

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
July 16, 2015

Members Present

Lynn Perkins, Chairman
Allan Virr, Vice Chairman
Heather Evans, Secretary
Teresa Hampton
Stephen Coppolo

Members Absent

Alternates Present

Dana Nauerz
Katherine Prudhomme-O'Brien

Alternates Absent

Michael Demeo

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag, and notice of fire and handicap exits and that this and all Zoning Board meetings are videotaped.

The Board introduced themselves for the record.

Mr. Perkins informed the audience that the Board has a very full agenda this evening and may not be able to hear all the cases due to time restraints as the Board's meeting only goes to 10:00 p. He informed the public if that they are getting close to the 10:00 time they may motion to continue the cases remaining on the agenda to their next meeting on August 20, 2015.

15-110 Peter H. Bronstein, Esquire
Owner: H & B Homes Corp.

Request for Re-Hearing to the terms of Article VI, Sections 165-47.B.1, 2 & 3 of the Town of Derry Zoning Ordinance to allow the subdivision of the property into three lots each having less than the required lot area, lot frontage, and lot width, 7 Linda Road, Zoned LMDR, Parcel ID 03039

Mr. Virr said that he had reviewed the information provided to the Board by Attorney Bronstein and he did not find any new information nor did he feel that the Board had made any error in judgement on the case.

Mr. Coppolo said that he had originally voted yes on the previous case. He said that he also spent some time reviewing the request for rehearing and like Mr. Virr stated he also did not see any new evidence that would warrant a rehearing. He said that there were new specifications shown with regard to values of surrounding properties but did not feel

that was sufficient evidence to warrant a rehearing and do not believe that the Board made an error in judgement on its original decision.

Mr. Virr said he had also voted yes on the previous case and he had reviewed the information and did not feel that the Board made an error in judgement. He said that he also agreed with Mr. Coppolo that the specifications provided with regard to property values were not sufficient to warrant a rehearing.

Mrs. Evans said that she had originally voted no and that in reviewing the information provided she did not feel there was any new evidence shown that would warrant a rehearing of the case.

Mrs. Hampton said that she had voted no in the original case and stands by her original reasons and do not feel any new evidence has been provided to rehear the case.

Mr. Perkins said that he had tried to express hardship needed to be shown and also does not see any new evidence that he felt would warrant a rehearing. The proceedings touched on hardship as a financial gain for the developer. The developer purchased the land with the understanding that where the property was within the ordinance as the property was not in a commercial zone. He said he felt no error in judgement was made and that the Board had reviewed all information provided but the applicant had failed to meet the criteria to be granted a variance.

Mr. Coppolo said that it was noted that the Board did not vote reasons for voting negatively. He said that the minutes clearly address the reasons for the Boards vote.

Mrs. Evans motioned on case #15-110 Peter H. Bronstein, Esquire, Owner: H & B Homes Corp. to Grant the Re-Hearing Request of the terms of Article VI, Sections 165-47.B.1, 2 & 3 of the Town of Derry Zoning Ordinance to allow the subdivision of the property into three lots each having less than the required lot area, lot frontage, and lot width, 7 Linda Road, Zoned LMDR, Parcel ID 03039.

Seconded by Mr. Coppolo.

Vote:

Mr. Virr:	No. Feel no error in law or judgement was made by the Board.
Mrs. Hampton:	No. Reason is based on prior reasons as do not feel substantial justice has been shown.
Mrs. Evans:	No. Stand by original decision stated in prior case hearing.
Mr. Coppolo:	No. Substantial material was submitted however do not feel Board erred in judgement or law.
Mr. Perkins.	No. No new evidence was provided to reconsider any original decision. Feel the Board made no error in judgement or law.

The re-hearing request was Denied by a vote of 0-5-0. Recourse would be to appeal to Superior Court.

