the ZBA. Ms. Carver felt the size limitation may create unintended consequences that will cause people to lose usable area in their homes.

Mr. Mackey said the 800 square foot maximum will make some of the issues he has seen go away. He recalls a few cases where people have applied to the ZBA so that they could have an ADU larger than ~~650~~ 600 square feet, and they have been granted.

The Board reviewed the proposed changes in each of the zoning districts and had no issues. Many of the changes corrected typographical errors and added ADUs as a permitted use on lots with exiting single family homes in the General Commercial zones.

Mr. Granese asked if the Board members had anything else to add to the document. Mr. Fairbanks asked how the town defines "attached". Mr. Mackey admitted there is no current definition. As a matter of practice, attached means there is a structural enclosed connection that makes it look like one building. Mr. O'Connor said during the legislative session he had asked a similar question. The law is not clear. There are architectural design requirements in place. Mr. Mackey said the issue is not when someone wants to build onto the existing house. It is more of an issue when someone wants to connect to a detached structure on the lot.

Mr. Flattes asked why two family homes are allowed in MHDR (§165-45) but not MHDR II (§165-45.1). Mr. Sioras why explained two family homes were removed from the MHDR II zone.

Mr. Connors advised he had also asked if the Board should define "attached". He knows the state definition is vague. Would a definition restrict the town if the definition stated "attached is an enclosed, heated space?" He wants to make sure these units are truly attached to the house, not an open breezeway. Can the Board add a definition? Mr. Mackey said the issue is more prevalent when someone is trying to attach to a detached structure that is a significant distance away. Mr. O'Connor noted the OEP document defines attached as something that shall be connected by a shared wall. Mr. Granese felt the town was probably covered by the standard and legal counsel will review the ordinance. Mr. Flattes asked if requiring people with a pre-existing structure to attach the ADUs by means of an enclosed, heated space" defeats the spirit of the ordinance. Mr. O'Connor said the ADU has to be attached by law. Mr. Connors said his point was if the single family residence with a detached garage was in existence, some people may feel the existing detached structure was part of the "existing single family". Mr. Mackey said that would not be the case. If the space is detached it needs to be attached to the primary dwelling.

Mr. O'Connor wanted to make sure it was clear that although the intent of the law was to provide accommodation for students and families, it is not restricted to that. The units can be rented because they count as part of the workforce housing for the community. Not all communities

meet or exceed their fair share of workforce housing for the region. Derry does. This law is designed for towns that do not have the housing Derry does. Mr. Mackey added the law allows detached but gives towns the option to require them to be attached. Staff recommends they be attached so that the units are not in conflict with §165-8.

Mr. Granese confirmed the Board had no issues with the proposed changes. The document can be cleaned up, forwarded to legal counsel for review, and then returned to the Board to schedule the changes for public hearing.

Workshop #2 – Review of proposed amendments to the Zoning Ordinance, Article II, Word Usage and Definitions, Section 165-5, Definitions

Mr. Granese noted there had been a few revisions since the last workshop. Mr. Connors confirmed the document before the Board contained all new definitions of terms that are not currently defined in the Zoning Ordinance. Some of the terms listed are yet to be defined.

Definitions that had been added since the last workshop included "Brewer", "Breweries & Bottling Facilities", "Brew Pub", and "Microbrewery".

Board members noted "abattoir/slaughterhouse" is proposed as a definition. Are there any of these uses in Derry? It was thought this may be an accessory use at J & F Farms.

Mr. Connors felt "Bulk Fuel Storage & Distribution" was very similar to "Fuel Storage Tanks". It was decided to add "see Fuel Storage Tank" to that definition. Building Materials and Storage Yard might be a use like Benson's or Lowes. Mr. Sioras noted defining appropriate definitions can be one of the harder tasks.

Mr. Connors advised he works in the nonprofit sector and had forwarded a definition to Mrs. Robidoux. Mr. Chase asked that "Equipment Fit Up" be changed to "Equipment Up Fit".

Board members inquired where they might find definitions for some of terms. It was suggested they search the internet and other towns' ordinances. Members should review the document and forward suggested changes to Mrs. Robidoux by Wednesday, January 25th so that they could be complied for distribution to the members before the next workshop.

The Board agreed to define "attached" and add that to the definitions.

Mr. Connors asked if the Board should try to add definitions that are noted on other sites such as the Business Listings and Chamber of Commerce. Mr. Sioras said the Board has, during its review of districts, cleaned up the long lists of uses to make it cleaner. It might be cumbersome to list the terms in that manner.

Motion by Fairbanks, seconded by Flattes to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:11 p.m.

Approved by: _____
Chairman/Vice Chairman

_____
Secretary

Approval date: _____