

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 07, 2023, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

Members present: David Nelson, Chairman Pro-Temp; Andy Myers, Secretary; Randy Chase, Town Administrative Representative; Dave Granese, Town Council Liaison; Mark Connors (7:08 p.m.), Chris Feinauer; Richard Malaby, Dan Healey, Members

Absent: John Morrison, John O'Connor

\*Denotes virtual attendance.

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

Mr. Nelson opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

### **Escrow**

#### **#23-06**

**Project Name: 356 Island Pond Road**

**Developer: Red Tundra, LLC**

**Escrow Account: Same**

**Escrow Type: Cash Escrow**

**Parcel ID/Location: 17005, 356 Island Pond Road**

The request is to establish cash escrow in the amount of \$20,399.04 for the above noted project. This escrow account is non-interest bearing.

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

### **Minutes**

The Board reviewed the minutes of the May 03, 2023, meeting.

Motion by Myers, seconded by Healey to approve the minutes of the May 03, 2023, meeting as written.

Chase, Feinauer, Myers, and Nelson voted in favor; Malaby, Healey, and Granese abstained, and the motion passed.

**Correspondence**

Mr. Myers acknowledged receipt of the May/June edition of *Town and City* magazine.

**Other Business**1<sup>st</sup> Request for extension of approval; PID 03034, 253 Rockingham Road, BC Industries

Mr. Sioras stated this is the first request to extend conditional approval for the recently approved warehouse storage bays on the property located at 253 Rockingham Road, near the Windham town line. Staff recommends approval of the extension request.

Motion by Granese, seconded by Myers to approve a request to extend the conditional approval granted on November 16, 2022, for an additional 6 months, for BC Industries, PID 03034, 253 Island Pond Road. The new expiration date will be November 16, 2023.

Chase, Healey, Malaby, Granese, Feinauer, Myers and Nelson voted in favor and the motion passed.

1<sup>st</sup> Request for extension of approval; PID 37074 & 37082, 6 & 4 Chester Road, Dennis Brasher

Mr. Sioras advised the applicant is requesting a six month extension on the conditional approval for the parking lot construction for Paisano's. Staff recommends approval.

Motion by Granese, seconded by Healey to approve a request to extend the conditional approval granted on December 07, 2022, for an additional six months for Dennis Brasher, PID 37074 and 37082, 6 & 4 Chester Road. The new expiration date will be December 07, 2023.

Chase, Healey, Malaby, Granese, Feinauer, and Nelson voted in favor; Myers abstained, and the motion passed.

Recommend restoration of involuntarily merged lots, PID 02057, 2 Bowers Road

Mrs. Robidoux explained the request this evening is to restore 2 Bowers Road to its original two lots. There was a period of time when Town Assessors would merge lots that were adjacent to each other and owned by the same entity into one parcel; this was for tax purposes. The State law at this time allows owners of these parcels to request the lots be restored to their pre-merger status. Under the RSA, this is a direct action of the Board. Staff would recommend the Board recommend the restoration of the lots.

Motion by Granese, seconded by Myers to recommend the restoration of Parcel 02057-001 to the Derry Town Council, as requested by the landowner, Shawn Moreau, to its pre-merger status.

Chase, Healey, Malaby, Granese, Feinauer, Myers, and Nelson voted in favor and the motion passed.

### **Chairman and Planning Director Updates**

Mr. Sioras reminded the Board of the summer meeting schedule. The Board is scheduled to meet on July 19 and August 02. The Board will return to its normal schedule in September.

*Mr. Connors entered the meeting and was seated.*

### **Public Hearing**

**A public hearing to discuss proposed amendments to the following section of the Town of Derry Zoning Ordinance: Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to redistrict twenty-three (23) properties from the Traditional Business Overlay District to the Central Business District.**

Mr. Sioras stated the Board has discussed the proposed amendments several times and held a site walk in February to view the properties on the north side of Broadway. A map has been provided this evening which shows the proposed properties (in blue) to be moved from the Traditional Business Overlay back to the Central Business District. The rules for the TBOD don't work when applied to the side streets on the north side of Broadway. The recommendation is to revert these properties back to CBD. It is a little different on the south side of Broadway. The Board will address those lots at a later time. For an example, the owner at 16 Franklin Street has been trying to redevelop the property, and it became apparent the current TBOD setbacks did not work. The CBD allows a little more flexibility. Staff recommends approval.

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

There was no public comment.