The applicant is requesting a variance to the terms of Article III, Section 165-9 and Article VI, Section 165-48.B.2 of the Town of Derry Zoning Ordinance to allow the creation of a lot that has zero feet of frontage on an approved street where the ordinance requires 200 feet of frontage. The applicant is also seeking relief from RSA 674:41-II 114 Island Pond Road, Parcel ID 06023, Zoned LDR

Neil McCarthy, Promised Land Survey, said he was representing the applicant this evening who is also present should she need to answer any questions for the Board. Mr. McCarthy read application for the record.

Board Questions:

Mr. Perkins asked that the property line was changed in 2007. Mr. McCarthy said yes. He explained that the dashed line shown on the plan submitted shows where the original lot line existed.

Mr. Perkins asked if the property was divided to build a house. Mr. McCarthy said no. There were 2 parcels when purchased in 2007. The second lot is owned by Joshua Chakarian. The line was revised to the front lot and the dividing line removed.

Mr. Perkins asked how far back owned the lot in question. Mr. McCarthy said he was unsure but goes back to 1997 where the lot line adjustment was done to give the son 3 acres.

Mr. Perkins asked what was the monument on the front of the property. Mr. McCarthy said it was the Taylor property monument which is approximately a 40 x 40 lot that is mowed and maintained.

Mr. Coppolo said that he did not understand the need for the variance were no changes were being made. Mr. McCarthy said that the property line is being requested to be re-established and that the farm and home will remain the same but the farm may change hands.

Mr. Coppolo asked if the property owned by Joshua was where the property road access was. Mr. McCarthy said to some extent that is true. He said that the applicant is seeking to sell the garden center but the memorial breaks the frontage so unable to meet required frontage in order to subdivide without a variance.

Mr. Perkins asked if the garden center was up for sale and if sold would still reside in home and share driveway. Debra Chakarian, owner, said yes. The driveway would be shared to an extent then own the portion that splits off to existing house.

Mr. Perkins asked what was the length of the driveway before the split. Mr. McCarthy said it was approximately 560 feet or so.

Mr. Virr asked where the frontage would be for the 22.4 acre parcel. Mr. McCarthy said that the variance request is for no frontage but an easement.

There was some discussion with regards to frontage.

Code Enforcement

Mr. Wentworth provided the Board with the following reference:

- The applicant is requesting approval of two variances prior to a subdivision request before the Planning Board. These variances consist of Article III, Section 165-9, Approved Street Required For Residential Lot; and Article VI, Section 165-48.B.2, Minimum Lot Frontage
- They are also seeking relief from RSA 674:41-II
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All requirements for RSA 674:41(II) must be met:

To grant the exception and allow the building to be erected, the ZBA must find all of the following:

- 1. That the enforcement of the minimum frontage requirements in RSA 674:41 would “entail practical difficulty or unnecessary hardship;” and***
- 2. That the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets; and***
- 3. That the erection of the building will not tend to distort the official map or increase the difficulty of carrying out the master plan; and***
- 4. That the erection of the building will not cause hardship to future purchasers or undue financial impact on the municipality***

- This subdivision consists of dividing a 46.0 acre parcel into 2 parcels; one will be 23.6 acres and the other 22.4 acres.
- The 22.4 acre portion currently supports a single family dwelling with private well and septic. The larger 23.6 acre portion supports Chakarian Farms.
- This 46.0 acre parcel has two frontages along Island Pond Rd. consisting of 276 feet to the west and 194 feet the east-separated by a 40 foot x 40 foot historical marker.
- Prior to 1977, this parcel was separated by a lot line creating 23.6 and 25.4 acre lots. At this point in time 3.0 acres was sold and the lot line abandoned; this lot line would like to be re-established.

Mr. Wentworth said that the first property will have all frontage and that the second property will be land locked.

Mr. Virr asked what protection will the 22.4 acre parcel have for access. Mr. McCarthy said that an access easement will be established and deed recorded.

Mr. Virr said that there will need to be some sort of agreement of responsibility to maintain the driveway between the two property owners.

Favor

No one spoke in favor of the application.

Opposed

No one spoke in opposition of the application.

