

The Planning Board for the Town of Derry held a public meeting on Wednesday, March 02, 2022, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with the Board members physically present.

Members present: John O'Connor, Chairman; Jim MacEachern, Vice Chair; David Nelson, Secretary; Randy Chase, Administrative Representative; David Granese, Mark Connors, Members

Absent: James Hultgren, David Clapp, Andy Myers, Brian Chirichiello, Joe Tremper

*Denotes virtual attendance.

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

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag. He provided the appropriate links for members of the public to join the meeting virtually via a MAC, PC, or by phone. He then introduced the staff and Board members.

Escrow

None.

Minutes

The Board reviewed the minutes of the February 16, 2022, meeting.

Motion by Nelson, seconded by Granese to approve the minutes of the February 16, 2022, meeting as written.

Granese, MacEachern, Connors, Nelson and O'Connor voted in favor; Chase abstained, and the motion passed.

Correspondence

None.

Other BusinessTax Deeded Property Discussion – 46 Sheldon and 83 Chester Road

Mr. Sioras advised the Board has a memo from the Tax Collector. This is an annual request for comment from the Board, requesting a recommendation on whether the lots should be retained or sold. He is familiar with the property located at 46 Sheldon Road. This is a beautiful piece of land that abuts the Recreation Trail and the Weber Forest. It is mostly under water. This is an unbuildable lot.

Mr. Connors asked if there is any reason why this has not been added to the Weber Forest. Mr. Sioras said that may be a goal of the Town. The Conservation Commission will review these lots as well. The Board can recommend the Town retain this lot. Board members agreed this parcel should be retained.

Motion by Nelson, seconded by MacEachern to recommend the Town retain 46 Sheldon Road and consolidate it with the Weber Forest. The motion passed with all in favor.

Mr. Sioras advised 83 Chester Road is located on Beaver Lake. He is not familiar with the history of the lot; it is hoped the abutters might express an interest in purchasing it. Mr. O'Connor noted a river runs through the lot and the adjoining area is not claimed. Mr. Sioras said the water comes down near Gallien's Beach and feeds into the Lake. Mr. Connors asked if the town wanted to give away wetland; it is possible the adjoining property owner would want to purchase this parcel. Mr. Nelson commented on the map provided, this appears to be a narrow piece of land; is it connected to the roadway as it is depicted? Mr. Sioras said the GIS map is not always 100% accurate. It is possible the water is in the area that looks like a small road.

Motion by MacEachern, seconded by Granese to recommend the Town sell 83 Chester Road. The motion passed with all in favor.

Amend Policy & Procedures – 1st Reading - Developments of Regional Impact

Mr. Sioras advised this is the first clean reading of the proposed amendments to the Policy & Procedures of the Board. Mr. O'Connor thanked Mr. Nelson for suggesting the procedure for determining developments of regional impact be placed in this document. This provides the procedure for when and how the determination is made by the Board. The second reading and vote will take place on March 16.

Extension Request – William Fortier Trust, PID 06064-001, 36 Floyd Road

Mr. Sioras advised staff recommends extending the conditional approval for the project for an additional 6 months to allow the applicant to obtain the Wetland Permit. They have been working with the State but need more time to obtain the approval.

Motion by Granese, seconded by MacEachern to grant a six month extension for the two lot subdivision plan for William Fortier Trust, PID 06064-001, 36 Floyd Road, previously approved by the Board on July 21, 2021. This is the first extension.

Chase, Granese, MacEachern, Connors, Nelson and O'Connor voted in favor and the motion passed.

Planning Director Updates

Mr. Sioras advised the Board has a recommendation before it for the Appolo Vineyard site plan, relative to regional impact. Staff has reviewed the project, as outlined in the memo before the Board, and recommends the Board find the project does not have Regional Impact.

Chairman Updates

Mr. O'Connor wanted to remind the Board that the Town Council will seat new members of Boards and Committees on March 15. If anyone is interested in joining the Planning Board, they can apply on the Town's website by completing the volunteer form. On March 16th the Board will hold a public hearing on a Lot Line Adjustment plan and will also hold a public hearing on the West Running Brook District buffer amendment.

