

The Planning Board for the Town of Derry held a public meeting on Wednesday, November 05, 2014, 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; Frank Bartkiewicz, Secretary; Michael Fairbanks, Town Council Representative; Randy Chase, Administrative Representative; Jim MacEachern; Jan Choiniere (7:25 p.m.); Ann Alongi, Members; Lori Davison (7:04 p.m.), Marc Flattes, Alternates

Absent: Darrell Park

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Clerk; Mark L'Heureux, Engineering Coordinator

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. Granese noted the emergency exits, the location of meeting materials and introduced the Board members and staff.

Mr. Flattes was seated for Mr. Park

Escrow

#14-20

Project Name: Aroma Joe's #27

Developer: Zielfelder Builders, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 08274, 13 Manchester Road

The request is to establish Letter of Credit #20028445, drawn on Kennebunk Savings, in the amount of \$55,125.36 for the above noted project. The expiration date will be October 15, 2015.

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

#14-21

Project Name: CLM Parking Lot Expansion

Developer: CLM

Escrow Account: The Mental Health Center for Southern New Hampshire

Escrow Type: Letter of Credit

Parcel ID/Location: 08079, 10 Tsienneto Road

The request is to establish Letter of Credit #SB-2005, drawn on People's United Bank, in the amount of \$110,222.21 for the above noted project. This Letter of Credit automatically renews until October 31, 2016.

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

Minutes

The Board reviewed the minutes of the October 13, 2014 meeting.

Motion by O'Connor, seconded by Flattes to approve the minutes of the October 13, 2014 meeting as written. The motion passed with MacEachern, Alongi, O'Connor and Bartkiewicz abstained.

The Board reviewed the minutes of the October 15, 2014 meeting.

Motion by Bartkiewicz, seconded by Flattes to approve the minutes of the October 15, 2014 meeting as written. The motion passed with MacEachern, Flattes and O'Connor abstained.

Ms. Davison was seated for Mrs. Choiniere

Correspondence

Mr. Bartkiewicz advised the Board is in receipt of an invitation to the Merrimack River Watershed Conservation Plan presentation which will be held on November 19, 2014, from 7:00 to 8:30 p.m. at the Merrimack Massachusetts Public Library. The Board has also been provided copies of escrow reminder letters for Yvon Cormier, Jean Gagnon, Brad Benson and Robert MacCormack, as well as the latest edition of *The Source*.

Other Business

Mr. Sioras reminded the Board the next public hearing on the proposed zoning changes in the area of Route 28 will be November 19, 2014. The first subcommittee meeting to discuss the proposed amendments to the Central Business District area will be held tomorrow, November 6, 2014 in the Planning Office. That meeting will begin at 2:30 p.m.

Amendments to the Project Development Security Workbook

Mr. Sioras advised the Board held a workshop during the last meeting to discuss changes to the Project Development Security Workbook. The changes are noted on pages 5 and 13 of the workbook and remove the current practice of placing cash escrow funds in an interest bearing

account. The majority of the Board informally agreed to the change at the last meeting, but in order to move forward a formal vote is required.

Motion by Bartkiewicz, seconded by MacEachern to approve an amendment to the Project Development Security Workbook to remove reference to interest bearing accounts for cash escrows held by the Town of Derry for project security.

Chase, Fairbanks, Flattes, O'Connor, MacEachern, Alongi, Davison, Bartkiewicz voted in favor and Granese voted no. The motion passed by a vote of 8-1-0.

Request to extend approval – BR-10, LLC

Mr. Sioras advised the Board has received a request to extend the conditional approval for the BR-10 project. This would be the second and final extension of approval. This is for the subdivision located on Bartlett and Gulf Road.

Motion by MacEachern, seconded by Bartkiewicz to approve a six month extension for the conditional approval granted for BR-10, LLC, 1 Bartlett Road, PID 04084 on November 6, 2013. This is the second and final extension of approval.

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

Public Hearing

Richard Murdoch PID 05074, 23 Lane Road Acceptance/Review, 2 Lot Subdivision

Mr. Sioras provided the following staff report. The purpose of this plan is for a two lot subdivision. One new building lot is being created. The parcel is located in the Low-Medium Density Residential District. Please note that the Board approved this plan back in August, 2013. The applicant is requesting a re-approval. The original approval has expired. There have been no changes to the plan. No town department signatures are necessary and there are no waiver requests. The state subdivision approval has been obtained and he would recommend approval of the plan.

Richard Murdoch was present and advised he was unable to follow through on the prior submission due to an extenuating circumstance. He does plan to move forward at this time.

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

There was no public comment.

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

Motion by MacEachern to accept jurisdiction of the subdivision plan application before the Board for Richard Murdoch, PID 05074, 23 Lane Road. Bartkiewicz seconded the motion.

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

Motion by MacEachern to approve pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to owner's signature; obtain written approval from the IT Director that the GIS disk is received and is operable; subject to receipt of appropriate permits relating to the project; that the above conditions be met within 6 months; a \$25.00 check, payable to the Rockingham County Registry of Deeds be supplied with the mylar; submission of appropriate recording fees. Bartkiewicz seconded the motion. Discussion followed.

Mr. Flattes inquired if the issues with the abutter noted during the 2013 hearings had been resolved. Mr. Murdoch stated the issue had been rectified.

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

Abutters to the Crom, LLC project were invited to review the plan ahead of time with the project engineer.

Stage Crossing, LLC
PID 23016, 30 Brook Street
Acceptance/Review, Multifamily Site Plan
10 Unit Townhouse Development
Continued from September 17, 2014

Mr. Sioras presented the following staff report. The purpose of the plan is for a 10 unit townhouse development located in the Medium High Density Residential District. All town departments have reviewed and signed the plan. The Conservation Commission has also reviewed and signed the plan. The applicant is requesting two waivers, one from LDCR Section 170-61.A.11, High Intensity Soil Mapping and the other from LDCR Section 170-64.C.2.iii, to allow a reduction in the required 30 foot residential buffer down to ten to twelve feet. Staff does not support the residential waiver. Staff does support the waiver from the HISS mapping requirement as this lot would be on town water and sewer. State Shoreland Protection approval is pending. The plan does meet the technical and completed application requirements for approval. Depending upon how the Board votes with regard to the waivers, the applicant may need to revise the plan.

Mark Fougere, representing Stage Crossing, LLC, advised he has an extensive background in Planning. With regard to the global issues relating to this application, the plan meets the zoning requirements. The Master Plan notes there is a need for a variety of housing, and the property will add \$37,000.00 worth of tax revenue to the town. The project adds to the tax base and there are no capacity issues in the schools at this time. This is a relatively small project and would be anticipated to result in 5 Police Department calls and 1-2 ambulance calls per annum, so there is no great demand on services. The rents will range between \$1600 and 1800.00 per month. The median rental rate in Derry is \$947.00 to \$1037.00 for a two bedroom. This is a higher end development. It will attract a higher end occupant – young professionals are attracted to new, modern facilities with a variety of options. A vast majority of Derry's housing stock is older and dated; this project will create a wider range of apartments in the community. This is a mixed use neighborhood with a variety of housing and housing density. Derry is decreasing in population and the population is aging.

The key item for discussion tonight is the proposed residential buffer waiver. If the Board does not support the waiver, they will need to redesign the plan. The buffer can be taken care of with landscaping and an 8 foot tall fence. There are two residential uses abutting each other and they can add fencing to reduce the impacts. They feel this proposal is aesthetically pleasing; they are able to hide a story behind the building and he believes the elevation is attractive at this location. It is better to have the lawn to the front which is consistent with the neighborhood, with the garages to the rear of the project. If they have to flip the building and move the parking to the front, it will not be as aesthetically pleasing.

