

`TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
December 16, 2021

Members Present

Lynn Perkins, Chairman
Craig Corbett – Vice Chair
Heather Evans
Crystal Morin
Allan Virr

Members Absent

Alternates Present

Donald Burgess
Gaspar Obimba
Michael Donlon - Remote
Richard Tripp

Alternates Absent

Code Enforcement

Robert Mackey, Code Enforcement Director

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag. Mr. Perkins stated that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 this public body is authorized to meet now physically and also electronically. As such this meeting is being held and will also be providing public access to the meeting by telephone with additional access possibilities by video utilizing the ZOOM app for the electronic meeting. To participate in this meeting, you can be present or by dialing 323-909-140 or by clicking on the website address: derrycam.org/TuneIn the phone numbers are 646-558-865 or 312-626-6799 meeting ID: 323-909-140 or if anybody has a problem, please call 603-845-5585 or email at: ginnyrioux@derrynh.org. In the event that the public is unable to access the meeting, the meeting will be adjourned and rescheduled otherwise the meeting will end at 10:00 PM. Mr. Perkins said that all votes taken are taken during this meeting shall be done by roll call vote.

Mr. Perkins stated that in keeping with the mask mandate it has been reviewed that if all parties can maintain 6' distances then do not require to wear, however, if more comfortable to wearing then also have that option.

The Board members introduced themselves.

Mr. Perkins informed the public that the meeting was reversing its original agenda and bringing the second case first in hopes to process the applications in a timely fashion.

It was noted for the record that Mr. Perkins would step down and Mr. Corbett would chair, and Mr. Obimba would sit for the following case.

21-138 Crossroads Contracting
Owner: Robert & Kimberly DeFeo

The applicants are requesting a variance to the terms of Article III, Section 165-20.a of the Town of Derry Zoning Ordinance to allow the construction of a two-car garage addition less than 75 feet from a wetland greater than one acre at 56 Berry Road, Parcel ID 02072, Zoned MDR

Nicholas Couture, Crossroads Contracting, read the application criteria for the record. Mr. Couture reviewed the property conditions for the record.

Board Questions

Mrs. Evans asked where the water line would be in relation to the proposed garage. Mr. Couture said it was approximately 6 feet.

Mr. Virr asked if there was standing water or vegetation type wetland. Mr. Couture said it was water and vegetation but unsure of soil type.

Mr. Virr asked if any attempt to reach out to wildlife control to see if remove the dam. Mr. Couture said he has not reached out, but owners done previously but some neighbors had objected and received opposition.

Mrs. Evans asked if the water had always been there. Mr. Couture said it was existing but in 2005 the stone wall was visible.

Mr. Tripp asked if the area was considered a prime wetland. Mr. Couture said yes.

Mr. Mackey said the area is delineated in the prime wetland regulations and has some exemptions to rule. He said that the beaver dam has been there 10-15 years and used to be able to walk across but has changed and need a boat. Mr. Mackey said there had been a trapper and had been successful in trapping some but had friction with neighbors so that ceased. There is a dam on the property and another on Willow.

Mr. Tripp said he also lived on the road and knows of 3 dams and that the beavers frequently get hit regularly. Mr. Mackey said yes and typically beavers move on when food sources change.

Code Enforcement

Mr. Mackey provided information with regard to the property for the record.

- The applicants are requesting approval to construct a 20' x 22' attached garage and small deck extension less than 75' from a wetland which is greater than 1 acre in size.
- The wetland involved is classified by the Town as a Prime Wetland and although the proposed addition would be located within the 150' buffer required, there is an exemption in the regulations for residential structures that pre-date the prime wetland regulations as this structure does (Zoning Ordinance Article X, Section 165-79.E). However, the general wetland setback rule as stipulated in Article III, Section 165-20.a still applies. Therefore, the applicants are seeking a variance.
- Over the past several years, the boundaries of this wetland have expanded substantially due to beaver activity and a large beaver dam has been constructed adjacent to this property (see photos).
- If approved, appropriate erosion control measures must be installed along the edge of the wetland prior to any excavating/construction.
- There are pictures of the property in the file for review by the Board.

Mr. Obimba asked if adding bedrooms would require State approval. Mr. Couture said that they were relocating bedrooms and not adding so would not require State approvals.