Mr. Virr said that he has concerns of the large lot and if there was a possibility to further subdivide. Mr. McCarthy said no and if there were he felt it would require to come back before the Board.

Mrs. Hampton motioned to go into deliberative session.

Mr. Perkins said that he would like further discussion and asked if Mrs. Hampton would withdraw her motion.

Mr. Coppolo said that from what he is hearing in the testimony is that reason hearing case is financial. Mr. McCarthy said yes it was partially true and said that the farm stand property is possibly being sold and that the owner is proposing to live in the existing home on the property.

Mrs. Hampton asked if there were currently any offers on the table at this time. Mr. McCarthy said that there is an interest but unsure of any offer.

Mrs. Hampton motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous

Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

Deliberative Session

Mr. Perkins said that he was concerned of how access to driveway to the 22.4 acre parcel would be maintained and how to protect owner.

Mr. Virr said that deeded easement of Right-Of-Way would need to be drafted and recorded so felt a legal right to pass will be protected. He said that concern with repair to driveway damage to rear lot and responsibility of maintenance would be between the two

parties involved. He said that he felt that it would be important that an agreement of maintenance be drafted and recorded to protect both lots. He said that the property would also require to go before the Planning Board for approval.

Mr. Coppolo said that he agreed with Mr. Virr that there would need to have some sort of recording done first detailing access to home and second of who pays for what as could be a public safety issue.

Mr. Perkins asked if can stipulate remain a garden center.

Mrs. Hampton said she did not believe the Board could do that.

Mr. Coppolo asked if the property was industrial use.

Mr. Virr said it was agricultural. He said he believed that a lot line adjustment also requires Planning Board approval. Mr. Wentworth said yes.

Mr. Virr asked if it would also require conservation review. Mr. Perkins said that he did not feel that the Conservation Committee was necessary for a lot line revision.

Mr. Coppolo asked how can the Board prevent this from happening again to create more zero frontage lots.

Mr. Perkins said that the Board needs to structure a motion possibly with the following conditions:

1. Subject to Planning Board approval.
2. Easement for access and maintenance agreement recorded with the registry of deeds.

Mr. Virr asked if there would be TRC involvement and if there was fire access. Mr. Wentworth said that no TRC would be required and that the property has ample room for emergency vehicle access.

Mr. Wentworth said that he believes that an easement will need to be recorded at the registry for access and maintenance and that the plan would still require Planning Board approval for the lot line revision.

Mr. Coppolo said that he was unsure if an easement can force maintenance so he felt that there should also be a maintenance agreement recorded at the registry.

Mr. Virr motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous

Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

Mrs. Evans motioned on case #15-112, Debra K. Chakarian Revocable Trust, Debra K. & William Chakarian, Trustees to Grant a Article III, Section 165-9 and Article VI, Section 165-48.B.2 of the Town of Derry Zoning Ordinance to allow the creation of a lot that has zero feet of frontage on an approved street where the ordinance requires 200 feet of frontage. The applicant is also seeking relief from RSA 674:41-II 114 Island Pond Road, Parcel ID 06023, Zoned LDR as presented with the following conditions:

- 1. Subject to Planning Board approval.**
- 2. Easement for access provided to rear lot.**
- 3. Maintenance agreement to be recorded at the Rockingham Country Registry of Deeds and copy provided to Town.**

Seconded by: Mrs. Hampton.

Vote: Unanimous.

Mr. Coppolo: Yes.
Mrs. Evans: Yes.
Mrs. Hampton: Yes.
Mr. Virr: Yes.
Mr. Perkins: Yes.

The application was Granted 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.

It was noted for the record that Mrs. Hampton would step down and that Mrs. Prudhomme-O'Brien would sit for the following case.

