

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
August 15, 2013

Members Present

Allan Virr, Chairman
Lynn Perkins, Vice Chairman
Donald Burgess, Secretary
Teresa Hampton
Joseph Carnvale

Members Absent

Alternates Present

David Thompson
Tyler Whitehorn

Alternates Absent

Code Enforcement

Robert Mackey

Mr. Virr 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.

It was noted for the record that Mr. Perkins stepped down and Mr. Virr asked Mr. Whitehorn to sit for the following case.

#13-113 Flenniken Enterprises
Owner: Federal National Mortgage Association

Variance to the terms of Article VI, Section 165-45.B.1.a.ii of the Town of Derry Zoning Ordinance to allow the conversion (pre-existing) of a single family dwelling to a two-family dwelling with less than the required lot area. 29 High Street, Parcel ID 29111, Zoned MHDR

Keith Flenniken, applicant and Windham resident, said that he purchases distressed properties and performed the proper renovations and put them up for resale. He said that the property had a large addition added in 2005 in which a separate kitchen and 200amp service was added. He read his application for the Board.

Board Questions

Mr. Virr asked what the plans for the property were. Mr. Flanniken said that he plans to do some interior work which needed to be done. The former owner had installed a separate kitchen and living area in the addition of which he was seeking to have legalized as a separate living area.

Mr. Burgess asked how the property was planned on being split to conform to code. Mr. Flanniken said that the 2 units only share one wall and has a separate door way which would be sealed up and each unit will have its own egress.

Mr. Virr asked if each unit were attached. Mr. Flanniken said yes.

Mr. Burgess asked if the lot area could be explained. Mr. Flanniken said that the lot consisted of 3 driveways of which 2 were located on Beacon Street and 1 on High Street.

Mr. Carnevale asked if the property was serviced by Town or septic services. Mr. Flanniken said it was serviced by Town water and sewer.

Mrs. Hampton asked if the property had been tested for lead paint and if a home inspection had been performed or any underground storage tanks been located on the property. Mr. Flanniken said that he had reviewed the Town's file which said had a lead issue which was cleared and abated and the windows were replaced. He stated that he had a home inspection but not an underground storage tank inspection.

Mr. Carnevale asked if the property had been inspected. Mr. Mackey said that he had the building file available if the Board wished to review it.

Favor

Albert Dimmock, High Street, said that he was in favor of the applicants proposal as the property was in disrepair and feels more damage will be done if left unattended. He said that he felt that the applicant would make the property more appealing to the surrounding area.

Opposition

No one spoke in opposition of the application.

Code Enforcement

Mr. Mackey said that the applicant is requesting a variance to allow a pre-existing (2005) conversion of a single-family dwelling to a two-family dwelling on a lot with less than the required area (16,100 sq. ft. where 20,000 sq. ft. is required). Our records indicate that a building permit was granted in 2003 to the former owners for the construction of an

addition. At that time they were informed that they could not add a second kitchen/living unit unless they were successful in obtaining a variance due to the size of the lot. When a final inspection was conducted a second kitchen was not present and was added at some point after the final inspection. The new owners are now seeking to make the second living unit legal by obtaining a variance. The property is located in the Medium High Density Residential Zoning District (MHDR) which allows two-family dwellings provided the lot contains the required amount of frontage (100 feet) and lot area (20,000 sq. ft.). If approved, this office will need to make an inspection of the kitchen area to insure compliance with the appropriate codes. There are pictures in the file for the review by the Board.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Carnevale.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr.

Deliberative Session

Mr. Burgess said that he felt that the proposal would upgrade the neighborhood since it has been vacant and a lot of windows have been broken.

Mr. Virr said that the property was very large and was occupied as a two-family even though it was illegal. He said that he did not feel any changes would be noticed if approved and said that a motion be made subject to obtaining all permits and inspections.

Mr. Carnevale motioned to come out of deliberative session.

Seconded by Mrs. Hampton.

Vote: Unanimous.

Mr. Carnavale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Mr. Burgess motioned on case ##13-113, Flenniken Enterprises, Owner: Federal National Mortgage Association, to Grant a Variance to the terms of Article VI, Section 165-45.B.1.a.ii of the Town of Derry Zoning Ordinance to allow the conversion (pre-existing) of a single family dwelling to a two-family dwelling with less than the required lot area. 29 High Street, Parcel ID 29111, Zoned MHDR, as presented with the following conditions:

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

Seconded by Mr. Carnevale.