Motion by Granese, seconded by Myers to close the public hearing. The motion passed with all in favor and review of the amendments came back to the Board.

No concerns or comments were raised by the Board.

Motion by Granese, seconded by Myers to recommend proposed amendments to the Town of Derry Zoning Ordinance, Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to redistrict twenty three (23) properties (list attached) from the Traditional Business Overlay District to the Central Business District and move the amendments forward to Town Council for consideration and approval.

Chase, Healey, Malaby, Granese, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

**F. Donald Ball Irrevocable Trust**  
**Douglas Ball, Trustee**  
**PID 11090, 53 English Range Road**  
**Scenic Road Public Hearing**

Mr. Sioras provided the following staff report. There is a proposal before the Board this evening for a subdivision on English Range Road, which is a designated Scenic Road. Pursuant to RSA 231:158:II, a scenic road public hearing is required before the Planning Board for any repair, reconstruction of roads, utility work, cutting of trees, stone wall reconstruction, or portions thereof, and the applicant shall obtain written consent from the Planning Board. The proposed three lot subdivision before the Board will be altering the landscape of this portion of the scenic road. A separate Scenic Road public hearing is required before the Board hears the application for the subdivision. Staff would recommend approval of the work to be done on this portion of English Range Road as proposed in the three lot subdivision, with conditions as suggested and outlined by staff. Mr. Sioras noted there are not many scenic roads in Derry.

Kurt Meisner, Meisner-Brem Corporation, presented for the applicant. He provided an overview of the impacts to the road and stone walls. He advised there are not many trees along this, the southern side of the road in the area of the proposed subdivision. There is one large stump that is approximately 6-8 feet tall. That will be removed as it is dead. There are two driveways that will be located south of the existing barn. The trees near the existing barn will remain. There is a section of stone wall along the front of the two southernly lots, which is not a typical stone wall. It is more a line of rocks on the ground. They will need to remove a section of these stones for the construction of the driveway at Parcel 11090-001, and will place the stones on existing portions of the rock wall. Mr. Nelson asked if the walls will be removed to create the curb cut access, or for required sight distance. Mr. Meisner stated they will remove the stone wall for the driveway itself. The existing line of rock does not interfere with sight distance. With the vegetation growth, it is possible the rocks are not even visible during the summer months.

Motion by Granese, seconded by Connors to open the public hearing. The motion passed in favor and the floor was open to the public.

Mr. Nelson noted the surveyor will address the questions and concerns following the public comment period. This discussion is not for the subdivision, just the scenic road portion.

Corey Dolliver, 80 English Range Road, noted there is also a proposal for a subdivision on the other side of the road. Three lots are also proposed across the street. There is a stone wall used as a retaining wall on the other side of the street, which has an opening that is no more than 10 feet wide. Trees will need to be limbed or removed near portions of that opening, or portions of the wall will need to be removed. He is curious about that adjustment. The width is good for a pickup truck, but not for larger vehicles. Will the large maple tree be removed near the existing home? Mr. Nelson stated when the surveyor addresses the questions, he will also note whether the question is under the scope of jurisdiction for tonight's hearing.

Michael Damiano, 57 English Range Road, noted that a copy of the full plan was not available when he came to town hall earlier today. Mr. Nelson stated the Board has copies of the received plans which are date stamped. Mrs. Robidoux explained typically copies of the full set of plans are not copied for the meeting; usually just the overview sheets are provided, and not the grading, etc. She can provide a copy of the full set of plans via email. [Note: a full copy of the plan set was provided during the evening to Mr. Damiano and Mrs. Gleason]

Mr. Damiano inquired if the proposed driveway location can be moved. During the variance hearing, they were told the intent was to build a basic house, but now he is hearing they can put up whatever they want on these lots. Mr. Nelson stated the Planning Board subdivision approval puts some limits on the location based on the setbacks, and location of the septic system and wells. There might be some variation in where things are located on the lot. The location of the curb cut is fixed once the subdivision is approved. Mr. Sioras stated in this instance, the application is unique in that if the location of the driveway curb cut changes after Planning Board approval, the applicant will need to come back before the Board to have the new location approved because this is a scenic road.

Mr. Damiano noted the wetland to the middle of the proposed lots goes onto their property. The plan shows a 75 foot wetland setback. What happens if the new leach fields contaminate the wetland and their property? Mr. Nelson commented NH DES is also involved in the permitting of the septic systems. NH DES will not allow installation of a septic system too close to a jurisdictional wetland. Mr. Sioras felt this was a good question but not related to the scenic road hearing; it is more related to the actual subdivision application.