15-113 Derry Senior Development LLC

The applicant is requesting a variance to the terms of Article III, Section 165-9 to allow the creation of a lot that faces a Class VI road where the ordinance requires lots to face approved streets and a variance from Article VI, Section 165-48.B.2 & 3 of the Town of Derry Zoning Ordinance to allow the creation of a lot with 100 feet of frontage and lot width where the ordinance requires 200 feet. 6 Drew Road, Parcel ID 07058, Zoned LDR

Eric Mitchell, Mitchell & Associates, said that he was representing the applicant.

Mr. Perkins asked if there were two separate applications and if reading together or separate. Mr. Mitchell said that he would like to have them separate as if the first one is not granted then there was no need for the second variance request.

Mr. Mitchell read the first portion of the variance application for the record.

Board Questions

Mr. Virr asked who was Derry Senior Development, LLC. Mr. Mitchell said just a name. Mr. Mitchell reviewed the history of the property for the Board. He explained that the request for the Board and the reasoning for the 2 variances.

Mr. Mitchell said that 4 lots will conform and the 5th lot will have three times the acreage but less frontage as to where the applicant could easily subdivide the property into an 18 lot subdivision as allowed by zoning. He said that he felt that the request was reasonable and felt a variance should be granted.

Mr. Virr asked if the lot proposed to be conservation would be for payment. Mr. Mitchell said no the lot would be deeded to the Town with no compensation.

Mr. Virr said that the Board should vote on the requests separate.

Mrs. Evans asked if access to the proposed Conservation lot would be on Jackman Road. Mr. Mitchell said yes and said that the Town also owned the lot adjacent to the proposal.

Mr. Coppolo asked if the crisscross stonewalls would remain. Mr. Mitchell said that the stonewall in the middle of the property is not an issue and that they will maintain the walls where possible.

Mrs. Prudhomme-O'Brien asked who was Moon Beam Terrace. Mr. Mitchell said that he was not familiar with the name.

Mr. Perkins said that he agreed with Mr. Virr and to affirm first variance.

Mr. Virr said that 100' frontage lot is wide enough for a road to lead to the 8 acre lot so the property is no land locked and that the other lots are of substantial sizes.

Mrs. Evans motioned to continue to the second variance portion of the case.

Seconded by Virr.

Vote: Vote: Unanimous

Mrs. Prudhomme-O'Brien, Mr. Coppolo, Mrs. Evans, Mr. Virr, Mr. Perkins

Mr. Mitchell read the second portion of the variance request for the record.

Board Questions

Mr. Virr asked if the Town property on Drew Road was also on Jackman and what was the status of Jackman Road. Mr. Mitchell said yes the Town property also run along Jackman Road which is a Class VI road of which you can walk down. The property also has 2 high yielding wells out back which have been tested and maybe useful for the Town.

Mr. Perkins asked if the Board approves the first variance is there still a need for the second variance. Mr. Mitchell said no as need both approved as Council will need to accept the lot which will need an easement.

There was some discussion of the use of Jackman Road.

Mr. Virr said that the applicant also needs a 3rd variance 165.48.B.3. Mr. Mitchell said that was correct as only 100' of frontage where Town requires 200' at 35' setback and that the property will have more than required acreage.

Mr. Virr said that after reviewing Mr. Wentworth's report as to where the variances are needed to be applied sums it up for the Board.

Ms. Nauerz said that the deed explains a 1950 utility easement is that not acted on. Mr. Mitchell said that he believes that it is possibly for the wells as used for common wells.

Mr. Virr said that the deed speaks to warranty covenants if that could be explained. Mr. Mitchell said that the property has had many surveyors involved and that it is repeated many times in the deeds but he has not located any covenants.

Mr. Coppolo said that it is routinely cut and pasted into deeds when transferred from one owner to another.

Code Enforcement

Mr. Wentworth provided the Board with the following reference:

- These requests are in preparation for Planning Board approvals of a 6 lot subdivision in which 5 will be buildable lots and 1 will be deeded to the Town of Derry for use as Conservation.
- A variance from Section 165-9, Frontage is requested for a Lot 58 which is a 37.6 acre lot accessed only from Jackman Rd., a Class VI road. This is proposed to be deeded to the Town for Conservation purposes
- A second variance from Section 165-48.B.2 is requested for lot 58-3, an 8.65 acre parcel with only 100 feet of frontage where 200 feet is required.
- The third variance requested is from Section 165-48.B.3, Minimum Lot Width, for Lot 58-3 where at the 35 foot front setback line the lot width is 100 feet where 200 feet is required

Mr. Wentworth said that each variance is separate and should be voted individually.

Mr. Perkins said that the Board will need to draft a motion and vote on each variance separate per article and section. He informed the public that the Board is discussing the items in a group format but that they are discussing 3 articles and will be voting each article separately.

Favor

No one spoke in favor of the application.

Opposed

James Furtado of 184 Warner Hill Road, Robert Marinelli of 186 Warner Hill Road, Robert Kirby of 7 & 9 Drew Road, David McLaughlin of 176 Warner Hill Road, Charles Foote, 13 Drew Road, Christopher Murphy of unknown address had the following concerns:

- Concerns as previously approved for Senior Development and not built and wants to know who will be building.
- Concerns for wells as have dug wells and concerned for yield decrease.
- Concern of where homes will be placed on lots.
- Concerns who is Derry Senior Development.
- Impact concern and possible future development.
- Wildlife in area such as North American Woodpecker and Peregrine Falcons which are protected birds have nests in trees on the property.
- What will happen to the parking areas off Jackman Road as utilize area for hunting and people also utilize for walking and 4-wheelers.

Rebuttal

Mr. Mitchell explained that setbacks from side lot lines according to the Town are 15' and that the State regulates that well radius is 75' and that he understands abutter concerns of house locations and proposals are to be away from the area and will have a well radius located for abutter concerns.

Mr. Virr said that if approved tonight the proposed plan will still need to go before the Planning Board for final approval at which time another notification to abutters will be made where abutters concerns for well & home locations can be addressed. He said that Mr. Mitchell is a Licensed Surveyor and that the applicant has a right to build or develop. The Board is only here to address the 3 variance matters.

Mr. Wentworth said that the property off Jackman Road used to have access to his property off Warner Hill Road but that area is now subject to gates and bars so he is in the process of utilizing Jackman Road and there is no interference with Conservation land.

Mr. Coppolo said that a builder can build other lots as a matter of right. He said that he looked up the entity of Derry Senior Development on the website and that they have owned the property for a long time.

Mr. Perkins said that the Board is here only for the 3 variances. That the Board does not address who develops or what financial stability of the applicant is and not of what or who is or isn't living on the property. He asked if the Board was clear of what the applicant was seeking.

Mr. Mitchell said that Robert Wiles is present tonight and could possibly answer some of the concerns for the Board.

Robert Wiles, principal of Derry Senior Development, LLC, said that they did get approved for a 36 unit development which went to Superior Court. He said that they did not build the senior housing development as at the time it was not a good financial investment so now seeking a lesser impact which he feels is better for all parties. He said that there is no final decision of who would be building the development at this time. Mr. Wiles said that if they are unable to obtain approval for the 5th lot that they will possibly come back with a different plan. He said that they have spoken to the Derry Conservation Commission and they are favorable of the land.

James Furtado, Warner Hill Road, asked if granted 100' variance what would be stopping them from putting in a road.

Mr. Coppolo said that if they build a street at a later date that would be a different meeting.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous

Mrs. Prudhomme-O'Brien, Mr. Coppolo, Mrs. Evans, Mr. Virr, Mr. Perkins

Deliberative Session

Mr. Virr said that he felt that the Board has rationalized out request that they need to lay out variance criteria.

Mr. Perkins said that each section will need to be read separately and voted separately with conditions.

Mr. Virr said that the first variance will be to Section 165-9, Jackman Road, second to 165.48.B.2 – 100’ frontage, third to 165.48.B.3 – 35’ setback.

Mr. Coppolo said that he appreciates the presentation from the applicant and understands the abutter concerns but if he had to choose between this or an 18 unit subdivision that he would chose this presentation. He appreciates the abutter concerns for wildlife in the area but can build on as right.

Mrs. Evans said that she agrees with Mr. Coppolo as feel this proposal will be less of an detrimental to wildlife.

Mr. Virr said each variance should be subject to the following conditions:

1. Subject to Planning Board approval.
2. Subject to obtaining State and Town permits and inspections.

Mr. Virr motioned to come out of deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

Mrs. Prudhomme-O’Brien, Mr. Coppolo, Mrs. Evans, Mr. Virr, Mr. Perkins

Mrs. Evans motioned on case #15-113 Derry Senior Development LLC to Grant a Variance to the terms of Article III, Section 165-9 to allow the creation of a lot that faces a Class VI road where the ordinance requires lots to face approved streets 6 Drew Road, Parcel ID 07058, Zoned LDR as presented with the following conditions:

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

Seconded by Mr. Virr.

Vote:

Mrs. Prudhomme-O’Brien: Yes.

Mr. Coppolo: Yes.

Mrs. Evans: Yes.

Mr. Virr: 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. Perkins motioned on case #15-113 Derry Senior Development LLC to Grant a Variance to the terms of Article VI, Section 165-48.B.2 of the Town of Derry Zoning Ordinance to allow the creation of a lot with 100 feet of frontage and lot width where the ordinance requires 200 feet. 6 Drew Road, Parcel ID 07058, Zoned LDR as presented with the following conditions:

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

Seconded by Mrs. Evans.

Vote:

Mr. Virr:	Yes.
Mrs. Evans:	Yes.
Mrs. Prudhomme-O'Brien:	Yes.
Mr. Coppola:	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. Perkins motioned on case #15-113 Derry Senior Development LLC to Grant a Variance to the terms of Article VI, Section 165-48.B.3 of the Town of Derry Zoning Ordinance to allow the creation of a lot with less than 200 feet of lot width at the 35 foot setback line at 6 Drew Road, Parcel ID 07058, Zoned LDR as presented with the following conditions:

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

Seconded by Mrs. Evans.

Vote:

Mr. Coppola:	Yes.
Mr. Virr:	Yes.
Mrs. Prudhomme-O'Brien:	Yes.
Mrs. Evans:	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.

The Board took a brief recess at 9:01 pm and reconvened at 9:08pm

Mr. Perkins called Point-of-Order due to the lateness of the meeting he informed TJW Survey that the Board would not be able to hear the case and asked if the applicant would like to be rescheduled to the next meeting on August 20, 2015 and be first on the agenda.

Timothy Winings, TJW Survey, said that he had no objection to being rescheduled to the August 20, 2015 meeting.

Mr. Perkins motioned on case #15-115 - TJW Survey, Owner: Arthur & Ruth Provencal to the August 20, 2015 meeting and to be placed first on the docket.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

15-114 Clement LaPlante

The applicant is requesting a variance to the terms of Article VI, Section 165-45.B.2.b of the Town of Derry Zoning Ordinance to allow the conversion of an existing duplex to a three family building. The applicant is also requesting a variance to the terms of Article VI, Section 165-45.B.2.a to allow for less than the minimum required lot area and Section 165-45.C.4 to allow for less than the required 15% recreational space in order to add a four unit multifamily dwelling to the rear of the lot. 5 Mt. Pleasant Street, Parcel ID 32071, Zoned MHDR

Timothy Lavelle, James M. Lavelle Associates, LLS, said he was representing Mr. LaPlante.

Mr. Virr said that the case requires multiple variances and questioned as only requiring 2.

Mr. Perkins said that the case is requesting variances from Section 165-45.B.2.b, 165-45.B.2.a, and Section 165-45.C.4. He asked how the applicant wished to separate each request and if they hinge on each other. Mr. Lavelle said that yes that the case is similar to the previous case. He said that he believes that they did not require the second prong of the request but was informed by the office that it was required.