Mr. Corbett asked if the proposed garage was 20' x 20' or 22'. Mr. Couture said it was proposed as a 20' x 22' deep garage.

Mrs. Evans asked how far to the stonewall. Mr. Couture said it was over 80'.

Mrs. Evans said the area had changed significantly. Mr. Couture said yes that if was not there then garage would be 50' away verses 6'1" away.

Mr. Virr asked where the septic was located and if would be affected. Mr. Corbett said septic would only be a factor if adding additional bedrooms.

Mr. Virr asked why not add to the other side. Mr. Couture said then would need to relocate driveway.

Mr. Virr asked if proposed garage was 30' from water. Mr. Couture said no it would be 6'1".

Mr. Corbett informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and will answer your call.

Favor

Brad Weymouth, 53 Berry Road, said that they were in favor of the request and that the proposed garage makes sense and would increase property values of the neighborhood.

Mr. Corbett informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and will answer your call.

Opposed

No one spoke in opposition of the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Obimba, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett

Deliberative Session

Mr. Corbett reviewed the request and condition for the record. He said that he agrees that the water area has become more extreme in the last 10-15 years.

Mrs. Evans asked if an additional condition of subject to erosion control be part of the motion.

Mr. Corbett said that would fall under permits and inspections and has to be installed per code requirements.

Mr. Virr said that he felt that there were other options available. He said that building there may affect the building and feel the need for remediation to remove the beavers.

Mr. Obimba said that he sees the beaver dam on the property and applicants' presentation was working with what was available.

Mrs. Morin said she agrees and that the owners may need to deal with the beavers at a later date.

Mr. Virr said he was not convinced that there were no other solutions and if damage occurs because water rises will the Town be liable.

Mr. Corbett said he felt that would fall under the homeowner's insurance.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Obimba, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett

Mrs. Evans Corbett motioned on case #21-138 Crossroads Contracting, Owner: Robert & Kimberly DeFeo to grant a variance to the terms of Article III, Section 165-20.a of the Town of Derry Zoning Ordinance to allow the construction of a two-car garage addition less than 75 feet from a wetland greater than one acre at 56 Berry Road, Parcel ID 02072, Zoned MDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**

Seconded by Mr. Obimba.

Vote:

Mr. Obimba: Yes.

Mrs. Morin: Yes.

Mrs. Evans: Yes.

Mr. Virr: No. Feel 6' from wetland and standing water is to close. Spirit and intent of ordinance is not observed.

Mr. Corbett: Yes.

The application was Granted by a vote of 4-1-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Mr. Perkins noted that this case was continued from December 2, 2021 and was left off at the rebuttal portion of the meeting and that separate motions would made and voted on separately as one part could pass where another could fail.

Mr. Perkins said that during the meeting of December 2nd the following people sat for the case Mr. Burgess, Mr. Tripp, Mr. Corbett, Mr. Virr and himself and would sit for the continuation of the case this evening.

**21-137 Lansing Melbourne Group
 Owner: Town of Derry**

The applicants are requesting variances to the terms of Article VI, Sections 165-49.B.1.a & c, Section 165-49.C.4.b and Section 165-49.G.1.a of the Town of Derry

Zoning Ordinance to construct on these parcels a mixed-use development consisting of a two-level parking garage, first floor retail/commercial space, and four stories of multi-family residential development at 5 Abbott Court, Parcel ID 30026-001, 3 Central Court, Parcel ID 30037, 1 Central Court, Parcel ID 30038, Zoned TBOD

Mr. Perkins said that the Board has been asked by the applicants to continue at the rebuttal portion so as to finish with their commentary.

Rebuttal

Andrew Holton, Lansing Melbourne Group, said that they have provided an outline to the Board addressing the components brought forth by some of the opposition. Mr. Holton reviewed the information for the record.

Mr. Perkins said that he has asked Mr. Sioras to come back this evening to speak the density concerns and to address the background of the project.

George Sioras, Town Planner, said that the question of zoning and parking question has been a topic of concern with the Town's master plan for a number of years. He said he was asked by David Caron to reach out and research some of the other Town's and as Bob Duval spoke to there is no uniform outline to density. Mr. Sioras said he reviewed several towns and looked at Manchester's Civic Center of 40 units per acre equals 20,000 and looked into Manchester's parking and what they have outlined for multi-family. Mr. Sioras said that can have a combination of parking and apartments to meet the needs of the community and that the proposed parking garage on this site is what would typically fit into regulations and reviewed the regulations from the 2021 Land Development Regulations for the record.