Vote:

Mrs. Hampton: Yes.
Mr. Carnvale: Yes.
Mr. Burgess: Yes
Mr. Whitehorn: Yes.
Mr. Virr: 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. Virr said that the next case required a joint meeting of the Zoning Board of Adjustment, Planning Board and the Conservation Commission. He said that the Board will only hear cases until 10:00 pm and that the Zoning Board may not get to all the cases on the agenda this evening. In the event that the Board does not hear the cases following case #13-114 then those cases will be rescheduled to the September meeting and be placed first on the agenda.

It was noted for the record that the following members from the Planning Board and Conservation Commission were present for case #13-114:

Planning Board Members

John O'Connor, Vice Chairman
Randall Chase, Administrative Representative
Albert Dimmock, Town Council Representative
Frank Bartkiewicz, Secretary
Jim MacEachern
Ann Marie Alongi

Conservation Commission

Margaret Ives, Chairperson
Paul Dionne
Richard Tripp

#13-114 Stephen Vadney
Owner: David & Patricia Ferland

Special exception as provided in Article X, Section 165-80.A.4 of the Derry Zoning Ordinance to allow the construction of a multi-family townhouse within the 150 foot Prime Wetland setback, reducing the setback to 75 feet. 8 Ferland Drive, Parcel ID 31017-001, Zoned MHDR

Kevin Hatch, Licensed Surveyor Cornerstone Engineering, said that he was also present with Stephen Vadney the applicant. Mr. Hatch read the application for the Board. He said that he would review the larger plan for the Board if they wished.

Board Questions

Mr. Virr said that they have received a memo from Michael Fowler, Public Works Director and that in presentation it reflects on points #1 & #3 as the department is seeking a turn around. Mr. Hatch said that they are proposing a cul-de-sac.

Mr. Mackey said that the Department of Public Works position is that there is currently no need for a cul-de-sac at the present time however, if the development goes forward then it would be required.

Mr. Perkins asked if the turn-around would take up the same amount of space. Mr. Hatch said that he had reviewed the plan with Mr. Cote and have asked to reduce the size of the cul-de-sac. He said that if anything happens to the lot the Town would lose its current turn around and placement of snow in the winter months.

Mr. Perkins asked what effect would a smaller turn around do. Mr. Hatch said that the proposed turn-around is proposed is the smallest paved area that will still allow for Town vehicles to plow and turn around.

John O'Connor, Planning Board Vice Chairman, asked if the cul-de-sac was mandated or could a T be utilized and if used then the units could be moved forward. Mr. Hatch said that subdivision plans requirements call for a cul-de-sac and have requested to reduce the size of the requirement to allow for less impact. He said that they are willing to do a hammer head system but do not feel that Mr. Cote will allow and that his client did not have a preference.

Mr. Virr asked if Ms. Ives could speak with regard to the conservation district preferable A4.

Margaret Ives, Conservation Commission, Chairperson, said that the Conservation Board met on Monday and performed a site walk on Tuesday. She said that this is an area of concern for the Board as the request is for 75' where 150' is required and felt that if the proposal was modified it would not need to go into the wetland. She explained the flow of the water way for the Board. Ms. Ives said that the Board had a soil scientist assist in mapping out the area which established the Prime Wetland in 1988 with criteria which carries specific categories to protect the Town's prime wetlands from damage. She said that she felt that the request should be denied as felt the criteria was designed for a reason so as to protect the wetlands.

Mr. Perkins asked if the applicant could explain the proposal as laid out on the plan.

Mr. Hatch explained the design layout for the Board. He said that the applicant was seeking a special exception and said that the storm water runoff from the roof tops and parking lot will go into a catch basin style drains so as no surface water will be directed into the wetland. He said that he will be working with Conservation and the Town closely so as to develop a site that will not degrade any water quality. They are not removing any buffers or filters. The proposal still needs to go before the Planning Board review process and also the State DES and local Conservation Commission of which all

will monitor and be reviewed throughout the development process. Mr. Hatch said that they are willing to work with Conservation Commission with regard to environmental studies to make sure nothing changes.