Public Hearing

Appolo Vineyards

Michael A. Appolo, III

PID 06046-004, 49 Lawrence Road

Acceptance/Review, Site Plan

Expansion of existing agritourism business

Mr. Sioras presented the following staff report. The applicant is Appolo Vineyards, located at 49 Lawrence Road. The purpose of the plan is for an expansion of the existing agritourism business. Proposed is an addition to the existing garage (winery/bottling) building with seasonal and winter only parking areas proposed. The property is located in the Low Medium Residential District. All departments have signed the plan with the exception of Public Works. Public Works will provide input at the meeting for the reason the plan was not signed as it relates to paved parking versus reinforced green grass and netting on the green seasonal parking area. Sanford Survey and Engineering has provided a letter with two waiver requests: one from the requirement that all drives and parking areas be paved, the other from allowing acceptance of the application without a Department signature. Overall, staff would recommend approval of the site plan application. However, it is recommended the Board hold a site visit and continue the plan to the March 16 meeting. This would allow the Board to observe the proposed parking area in the field. The Board had a similar situation with regard to a parking area last fall with the Siragusa plan on South Main Street. The Board discussed pavement versus gravel, and the Board held a site walk. This also allows the applicant to address some of the technical items. Staff will make a recommendation on the waivers after discussion and a site walk. It is

recommended the Board accept jurisdiction of the plan which allows the applicant the ability to move forward. The applicant has provided drawings of what the addition will look like.

Earl Sanford, Sanford Survey & Engineering presented. Also present were the applicant, Michael Appolo, residing at 49 Lawrence Road, and David Ely, Architect for the project. Mr. Sanford advised the applicant has owned 49 Lawrence Road for 20 years. This was a farm that has been turned into a successful and productive vineyard and wine sales business. The business includes wine tasting which has had an increase in demand. This falls into the Agritourism business category because they are making product (wine) from grapes produced on the lot. The plan shows 1500 grape vines. The residence is to the left with a grape arbor, and garage. The barn is to the right, and there is a patio to the rear for outdoor wine tasting and additional agritourism elements. The proposal is to add to the existing garage to facilitate the processing of the product and to add an interior area to hold wine tasting events. The entrance to the property has been reworked for proper entrance and egress to the site; it accommodates a fire truck. They have added additional paved parking spaces. There is significant additional paved area shown on the plan for some of the parking and the required ADA spaces. The septic plan has been redone and the new area is shown in the upper left of the plan. The septic plan was approved by the State today. The newly approved plan will handle the 4 bedroom home and the addition to the business. With the number of patrons, the applicant needs to add significant overflow parking. This is proposed as occasional use on the turf which must be maintained in good condition. It is in the best interest of the applicant to keep the turf maintained. The proposal is to allow overflow parking on the grass with a paved apron providing access to and from Duck Pond Road. People have been parking on Duck Pond and Christopher Lane and walking across the field to get to the wine tasting area. The applicant wants to promote the agricultural business. Parking in a field is not unusual for an agritourism business. The Board will need to decide if there can be parking on the grass. This plan shows the proposed changes to the lot which includes amendments to the current driveway and the area that is currently paved but proposed to be turned into green area.

The proposal will create additional impervious surface and they intend to create a detention basin to absorb the additional water. They will add two rain gardens to the rear of the barn and those will be placed so as not to interfere with the existing ramp. Mr. Sanford feels they have adequately addressed the drainage for the additional impervious surface.

The rendering provided this evening shows the existing garage which has three bays. That will remain and the addition will be constructed to the left. The new construction triggered the need for a site plan. With the additional water use required for the proposal, they had to increase the protective well radius from 75 to 100 feet. They want to keep things as green as possible on this site.

Mr. Appolo advised the existing winery is in the three bay garage and has been operating there for about ten years; winery operations began in the fall of 2012. The genesis of this project is to take care of the issue of inclement weather. Whenever it rains or there is severe weather, they have to close down. The main parking area will handle most of the traffic, most of the time. The overflow parking on the grass area is specifically for overflow or auxiliary uses such as yoga in the vineyard. A reason to keep the area grass is the vine roots need water, but pavement would

only put water to the vines during storms. Every six feet of vine space creates a bottle of premium wine. The barn has been on the property for over 200 years. He asked the Board if they would rather see green around the barn or blacktop? He does not believe people want to see blacktop there.

Motion by MacEachern, seconded by Granese to accept jurisdiction of the site plan application before the Board for Appolo Vineyards, PID 06046-004, 49 Lawrence Road.

Chase, Granese, MacEachern, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Granese to find pursuant to RSA 36:56, the proposal as presented at this time, meets the definition of a development of regional impact.

Chase, Granese, MacEachern, Connors, Nelson, and O'Connor voted no, stating there was no regional impact and the motion failed. The plan has no regional impact.