There was no further public comment.

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

Mr. Meisner stated with regard to the maple tree and the large opening in the stone wall across the street, that is not part of this subdivision. For this plan, they are locked into the curb cut location. The location of the new driveways was approved by staff. The building setback lines are shown on the plan. When he met with the abutters just prior to the meeting this evening, he told them the new owner of the lot can build anywhere within the building setback. The plan represents a general idea of where the lot improvements will be located. With regard to the wetland setback, NH DES has provided subdivision approval and that approval was part of the submission to the Planning Board.

Mr. Connors inquired about the stone wall. He agreed they are more piles of rock, rather than a typical stone wall. Will there be an attempt to make this look more like a typical stone wall? Mr. Meisner agreed with Mr. Connor's interpretation. If there is a suggestion to remove the rocks from the driveway locations and extend them on the ends – they can do that. On the opposite side of the road, the rocks are more like a stone wall. Mr. Connors asked if the wall on the north side of the street was open for discussion. Mr. Sioras commented the Board is not discussing the other side of the street as that is not before the Board this evening. That would be a different application and will follow the same process.

Mr. L'Heureux said he conducted a field verification of the driveway points as this is rolling, curvy road and he wanted to verify the sight distance. It is possible there will be alteration to the stone wall at Parcel 11090 because right now, the proposed driveway goes through the existing barn. He would like to reserve the right to alter the wall to obtain sight distance once the barn comes down.

Mr. Feinauer noted stone walls are protected in historic areas. Does this apply? Mr. Nelson agreed, stating that is why the Board is holding a scenic road public hearing. The applicant needs to justify why they are requesting alteration to the walls, trees and other elements on a scenic road. The Planning Board has to vote to grant that permission. Mr. Feinauer asked if this application preserves the integrity of the wall, and the spirit of what the State has established. Mr. Nelson said the Board has to weigh that during its deliberation. The Planning Board does not always need to vote yes for any application. The Board considers all the pros and cons and whether substantial compliance and justice is being done.

Mr. Connors asked if the Board would be discussing the razing of the existing barn during the next public hearing. Mr. Nelson said it could be discussed. Mr. Sioras added this is not an historic barn. The barn is on the Town's Property Maintenance List to recommend removal; this process will expedite that. Mr. Connors was not sure if there was any value in retaining the barn materials as it was being razed. Mr. Meisner stated the barn is slated to be removed and could be considered an unsafe structure.

Motion by Granese, seconded by Myers to allow the cutting or removal of trees, or the tearing down or destruction of portions of the existing stone wall to facilitate the three lot subdivision proposed for Parcel 11090, 53 English Range Road, owned by the F. Donald Ball Irrevocable Trust with the following conditions:

1. A scenic road public hearing is required for Eversource to locate/relocate poles on the frontage pursuant to RSA 231:158, II, as the location of the new utilities is yet to be determined.
2. Stones from the stone walls (or portions thereof) removed for the construction of the driveways shall be retained on the property and relocated along the edges of each new driveway, set back so as not to interfere with the required sight distance.
3. This is conditioned up on approval of the three lot subdivision which will be heard next.

Discussion followed.

Mr. Chase was not comfortable with the wording of condition #2. He understands the spirit of the intent but where this particular wall is not what would be seen a traditional stone wall, he is sure the applicant would like to use the stones to the best advantage and perhaps fill in some of the wall. Mr. Meisner stated they had planned to put the stones on the adjoining portions of wall. They are happy to extend sections on the driveway, but he maintained what is there, is not a real stone wall. Mr. Nelson suggested the stones that are removed be reused in the stone wall. Mr. Chase stated that was his concern as the condition stated exactly how the stones are to be used. He suggested the condition be reworded.

Condition 2 (amendment): Stones removed for the driveway cuts will be used to the best advantage and aesthetic along the existing row of stones along this portion of the roadway.

Motion by Chase to accept the amendment, seconded by Myers; motion passes and condition #2 is so amended.

Chase, Healey, Malaby, Granese, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

**F. Donald Ball Irrevocable Trust**  
**Douglas Ball, Trustee**  
**PID 11090, 53 English Range Road**  
**Acceptance/Review, 3 Lot Subdivision**

Mr. Sioras provided the following staff report. The purpose of the plan is for a three lot subdivision located in the low density residential district which requires three acres per lot. The zone requires 200 feet of frontage. On February 02, 2023, the ZBA granted a variance for less than the required frontage for this zone. All town departments have reviewed and signed the plan. There is a waiver request as per the correspondence from Meisner Brem dated May 17, 2023. State Subdivision approval has been received and a copy is in the file. Staff recommends approval of the waiver and the subdivision plan.

Motion by Granese, seconded by Myers to accept jurisdiction of the three lot subdivision plan before the Board for F. Donald Ball Irrevocable Trust, Douglas Ball, Trustee, PID 11090, 53 English Range Road.

Chase, Malaby, Granese, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

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

Chase voted no, as this does not meet the definition of a development of regional impact; Malaby, Healey, Granese, Feinauer, and Connors voted no for the same reasons. Myers voted

no, as this is a very localized plan; Nelson voted no, as there is no regional impact. The motion failed.

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

Wendy Gleason, 45 English Range Road, asked if the Board could recap the other approvals for this project. She believed the State DES and town approvals were required for the three proposed lots. At the last public hearing (ZBA) she spoke and stated she would be in favor of a two lot subdivision but felt that the third lot might have adverse effects on the aquifer, thus negatively affecting her well. The well located on her property was affected when the lots were constructed on Buttonwood, and this proposal is also downhill from her property. Is this plan already approved for three lots by the State but not the town? Mr. Nelson explained the State approves a subdivision plan, the septic plan, and curb cuts on State roads; this subdivision is not finally approved until the Derry Planning Board approves it. Ms. Gleason asked what happens if things go wrong with her well and the Town has approved the three lot subdivision? What is her recourse? Mr. Nelson suggested as a literal answer that she discuss recourse with her legal counsel. The aquifer is a public resource. The Planning Board can't deny a plan if all of the conditions of the regulations are met, just because the aquifer might be overstressed. There are no guarantees that the aquifer will or will not be affected; it is unpredictable. There are State resources available if a residential well runs dry. Mr. Sioras suggested speaking with Code Enforcement to obtain more information about State well resources. Mr. Granese inquired what happened the last time there was an issue with the well after the Buttonwood subdivision. Ms. Gleason explained the last time there were issues with the well, they had to have a new well drilled. She believes the Buttonwood subdivision did affect the aquifer and the well on her property. The original well, prior to the Buttonwood subdivision had great water and the new one is not the same. Her question is, is this subdivision a done deal, or can it be approved for only two lots? Mr. Nelson stated the Board will need to deliberate on the facts and then come to a decision. Ms. Gleason asked the Board to please consider the wells in the area. Her lot has been adversely impacted in the past and she would ask the Board to consider approval of fewer lots.

Julie and Michael Damiano, 57 English Range Road, noted during the ZBA variance discussion, they noted the rock wall between their property and that on 53 English Range. There are old trees along the property line. What happens if during construction, the trees are removed on the property line of 53 English Range, and it negatively affects the roots which are on 57 English Range? The Damiano's believed requesting a three lot subdivision overcrowds the area. This is a scenic road. The houses are proposed on top of each other where there is nothing today but an open field. Three lots in this area will have a large impact. The existing homes are not on top of each other. This plan is not in character with the neighborhood and she does not feel like it would be a correct decision for the road. It is disturbing this would be approved for three lots. Mrs. Damiano stated she understood the developer has a right to make money, but she asked the Board to consider the history of the road and the area. This may work on paper, but in reality, she feels it will result in overcrowding.



Mr. Nelson noted the Town had a growth management ordinance in place a few years ago and there was town wide rezoning. That resulted in lots that were larger than the 1 acre that was previously allowed all over town. As part of that, the Board looked at unique sections of Town. The more rural areas were zoned 3 acres. The Board looked at all the factors. Three acre lots are allowed by right in this district. With respect to the road, there will be an attempt to mitigate the drainage and traffic. There would have to be a compelling argument to remove the right to develop a three acre lot. Mrs. Damiano understood that. Her concern is if the lots are developed, the area is going to lose its scenic appeal. Decisions like this set precedence. This is a scenic road. If they all have rights, then she feels this will result in overcrowding and will create something that is not scenic. Mr. Damiano mentioned the wetland setback. There are now three leach fields proposed adjacent to a wetland buffer. He wants to make sure there is no chance they can leach into the wetland which makes its way to their property. Mr. Nelson said the State looks at jurisdictional wetlands and won't grant approval if there is a remote possibility the leach field would pollute the wetland.

There was no further public comment.

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

Mr. Nelson commented this would be an opportunity for Mr. Meisner to add additional information that was not covered previously. Mr. Meisner stated they had received a variance from the frontage requirement. All three of the lots are at least 175 feet. One has a little more frontage. The stone wall is adjacent to the field. They won't touch the trees on abutting lots. Construction fence will be installed to keep construction workers from straying off the property. The State approves the septic plan. The plan shows the area has 221 soil types, with a #2 drainage class, which is the preferred soil for septic systems. Per State law, they need to be at least 75 feet from any wetland. The 4K area is shown where the leach field could be designed. It will likely be installed more than 75 feet from the wetland. For Parcel 11090-001, it is possible the septic system will move to the front of the lot once the barn is removed. They could not perform test pits in that area because of the existing barn.

Mr. Meisner advised the slope of the land goes from English Range Road to the back. It makes sense to put the leach fields in front; this will allow for walk out basements to the rear.

Well locations are approved by the State. The aquifer can be described like lightning bolts under the ground. The water will go in all directions like the branches on a lightning bolt. If a well is drilled and it hits a vein of water, they will draw from there. There could be hundreds of veins of water and the adjacent well could be on a different vein. He suggests the neighbors phone the Well Water Board to obtain baseline data for their existing wells so that they have something on which to base any noted changes. The well discussion is speculative and he does not expect any issues.

With regard to the density, the adjacent properties are similar in frontage and nature to the proposed lots. This site is not that much different and the lots do have three acres; they obtained relief from the frontage requirement. They can't touch the stonewall between the 53 and 57

English Range Road because the stone wall is the property line. The owner on each side of the wall, owns half the wall.

Mr. Connors inquired about the trees along the property line between 53 and 57 English Range Road, and the potential for the roots to be harmed during construction. Mr. Meisner said there is no intent to cut the trees on 57 English Range Road. That is a scrub line. That area is a field and the owners have the right to cut on their side of the wall.

Mr. Connors stated this is a scenic road and they have a variance for the frontage. When the ZBA decided, it appeared they did not address the five criteria per the ZBA minutes; can the ZBA give a variance on a scenic road? What does it mean if a road is designated “scenic”. Mr. Sioras explained the scenic road statute is a State statute. The Town can petition the State to designate a road as scenic. In 1984, Stark, Mill, and English Range Roads were designated as scenic. Since then, Mill Road no longer has that designation. In the 1980-90’s the town paved Stark and Mill Road, changing the character of the road. That has not happened here. The only jurisdiction on the town side is if someone wants to touch the wall or trees. He understands the neighbors’ concerns with regard to a potential aesthetic change to the scenic road.

Mr. Nelson read RSA 231:158. Effect of Designation as Scenic Roads. “Upon a road being designated as a scenic road as provided in RSA 231:157, any repair, maintenance, reconstruction, or paving work done with respect thereto by the state or municipality, or any action taken by any utility or other person acting to erect, install or maintain poles, conduits, cables, wires, pipes or other structures pursuant to RSA 231:159-189 shall not involve the cutting, damage or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the planning board, or any other official municipal body designated by the meeting to implement the provisions of this subdivision, after a public hearing...” This RSA does not protect open vistas, historic barns, etc. Mr. Connors wanted to confirm that when someone applies to the ZBA for relief, it does not matter if the property is on a scenic road or not. He read the notes from the ZBA meeting which reference another subdivision on this road. Mr. Nelson stated that proposed subdivision is not before the Board this evening and therefore cannot be discussed. Mr. Connors asked if there had been a hardship proven to grant the variance. Mr. Meisner stated they did meet the five criteria for a variance. He read the information at the meeting to put it in the record and the ZBA voted on it. Mr. Connors asked Mr. L’Heureux if he is sure there is going to be enough sight distance; there is a large curve in this area. Mr. L’Heureux stated he is sure there was 200 feet of sight distance for the proposed driveway locations, but at the moment, there is no vegetation. With the current obstructions, it was hard to determine if the driveway met the 6” object off the ground requirement. He will need to look at that again. Mr. Connors noted the ZBA determined three lots could be allowed and the number of lots based on the frontage is not the purview of the Planning Board.

Mr. Meisner explained the waiver request. They are requesting relief from LDCR Section 170-25 (G) as there is a point of deflection in the roadway. They can’t put a bound there and are asking for permission to instead, install a metal spike. The magnetic spike will be placed in the apron area near the existing barn. Mr. L’Heureux stated he agreed there should not be a bound in a driveway. The Town is also requesting a 12.5 foot easement from the edge of pavement for

future road modifications. Mr. Meisner stated they have no issues with that and are providing a fifteen foot easement from the property line along the frontage of the three lots. That is shown on Sheet 2. This is a viatic easement. Mr. Connors inquired if the uneven pavement near the barn will be removed. Mr. Meisner stated he will defer to DPW as to whether they want that removed or not and to what extent.

Motion by Granese, seconded by Myers to grant a waiver from LDCR Section 170-25 (G), to allow the setting of a spike/magnetic nail at the point of deflection on proposed Lot 11090-001 so as not to destroy the existing section of pavement. After review of the waiver request, the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Chase, Healey, Malaby, Granese, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

Motion by Granese, seconded by Myers to find the proposed plan provides safe and efficient vehicular access, and the design and construction of the driveways are adequate to accommodate the anticipated volume of traffic proposed by the development. The Board also finds the stormwater management as proposed is designed to control the post development runoff so that it does not exceed predevelopment runoff.

Chase, Healey, Malaby, Granese, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

Motion by Granese, seconded by Myers, to approve pursuant to RSA 676:4, III, Expedited Review with the following conditions:

1. Subject to owner's signature (Douglas Ball)
2. Subject to on-site inspection by the Town's engineer
3. Establish escrow for the setting of bounds or certify the bounds have been set
4. Establish appropriate escrow as required to complete the project
5. Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-24.C
6. Subject to receipt of applicable state or local permits relating to the project (i.e., AoT, Wetland, Building Department, Fire Department, Driveway, etc. )
7. Conditions precedent shall be met within 6 months.
8. Submission of the appropriate recording fees, payable to the Rockingham County Registry of Deeds. [This includes the \$25.00 LCHIP fee, recording fees for the mylar and the Notice of Decision.]

Discussion followed.

Mr. Nelson stated he listened to testimony regarding the aquifer and well water. He does not feel there is sufficient evidence in the record to indicate a strong enough concern to remove the right to develop three lots and restrict the applicant to two lots, so he would not add that as a condition.

Chase, Healey, and Malaby voted yes. Granese voted no, stating English Range Road is a scenic road and based on the history of the area, he believes there should only be 2 lots as there is not enough required lot width or frontage, even though there is relief from the ZBA. The ZBA itself was not in concurrence as three members believed there should not be three lots created, although they voted unanimously. Feinauer voted yes. Connors stated he was going to vote no, but the abutting lots are very similar in size, so he votes yes. Myers voted no, citing the reasons listed by Granese. He knows it is not the Planning Board's purview, but it is shocking the ZBA allowed the variance to the frontage requirement. He listened to concerns of the direct abutters with regard to the water. The abutter can go to the State, but tonight he has heard that the character of the area has changed and the Board needs to do what it can to preserve the remaining scenic nature of the road. He also listened to the concerns of the abutters with regard to overcrowding. Nelson voted yes. The motion passed by a vote of 6 to 2.

Mr. Nelson advised anyone aggrieved by the decision has the right to appeal within 30 days.

### **Board member comments**

Mr. Granese stated June 28 is designated as Pride Day in Derry. The Pride flag is hanging in Town Hall this month. The Farmers' Market began today. Concerts on the Common will begin on June 13 and some good bands have been lined up.

Mr. Connors stated the School Board will be voting to close either Derry Village or South Range School. He felt the Board should be aware of this as the building could be disposed of for a separate use, similar to what happened with the Floyd School. There should be a plan for the property and he felt the Planning and other boards should have been involved in the decision making process. Mr. Nelson stated the School Board is a separate governmental entity and the School Board and Town Council work cooperatively and share information. The Town has no official input on the School Board's decision making process. The Planning Board has no authority to say what can or cannot be done with a school building unless that is part of the Master Plan. The Planning Board should not be involved in politics.

Mr. Connors spoke of the proposed rail trail tunnel. His concern is that the proposed plan will cut across three lots which currently have residential homes on them.

Motion by Myers, seconded by Granese to adjourn.

Mr. Connors felt the residents and Board members needed to be involved and pay attention. Mr. Nelson stated there is a motion to adjourn and the Board cannot discuss politics. This discussion is not directly related to Planning Board business and this portion of the meeting is not the same as the Town Council public forum. He called for a vote on the motion.

The motion passed and the meeting stood adjourned at 8:28 p.m.

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

\_\_\_\_\_  
Secretary

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