Mr. O'Connor asked if Section 2 relating to storm water runoff being infiltrated to natural sand could be explained. Mr. Hatch said that the plan does not have contours but they were proposing to have gutter down spouts and driveway drains that would go into a drywell type system so it would filter naturally and not be directed directly into the wetlands.

Mr. O'Connor said that the GIS shows different levels in 1998 designated prime wetlands. He asked if Brookview Manor's parking lot was 5' from stream on Franklin Street and other lots 36 and 37 appeared to be 40' from the stream if there were any special setback waivers given.

Mr. Mackey said that he believed that the properties were built early 1980's or late 70's and do not believe any new development has been done in the area so guess they would predate zoning.

Mr. Dimmock said that Ms. Ives mentioned wetlands in the area and that he also lives near the area and has to agree with Ms. Ives that the 150' setback requirement should be adhered to as the area does flood and has the road closed due to flooding. He said that allowing 9 more units that would be coming out of Ferland Drive would be 18 plus vehicles onto Folsom Road which would be an increase of traffic onto an already busy street. He said that he did not feel it was the best interest of the Town or neighborhood to allow.

Mr. Perkins asked if Ms. Ives could address the 8 points where they are not met. Ms. Ives said that as Mr. O'Connor had stated the area was already a vegetative site and that they need to protect the water shed properties. She addressed the points of 4.a. 1-8 as follows:

1. Feel the request was not productive to the land as the homes could be constructed on the side out of the setback.
2. The buffer set up as area is prime and is hydro logically connected to other streams as Jack-in-the-pulpit has been found growing in the area.
3. If not for economic gain could just build houses or units out of the prime wetland area.
4. Answered in #1.
5. The intent as designed would violate A.1.a.b.c.
6. Believe that any run off should be entirely out of wetland setbacks.
7. Needs further review.
8. No new parcels have been developed.

Ms. Ives said that flooding in the area along Folsom and High Street has occurred on several occasions and feels that the request should not be granted.

Rebuttal

Mr. Hatch said that he understands where Conservation concerns are and feel that the Board needs to review what the Town has adopted and left as Special Exception as an allowed use based on land owner's ability to show can meet the criteria. Flood and water quality are issues and are familiar with the flood study done by FEMA. He said that they are proposing to build outside of the flood zone. There is sand in the site itself and is what is looked for in a site and the goal is to design something that would be economically friendly and feel that this can be accomplished with working with the Town Engineers, Environmental studies have elevations to work with etc.

Ms. Ives said that she had copies of the flood plain map which shows the area to be located in the flood zone as AE flood zone and explained zone for the Board.

Mr. Virr asked if flood zone AE pertained to erosion. Mr. Hatch said no that the AE stands for A is for the flood zone and E was for the elevation.

There was some discussion with regard to drainage off impervious surfaces and soil drainage.

Code Enforcement

Mr. Mackey said the applicant is requesting a special exception to allow the construction of a 6 unit townhouse within the outermost 75 feet of the Prime Wetland Buffer. The zoning ordinance designates approximately 28 Prime Wetlands within the Town as listed in Article X. These wetlands are deemed to be of high importance and, therefore, have specific regulations as enumerated in Article X including a 150 foot buffer restriction. In order to be granted the Special Exception, the Zoning Board, after receiving input from the Planning Board and Conservation Commission, must find that all the conditions, as listed in Section 165-80A.4 exist (see attachment). If approved, full Planning Board site review will be required. Please note the memorandum submitted by Mike Fowler, DPW Director. There are pictures in the file for the review by the Board.

Favor

No one spoke in favor of the application.

Opposition

David Teller, Covey Run, said that he was unsure if was opposed but had several concerns with regard to the cul-de-sac proposal if it would be considered a public road. He said that there were 3-4 reasons cited in the 8 criteria that speak needed to be done for the Town if cul-de-sac was not required what could be built that would not be in the 150' buffer setback.

Mr. O'Connor said that typically the Town would take the road if it met all Town criteria the Town then accepts and maintains. The proposed project is here for a variance to the setback requirement it still has to obtain Planning Board approval.

Mr. Perkins said that the proposal speaks with regard to a turn-around. Mr. O'Connor said that the Town has a maximum and a minimum requirement for standards for turn-around which will be addressed at Planning Board status.

Rebuttal

Mr. Hatch said that with regard to the abutter concerns that the proposal was to build the road to Town standards and quality construction of homes and not encroach on wetlands. He was not excited about a hammerhead as in the long term is to do it right and do it properly but they were not opposed to installing a hammer head but the Town ultimately ends up with what is designed. He said that the property could be sold tomorrow and built as a single family structure where the Town would not have a turnaround use. The proposal would be built at the owner's expense and then turned over to the Town and that the property also does allow for more units but this proposal was best suited for the area with less impact.

Mr. Chase said that the proposal is speaking to obtain a variance from 165-80.A.4 of which items 1-4 bring back to item #3 which he reviewed for the Board speaks to economic gain and that there are other ways to scale down on the building of the property.

Mr. Virr said that the ZBA allows for use of property and that this particular case speaks to wetlands and that he would like to go into deliberative session and invite Conservation and Planning Board to help review the 8 points and establish conditions for the applicant's request.

Mr. Perkins motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr.

Mr. Virr said that he would like to include Planning Board and Conservation Commission to help craft a motion in the affirmative subject to conditions and need to review the 8 points of 165-80A.4.

Deliberative Session

Mr. Burgess said that he was unsure if the property will be out of the outer most 75' of the wetlands.

Mr. Virr said that he felt that there were possible ways to scale down as suggested by Mr. Chase and designs can change.

Ms. Hampton asked if this is where the cul-de-sac comes in play. Mr. Virr said that the cul-de-sac area was a Planning Board matter for the technical review committee.

Mr. Chase said that he disagreed as 4A can still have cul-de-sac and 3 unit's states productive use and feel the request does not meet the criteria as presented.

There was discussion with regard to productive use.

Mr. Virr said item #4 use of feasibility. He said that the applicant stated unable to shorten driveways as then would be close to road.

Mr. Chase said that 9 units instead of 3 to be called productive use of land or could build 3 and be productive.

Mr. Virr said the request was for 9 units and there was a Bocia case in Portsmouth that was denied for number of units that was taken to Supreme Court and won.

Mr. Chase said that productive use of land with only 3 buildings still allows for use and not interfering with Bocia.

Mr. Perkins asked if the table of 8 criteria needs to be met in order to pass motion and if this was to be treated in the same fashion as the 5 criteria of a variance.

Mr. Virr said yes and currently seeking the input of Planning Board and Conservation to craft motion to approve subject to reports required in section 165-80A in order to proceed.

Ms. Ives said that item #8 on page 128 of the Derry Zoning Ordinance clearly defines that no exceptions be granted in the Prime Wetlands. She said that items 1-3 and 4 are key points. Ms. Ives said that the applicant represented use as being productive use of the land. She feels that there are other ways for productive use of the property that would not affect the prime wetlands.

Mr. Virr said that the sitting members would be polled to vote on each of the 8 criteria.

Mr. Perkins motioned to come out of deliberative session.

Seconded by Mrs. Hampton.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr.

Mr. Virr said he would poll the Board with regard to item #1 with regard to productive uses of land not within the prime wetlands buffer zone.

Vote:

Mr. Perkins: No. Feel would not be productive use of land.
Mr. Burgess: No. Same reason as stated by Mr. Perkins.
Mr. Carnevale: No. Same reasons as stated by Mr. Perkins.
Mrs. Hampton: No. Criteria has not been met.
Mr. Virr: Yes. Looking at point of view as presented.

Mr. Virr said that he would poll the Board with regard to item #2 – Design and construction methods will be such as to minimize detrimental impact upon the Prime Wetland and the seventy-five foot buffer.

Vote:

Mr. Perkins: Yes.
Mr. Burgess: No. Feel will cause detrimental impact to the wetlands.
Mr. Carnevale: Yes.
Mrs. Hampton: No. Feel other possibilities could be made.
Mr. Virr: Yes: Feel design construction can be utilized to prevent detrimental impact to the wetlands.

Mr. Virr said that item #3 did not apply.

Mr. Virr said that he would poll the Board with regard to item #4 – Use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the prime wetlands buffer zone.

Vote:

Mr. Perkins: Yes. Agree with Mr. Chase that has to many units and less could comply.
Mr. Burgess: Yes. Can construct 9 units but less would be less of an impact.
Mr. Carnevale: Yes.
Mrs. Hampton: Yes.
Mr. Virr: Yes.

Mr. Virr said that he would poll the Board with regard to item #5 – Design and construction of the proposed use will, to the extent of practical, be consistent with the purpose and intent of this article.

Vote:

Mr. Perkins: No.
Mr. Burgess: No.

Mr. Carnevale: No.
Mrs. Hampton: No. Criteria has not been met.
Mr. Virr: No.

Mr. Virr said that he would poll the Board with regard to item #6 – Proposed use will not create a hazard to individual or public health, safety, and welfare due to the loss of prime wetlands buffer zones, the contamination of ground water or other reason.

Vote:

Mr. Perkins: No.
Mr. Burgess: No.
Mr. Carnevale: No.
Mrs. Hampton: No.
Mr. Virr: No.

Mr. Virr said that he would poll the Board with regard to item #7 – Any Special exception granted shall not disturb the 75 feet of the prime wetlands buffer zone nearest to the prime wetland.

Vote:

Mr. Perkins: Yes.
Mr. Burgess: Yes.
Mr. Carnevale: Yes.
Mrs. Hampton: Yes.
Mr. Virr: Yes.

Mr. Virr said that the majority of the items have not been met and that the ordinance A4 states that all criteria needs to be met in order to be granted and that the first condition has 4 no votes alone. He said that the Board always creates its motion in the affirmative.

Mr. Burgess motioned on case ##13-114 Stephen Vadney, Owner: David & Patricia Ferland, to Grant a Special exception as provided in Article X, Section 165-80.A.4 of the Derry Zoning Ordinance to allow the construction of a multi-family townhouse within the 150 foot Prime Wetland setback, reducing the setback to 75 feet. 8 Ferland Drive, Parcel ID 31017-001, Zoned MHDR, as presented with the following conditions:

- 1. Subject to obtaining Planning Board approval.**
- 2. Subject to obtaining all State & Town permits and inspections.**
- 3. Subject to all studies performed by agencies specified listed in Town Zoning Ordinance.**

Seconded by Mrs. Hampton.

Vote:

- Mr. Perkins:** No. Voted no on several areas of the criteria that needed to be met in order to be granted.
- Mr. Burgess:** No. Voted no on 1, 5 & 6 of criteria that needed to be met in order to be granted.
- Mrs. Hampton:** No. Based on special exception criteria not being met on page 127 of the ordinance.
- Mr. Carnevale:** No. Voted no on criteria 1, 5 & 6.
- Mr. Virr:** No. For the same reasons as stated. Did not meet criteria needed in order to be granted.

The application was Denied by a vote of 0-5-0. 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 the Board took a brief break and reconvened at 9:17 pm.

13-115 Eagle Realty Trust

Variance to the terms of Article III, Section 165-8 of the Derry Zoning Ordinance to allow two (2) residential rental buildings on one lot: the existing three family apartment building and a proposed single family rental building, 4 Union Street, Parcel ID 26201, Zoned MHDR.

Nicole Duquette, TF Moran Surveyors, representing Lisa Spofford of Eagle Realty Trust, read the application for the Board. She said that the application stated that rental property but may be owner occupied. The lot is significantly larger than other lots in the area and believe that as presented holds a unique hardship. Other properties in Derry have multiple dwellings on lots smaller than this lot.

Lisa Spofford said that she has been a resident since 1984 and owns and operates a business in Derry. Mrs. Spofford said that the property was purchased as a multi-family and plan was to possibly subdivide but have since changed mind and feel it would be more economic to add a single family structure to the lot.

Mr. Virr asked what were the other units on the property. Mrs. Spofford said that there was currently a shed and barn on the property

Mr. Carnevale asked if the property was serviced by Town utilities. Ms. Duquette said yes.

Mr. Burgess said that he did not see any drawings of the proposed home in the application. Mrs. Spofford said that they were looking at a modular type home approximately 20' x 50' oblong type structure that would fit perfectly in the proposed

location. She said that it consisted of 1 level, 3 bedrooms and felt that it would complement the land. If you were to drive by the property now it currently looks like an empty lot.

Mr. Perkins asked where the driveway would be located. Mrs. Spofford said that it would be on the side lot line.

Mr. Mackey said that driveways require site distance and have no setback off lot lines.

Mrs. Spofford described the property layout for the Board.