Brian Pratt, CLD, stated that the Board had held a site walk. The waiver for the buffer is the most important item. Mr. Granese confirmed the reason this application had been continued to this date from September had been at the request of the applicant. Mr. Pratt explained the applicant wanted the opportunity to review the census data and other attributes that affect the plan. They also wanted to be able to answer some of the questions posed by the Board at the last meeting and the site walk.

Mr. Fairbanks asked Mr. Pratt to walk through the waiver request. His understanding is if the Board does not approve the waiver, the applicant will move forward with option number 2.

Mr. Pratt said the current plan provides for a two car, drive under, double wide garage. The garages are proposed to the rear; this keeps the building height low. The buffer is to the left and the rear. The town requires a 10 foot separation for pavement but when multifamily abuts a residential use, the distance increases to 30 feet. The waiver request is to decrease this distance to 10-12 feet. They are proposing an 8 foot tall fence along both of the buffers, a retaining wall and fence. There will be a fence along the top of the retaining wall, and trees. The plan has not been updated since the last meeting. They are happy to add additional trees and to work with the abutter with regard to screening specific windows, etc., with vegetation so that there are no lights shining in. If the waiver is not approved and they need to maintain the 30 foot buffer, they will need to shift the building back 27 feet from the currently proposed location and the garages will move to the front. This significantly reduces the green space to the front which is the side that will be visible from Brook Street and Fordway, and they can't provide tall landscaping because

of sight distance. It will look like someone is living in a garage. It will not look as residential as the original proposal. The current plan has nice landscaping.

Mr. Fougere spoke with regard to the fence and trees. He stated they are open to suggestions and could plant arborvitae to protect the abutting properties. Mr. Pratt said they have provided two renderings to show what the different proposals could look like. They do have photos to show what it might look like. The Board declined to view them at this time.

Ms. Alongi asked if someone had objected to the building being 27 feet from the lot line and is this why they were providing another option. Mr. Pratt explained they wanted to be able to show the Board what the project would look like if they had to redesign to accommodate the 30 foot buffer. If they are not granted the waiver to reduce the residential buffer from 30 to ten feet, they will have to go with option B, which puts the garages to the front of the project. The lots abutting this project are residential.

Motion by O'Connor to open the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and the floor was open to the public.

No one approached the Board.

Motion by MacEachern to close the public hearing, seconded by Bartkiewicz. Abutters moved forward and both parties rescinded the motion.

Don Bodwell, 24 & 22 Brook Street, said this is a single family residential area with a few two family buildings. This building does not belong here nor does it fit the lot. This will bring a lot of kids to the area. He has the largest lot in the area and the kids all ask to play there. Now there will be an apartment building that will have kids and there is not an outside area for them to play. If this was East Derry, the Board would not be having this discussion. He feels that it would be okay to have a few homes on this lot, but this is not a safe location. He asked the Board to please take the abutter's concerns into consideration when they are making a decision.

Richard Hirtle, 1 Bridge Street, asked what is the difference if the setback (buffer) is at 10 feet or 30 feet. Mr. Pratt showed Mr. Hirtle the examples of what the lot would look like under the different options. Looking from Mr. Hirtle's home, parking under the current plan would be behind the 8' tall fence. Mr. Hirtle said the land slopes down and the retaining wall would be four feet from the back of his barn and the land slopes up about 8 feet to the fence. He confirmed that if the buffer is not approved, the building will be 27 feet closer than currently proposed to Mr. Hirtle's lot line. The second plan view shows the buildings 30 feet from the lot line. Mr. Hirtle did not want the building closer to him. Mr. Pratt said if the plan remains as presented, the parking lot will be behind the fence, which will block car lights. Mr. Pratt said if the buffer is at 30 feet, the building will be taller because the garages will be in the front. With the current design, the building would be one story lower. If they have to change the plan to accommodate a 30 foot buffer, there will be less landscaping in front because they need to make sure there is enough sight distance. Mr. Hirtle would rather the building was not closer to him and was of the opinion it would be hard to rent units this close to the transfer station for \$1600.00 per month. He asked about the impacts to the school system and noted there is no play

area for children. There is also a brook nearby which could pose a danger to children. He stressed he did not want the apartment units closer to him.

Mr. MacEachern asked which plan view did Mr. Hirtle prefer. Mr. Hirtle replied he did not like any of them, but would want the one where the building was further away from him.

There was no further comment.

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

Mr. L'Heureux, when asked if DPW had any issues with the plan, advised that the applicant will need to follow up on the comments in the outside review engineer's report.

Mr. O'Connor asked for clarification on the waivers. He was under the impression if the Board denies the waiver request for the buffer will the applicant move to flip the building, and ask for an extension to revise the plans. Mr. Pratt agreed. Mr. O'Connor reviewed the renderings. If the building was flipped, the garages would now face Brook Street and the front of the apartments would face the abutter (Mr. Hirtle). Mr. Fougere said the plan would be a little different if they had to turn the building. The garages would now be one car garages, and the windows would be different, but the rendering provided serves to give the Board an idea of what it might look like.

Mr. O'Connor did not feel what was on the rendering would be acceptable. Under Section 170-86.F.6, of the LDCR, the back entrance is not to be visible from the street. Mr. Pratt said the front entrance would be facing Brook Street. They would revise the architectural rendering to have a one car garage so that they can fit a front entrance. The rendering provided is just to give an overall idea. Mr. O'Connor stressed they would have to meet the architectural standards in the LDCR.

Mr. Sioras suggested the applicant take a look at the development on the corner of Maple Street and North High Street. He questioned if that is similar to what a revised plan might look like? Mr. Pratt said the entrances would be different.

Mr. Flattes asked if the Board does not grant a waiver, what will be the new proposed height of the building. Mr. Pratt said he would have to guess because he does not have a definitive architectural rendering, but the current peak of the building is 28' 10" from the front level. They would be adding a story and it would likely be another 9 feet or so. He can't give an exact height without a final rendering. He confirmed for Mr. O'Connor the distances applicable for the 100 year flood plain are still met. They are outside of the flood zone. There would no longer be a walk out to the rear, so the building would be higher.

Mr. Granese asked how big is this lot. It is 38,393 square feet, or 0.9 acres. Mr. Granese asked why the applicant did not consider a three lot subdivision on this lot. It would meet the density. Bob Lamontagne, the applicant, said at the first TRC, they did present a three lot subdivision. The members of the TRC, which is made up of Police, Fire, Planning, Code and DPW, did not

want three homes there. There was an issue with the driveway location. They left TRC, read the regulations and came back and met with the TRC two or three more times. One of the members said they liked this plan better than the three houses, so they went forward. This plan meets all of the regulations with the exception of the buffer; if they have to revise the plan it will meet all the regulations and he feels this project would improve the area.

Mr. L'Heureux did recall the TRC reviewed a plan for three homes but does not recall discussion about liking or disliking the plans. He said for any project when the TRC reviews plans, the purpose is to ensure the plan meets the technical requirements. When the applicant presented a three lot subdivision plan, his recollection is that the driveway did not meet the regulations; it was too close to an intersection. The TRC does not discuss whether it likes or dislikes a plan; it discusses whether the plan meets the regulations. Mr. Sioras recalled there had been a plan for a three lot subdivision that was close to the intersection and may have had a shared driveway. After the TRC meeting, the town did not hear from the developer for a long time. He agrees TRC does not say one way or the other whether they like a plan or not. He has mixed feelings on the buffer. He typically likes to see more green space and landscaping but the regulations were written for a reason.

Ms. Alongi asked where the snow storage would be located. Mr. Pratt said snow is stored off the edge of pavement and near the detention ponds. It will also be trucked off site if necessary. Ms. Alongi asked what happens with the drainage as the driveway slopes. Mr. Pratt said the slope is at about a 5% grade, which is not very steep. There is a catch basin to the rear to catch storm water flow. The drainage plan has been reviewed by VHB and they had only minor comments. They are working on addressing those comments.

Mr. Flattes asked if the applicant had reviewed fire department access for the second option in the event the waiver is not granted. Mr. Pratt said they have looked at the truck turning radius and it does work. Mr. Fougere said he understands the reasons behind the waiver and mitigating alternate land uses; he feels the proposal gets them where they need to be. They are willing to add evergreen landscaping along the left edge of the property to make a denser buffer. He feels the Board can agree the current proposal is more in keeping with the character of the neighborhood.

Mr. Granese asked for an approximate height of the building with the second option. Mr. Pratt said it would be taller than the current proposal by at least 9 feet. Mr. O'Connor asked if moving the building would change the detention pond. It would not.

Mr. Fairbanks said the buffer is put in place to lessen the stress on the abutters. What would be better for the abutter? He thinks he is hearing Mr. Hirtle would appreciate having the building further away and so he would want the waiver, and although Mr. Donovan did not speak he thought it would be more pleasing to have the green space to the front near the street, but he is not generally in favor of granting buffering waivers.

Mr. MacEachern said if the waiver is granted, the parking lot will be the rear and against the abutters property. The abutter will need to deal with cars turning in and out of the parking lot; that may cause more noise. The second option puts the apartment building closer, but there is

green space along the back for a play area and the parking would be adjacent to an existing street. Mr. Fairbanks noted Mr. Hirtle's property is located lower than the project.

Mr. O'Connor said in looking at the renderings, the north side has the driveway. The driveway will be a few feet from the neighbor's lot and all the green spaces that exist currently will be gone. If the Board grants the waiver, then the applicant will also take away the green space to the left.

Mr. Chase noted there is a second house on the corner of Florence and Bridge Street affected by this project (1 Florence Street). If residents travel down the driveway to the parking lot as the plan is proposed, the car lights would shine directly on her second floor deck. This will happen even with an 8 foot fence. Mr. Fougere said that is why they were offering to add arborvitae in that area to deal with that issue. They grow very high.

Mr. MacEachern asked if Mr. Lamontagne consider three lots with a shared driveway, creating access to the rear of the lots. The driveway would be in the same location and T off. The Board does not usually grant waivers of that type but this is a unique situation given the nature of the neighborhood and the topography. It has been said the prior concept had three driveways, one of which did not meet the regulations. He would prefer to grant a waiver to a common driveway that Ts off to three homes.

Mr. Lamontagne said based on what he has been through to this point, he would like the Board to vote on the plan as presented. If he was dealing with the Board directly that is one thing, but he has to go back to TRC for any future discussions.

Mr. MacEachern said this Board could give a recommendation to the TRC as to the Board's preference. Listening to the abutters, it seems the original thought was to go forward with three homes. He respects Mr. Lamontagne's position with regard to what he has already expended on this project. He is trying to balance everything. The Board can give the TRC an opinion on a common driveway. It has been done before. He would suggest one long driveway with access that Ts off; there would need to be access covenants. Mr. Lamontagne said people don't like those types of covenants; they don't like to share their land. He will keep an open mind to the various options.

Mr. O'Connor said if the Board accepts jurisdiction the clock starts. If the Board denies the waiver, is there enough time within the 65 days for the applicant to do what they want to do? Mr. Pratt said they could request an extension of the 65 day clock. Mr. Fougere felt making changes to the plan to meet the buffer is not a lot of work but they need to meet with the TRC and get comments. Most of the work is done but they may need an extension. It would be preferred if the Board could accept jurisdiction and vote on the waiver request, and then his client can decide at that time how he would like to move forward with the application.

Motion by O'Connor to accept jurisdiction of the multifamily site plan before the Board for Stage Crossing, LLC, 30 Brook Street, PID 23016. Bartkiewicz seconded the motion.

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

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-61.A.11, HISS Mapping, as after review of the waiver request the Board find that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the wavier will properly carry out the spirit and intent of the regulations.

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

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-64.C.2.iii, Residential buffering requirement to allow a reduction in the required 30 foot buffer to 10-12 feet as after review of the request, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mr. MacEachern said he would vote no based on the discussion about the building being moved. He would also encourage the builder to come up with a set of plans for a three lot subdivision. He would enthusiastically support a shared driveway.

Mr. Fairbanks said if he was to vote yes it would be because it is better for the neighborhood, but he does not like where it says it poses an unnecessary hardship; he did not feel there was a hardship. He is not a fan of granting waivers. He was having trouble with the wording; he thought it had more to do with specific circumstances relating to the land and the abutters; not hardship. The Board agreed. Mrs. Robidoux suggested rewording the motion so that the finding reflected that. The wording could be "Move to grant a waiver from LDCR Section 170-64.C.2.iii, Residential buffering requirement to allow a reduction in the required 30 foot buffer to 10-12 feet as after review of the request, the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan and the abutters, indicate that the wavier will properly carry out the spirit and intent of the regulations."

Mr. O'Connor and Mr. Bartkiewicz accepted the amendment to the motion.

MacEachern voted no, for the reasons he previously stated, although he respects Mr. Fairbanks position and understands it. Alongi voted yes. Davison voted yes because it was friendlier to the abutters. Bartkiewicz voted yes as he also felt it was friendlier for the abutters. O'Connor voted no, he agreed with Mr. MacEachern. Flattes voted no, he does not have the actual drawings of the proposed building. Fairbanks voted yes as this plan was better for the abutters. He would want to hear more about adding growth in the north corner of the lot. Based on Mr. Chase's concern; there needs to be more growth in that northwest corner. Chase voted no as he feels the second plan with the 30 foot buffer is better for the abutters. With the extra trees and green space it gives more control over what can be placed in the buffer to be effective. The elevation could be dropped in front so that so much of the garage would not be seen and he feels the buffer

should stay and that more can be done to help the neighbors with the extra space. Granese voted no for the same reasons stated by Mr. Chase. The motion failed by a vote of 4-5-0.

Mr. Fougere noted the applicant has the direction of the Board and its input.

Mr. MacEachern asked if there could be an informal poll of the Board to see how the other members felt about a three lot subdivision with a shared driveway so that the applicant could consider that. Mr. Granese said his question was at the original TRC for the three lot subdivision had the discussion been about three separate driveways or was it a shared driveway. Mr. L'Heureux said it was three lots with the three driveways; the issue was with the driveway closest to Fordway and Brook Street because it is a complex intersection. The driveway was too close to the intersection. He recalls that there was no support for a shared driveway. In general, DPW does not endorse waiver requests. The intent is to have plans that conform to the regulations. He noted it has been several years since that meeting. Mr. Granese asked what would happen if there were two driveways; he is trying to see what there are for options. Mr. L'Heureux said it might meet it, but there can't be a driveway off Fordway or 75 feet from an intersection. Mr. Flattes felt if there were three lots it might be an issue because there would be a shared driveway. Mr. MacEachern said there could be an easement for the shared access. Mr. O'Connor felt that option might be acceptable and might be more in tune with the existing neighborhood. Mr. Flattes said he would be in favor of that option. Mr. MacEachern felt this was a very unique lot and situation; this is a busy intersection. Mr. Fairbanks said he would entertain looking at it; the applicant should be able to develop the lot. Mr. Chase thought the applicant would need to go back and re-subdivide the property or scale this project back. Mr. Fairbanks noted the applicant can also go to the plan B they presented this evening. Mr. Chase said he would rather see something less 'shoe horned' on the lot. Mr. Bartkiewicz would like to see house lots because of the neighborhood. Ms. Davison said she was willing to look at any proposal; she did not think any of the proposals they saw this evening were optimal. She felt there were too many units on too small a lot. Ms. Alongi agreed with Ms. Davison and felt the lot had too many units on it.

Mr. Granese asked to confirm the procedure as the Board had denied a waiver the applicant needed approved in order to move forward with the current plan. Mr. Sioras said the plan should be continued and the applicant would need to be willing to waive the 65 day clock. Mr. Granese asked if the applicant came back with Plan B, would the applicant come back to the Board, or do they need to go back to TRC again. Should they come to the Board with maybe a concept plan to be discussed under Other Business before they go too far to see what the Board thinks? Mr. Sioras said there is the legal issue that since the Board has taken jurisdiction, it will need to take action on the application. Mr. Granese said they could come back to the Board with the second option and the Board could vote on that. Mr. Sioras said the applicant can also withdraw its current application if they want to move forward with a subdivision application.

Mr. Fougere said they appreciate the advice from the Board but would like to table the plan. They are not sure which direction they would like to take and they appreciate the guidance on a potential waiver request. Mr. Sioras said the Board should move to continue the plan to a date specific.

Motion by MacEachern to continue the public hearing for State Crossing, LLC, 30 Brook Street, PID 23016 to January 7, 2015, seconded by Bartkiewicz. Discussion followed.

Mr. Sioras said this will give time for staff to review changes within the 65 days. Mr. Lamontagne said he would prefer to come back directly to the Board rather than going back to the TRC with any conceptals. Mr. Granese said he can do that in between now and January 7th; he just needs to request to be placed on the agenda.

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

Ms. Davison stepped down and Mrs. Choiniere was seated.

Granite Clover Self Storage

Owner: Crom, LLC

PID 01023-001, 01023-003, 125 and 119 Windham Road

Owner: Gregory Leduc

PID 01023-004, 117 Windham Road

Acceptance/Review, Site Plan

Self-Storage Facility Expansion

Mr. Sioras provided the following staff report. The purpose of the site plan is for a 4,600 square foot addition to the existing self-storage facility and a new 44,000 square foot self-storage building. The property is located in the Industrial V district on Windham Road. All town departments have reviewed and signed the plan. There are several waiver requests outlined in the October 30, 2014 letter from Eric Mitchell, specifically from LDRC Section 170-31.12, High Intensity Soils; Section 170-63.D.1, Parking Construction Requirements; Section 170-63.B.4,u, Parking Density Requirements, and Section 170-65.K, Stormwater Management Requirements. This proposal will require an Alteration of Terrain (AoT) permit per discussions with NH DES. The technical components of the plan are approvable. The Board has been on a site walk. The abutters have some concerns with the proposal.

Eric Mitchell of Eric C. Mitchell & Associates, presented for the applicant. A few months ago, they were before the Board for a Design Review hearing and a site walk was held. They went back to TRC and had a variance request granted. The property will have two residential structures on the same lot as a result of the lot merger and the ZBA granted the variance to allow them to remain on the same lot. They are now here for review of the site plan. The intent is to merge the three lots and develop the rest of the site. There are two different parts of the site. The new area (Phase II) will contain a 44,000 square foot climate controlled self-storage building. The existing area of the site (Phase I) will have a 4,600 square foot addition to an existing self-storage building. This is located on the original side of the property which was developed in 1984. Since Design Review, not a lot has changed. The new building is still one story, 44, 000 square feet, measuring 14 feet at the peak, and 10 feet at the eave. There will be a circular drive that runs around the building that was put in place at the encouragement of the Fire Department. On the north side, there will be one pass door for emergency access and three lights. There is access to the building on the south, east, and west sides of the building. The site

itself has two access points. The existing office building is in the location of the primary access to the site. The second access to the west is at the existing house. This gated access will only be used for emergency access by Fire, ambulance, and Police through a Knox box. Snow plows will also use this access as well as the owner for maintenance. Circulation comes from the south and the access circulates around the building. Someone can drive around the building but there is no access to the interior to the north. This access is in place for safety and service. The entrances to the building will be from the east or west, but the primary entrance is from the south.

Mr. Mitchell noted there has been a lot of discussion about the proposed buffer. There needs to be a 50 foot wide buffer because the Industrial V lot abuts a residential zone and a residential use. The property located to the north of this project is a residential lot so they are maintaining the 50 foot buffer. The proposed buffer consists of the following. The rear area is an existing forest. The middle of the area has brush which was seen during the site walk – the Board has been provided pictures of that. The front has the residential house. Mr. Mitchell described the pictures and the various views. He explained the land is buffered to diminish the effects. They are proposing an 8 foot tall, vinyl fence located 10 feet off the lot line with 6 foot tall arborvitae behind it and deciduous lilacs in the front. That will close in the areas where the top of the house can be seen from the applicant's property. They will add arborvitae along the driveway as well as deciduous trees to buffer the tenant from the building and will provide a change in the buffer between the building and the house. The new building cannot be seen from the abutter's front yard; the only area where the building might be seen is from the upstairs window, but the new building will be under 14 feet tall. He believes the proposed buffer will work and diminish the effects of the proposal on the residential property to the north.

Mr. Mitchell said the Planning Board decides on the composition of the buffer. The applicant needs to show that they diminish the effects of odor, light and sound. This does not mean that the use has to be hidden. Self-storage is a permitted use in the zone; given the permitted uses in the district, the proposed use has the least impact and is quiet. There is not a lot of light or access doors. This is not a manufacturing site and will be quiet compared to other uses that might be allowed on this lot.

Mr. Mitchell asked the Board to consider the application for final approval subject to addressing the comments from the outside review engineer and the town standards. In addition, they would ask that the Board consider during its approval, allowing a building permit to be pulled for the 4,600 square foot addition located in Phase I, prior to meeting all of the conditions of approval for Phase II so that they can get that constructed this construction season. The site has two different sites: the existing and the proposed building on the vacant property to the north. He has spoken with Mr. Mackey who believes he could issue a permit for the 4,600 square foot building while the applicant is working on meeting the other conditions of approval.

Mr. Fairbanks asked where is the applicant asking the Board to approve two structures in the 50 foot buffer; he does not see that in any of the requested approvals. The buffer can't have a structure in it unless the Board says it can. It was brought up in one of the documents provided. The regulations say there can be no structures, pavement, utility construction, signage or similar hardscape improvements encroaching on any residential buffer unless specifically permitted by

the Board. Mrs. Robidoux suggested the Board could discuss this and if it felt it was appropriate, perhaps add a condition on any approval that the Board found it was acceptable to have structures located within this buffer. Mr. Sioras noted the ZBA did grant a variance to allow the house to remain on the lot.

Mr. Mitchell explained the ZBA felt it could look at two residential structures on one lot but not the makeup of the buffer. Their position is that they are buffering and diminishing the effects of the self-storage use from the residential property. They believe the Planning Board has the latitude to agree that the buffering they are proposing, as well as the structures that are already there, provide a sufficient buffer. From a transitional standpoint they feel it makes sense to have a residential house next to a residential house. Mr. Granese did not recall the shed being in the proposed location; he was under the impression the shed would be removed. Mr. Mitchell said there is still a residential use on the lot and there is no garage. Therefore, they are proposing moving the shed closer to the lot line while maintaining the appropriate building setback. The shed itself will help block views and noise. That is, if the Board decides it should be in there. They feel it ties into the residential use and works with the buffer.