Mr. Burgess asked if onsite parking in front of building grass area would be used as supplemental parking. Mr. Sioras said that parking falls under the Planning Board would review and that the regulations specifically outline criteria.

There was some discussion with regards to parking and requirements.

Beverly Donovan, Economic Developer, said that the proposed project has good benefits to have the proposed project to assist the workforce to the downtown area and the younger people a viable lifestyle to be able to walk share a vehicle to get to work. She said that this project is important to local businesses also so as to have more people visit the downtown area. Mrs. Donovan said that other areas were reviewed and due to the topography of the area and bowl situation lends to the asset of the underground parking and type of use that the Master Plan was looking for in the Town's goals for Derry's growth.

Mr. Perkins asked if economic development and work force uses perimeters as guidelines. Mrs. Donovan said yes, and every community is different. She said that Derry has a large rental stock that is older and no rentals available with waiting lists as there is a lack of supply. She said that there are a lot of medical field professionals here that work at Parkland that are only here for a year or two that are not seeking to buy but

seeking to rent a nice smaller area suitable to accommodate their stay while working in the area and Derry does not have that type of availability at this time.

Steven Trefethen, business owner and abutter, said that he understands the economic development part and still resolve that there are other projects that can fit into this area than what the applicant has proposed.

Mr. Perkins said before we open to rebuttal would like to address a complaint received from Mr. Trefethen regarding impropriety of the Board.

Mr. Perkins said that he understood Mr. Trefethen had complaints of the Board and requested Mr. Trefethen to come forward with any grievances he had toward the sitting members of the Board.

Mr. Trefethen reviewed what he felt were improprieties that would undermine objectivity of the Board, referencing statutes as well. He said that this is a very intelligent and knowledgeable Board and have experience to know what is going on.

The Board reviewed the accusations and listened to testimony in that regard and were found to be without merit.

Opposed

Steve Trefethen, business owner and abutter, said that the developer mentioned apartments and more affordable housing but do not feel it is the Town's position to create rental property and there is currently 12,500 family rental units within the Town. Mr. Trefethen said that most of the Derry Police and Fire Department personal do not live here due to the taxes. Feel that the increase in the number of units is outside of zone is astonishing and seeking to make justification on meeting parking needs. Feel 244 units will need 300 or more parking spaces so the proposed parking garage would be fully utilized and not offer benefit to the ongoing parking situation downtown. He said that Derry has a winter parking ban from November 1st to April 1st for overnight on street parking and if do will be towed and that matter should be resolved before making other decisions. Mr. Trefethen said that comparing Derry to Manchester is not a factor as Manchester has a very different situation on parking. He said he was not opposed to Economic Development, and they spoke to lower rents and do not feel its Town's business for rental fees. The financial consideration should not be part of the Board's purview. There is no hardship shown and trying to justify with financial feasibility and parking with more units that do not belong as part of the overall justification of what can reasonably fit the area.

Mr. Perkins said that hearing that Board should object financial side typically object to profit. Mr. Trefethen said that the whole case speaks to financial gain and previous RFP for 57 units was accepted now here asking for 350% more units. He said that he currently has 5 parking spaces that he makes work and feel creating hardship to existing business owners indicating reduction of rent. The issue of parking saying that it would be for both public and business use is not feasible as asking for 244 units which will utilize

all of the projected parking. Unless Police and Planning Board wants to change the parking bans this proposal does not work as there already is not enough downtown parking for existing business use.

Mr. Corbett asked if there had been another approved RFP. Mr. Trefethen said that he was asked to submit an RFP and met with the Town and designed a 47,000 square foot unit with 12,000 retail space designed to fit into the existing zoning it was accepted by the Town but not approved. He said that it met all the zoning requirements and there would have been a projected 350 thousand profit.

There was some discussion with regard to parking.

David Barka, 61 East Derry Road, said that he had spoken to Mr. Tripp about the issue, but he did inform me that he could not discuss the matter but did listen to my concerns.