Code Enforcement

Mr. Mackey said that the applicant is requesting approval to construct a single family dwelling on a lot containing an existing 3-family dwelling. Article III, Section 165-8 of the Zoning Ordinance requires that only one (1) residential building be on a lot, therefore, a variance is required. The property in question has frontage on two separate sections of Union Street. If approved, the new structure would be subject to the appropriate setbacks. The property is located in the Medium High Residential Zoning District (MHDR) which allows for the construction of a single-family, two-family and multi-family dwellings. There are pictures in the file for the review by the Board.

Favor

No one spoke in favor of the application.

Opposed

Brad Harrington, 6 Union Street, said that he was concerned with water and flooding as currently the water tended to pool up on the lot and runoff from the lot onto his property. In the winter months Union Street is only one lane and has 28-30 cars utilizing daily and there are always vehicles parked in the roadway. He said that there is always snow up against his windows of his home and was concerned where snow would be placed if the property were to be developed.

Mr. Virr asked if he had spoken to the Town with regard to snow removal. Mr. Harrington said that the Town is aware of the issue in the area. He said that he had just installed a driveway to be able to park his own vehicles. He said that the notice he received talked of rental property not of a single family structure. The street has a lot of traffic already and adding another rental would create more of an impact. Only concerns were that he did not want to be flooded out.

Mr. Burgess said that during construction the property would require barriers and may be beneficial for drainage concerns.

Rebuttal

Mrs. Spofford said that her husband was an excavator and would address the water issue and perform the necessary site work to the property as do not want to have water front property either.

Mr. Spofford, owner, said that with regard to the retaining wall on the property that if find that there becomes an issue will possibly create a rain garden. He said that he felt that a single family home would not affect major traffic flow.

Mrs. Spofford said that she takes pride of being a good neighbor and willing to work things out.

There was some discussion with regard to the size of the property.

Mr. Carnevale motioned to go into deliberative session.

Seconded by Mr. Perkins.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr.

Deliberative Session

Mr. Perkins said that this lot appears to be larger and wraps around and feel that the space is there. He said that he would have an issue if proposing a multi-family as it would be an issue but where proposing a single family have no issue.

Mr. Virr read a letter from Richard Perry, 15 Brook Street, for the record stating no objection to the approval. Mr. Perry did inquire about possibly removing some of the larger trees in the area.

Mrs. Hampton said that tree removal could be an issue with flooding concerns.

Mr. Burgess said that conditions such as subject to obtaining all Town and State permits and inspections and that water run-off situation be improved between #6 and new structure.

Mr. Carnevale motioned to come out of deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr.

Mr. Burgess motioned on case #13-115, Eagle Realty Trust, to Grant a variance to the terms of Article III, Section 165-8 of the Derry Zoning Ordinance to allow two (2) residential rental buildings on one lot: the existing three family apartment building and a proposed single family rental building, 4 Union Street, Parcel ID 26201, Zoned MHDR, as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Improve water run-off between applicant and abutter.**

Seconded by Mrs. Hampton.

Vote:

Mr. Burgess: Yes
Mrs. Hampton: Yes.
Mr. Carnvale: Yes.
Mr. Perkins: Yes.
Mr. Virr: 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. Virr stated for the record that due to the lateness of the meeting that case #13-116, Paul George, owner: Donahue Family LLC would be continued to the September 5, 2013 meeting and to be placed first on the agenda.

Other Business

Mr. Virr read the “Nominations of Officers” to the Policy & Procedures to be made as an appendix for the record.

Mr. Virr motions to accept as second reading.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Whitehorn, Mr. Thompson, Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Approval of Minutes

Mr. Carnevale motioned to approve the minutes of July 18, 2013 as amended.

Seconded by Mr. Burgess.

Vote: Unanimous

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Adjourn

Mr. Carnevale motioned to adjourn.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Whitehorn, Mr. Thompson, Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr

Adjourn at 10:06 pm

Minutes transcribed by:

Ginny Rioux

Recording Clerk

Approval of Minutes September 19, 2013

Mr. Carnevale motioned to approve the minutes of August 15, 2013 as amended.

Seconded by Mr. Burgess.

Vote: Unanimous

Mr. Carnevale, Mrs. Hampton, Mr. Burgess, Mr. Perkins, Mr. Virr