Mr. Fairbanks said the board needs to acknowledge that it agrees those items should be in the buffer if they approve the plan. Mr. Granese asked if the applicant has taken into consideration the comments from the Board and the concerns raised by the abutters at the site walk. Mr. Mitchell responded he believed they had. They did pull the fence closer to the house and put plantings on the front and back side of the fence. They had originally proposed a ten foot tall fence but the direct abutter felt that was out of character and too tall. They have moved the fence out, shortened it and added arborvitae and lilac. Mr. Fairbanks asked if the chain link fence had the slats. Mr. Sioras said that would be something for the Board to discuss. Mr. Mitchell said the chain link fence is lower than the brush; putting slats in might not serve a purpose. If there are areas closer to the rail trail where the Board feels it might help, they can do that.

The hours of operation for the existing main facility are 24 hours per day, accessed by pass key. The proposed building will be limited to 9:00 a.m. to 6:00 p.m. so that people are not in and out of the building during the night. Because the building is climate controlled, the owner wants to limit the access; it won't be used in the evening or all night long. Mr. Granese confirmed someone could still drive around the building but would not have access to the building, so there is really no reason for anyone to drive around it. Mr. O'Connor asked where the air conditioning units would be located.

Edward Smith, applicant, stated there would not be any air conditioning units. The building will be heated in the winter months to 50°F. All of the heating units will be inside the building and will be hanging units. He clarified the hours of operation for the new building will be Monday through Friday, 9:00 a.m. to 6:00 p.m. and on Saturdays and Sundays, between the hours of 9:00 a.m. and 3:00 p.m. The office is open during those hours. There is an onsite manager who lives above the office and he is absolutely certain that if anyone accesses the site during the evening hours, she will be aware. Given the security system, she will be able to contact the appropriate authorities if there is a reason to do so.

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

Maureen Rose, 115 Windham Road, stated the new building will be 14'6" at its highest point and that the shed has been proposed to be moved into the buffer. She has a letter written by her attorney, Patricia Panciocco that she would like to read into the record and requests that the letter be placed into the body of the minutes as well. The Board confirmed they had copies of the letter. Members of the Board suggested Ms. Rose pull significant items out of the letter as all had copies, since the letter was three pages long. Ms. Rose stated she would like to read the letter into the record and then make no further comment.

"Dear Members of the Board:

This firm represents Maureen Rose whose Lot 23-5 directly abuts the parcel shown on the Plan to the north. Due to certain concerns relative to the Plan Ms. Rose recently requested my assistance. The Board may recall Ms. Rose opposed these parcels being rezoned to Industrial V on or about 1999 and testified against a variance being granted by the Derry Zoning Board of Adjustment which allowed 2 residential structures to be located on the same parcel. My client's concerns are as follows:

My client is acutely aware that Section 165-43 of the Town of Derry Zoning Ordinance ("Ordinance") permits certain "less intense" industrial uses in the Industrial V Zoning District, one of which is listed as: *"self-storage facility with ancillary truck rental use"*. Although the Ordinance does not define this particular use, its common definition brings to mind a "U-Haul" type operation such as that located on Scobie Pond Road where the self-storage company owns vehicles used to transport goods. However, the Plan shows certain details and others are not shown, which are inconsistent with this common definition, one of which contemplates the storage of campers, boats and other recreational vehicles in addition to occupancy by a moving company named College Bound Movers.

Details shown on the Plan confirm the parcel on which this development is proposed is very flat as is the lot owned by Ms. Rose. In addition, the Town's GIS and other documents retrieved from the Town's file confirm this area is wet and wetlands have been filled within Lot 23-4. Exhibit A. For these reasons, and because my client is very concerned about additional surface water traveling toward her property, she opposes any waiver of the soil mapping requirements of Section 170-31.12. In addition, this letter requests the Board require the Applicant to show the topography of my client's lot to the north of the common boundary line to farther confirm her property will not receive additional overland drainage as a result of the substantial amount of new impervious coverage proposed by this Plan. When preparing those drainage calculations, the Board should confirm the Applicant uses the new rainfall numbers recently published by Cornell University for the New England area, now recommended by NHDES.

2. Note 11 on the Plan describes the Parking Calculations and raises the following questions because outside vehicle storage (aka - "parking lot") is not a permitted use with the Industrial V zone:

- a) Is there a second office and apartment in addition to the one which currently exists on Lot 23-1?
- b) Why are parking spaces being provided for vehicle storage?
- c) Why are spaces being provided for boats and campers?

3. The Plan appears to be silent regarding the number of MI-Boxes to be located on the site and where they will be located although 9 parking spaces are shown on the Plan. Since the number of available MI-Boxes bears directly upon the number of vehicles that will enter and leave the site, this letter inquires as to why the Board has not required a traffic study and requests that it do so.

Note 21 on the Plan states the anticipated trips due to this development will be less than 2 per hour. Exhibit B confirms there is a trip generation estimate for self-storage facilities and since this use is supposed to be "less intense" confirmation from a traffic engineer is warranted. It is unclear why no traffic study was required.

Once traffic counts are available, which bears directly on the "intensity" of the proposed use, the Board should be considering whether that level of new traffic, in addition to that already frequenting the site 24 hours per day, is consistent with Industrial V zone and if reasonable, impose specific restrictions on any approval of the Plan.

4. Note 21 states the new building will be open from 9:00 a.m. to 6:00 p.m., 7 days per week but the existing facility to the south will remain open 24 hours per day, 7 days per week. Since the Plan proposes an eventual merge of the lots, it is unclear how the Applicant will limit vehicle traffic within the new site which includes a driveway close to Ms. Rose's home. This letter requests the Board ask the Applicant to provide additional information regarding this issue.

5. As I am sure the Board knows self-storage units regularly auction abandoned property within the units. However, the application is silent regarding auctions by the proposed self-storage operation. If this is an activity related to this application, Ms. Rose requests the Board require those activities take place on the original site away from her residence and during normal business hours.

6. The Plan is presented as self-storage but the sign shown on page 9 of 14 of the Plan set also lists College Bound Movers. A moving company operation is not a permitted use within the Industrial V zone and appears to contemplate occupancy by a second entity using vehicles not owned by the proposed self-storage operation.

7. The 50-foot wide buffer required by Section 165-23 is intended to separate incompatible uses. Aside from the above drainage concerns, this is of utmost importance to Ms. Rose. The existing single family home occupies the easterly end of the 50-foot wide buffer area and the Applicant is proposing to move the shed closer to the common boundary. The westerly end of the buffer is largely field, has a few small trees and the Applicant's septic system.

Attached please find Exhibit C which is a sketch of proposed buffer improvements. My client would prefer the 8-10 foot high solid vinyl fence in lieu of a chain link fence along internal boundary of the easterly end of the buffer to provide screening between the 2 incompatible uses. In addition, Ms. Rose would prefer 2 rows of arborvitae behind the shed, which should not be moved any closer to the property line, with a row of bushy shrubs at an approximate 6 foot height on the Applicant's side of the common boundary. Exhibit C also proposes 3 rows of arborvitae be installed within the northeasterly corner of the parcel and within the westerly end of the 50-foot wide buffer where it lacks trees.

To insure there is no misunderstanding, my client would like to review the landscaping plan within the buffer area prior to the Board's approval. In addition, I must insist a restrictive covenant be recorded in the Registry of Deeds to insure the 50-foot wide buffer remains in place unless the use of my client's property changes to industrial or commercial in the future and that if the improvements within the buffer are removed, additional landscaping will be installed.