Mr. MacEachern wanted to get a sense of the Board. To follow the process that has been used with other applications, he would like to listen to the discussion from abutters. In other cases where the Board has considered waiving pavement, the Board holds a site walk to understand the site. He would be in favor of a site walk but wanted to hear from the other Board members. Mr. Connors did not feel one was necessary as he was familiar with the property. Mr. Nelson would like a site walk. Mr. Chase was familiar with the property but would go with the majority if the Board feels it is best. Mr. Granese was familiar with the property but prior to making a decision on a site walk or not, would like to hear from Mr. L'Heureux. He has questions about the material proposed by the applicant for the green area. He would also like to hear from the abutters. Mr. MacEachern would also like to hear from the abutters and felt it would be appropriate in this case to decide on a site walk after opening a public hearing. Many times, the Board holds the site walk and then holds the public hearing afterward. Mr. Connors asked if that was the case, when the Board reconvened at the next meeting, would the Board open the public hearing again. That seems like it would cause a delay. Mr. O'Connor stated if the Board held a site walk, at the next meeting, they would reopen the public hearing. Mr. Granese said it was not unusual for the Board to hold the public hearing and then decide to hold a site walk. The Board has done that many times in the past after hearing the abutter comments.

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

Tamara Lampes, 36 Lawrence Road, was accompanied by her son who lived at 38 Lawrence Road. Mrs. Lampes believed agritourism referred to commercial enterprise. This is a residential area. That is a concern for her. She keeps hearing mention of wine tasting but more than that happens on this property. This is more a like venue. This business advertises small gatherings, but very large gatherings occur on the property. For the yoga classes, there can be 50-60 people there. A microphone is used on the front lawn and the neighborhood can hear the instructor. With regard to wine tastings, small weddings, and small company gatherings, what is 'small'? Is that thirty people or one hundred people? This is a residential area. A drone flies over their

home from this property, which is an invasion of their privacy. The business is getting ready to open for the season and has been advertising a crush party for May 28 which will occur between 3 and 7 pm. This will have a food truck, live music and a cover charge. That is not a small wine tasting; that is a venue. There has been conversation that Rockingham Brewing will also be on the property for the crush event. This is a neighborhood, not a bar. This is too much. Parking is a problem. In the past, while the Lampes were having work done to their year, they moved their cars to Duck Pond. The Lampes were told to move their cars off the public road; this occurred on a Tuesday afternoon. She understands Mr. Appolo's winery and he does a good job with that, but this is too much for the neighborhood. When food trucks are on the property, it is not just the patrons of Appolo Vineyards. The food truck following shows up as well. This is a bigger operation than small wine tastings, and she feels that expanding on the current operations will do a disservice to the neighborhood.

Ronald and Laura Desjardins, 2 Christopher Lane, were not sure how this could be considered a low impact development when there are typically over 40 cars parked on the road to the point a pickup truck can't get down the road. The impact to the neighborhood is severe, especially with regard to noise. They have lived on Christopher Lane for 30 years. The last several years, Mr. Desjardins has had to fight to get his car out of the neighborhood on a sunny weekend. There was an instance where the Police had to ask people to move their vehicles because there was no emergency access. With the increase in venue size, at what point does this become a restaurant? The winery is adding a kitchen that will serve the interior which holds about 27 people. When there are weddings or other events, everyone leaves at the same time; on a weekend night this creates mayhem. This was a quiet neighborhood for a long time. With regard to the paved entrance at Duck Pond Road, every summer there is a sight distance issue on Lawrence Road because of vegetation and plants as one turns off Duck Pond. The Desjardins own the land with the pond; they are concerned with the water runoff. The pond had been there a long time and he would not want it to dry up. It appears to be spring fed and now there will be additional water coming from the venue. How does it impact the aquifer? They are concerned because there is no public water or sewer. There was a time when multiple RVs parked on the road for multiple days. This is not the business's problem, but it did impact the neighborhood for many days. For additional parking, Mr. Appolo will need to add lighting. What will that do to the light pollution in the area? The neighborhood will be lighted up. What happens if this business is sold, or the home is turned into a B & B? Their residential neighborhood will become a business neighborhood. He suggests the Board members go to the vineyard when there is an event so that they can see for themselves how the parking will, even with the expanded parking, spill over onto Duck Pond and Christopher. Mrs. Desjardins stated she was fearful people would be parking on the unpaved surface of the road, beyond what is laid out for compact cars.