Mr. Barka said that in terms of the proposed project and hearing council meeting the project seems overwhelming in size and do not see the hardship requirements being met. He said he is a lifelong resident of Derry and have seen many ups and downs with downtown Derry and feel that 440 units could potentially turn into slums and not kept clean. How would project be treated if come to the Town and had to conform to the current zoning. Mr. Barka said he worries about Town's involvement with financial participation overhead so worry some as a taxpayer and would like to see some demographics showing the need for such a facility. He said that he did not know enough about the project, but things change, and Derry is very transit town and changes frequently.

David Caron, Town Administrator, said he apologizes for being out of Town for the first part of the hearing. Mr. Caron said that with regard to how got to this point is that the 2020-2010 Master Plan outlines a strive for economic development and for several years Derry has implemented a downtown tax incentive program to help businesses get started and downtown façade improvements over the past 3-4 years. Over the last 15 years the Walmart area has been restructured and more continuity and resources have been available. He said that Derry has installed two flashing light crosswalks on Broadway, spent half a million dollars on the Hood Park upgrades, 400,000 to extend the rail trail from Hood Park to North High Street and the exit 4A works into this and reviewed the outlines for the proposed project. Mr. Caron said that partners do not work on putting together outlines if they do not see potential and the Town have spoken to a number of developers and found that LMG's proposal was more suitable for the area. He said that the RFP process started in 2017 soliciting to developers for Abbott Court and Mr. Trefethen had submitted an RFP but after reviewing the Town did not feel that it met all the goals and needs of the Master Plan. Mr. Caron said that this is the first step in obtaining variances to proceed to the Planning Board where items such as parking will be reviewed in more detail.

Mr. Corbett asked if the proposed plan was the worst case or could it be larger. Mr. Caron said the presented proposal is at the most density.

Remote - Anissa McGivern, 59 East Derry Road, said that she was just hearing about this project and feel that Mr. Trefethen and Mr. Barker presented some very good points and that this project needs more review. She said that she agrees that something should be built there but did not understand why this size of a structure needs to be there. Ms. McGivern said that 1-bedroom apartments still have couples so 200 people or more could occupy this area. Derry needs to have some more wonderful stores and restaurants not more apartments and feel the proposal is to much for the area.

There was some discussion with regard to number of units for the area.

Remote – Jim Morgan, Chair Town Council, said that the project is not proposed for low-income housing or just younger generation. The Town has invested money in Derry and if infrastructure not achieved if not community does not move forward with change. Mr. Morgan said that all the Town's Boards and Council have put in numerous hours reviewing what Derry needs and asks the Board tonight to consider the importance of this presentation and what it could mean for the future of Derry.

Mark Flattes, Linlew Drive, said that Economic Development and Master Plan not part of number of housing units and the number of units being sought is astronomical. He said that Mr. Morgan spoke to Derry's younger generation and the Town Administrator spoke that if not profitable would not build so ask that the Board to lower the number of units as can see a serious impact to the Town's downtown area. 4A proposal is to reduce traffic impact downtown and if build this large of a building nothing would be accomplished as would still have traffic impact downtown.

Tom Cardan, 2 Cunningham Drive, said he agrees with caller from East Derry Road as 244 apartments are to much for the area and that would like to see something built on Abbott Court, but this proposal is to much for the area and would be a major impact on the infrastructure of downtown Derry. He said that he understands the size of the project is profit but the size is to much for the area.

Rebuttal

Mr. Hilton said that his company has put in many hours reviewing the needs and site and feel the proposal is the best suited for this area.

Mr. Perkins asked if could speak to the density of units and how arrived at number. Mr. Holton said that this is the beginning process and looking for boundary and the specifics of the project have yet to be ironed out. He said that at the last hearing spoke to the outline of the structure and that this is the first step before bringing a plan to the Planning Board for review which will have more input for parking and density requirements. Mr. Holton said that they did not come to Derry and decide to put this project here but were approached by Derry to design something that would fit into the needs of Derry and are not forcing the Town to do this project if they feel that does not fit their future outlook for Derry.

Mr. Corbett said that at the prior hearing spoke to 22% studio units if could outline more. Mr. Holton said that 22% was a maximum number and 18% 2-bedroom units for small families. He said that there has to be a fair balance to population and will need to fall under the fair housing act.