Mr. Perkins said that this request will also require Planning Board approval. Mr. Wentworth said yes as frontage, lot area and recreational green space are required.

Mr. Perkins asked if the second unit was for the front left building the property with 92' frontage.. Mr. Wentworth said yes.

Mr. Coppolo asked if reading once for all 3 apps. Mr. Perkins said that the applicant will read the proposal for the request and that the Board will need to draft a motion as done for the previous case being reading and voting on each separately.

Mr. Lavelle read his request for the record.

Board Questions

Mr. Perkins asked if the request could be elaborated on. Mr. Lavelle said that the request is seeking a variance to the density requirements as the Planning Board office states that in determining the net area the green space has to be removed from the equation. There is a requirement of one third open space and that will be met and there is a requirement for recreation space of which the request will have and it will not overlap. He said that nowhere in the regulations does it say to remove the open space when calculating.

Mr. Virr asked if aware of the change in May 2015 to regulations regarding buildable area. Mr. Lavelle said yes and reviewed the ordinance for the Board. He said that he is seeking a variance or determination from Board if needed as the Board has the right to waive. He said that he could also appeal under an administrative decision. Mr. Lavelle said that he knows that the request requires a variance as short on frontage and would like also to expand the existing 2 family into a 3 family dwelling so there would be 7 units in total.

There was some discussion with regard to the open space calculation requirement.

Mr. Lavelle said that he was not opposed to the Board continuing this case to the August meeting due to the lateness of the evening and also so the Board could review the information presented a bit further.

Mr. Virr said that he was familiar where property was located and that it was a very narrow road. Seeking to add a lot of traffic where there are a lot of kids and no sidewalks. Mr. Lavelle said that the proposal was also creating a large parking area so feel that there would be no impact to parking on street.

Mr. Virr said that this was similar to the Lenox Road request in which the Board denied and then went to Supreme Court where the Board's decision was upheld.

Mr. Coppolo said that he can see legal concerns and substance concerns with Planning Board. Mr. Wentworth said that this has not been before Planning Board at present time and a member of the Planning Department only made a recommendation.

Mr. Perkins said that he would like to hear what the Board felt with continuing the case to the August meeting.

Mr. Virr said that he would like more time to review the information submitted and felt that it would be in fairness to the applicant. He said that he felt that the Board needs time to review the changes to the ordinance before making a decision and would not feel comfortable in proceeding without reviewing the information first.

Mr. Coppolo said that he agreed.

Mr. Wentworth said that the ordinance did change and that this request was submitted prior to the change but they would still require a variances to the various sections.

Mr. Lavelle said that he agrees with the Board and has no objection to a continuation to the August meeting.

Mr. Virr motioned on case # 15-114, Clement LaPlante to continue to August 20, 2015 meeting and be placed second on the agenda.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

Approval of Minutes

Mrs. Evans said that she would like to make a change to page 7 as she was not present at the meeting to make motion on case.

Mr. Coppolo also noted that on page 5 paragraph that he spoke with regard to grandfathering should read as deals and not speaks.

Mr. Perkins said that the changes were duly noted and will be made and would accept a motion to approve minutes as amended.

Mr. Virr motioned to approve the minutes of June 18, 2015 as amended.

Seconded by Mrs. Prudhomme-O'Brien.

Vote: Unanimous.

Mrs. Prudhomme-O'Brien, Ms. Nauerz, Mr. Coppolo, Mr. Virr, Mr. Perkins

Adjourn

Mrs. Hampton motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Prudhomme-O'Brien, Ms. Nauerz, Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins

Adjourn at 9:48 pm

Minutes transcribed by:
Ginny Rioux
Recording Clerk

Approval of Minutes August 20, 2015

Mr. Virr motioned to accept the minutes of July 16, 2015 as amended.

Seconded by Mrs. Hampton.

Vote: Unanimous.

Ms. Nauerz, Mrs. Prudhomme-O'Brien, Mr. Coppolo, Mrs. Hampton, Mrs. Evans, Mr. Virr, Mr. Perkins