In light of the above concerns, it appears this Application may not be complete for acceptance. However, if the Board does choose to accept the Application, and because we have only had 2 days to review the revised plans, we respectfully reserve the right to supplement this letter with additional concerns. Our hope is the Board will see this letter is read into the record this evening and will require the Applicant to respond to my client's concerns because the value of her property should not be undermined due to subsequent development. While we recognize this type of development is attractive to the Town because it is not a drain on Town resources its approval should not be at the expense of existing property owners.

Very truly yours, Patricia M. Panciocco"

Donna Thompson, 3 Towne Drive, is concerned there is no traffic study. The residents in the area are commonly woken in the middle of the night by accidents in this area. They feel this addition may cause problems and there needs to be a traffic study, especially with College Bound Movers being on the site. The owner has said that College Bound Movers will not be on this site; they will only bring people's belongings to the site. She also has a concern with vehicle, boat and trailer parking. Is that storage also or temporary parking? This is a small industrial area in the middle of a residential area. All the residents have wells. With regard to snow storage, she has been told all of the drainage will travel to the west side across the road to Towne Drive and there will be a gas/oil separator. This is a concern. How will they ensure their well water is not fouled? Is there a way to ensure there is a maintenance plan put into place for the oil/water separator?

There was no further public comment.

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

Mr. Granese asked Mr. Mitchell to review the proposed buffer that is shown on the plan along the north side, adjacent to 115 Windham Road.

Mr. Mitchell suggested the Board members review sheet 5 of 14. The landscape to the rear is forested to the heavy tree line symbol. Closer to the existing shed it is more brush, which the Board members could see in the pictures and during the site walk. They have submitted a draft covenant that will keep the growth as it is. There can be no disruption in that area other than to take care of diseased or damaged trees. They will record the covenant. The tenants can't put anything in that area. Behind the relocated shed, they are proposing to place a split rail fence to act as a physical reminder that the tenants can't go behind the fence. A stockade fence in that area would close everything in and the proposed split rail fence will also allow wildlife to go up and down the area. They are proposing an 8' high, vinyl solid fence that will run from the shed to the stone wall at the front. The color proposed currently is non-white; if color is important to the abutter, they can provide the color she would want. This would be 10 feet off the lot line. Between the fence and the lot line will be 6 foot tall arborvitae and a few lilacs on their side of the fence to be placed near the hole in the pathway. At the edge of the 50 foot buffer they will place four more arborvitae near the driveway and lilacs.

Mr. Granese said during the site walk, there had been discussion with the current tenant with regard the fence and what type of fence should be constructed. Mr. O'Connor recalled the abutter had suggested placing the fence diagonally across the lot. Mr. Mitchell said it had been suggested that the house be encapsulated on the lot, but from the front yard, one cannot really see part of the building because they would be looking down Windham Road.

Mr. O'Connor asked Mr. L'Heureux with regard to the request to use the new rainfall numbers. Is what the applicant has proposed for drainage acceptable to the town? Mr. L'Heureux explained the drainage study comments are contained in the VHB report and the applicant will need to modify the plan based on the need for an AoT permit. In order to meet the DES AoT requirements, the drainage plan will need some modification. Mr. Granese asked if there were any DPW comments or concerns. Mr. L'Heureux said any issues are in the VHB report and are minor in nature.

Mr. Mitchell spoke with regard to traffic. The plan shows an average of two trips into the site per hour. This is not the same as a warehouse facility; it is self-storage. Even on a Saturday, there may only be half a dozen customers. People put things into storage and don't visit the storage daily or even monthly. There are a lot of units, but there are not a lot of visits. The existing use has been there since 1984 and he does not believe there have been any issues. Even with the addition of the new building, it will not add a lot of traffic.

Mr. Smith said he purchased his first self-storage facility in 1999. Fifty percent of the customer base utilizes the auto bill option. Two customers per hour is not a lot of traffic and if they see 6 customers on a Saturday, that is a lot. With regard to College Bound Movers, that was the first business he started in 1991. There will not be an office for that use at this location, nor will they store trucks here. When customers are moving items to self-storage, that is when College Bound Movers will come to the site; it would be the same as any other moving company helping a customer. Mr. Granese said the issue is the perception the business will be operating from the

site as it is listed on the sign. Mr. Smith said he is willing to put it into the record that there will be no sign on the outside, but they might have brochures at the office.

Mr. Fairbanks asked if the applicant would be willing to entertain improvements to the buffer as suggested by the abutter, for example, changing the chain link fence to a solid fence, and the existing vegetation to a planted buffer. Mr. Mitchell said he has not seen the letter from Attorney Panciocco, but he did not believe changing the chain link fence to a solid stockade fence the length of the buffer would serve a purpose.

At 9:17 p.m. there was a fire alarm activation at the Derry Municipal Center. Occupants of the meeting room vacated the building. The Board reconvened approximately 15 minutes later. Ms. Alongi did not rejoin the Board. Mr. O'Connor and Mr. Chase were delayed.

Mr. Mitchell advised during the break, he was able to hold a discussion with Ms. Rose who shared a copy of her proposed buffer plan. He discussed it with Mr. Smith. They are willing to put in a solid vinyl fence to the rear; they don't feel it will help a lot because the trees are tall in that area, but the fence will block any headlights that come around the building. They will place a chain link fence from the rear of the home and will add plantings. The abutter had proposed plantings in the area that is now full of brush. The concern is that it would do more harm than good to add plantings to that area; they would not want to have to replant in the brush area. The abutter had also asked that the fence be removed from the front area and instead have a few rows of trees planted 20 feet off the property line. The house is located 25 feet from the property line. They are willing to plant two rows of arborvitae at about 12 to 15 feet off the property line. Additional trees at the end were suggested, and they will do that. They will also beef up the buffer with a solid vinyl fence near the parking area, take the fence out of the front area and instead place two rows of arborvitae. They may not do all that was on the sketch proposed by the abutter, but they are willing to do some of the things suggested.

Mr. O'Connor and Mr. Chase were now seated.

Mr. O'Connor spoke with regard to the MI-Box storage areas. On sheet 5, there are 9 parking spaces allocated for MI-Box. Mr. Mitchell said that is correct. He also noted other plan sheets that show the same allocation. There had been questions raised about the drainage heading to the north. The existing conditions sheet shows the topography of their site which is lower than the property to the north. Their land is elevation 344. The site drains toward Windham Road. The grading plan shows the ditch along the 50 foot buffer that is designed to collect water and put it toward the ponds and the rear area. No water will be going toward the 50 foot buffer area.

Mr. Chase referred to Note 21 which has different hours of operation than were cited this evening. Mr. Mitchell said he would change that note to reflect the Saturday and Sunday hours of 9 a.m. to 3:00 p.m.

Mr. Chase said he had a problem with the structures in the buffer. Mr. Flattes said he had the same issue. Mr. Chase noted the LDCR is specific; he understands the Board has latitude to decide what can be in the buffer. The Board does not like to waive the buffer. Mr. Flattes asked if there were any cases previously before the Board where items were in the buffer. Mr. Chase

said there have been and items have been removed. Mr. Mitchell felt that for this project, there were existing circumstances where house has been in the buffer. Section 165-23.B states “[the buffer] shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the non-residential use.” The regulations give the Planning Board the latitude to agree on something equivalent or better than three rows of trees. Given the size of the building, the fact it is not two stories and that the site will not generate a lot of noise, there are limited hours, they are reducing noise, there are no odors, and they have diminished the lights, he feels they do diminish the effects, meet the intent of the regulations, and the residential uses go hand in hand. Mr. O’Connor asked when the house at 117 Windham Road was built. It was constructed in 1994. Mr. O’Connor personally felt the house becomes part of the buffer. It absorbs sound and he would not have a problem adding it into the buffer. Mr. Flattes said when the three properties are merged; it puts the house in the buffer. He can see Mr. O’Connor’s point but does not think it should be there. Mrs. Choiniere confirmed the zoning was changed on the lot in 1999. The house was constructed in 1994; she did not believe that with the house sitting where it sits that the buffer can be established without the house being in the buffer. Mr. Mitchell said this section of town was previously all industrial and the building inspector at the time, allowed residential uses to go into the industrial zone.

Attorney John Cronin noted Mrs. Choiniere has raised an interesting legal point regarding prior non-conforming use. If something exists or preexists and can’t conform to the ordinance, it is something the Board may not need to regulate. The Board has a lot of discretion and does not check its common sense at the door. The underlying legislative intent of a buffer is to provide separation between uses. A factory should not be right up against a house. In this case, there is something in the buffer. It is pre-existing and may not strictly conform to the 50 foot distance, but it is not really an industrial use. It is a residential use to a residential use and it provides a better buffer. If they took the house down it would be a terrible economic waste. The current tenant is not bothered by the use and would like to stay there. If the house comes down, it makes a worse situation for the abutter. The applicant has been flexible, has been willing to do things that were not strictly necessary in other parts of the plan, and has attempted to provide reasonable accommodation.

Mr. Chase said under Section 165-23, they have to comply unless more strictly regulated in the LDCR, which it is. Section 170-64C states there can be no structure in the buffer. Until the merger of the lots, there was no buffer. Before they went to the ZBA, they had two issues. The first is they could not have two homes on one lot. That part has been approved by the ZBA. The second problem is that now they have created an issue where they need to have a buffer. They created that issue with the lot merger. Mr. Mitchell said they did not create the issue where they needed a buffer; that lot has been zoned Industrial V and would still need a 50 foot buffer in that location because the land abuts a residential property. The lot would be greatly limited as half of the lot would have been a buffer, but the buffer was always there. As soon as the residential zone was created to the north, that created the need for the buffer. The buffer was there because industrial land abuts residential land. Mr. Chase did not think there could be a 50 foot wide buffer without tearing down the house. That structure is less than 50 feet off the property line. He feels in that case, the house would have to be torn down for the industrial use. With the lot merger, they have created the industrial use of which he is in favor. He wants to see more commercial use in town. Mr. MacEachern felt that lot (117 Windham) was always Industrial and

the house has always been non-conforming. The buffer has been in place since the 1999 zoning change. Mr. Chase disagreed and said there was a buffer between the self-storage facility and 117 Windham Road. Once the lots are merged, and the entire lot is used for self-storage, the buffer moved.

Mr. MacEachern said 117 Windham Road has always been Industrial. Once the town created the zone in 1999, lot needed the 50 foot buffer from 115 Windham Road. It does not make a difference if 117 Windham Road was merged with the other lots or not. That house has always been in the 50 foot buffer and he feels the fact that they are merging the lots is moot. Mr. Fairbanks noted the difference previously was the lot was not used for the purpose it was zoned. Mr. MacEachern said they are now doing that. The town did not make an issue before of the house being in the buffer because it was residential to residential use. Mr. Chase said they are moving the more intense use closer. Mr. Fairbanks said the use was less intense because it was not used for industrial use; the buffer was still there. Mr. Chase said that with regard to the comment in Attorney Panciocco's letter that states parking lots are not an allowed use, he would refer the Board to Section 165-43.C. Parking lots are an allowed use; they are off street parking facilities.

Mr. MacEachern said his concerns revolve around the buffer zone. When he walked the lot during the site walk, the area between the shed and the stone wall was sparsely populated with trees. There are many trees on Ms. Rose's property. He concern is that the town might put itself in the same situation it did when American Excavating brought their site plan to the Board many years ago. The Board, with good intentions, followed the regulations to the letter and had the applicant remove the existing vegetation which was fairly dense, and put in plantings. It has taken many years for the plantings to grow up enough to equal what had been there originally. He felt there needed to be a balance between the regulations and the needs of the abutters. He appreciates the concern that if a fence is put in, it may affect Ms. Rose's existing trees or interfere with their root systems. He would want to make sure that both sides are balanced. The regulations may say do one thing, but the Board needs to make sure that the planting plan can be agreed upon by both parties and that all the plantings will thrive. He does not want to hurt what is there. Mr. Mitchell said that was one of the items he discussed with Ms. Rose. She does not want the fence in the front. They can do two rows of arborvitae, twelve to fifteen feet off the lot line so that sunlight is not blocked. Mr. Fairbanks asked what they would do for the rear portion of the buffer where they have changed the chain link fence to vinyl. Mr. Mitchell said they can put two rows of arborvitae to the front where the fence had been proposed; a split rail fence with two rows of arborvitae behind it, and the chain link fence proposed to the rear can be changed to a vinyl fence, retaining the existing vegetation. The split rail fence behind the shed is meant to serve as a physical deterrent to any future tenants so that they are reminded they cannot go into the back buffer. The arborvitae in that location will grow into a hedge. Mrs. Choiniere asked where the 50 foot buffer stops. Mr. MacEachern reminded her it was about where he stood in the front of the shed during the site walk. Mrs. Choiniere was concerned with placing a fence in the existing greenery. She would not want to tear up growth just to put up a fence. Mr. Mitchell said the pavement is proposed 60 feet from the property line. The 50 foot buffer would remain intact and they would install the fence between the pavement and buffer at approximately 53 feet from the property line.

Ms. Rose asked if the shed is going to stay in its existing location. Mr. Mitchell said they would like to move it 20 feet off the property line. Ms. Rose said she would not want the shed in the buffer. Mr. Mitchell explained the shed currently straddles the 50 foot buffer line. Mr. MacEachern asked why they would want to move it. Mr. Mitchell said because of the grading they need to do on the lot it makes it reasonable to move the shed; it fits in with the residential use of that area of the lot. It did not make sense to throw the shed away where it provides a visual buffer and fits in with the residential nature of the house. The Board members determined the shed could remain where it is shown on the plan.

Motion by O'Connor, seconded by Bartkiewicz to accept jurisdiction of the site plan application before the Board for Crom, LLC, and Gregory Leduc, 125 Windham Road (PID 01023-001), 119 Windham Road (PID 01023-003) and 117 Windham Road (PID 01023-004).

Chase, Fairbanks, Flattes, O'Connor, MacEachern, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by O'Connor to grant a waiver from LCDR Section 170-31.12, to allow USDA SCS soil mapping where the regulation requires HISS mapping. After review of the waiver request, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mrs. Choiniere asked for an explanation of the two different types of soil mapping. Mr. Sioras explained that USGS Soils Mapping identifies general soils on the site. High Intensity Soils mapping is more specific and is helpful when discussing lot sizing calculations and the location of septic fields. Attorney Panciocco is stating in her letter that there was fill in this area of the lot many years ago and they would like the more specific soil mapping. In this case, it would be hard to identify the soils. HISS mapping would not help much in this instance. General soil type mapping is adequate in this case.

MacEachern voted no, Choiniere, Bartkiewicz, O'Connor, Flattes, Fairbanks, Chase and Granese voted yes and the motion passed by a vote of 7-1-0.

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-63.D.1, to allow no specified parking spaces for customers. After review of the waiver request, the Board finds 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. Discussion followed.

Mr. MacEachern asked if there were customer spaces identified on the plan near the office. Mr. Mitchell said there are.

Chase, Fairbanks, Flattes, O'Connor, MacEachern, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-63B.4.u to allow less than the required amount of parking spaces. After review of the waiver request, the Board finds 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, Fairbanks, Flattes, O'Connor, MacEachern, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by O'Connor, seconded by Choiniere to grant a waiver from LDCR Section 170-65, requiring three feet of cover over the drainage pipes. After review of the waiver request, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mr. Chase asked Mr. L'Heureux if this waiver request was related to drainage issues that need to be addressed. Mr. L'Heureux said the waiver is for the area where they are tying into the existing drainage system. The existing pipe does not have 2 feet of cover over it. The new drainage would tie into the section that has less than two feet of cover. Typically, DPW does not like to endorse waivers, but in this case, it is a fixed point that creates a hardship.

Chase, Fairbanks, Flattes, O'Connor, MacEachern, Choiniere, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by O'Connor, to approve, pursuant to RSA 676:4 I – Completed Application, with the following conditions: comply with the Vanasse Hangen Brustlin report dated October 29, 2014 or later; subject to owner's signature; subject to recording of voluntary merger of Parcels 01023-001, 01023-003 and 01023-004; subject to on-site inspection by the Town's engineer; establish escrow for the setting of bounds or certify that the bounds are set; establish escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received and is operable and it complies with LDCR Section 170-24.C/170-61.C; note approved waiver/s on the plan; subject to receipt of state or local permits relating to the project; that the above conditions all shall be met within 6 months; snow and ice removal shall be performed by a "Green Sno-Pro" certified contractor following Best Management Practices for the application of de-icing materials; a \$25.00 check payable to Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement; submission of the appropriate recording fees, payable to the Town of Derry. Discussion followed to ensure the Board added the additional conditions that had been suggested.

Mr. O'Connor did not feel the Board had to add a specific condition regarding slats on the chain link fence as it was shown on the detail sheet. Hours of operation should note the Saturday and Sunday hours of 9:00 to 3:00; convert the chain link fence at the end of the buffer to vinyl. This would be in the area of the end of the building. The landscape plan has to be agreed upon by both parties. Mr. MacEachern agreed. Mrs. Robidoux asked if the confirmation would be provided in writing. The Board felt that was appropriate.

Attorney Cronin said conceptually, they don't have a problem with that but asked that the Board not leave the landscaped buffer issue open ended. Mr. MacEachern agreed there needed to be an endpoint. Mr. Granese noted the plan shows an 8 foot tall vinyl fence that they have stated they will remove and instead put two rows of arborvitae. This is in the front section of the buffer. The abutter agreed to it. There will be two rows of arborvitae behind the split rail fence and they will remove the chain link fence in the back portion of the buffer and instead install a vinyl fence. Attorney Cronin stressed the importance of confirming the elements of the buffer this evening, rather than leaving it open ended and subject to interpretation later. Mr. MacEachern noted there has been agreement on the foliage plan to the front, now they need a more definitive end to that. Attorney Cronin said they would agree to the condition of the buffer as just outlined by the Chairman. He suggested they use Attorney Panciocco's sketch and amend that. Utilizing Exhibit C provided by Attorney Panciocco, Attorney Cronin outlined the following. They would agree to placing the fence from the back of the shed to the end of the building, but not in the area where Exhibit C shows the curved blue line – they don't want to encapsulate the exiting house. There are yellow circles shown behind the shed that run north and south; they agree to those. Where Exhibit C shows "one line of bushy shrubs, 6 feet"; they are willing to do that but the trees may be 10-12 feet off the lot line. They will not agree to the three rows of 8' arborvitae behind the shed running along the property line to the rear because it will disturb the existing vegetation. Mr. O'Connor said the abutter will chose the color of the fence. Mr. Smith said that would be acceptable provided it was decided upon within the next 60 days. Mr. Cronin said they would revise the landscape plan to show these changes. The remaining issue is whether they will be allowed to pull the building permit for the 4600 square foot addition in Phase I, prior to completing the conditions of approval relating to Phase II. Mr. Sioras said that is all part of the overall site plan. Mr. MacEachern suggested once the plan has been marked up, the Board hold a compliance hearing so that everyone is clear on the landscape plan for people to follow while constructing the site. Mr. Granese said it could be handled under Other Business. Mr. Sioras agreed it would be helpful to have that as a condition of approval and it would assist Public Works and others in the field. Mr. Granese verified Mrs. Robidoux had the additional conditions of approval. She did, and added that she would note that the compliance review could be handled under Other Business so that no one was under the impression there would be an additional noticed hearing to review the amendments to the landscape plan. She reviewed the friendly amendments made to the conditions. Mr. L'Heureux agreed it would be helpful for all parties to have a set of plans to work from so that he can inspect it and the applicant knows what needs to be ordered and planted and what the appropriate spacing will be.

Mr. Granese asked with regard to the sign. Will it list College Bound Movers? That will be removed and noted as a condition. Ms. Rose had additional concerns. Mr. Granese allowed her to speak, noting it is not the norm to allow this during deliberation. Ms. Rose said that uses have not been discussed, specifically the storage of boats, cars and RVs on site. Mr. Granese said this type of storage occurs at all self-storage facilities. Ms. Rose said they have not specified what that will and will not be allowed. Mr. Granese said what is allowed is what is shown on the plan; if the applicant puts something on the lot that is not appropriate, the Code Enforcement Officer will tell them to remove it. Ms. Rose confirmed if there were five parking spaces shown on the plan and they put five boats there that would be allowed; something like a train is not shown on the plan and would have to be removed. She said she still had concerns regarding traffic traveling around the building at all hours. Mr. O'Connor felt the proposed buffer will take care

of that issue. Mr. Granese said that is why he asked the question previously about security and access. They have a security system in place; if something is happening on site that should not be, the facility will contact the Police Department. Ms. Rose said if someone is blocking the primary access, another person will drive around that building to get out of the site at the other exit. Because the driveway will be beside her, she would like that access blocked with a gate after hours. Mr. Granese felt the Board was too far into the process to discuss that addition.

Mr. Bartkiewicz seconded the motion. Further discussion followed.

Mr. Mitchell asked if the Board could add the permission to move forward with the 4600 square foot building as a condition of approval. Mr. L'Heureux, when asked, said he had no opinion on the matter. Mr. Sioras advised he was aware Mr. Mackey had spoken with Mr. Mitchell regarding the matter and Mr. Mackey had no objection to the applicant moving forward with the 4600 square foot addition at this time as there is a short time frame available before winter. The rest of the project would be constructed in the spring.

The Board added the following conditions to the existing motion: Hours of operation shall be amended to include Saturday and Sunday, 9:00 a.m. to 3:00 p.m.; color selection of the 8' tall vinyl fence may be determined by the abutter, but only within the next 60 days; subject to compliance review of the landscaping plan by the Planning Board, which can be scheduled under "Administrative – Other Business"; remove College Bound Movers from the main site sign; Board allows the request to move forward with the submission of a building permit for the 4600 square foot building with the approval of the Building Inspector.

Chase voted no. He still has a problem with a structure being located within the 50 foot buffer, but otherwise believes this is a good plan. Flattes voted no for the same reasons and felt the applicant had a self-imposed hardship. Fairbanks, MacEachern, Choiniere, Bartkiewicz, O'Connor and Granese voted yes and the motion passed by a vote of 6-2-0.

Workshop

Workshop #3, Discussion regarding multifamily housing

Due to the late hour, the Board rescheduled the workshop to the next meeting which will be November 19, 2014.

Motion by MacEachern seconded by Choiniere to adjourn. The motion passed with all in favor and the meeting stood adjourned at 10:29 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____