Craig and Monique Bakken, 5 Christopher Lane, stated they have been at this address for 25 years. Mr. Bakken said they bought the house on the cul de sac because it was quiet and private. Since the winery opened, people are parking in front of their home - he is at the end of the cul de sac. As mentioned previously, it is difficult to get out of the street. Emergency vehicles won't make it down the street. How important is Mr. Appolo's business over the safety of the residents on Christopher Lane? He has voiced his displeasure about the parking on the street and was told it was a public street. With regard to the overflow parking, when there is a larger group of people on site, it will affect the parking on the quiet residential streets. Is Mr. Appolo's quality

of life more important than theirs? Mrs. Bakken stated because of the number of cars parked on the street, vehicles turn around in the circle. It creates a lot of traffic. Trash is left on the side of the road, and this is unacceptable. She has heard the resident's properties are being used as bathrooms. This is not a common area, and she does not want the expansion. She would like to see what he has in place removed.

Robert Abbott, 3 Christopher Lane, wanted to emphasize the disruption parking on the street causes. He has counted almost 50 cars on both sides of Duck Pond and Christopher Lane. He has had stretch limos park under the trees in front of his home. Mr. Abbott stated he is concerned about the expansion as he can currently hear the MC at events at the winery when Mr. Abbott has his windows closed. A wedding party enjoying a celebration and beverages on site at the winery creates invasive noise. Mr. Abbott would recommend limits on the noise as it affect the people living there.

Drew Soley, 63 Lawrence Road, stated he has looked at the plans and the additional parking. He is not opposed to the business. His issue would be keeping the barn as scenic looking as possible as it is located along a Scenic Byway. He would not like to see the overflow parking paved; it should look rustic.

There was no further public comment.

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

David Ely, of Windy Hill Associates, is the Architect for the project. He stated as Mr. Appolo was planning his project, Mr. Appolo had concerns about the people parking on the road and wanted to alleviate that issue. He has worked with Mr. Sanford on that. Mr. Appolo also had the issue that there was no place to move people inside from the patio for the wine tastings when the weather was cold, rainy, or snowy. Mr. Appolo would like to build an annex to the wine production so that people can be inside and not park on the street. The intent is to have capacity for 21 people inside, add indoor bathrooms, and a small kitchen for pizza, etc. This is not to be a full size restaurant. The kitchen is a warming kitchen. The basement will be utilized for wine storage. The patio to the back will be used during crush time when wine is being produced, to accommodate a large number of people. This is why they are asking for overflow parking. They want to keep people off the street and safe inside for events during all seasons.

Mr. Appolo said this is not a commercial space. This is a farm. Certain things are allowed because it is a farm. They have tried to get to the middle ground with the neighbors. He and his wife put information in the mailboxes about the project in July and no one has gotten back to him. Some abutters have complained here without discussing the issues with him. He stressed this is a farm. Wine is sold this way worldwide, often in small lots. He organically grows grapes on his farm which produces a clean product people like. The abutters have mentioned 50 cars on the road; he does not have capacity for more than 50 people. He does not own a drone. One was used to fly the property for an aerial view in September of 2020 and to measure the height of a specific tree on the property they are trying to retain. He wants to bring parking on site. He has been in discussions with the town since he began his winery business and knew he had to bring

parking on site at some point and that is what they are doing. With regard to food trucks, in order to serve wine in New Hampshire, the liquor laws require he serve food. It is legal for a nanobrewery to pour at his facility. With regard to plantings obstructing the road, his vines are outside of the right of way. At one point, they participated in an RV program which occurred in 2019. They stopped the program after two months. The proposed lighting for the barn and parking area is noted on the plan. Derry does not have a noise ordinance.

Mr. Ely noted the building is simple and not meant to hold large parties. The patio is larger. 21 people can be seated in the tasting room, and it is possible there will be an area set aside to sell merchandise. This is meant to be attached to the wine garage and support that function. Mr. Appolo stated this is mainly a venue that is open three days a week: Friday nights, Saturday, and Sunday. On Sunday, they are open from noon to 5-6, depending on the season.

Mr. O'Connor advised he was a State Representative for many years and sat on various agricultural committees. He is well versed in agritourism as it was before his committee for six years while they re-wrote the regulations. There is a recent Supreme Court ruling that states agritourism is allowed as a right in any zoning district in New Hampshire; it is not defined as commercial in the RSAs. The Planning Board can control time, parking, music and hours of operation. The Board cannot get into wine tasting. The Board will need to review the RSAs on what it can and can't do; the State can override the town regulations because this is an agricultural use. Mr. O'Connor referenced several State RSAs to include RSA 21:34-a, RSA 672:1, III-d; and RSA 674:32-a, b and c. The State law prohibits municipalities from adopting laws that conflict with the statutory definition of agritourism and can't impose unreasonable restrictions. When Mr. Appolo was before the Board in October for a conceptual discussion, he mentioned asphalt as a heat sink and that it can affect the roots of the vines by causing heat stress. There are several University studies that support those comments. EPA is also looking into the amount of heat caused by blacktop and is investigating white cooltop. Mr. O'Connor stressed there are certain things the Board cannot do when it comes to agriculture.

Mr. MacEachern commented there are issues with the abutters and this project. He understands the Chairman's comments with regard to parking and asphalt. Whenever the Board considers waiving pavement, they hold a site walk. Comments have been made and the Board should hold a site walk to gain a sense of the building location and what will be in it. He appreciates the applicant's view, and it looks like a lot will occur inside the building, but the old patio will still be used, and he understands the neighbors' comments. The Board should hold a walk and see what the neighbors are saying. With regard to lighting, the Board does have authority over that and that can be directed away from the neighborhood. The Board can also discuss hours of operation, similar to the discussions had with the Siragusa's for their property.

Mr. L'Heureux stated he had several initial conversations with the applicant and the surveyor. The Board can see the correspondence back and forth with regard to the evolution of the mesh, paving, and limits of the project. The Department of Public Works did not sign the plan as complete because of the inclusion of the plastic mesh on the grass. He looked it up and saw how it was used in applications. Most are running equipment over areas frequented near barns. He saw an agricultural application that was interesting because the aisles were paved while the parking spots had the mesh and grass. He looked at the recommendations of installation. It is

rugged looking, but when looking at it within this application, this area is not that large an area. Cars will be turning in and out over the mesh and he does not see that as a viable, long term solution. The mesh can cause a problem for the patrons walking on it and a maintenance issue for the applicant. He can't quantify the quality of a good installation if it is placed on grass. This area will see intense use and he believes the mesh won't hold up. The applicant would be better off with just grass and no netting. The Department won't endorse that because of the amount of turning in and out of the parking spots that will take place; this will tear the grass up. It will not be a good long term solution. There needs to be a durable surface. He did look at other alternatives and did offer a suggestion that seemed better suited as a solution. He understands the impact of heat with regard to the viability of the vines during the hotter parts of the year. Right now, the area is undergoing its freeze/thaw cycle. With the Siragusa project, they agreed to pave their parking area. Currently, the Siragusa's are doing utility work on site and have just placed down a really nice gravel in the parking area. But it is a 6% slope and with the recent rains, it eroded. He was surprised because it was a good product. For this project, the freeze/thaw will be an issue. There are also the MS4 and the SWPPP requirements to consider. The new regulations require more filtration of phosphate and nitrogen in the stormwater and that can only be accomplished with a treatment swale and catch basin as the runoff has to be captured and treated. He is not a fan of massive amounts of pavement, but it is the most durable, routine, long term solution, and is safe for the environment.

Mr. O'Connor stated he researched a product that when set in the ground, filled with soil and grass seed, will withstand up to 88,000 pounds per square foot, which can support a fire truck. This would have the same effect as grass. Mr. L'Heureux said he suggested a similar product to the applicant; the Town used it on the slope of the dam. There are many variations of the product, but the issue in this climate is frost.

Mr. Granese asked if Mr. Sanford could explain what the mesh material is made of – is it plastic? Mr. Sanford stated it is a grid. If issues come up, they can layer it with grass, which helps distribute the weight of the tire. He agrees intensity of use is the issue. They won't have to worry about frost because it would be seasonal. He believed the overflow area would be used two to three times per week at a maximum. In Mason, there is an event center where there are 190 cars through the field on the same grass; they have not had to reinforce it. They are using the mesh in the application. The applicant wants a chance to work dynamically with it today; it is not known if it will hold up over time. The product suggested by Mr. L'Heureux would require them to dig up the existing sod. The sod is currently providing nutrients to the vines. They would have to rebuild that up and would lose a lot of nutrients in that process. They don't want the turf to deteriorate. The plan notes state if the area ruts or the grass dies, they have to shut the area down. If they can make it work on grass, the grass works as a treatment area recognized as a Best Management Practice. Pavement would also require a 50 foot filter strip of grass for treatment. If they have to put pavement down, they would have to tear up the sod, install the pavement, and then install a 50 foot filter strip of sod. Mr. Sanford said they feel grass is environmentally friendly. He did not understand the comments that it could be unsafe or not friendly to the environment. Mr. Granese asked how the mesh is secured to the ground? Mr. Sanford said it is stapled down. His proposal suggests it is used seasonally. The mesh was used in an airport application, and it came up. They had to put rubber strips on the plows, reinstalled the mesh, and now they do not have any issues. Mr. Granese asked if the staples are plastic or

metal, and how far apart will they be? Are there any local applications of the mesh? Mr. Sanford said the mesh detail is noted on the plan. He is not aware of any local applications. They want to obtain success with it, but he agrees with Mr. L'Heureux there may be risks with it.