Mr. Virr said that the size of the project is a concern, but the proposal is not necessarily where end up as still in negotiations with Planning Board and Town Council. Mr. Holton said that was correct.

There was some discussion with regard to the conceptual design layout of the proposed structure.

Mr. Corbett said that he felt that the unit size and parking requirements have been reviewed and will be addressed in further detail at the Planning Board level.

Mr. Mackey said that the Board needs to address the letter that had been submitted for the record.

Mr. Perkins said that the Board had received a letter regarding the fair housing act and that the applicant has addressed concern and has been made part of the record.

The Board took a brief recess at 9:41 pm and reconvened at 9:46 pm

Mr. Perkins noted for the record that each request will be deliberated and motioned separately.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Tripp

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Deliberative Session - Setback

Mr. Corbett said that after hearing case outline the setback made sense when explained.

Mr. Perkins reviewed conditions and said that the applicant has shown design to exceed the setback requirement to be further away and felt that due to the size of the footprint was a justifiable request and the Planning Board would review the buffer areas etc.

Mr. Virr said he felt that the variance to increase the setback was good.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #21-137 Lansign Melborne Group, Owner: Town of Derry to grant a variance to the terms of Article VI, Section 165-49.C.4.b of the Town of Derry Zoning Ordinance to allow more than 5' side setbacks at 5 Abbott Court Parcel ID 30026-001, 3 Central Court, Parcel ID 30037, 1 Central Court, Parcel ID 30038, Zoned TBOD as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board review.**

Seconded by Mr. Corbett.

Vote:

Mr. Tripp: Yes.

Mr. Virr: Yes.

Mr. Burgess: Yes.

Mr. Corbett: Yes.

Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Deliberative Session – Parking

Mr. Perkins said that this motion is to parking and understand that the plan submitted is conceptual design and that the applicant is seeking to provide a cumulative need in its design and will still be under consideration with Planning Board review and needs this aspect in order to move forward.

Mr. Burgess said that he had concerns at first as less than what would be required but after the applicant explained he understood process.

Mr. Virr said that parking requirements fall under the Planning Board purview.

Mr. Corbett said he agrees that he feels that the Planning Board will either reject or revise the parking requirements.

Mr. Tripp said he also felt that the Planning Board will handle the parking requirement. Mr. Perkins said that Mr. Duval addressed the concern as not a unique concept and seeking to fulfill demand with location and needs. He said that he felt that they will do a full market analysis and balance the parking aspect.

Mr. Corbett said he felt it was up to management to oversee.

Mr. Perkins reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #21-137 Lansign Melborne Group, Owner: Town of Derry to Grant a variance to the terms of Article VI, Section 165-49.G.1.a, of the Town of Derry Zoning Ordinance to provide 330 parking spaces where 393 spaces are required at 5 Abbott Court, Parcel ID 30026-001, 3 Central Court, Parcel ID 30037, 1 Central Court, Parcel ID 30038, Zoned TBOD as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board review.**

Seconded by Mr. Burgess.

Vote:

Mr. Corbett: Yes.

Mr. Tripp: Yes.

Mr. Virr: Yes.

Mr. Burgess: Yes.

Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Deliberative Session – 40 Units per acre

Mr. Perkins said the 138 units per acre and Mr. Sioras testimony goes to show how Planning process is done. Relevance is issue of apartments and design and managed to parcel. Mr. Perkins said that the project is designed to market mixed use and more of market and identify needs of community.

Mr. Corbett said he struggles with the proposed 138 units per acre and 7 story development downtown and not a hundred percent sure of view but have given a lot of thought and feel need to take a leap of faith to the design proposed for the area and see the justification to the number of units after the applicant provided testimony of other areas built similar to this so can see the project as a benefit for the Town.

Mr. Burgess said that 80% studio or 1-bedroom apartments he felt would be potentially no children added to the school system.

Mr. Tripp said that he believes 40 units per acre was justification and the thought of parking under makes sense of improvement to the area.

Mr. Virr said that 138 units where 40 allowed if multiply story with height could make justification. He said that Londonderry Market Basket apartments are built on higher ground and this project proposal is on lower ground so would be in line with the Opera House. He said that this is only a proposal and may not be 138 units.

Mr. Perkins reviewed the conditions for the record.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mr. Corbett motioned to extend the meeting to 10:10 PM.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Tripp, Mr. Obimba, Mr. Donlon, Mr. Burgess, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins.