Mr. Connors noted Mr. Appolo mentioned the property was in the LMDR zone. Was a variance required for the use? Mr. Appolo said he is allowed to have a farm in the zone and the State regulations state the municipality cannot prohibit farming. Mr. Connors said he understands the clash with the neighbors with regard to noise. This application changes the parking and puts an addition on the property. He understands the issue with traffic on those roads. Is the curb cut proposed off Duck Pond legal? Is there any reason why the existing access off Lawrence Road can't handle more parking so the access from Duck Pond can be removed? Mr. L'Heureux said they did discuss site circulation because they wanted to make sure the site could accommodate circulation of a fire truck. He spoke with Director Eastman today who stated the second entrance is not required for fire safety. Mr. Connors noted the main entrance is being improved and he is not sure they need the access from Duck Pond. It is important to remove parking from the street. It has been said there have been 50 cars on the streets; 38 spaces will now be on site. Is there any reason not to post Duck Pond and Christopher as No Parking so the neighborhood is not impacted? Mr. Chase said that is not the purview of the Board and a request of that type would begin at the Highway Safety Committee, who would make a recommendation to Town Council. Only Town Council can amend the ordinance to create a No Parking area. Mr. Connors said his question was really, is there a need for on street parking once this proposal is built? Mr. Appolo said the plan is to have no parking on the public road. Mr. Connors noted national park areas have alternatives to pavement for their parking areas. Mr. Sanford explained they want to see if this application will work without tearing up the grass. If it fails, they will need to tear up the sod, add crushed stone, and can use a different product. Mr. Connors asked if the Board had the right to make the applicant change what he has proposed if it does not work.

Mr. L'Heureux stated the Board approval should be enforceable. The town needs the ability to say what is on site is or is not in compliance with the approved plan. He has no experience with these types of products and can't say if it will be a good application or not. Some of the applications may cost more than crushed gravel and pavement. Mr. O'Connor said the Board could waive the pavement requirement and allow grass per the State regulations. Mr. Sanford reiterated the plan states if the grass does not stay healthy, they need to correct that. Mr. Connor said if the Board approves a product, it should be one the town wants. Should they retain the paved apron off of Duck Pond, is it acceptable to have the paved swale? Mr. L'Heureux said DPW is okay with a paved swale.

Mr. Nelson said he had many questions and is sure he will have more after the site walk. Is this additional parking area for the occasional overflow, or will it actually be used more than half of the time? Mr. Appolo said it will be used generally on weekends, Friday nights, short after work events, and during the day on Saturday and Sunday. The prime time is Saturday. Mr. Nelson asked with respect to the other uses. If the lot will be used most of the time and it is necessary to make business model changes to handle the capacity, then that impacts the waiver because of the overflow. If the overflow is going to be used infrequently, he would like to see the access to and from Duck Pond removed. Is the motivation to keep the area grass because it will rarely be used (for infrequent peak crowds), or because it will be used frequently, and the applicant wants to

keep the grass to protect the vines? Mr. Sanford said they would like the grass to keep the agricultural use intact; the grass is essential for that. The area is available for overflow. Sixteen paved parking spaces is substantial. Ideally, they would not pave anything for a farm. The 16 cars will turn in and out and would tear up the area, so they paved the front. Beyond that, the number decreases. It is up to the applicant to keep the turf in good condition and to maintain it as a field.

Mr. Nelson stated if that area is to be characterized as overflow, then the secondary access should be removed. Mr. Sanford believed they could do that. They won't need that with regard to circulation from a safety perspective. They widened and improved the access off Lawrence Road. Mr. Appolo added they proposed the secondary access so that they were not dumping all of the traffic onto Lawrence Road. This grass area is an old horse paddock. Trucks drive on it regularly, such as the septic truck, and he has only had to repair it once. It is in his best interest to keep the area maintained. Mr. Nelson said after he read the RSA, he had no issue with the waiver itself, but after hearing the questions from the abutters, he is questioning whether this is a farm stand or a wedding venue. That needs to be distinct in his mind. He read RSA 24:31-a, with regard to wine tastings and retail sales which is okay, but he does not see wedding parties or corporate parties included in the RSA. He has some doubts that some of the activities occurring on site are within the scope of agricultural protections. Mr. Sanford agreed it was a fine line. Mr. Appolo presents his product as part of the wedding festivities. Mr. Nelson said he is aware the Board can't make it impossible or unreasonable to do agriculture, but the Board can mitigate impacts to the neighborhood, and streets. He needs to know where to draw the line. He is sure to have more questions after the site walk.

Mr. O'Connor note the most recent State bills have to do with 'activity'. Mr. Appolo stated it is common to have a wedding at a winery. They are limited by the Occupancy and Assembly Permits with regard to capacity. He goes not want to lose his liquor license, so does not exceed those numbers.

Mr. Nelson asked where the pond was located. Mr. Sanford confirmed for Mr. O'Connor there is a lease arrangement with the abutter to the rear. Mr. Appolo said the pond is in the opposite corner from the barn. Mr. Sanford did the drainage calculations and has ensured the post construction drainage does not increase. Mr. Nelson understood the Liquor Commission required the serving of food if the vineyard was serving wine on the premises. At a winery, people want to taste the wine and then buy it. That seems a little different from having a party with people invited to the property. Where is the line there for the liquor license? Mr. Appolo explained he can serve a tasting of 2 oz of each label or 30 oz (which he would not do) per person. He is allowed to serve one, 5 oz glass without food, or with food, he can serve two, 5 oz glasses. He is very limited in what he can serve on purpose under the winery license. Mr. Nelson said with the food trucks, if it is a marginal piece and just gives an extra ounce or two, Mr. Appolo may want to reconsider. Mr. Appolo said he has to stay within the limits and the maximum is two, 5 oz glass of wine with food. He explained they want to add the kitchen so that they can slice cheese on the premises and serve it to their customers. Current regulations in Derry don't allow them to take cheese out and slice it, without a commercial kitchen.

Mr. MacEachern confirmed if the Board holds a site walk the abutters are welcome to join. He asked that the parking lot be staked out, as well as the addition to the building and have the stakes differentiated by color to show the paved versus grass. Board members who cannot attend on the date of the site walk, are welcome to visit the site individually.

Motion by MacEachern, seconded by Granese to hold a site walk on Saturday, March 12, 2022, beginning at 9:00 AM.

Chase, Granese, MacEachern, Connors, Nelson and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Granese to continue the public hearing to March 16, 2022. Discussion followed.

Mr. Granese asked if it was possible to have a small sample of the mesh material available at the site walk? Mr. Sanford will try to do that.

Chase, Granese, MacEachern, Connors, Nelson and O'Connor voted in favor and the motion passed.

Mr. MacEachern advised the abutters there will not be a separate notice sent to them for the next public hearing.

Workshop

Workshop #1 – to discuss amendments to the Town of Derry Zoning Ordinance, Article VI, District Provisions, Section 165-48, Low Density Residential Zone, Minimum Lot Area Requirements

Mr. Sioras said he would defer to Mr. Chase who suggested looking at amending the three acre minimum lot size requirement to one acre.

Mr. Chase said when the Growth Management Ordinance (GMO) was put in place, it was because the town resources had been stressed by residential development and at the time the town needed to slow the growth. In looking at the housing situation nationwide, now seems to be a good time to look at the Ordinance and see if the GMO has outlived its use. There is no crowding in the schools now and the infrastructure has caught up with the town need. There is a lack of affordable housing. Land costs are so great, that by the time someone buys land in the district, they need to sell homes at over \$500,000 to make a profit. The acreage does not need to drop down to one acre, it could be 1.5 acres; the number was for discussion purposes. There needs to be a way to make housing more affordable. In order for the community to grow, there needs to be people to support it. Squeezing growth out of this area puts pressure on MDR and MHDR. There is no multifamily allowed in MDR. The town can't afford to remain stagnant and should make accommodations for reasonable housing. This makes the community more appealing. Some of the lots in the zone might be able to be subdivided if the acreage is lowered, but the Board needs to look at the soils, the layout of the lot, where the home is, wells, and

septic, etc. He would estimate 25 to 30% of the existing lots would be subdividable. For the average homeowner, subdividing the property is a daunting task, but he feels this is worth looking into. He wanted the Board to look at it, to see if it will benefit the community and help the housing situation and bring people into town to support the commercial growth the town is trying to bring into the community.

Mr. O'Connor believed 46% of the lots to be under 3 acres (10,150 lots); that may be something to consider. Soil types also are a factor, and the Board may want to confirm that the way the soils are considered follow current DES requirements. There is also a lot of legislation moving through the House and Senate that may change how Boards are allowed to look at zoning. HB 1087 would change lot size requirements; another bill could change the density allowed on certain lots.

Mr. Connors applauded the idea of looking at the zoning, but without municipal water or sewer in the area; that would drive the price of the housing. Builders are still selling at the same price on one acre as they would on three acres, and he believed lowering the lot size requirement only benefits the builder. They would be able to build more homes on smaller lots; that does not necessarily make the homes affordable. When new homes are added, this increases the burden on the town services. He is not averse to looking at it but needs more data. He is not sure this move would solve the issue other than bringing more families and people to town; is that what the Town wants?

Mr. Nelson agreed this should be reviewed. He recalled when there was town wide rezoning and the GMO was developed, that was a data driven activity. There is more to looking at this than just adding people. The Board needs to look at the Master Plan to find support for the change; without that, the Board should not do it. He suggested the Board consider a town wide regulatory analysis, if time in the schedule allows it. All of the data should be reviewed. The Board would also consider cultural resources, the number of police officers per capita, etc. If the Board is going to do this, the Board should be looking at the whole thing.

Mr. Granese agreed the Board should look at this area carefully and look at what changing lot sizing would do in any particular area. He has heard that people want to keep their areas rural. He is sure if this goes to public hearing, residents will attend to comment.

Mr. MacEachern echoed Mr. Nelson's sentiments. The GMO was data driven. The purpose was to keep growth at a reasonable pace under the tax cap. Just because the school population has decreased does not mean lot sizing needs to decrease, because that could create a problem later. The GMO had a twenty year CIP attached to it. He would not want the town to recreate a problem it solved when it created the GMO. This area became a three acre zone because the Board looked at things like HISS mapping, water and soils. Housing stock should cover the cost of the children in the home. A house should be as close to tax neutral as possible. The Board needs to look at the data again and make sure it still applies. Items to review would be the number of children, Police, Fire, etc. to make sure it is tax neutral. When adding more homes to help commerce, it is important to remember the commerce is mostly downtown. The Board needs to look at the region and area. People from other towns come to Derry because of Derry's commerce. He believes the Board should look at it, but people like the rural size of the lots. He

recommends looking at the water and sewer master plan as well. This is a massive undertaking. Creation of the GMO took several years.

Mr. Connors suggested with the construction of Exit 4A adding another travel corridor, it might be beneficial to look at the Route 102 area and perhaps move some properties into MDR. Perhaps the lots near the Windham town line could be allowed more density because there is more infrastructure there now. Should the Board look at the main traffic corridors and see if there is potential to add a new zone?

Mr. MacEachern advised when the GMO was put in place, the construction of Exit 4A was considered because at that time, there was funding for it and it had been approved. All of the various route options for the exit were considered. The main issues are water, sewer, soils and traffic flow. Mr. Nelson recalled proposing commercial zones that were voted down. Mr. MacEachern recalled many changes along Route 28 in the area of Ryan's Hill, where properties went back and forth in different zones. Mr. Connors suggested looking at the zoning map and taking the opportunity rectify any outstanding issues. Mr. Sioras advised there are areas where the lot size will need to remain at 3 acres because of ledge and soil conditions.

Mr. Chase said he agreed with Mr. Nelson and Mr. MacEachern; the effort would need to be data driven. Some lots can't be developed because of land conditions. He agreed there is a need to look at water, sewer, and soils. The Board may decide changing the lot size requirement is not feasible. Maybe the GMO is still viable, or it might need to be adjusted. He just felt the Board would be doing the town a disservice if it did not look at it. Mr. Connors said maybe the change would be adjusting some of the zoning district boundaries. Mr. Sioras agreed the Board need to look at the data to include soils and school demographics, response times and other items. Mr. MacEachern stated the land conditions have not changed. The Board should look at the status of the land itself and then see if some parcels could or should be moved into another zone. The Board needs to look at soils, water capacity, road conditions, school numbers and how that may change in the future. That all needs to be balanced with the tax cap.

Board Member Comments

Mr. Granese noted he would not be in attendance at the next meeting and if he is not reappointed, it has been a pleasure to work with everyone.

There was no further business before the Board.

Motion by MacEachern, seconded by Granese to adjourn.

All members voted in favor and the meeting stood adjourned at 9:24 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____