Mrs. Evans motioned on case #21-137 Lansign Malborne Group, Owner: Town of Derry to Grant a variance to the terms of Article VI, Section 165-49.B.1.c, of the Town of Derry Zoning Ordinance to build 138 dwelling units per acre where 40 units per acre are required at 5 Abbott Court, Parcel ID 30026-001, 3 Central Court, Parcel ID 30037, 1 Central Court, Parcel ID 30038, Zoned TBOD as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board review.**

Seconded by Mr. Burgess.

Vote:

Mr. Corbett: Yes.

Mr. Tripp: Yes.

Mr. Virr: Yes.

Mr. Burgess: Yes.

Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Deliberative Session – 500 sq. ft. units

Mr. Perkins said that the proposal to construct 17-22% 1-bedroom units with various designs verses studios he did not feel as an unreasonable request.

Mr. Corbett said that the size would moderate size of crowd and feel better fit.

Mr. Tripp said he would like to recommend a condition of 22% max be made.

Mr. Perkins reviewed the conditions for the record.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #21-137 Lansign Melborne Group, Owner: Town of Derry to Grant a variance to the terms of Article VI, Section 165-49.B.1.a, of the Town of Derry Zoning Ordinance to build one-bedroom units as small as 500 sq. ft. where 750 sq. ft. minimum is required at 5 Abbott Court, Parcel ID 30026-001, 3 Central Court, Parcel ID 30037, 1 Central Court, Parcel ID 30038, Zoned TBOD as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board review.**

Seconded by Mr. Virr.

Vote:

Mr. Tripp: Yes.

Mr. Virr: Yes.

Mr. Burgess: Yes.

Mr. Corbett: Yes.

Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court

Mr. Corbett motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Deliberative Session – 22% vs 5%

Mr. Burgess said that if any place else this figure would be unacceptable but where this is a proposed multi-level establishment with businesses and apartment mix do not feel could be a major concern due to the location and 80% would be potentially a single person rental.

Mr. Corbett said that he feels the proposed project would protect the area as 17-22% protects over population.

Mr. Burgess said that the view from Sawyer Court would be slightly higher but not a huge impact.

Mr. Tripp said that the Planning Board will also review and downtown mostly 3 story structures and some of which will be down on lower level so feel will not diminish property values.

Mr. Corbett motioned to continue the meeting an additional 10 minutes.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Tripp, Mr. Obimba, Mr. Donlon, Mr. Burgess, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins.

Mr. Virr said that he sees closer to 17% but understand that this is a conceptual plan.

Mr. Perkins said 17-22% smaller studio style apartments and see as a place for more bodies and independence.

There was some discussion with regards to percentage of studio apartments.

Mr. Corbett motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned on case #21-137 Lansign Melborne Group, Owner: Town of Derry to Grant a variance to the terms of Article VI, Section 165-49.B.1.a, of the Town of Derry Zoning Ordinance to increase the percentage of studio units between 17 to 22% where 5% is allowed at 5 Abbott Court, Parcel ID 30026-001, 3 Central

Court, Parcel ID 30037, 1 Central Court, Parcel ID 30038, Zoned TBOD as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board review.**

Seconded by Mr. Corbett.

Vote:

Mr. Virr: Yes.
Mr. Burgess: Yes.
Mr. Tripp: Yes.
Mr. Corbett: Yes.
Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Approval of Minutes

Mr. Corbett motioned to table the minutes of November 4, 2021, as amended.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Tripp, Mr. Donlon, Mr. Obimba, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mr. Corbet motioned to approve the minutes of November 16, 2021, as amended.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Tripp, Mr. Donlon, Mr. Obimba, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Mr. Corbett motioned to table the minutes of December 2, 2021.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Tripp, Mr. Donlon, Mr. Obimba, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Other Business

Mr. Mackey said that there were 4 cases for the next hearing and a rehearing request, and he would not be present.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Tripp, Mr. Donlon, Mr. Obimba, Mr. Burgess, Mr. Virr, Mr. Corbett, Mr. Perkins

Adjourn at 10:27 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes – January 20, 2022

Mr. Corbett motioned to approve the minutes of December 16, 2021 as amended.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Donlon, Mr. Tripp, Mr. Obimba, Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins