

The Planning Board for the Town of Derry held a public hearing on Wednesday, June 4, 2008 at 7:00 p.m. at the Derry Municipal Center (3rd Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: Virginia Roach, Chairman; David Granese, Vice Chairman; Randy Chase, Administrative Representative; Gary Stenhouse, Town Administrator; Brian Chirichiello, Council Representative; Ann Evans, Phil Picillo, Members; John O'Connor, Maureen Heard, and Richard Tripp (7:03), Alternates.

Absent: Jan Choiniere, Secretary, Mark Cooper

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk; Mark L'Heureux, Engineer, Derry Public Works; Peter ~~Zede~~Zohdi, Edward Hebert & Associates; Ronald Mead, Chris Tymula, MHF Design.

Chairman Roach called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mrs. Roach introduced the staff and Board members present. Ms. Heard was seated for Mr. Cooper, and Mr. O'Connor was seated for Mrs. Choiniere for the evening.

Escrow

#08-18

Forty Acres, LLC

PID 03026, 27 Goodhue Road

The request is to approve the final release of the escrow held for the above noted project. The amount to be released is \$6387.00, plus the accumulated interest.

Motion by Granese, seconded by Chirichiello to approve as presented. The motion passed in favor with Picillo abstained.

Minutes

The Clerk noted a change to Page 18. Mrs. Roach explained paragraph 3 should read "...the first two sentenceses from number 2....."

Motion by Chirichiello, seconded by Granese to accept the minutes of the May 21, 2008 meeting as amended. The motion passed with all in favor.

Correspondence

Mr. Picillo, acting Secretary, acknowledged the following correspondence.

A letter has been received from a resident on Hampstead Road with regard to the proposed animal ordinance. The Board will take that matter up again in workshop in two weeks, on June 18th, and this letter will be read into the record at that time.

Other Business

Voluntary Merger, Cella
13 Bartlett Road (04075) and 90 Gulf Road (04074)

Mr. Sioras advised this voluntary merger is part of the condition of approval for the Gennaro Estates subdivision. It merges two parcels, one located on Gulf and one on Bartlett Road. Parcel 04075 will be retained.

Motion by Chirichiello to accept the voluntary merger of Parcel 04074 with Parcel 04075, seconded by Granese. The motion passed with all in favor.

Site Walk, Picirilli Site

Mr. Sioras reminded the Board of the site walk scheduled for next Wednesday, June 11th at 6:00 p.m., at 135 Island Pond Road. This is to review the site of the auto salvage yard.

Abutters to the Martingate plan were invited to the 3rd floor training room to review the plan prior to its public hearing.

Public Hearing

DM Kilrea Development LLC
PID 04054, Kilrea Road
Acceptance/Review
Voluntary Merger, 12 lot subdivision
Continued from May 7, 2008

Mr. Sioras provided the following staff report. As the Board members may recall, the purpose of the plan is to create a 12 lot subdivision located in the Low Density Residential District. All town departments have reviewed and signed the plan. The applicant has provided an additional waiver which will be presented to

the Board members by Mr. ZedeZohdi. State permits have been obtained. The Board held a site walk of the property and continued the plan to this evening. A few abutters have come into the office and two properties are looking for right-of-way access to landlocked parcels, 04011 and 04054-003, which is located to the south of the property. There is also a trail easement which is part of the conservation easement; the trail will go the length of the property. After conversations with Mr. Sean O'Connor, there will be no connection to Hampshire Drive. This application meets the points for the GMO, and the requested waivers are acceptable. Keach-Nordstrom (KNA) has advised the waivers are not unreasonable. Mr. L'Heureux has reviewed the revised plan with regard to the road issues with Mr. ZedeZohdi.

Peter ZedeZohdi advised he is employed with Edward Herbert Associates. He has previously appeared before this Board on this plan and has since held a few meetings with staff. He attended the site walk with the Planning Board members. They walked from Kilrea Road to the end of the proposed cul-de-sac. He has reviewed the Keach-Nordstrom report received today and has worked with KNA on the plan revisions. He met with staff on Thursday of last week and with KNA on Monday. KNA has since revised their review letter and a copy has been provided to the Board. Mr. Keach had minor comments and he recommends conditional approval of the plan. Two abutters had concerns regarding right of ways to their properties. Staff asked for right of way access to those lots and they have done that.

With regard to abutting lot 04011, the access to the lot will be provided by a 15 foot wide driveway access easement. The second is to lot 04054-003; he met with that abutter in his office. They will provide a 15 foot access easement to that lot as well. They are meeting all of the requirements of the town and are asking for two waivers. The first is to allow a slope of 2:1 where 4:1 is required. The second is to allow a tangent length less than 100 feet between two horizontal curves. A portion of the road is a right of way to a parcel that when it was created, did not meet the 100 foot tangent length requirement because at the time, there was no requirement for tangent length.

The Board had no questions and Mrs. Roach opened the floor to the public.

William Diadamo identified himself as the Trustee of the Butternut Real Estate Trust, which owns one of the landlocked parcels (04011). He spoke with Mr. ZedeZohdi briefly prior to the meeting this evening and had spoken with Mr. Sioras in the past, who was very helpful. He is happy to have the right of way to his property but at this time has nothing in writing. He reads on the plan that this is a trail and right of way easement. He would like clarification that this is actually a driveway easement. Mr. Sioras advised it is. Mr. Diadamo understood there is no frontage available for his lot and he would need to go to the ZBA for relief in order to build on the lot. Mr. Sioras agreed that was true. He noted that Mr. Diadamo has a legal lot of record, and now will have access to the lot. He will

need to go to the ZBA for relief prior to obtaining a building permit. That happens on occasion. Mr. Diadamo indicated he has already begun that process. Mr. Sioras advised the recorded plan will show the driveway access easement on the plan.

There was no other public comment and the plan came back to the Board.

Mr. Stenhouse inquired as to the grade on the easement to parcel 04011? If it is a cliff, it is not of any use. Mr. [ZedeZohdi](#) referred the Board members to Sheet 6 of the plan set. He did not do a driveway profile, but the topography is gentle. He estimates that the driveway will have a 6 to 7% grade. Mr. Picillo asked Mr. [ZedeZohdi](#) to point out what Lot 11 looks like. Mr. [ZedeZohdi](#) indicated the lot on the plan. It is bordered by the trail easement which was required by the Conservation Commission. They are leaving a 15 foot wide easement off Saddle Creek Road. Mr. Picillo inquired what happens to the conservation trail easement? Does it go away when the driveway is created? Mr. [ZedeZohdi](#) said it can still be used and people can still walk it. Mr. Picillo wondered if Mr. Diadamo was comfortable with people walking along his driveway? Mr. Diadamo stated that he hopes the ZBA will be accommodating so he can build on the property and he would be happy to give up something in return. He does not see a problem with that. He would ask that the house placement for Lot 13 [04054-008] is conducive to an appropriate right of way. Mr. Picillo thought the developer could make sure that the house on Lot 11 [04054-007] did not cut off the right of way. Mr. [ZedeZohdi](#) said the lot would be to the front. Mr. Diadamo thought the home appeared close and the driveways may merge. Is that a problem? Mr. Sioras advised the driveways have to be separated even if only by a few feet. The home would have to be at least 15 feet from the side and back, and 35 feet from the front property lines. The driveway can be on the property line; they cannot be shared.

Mr. Diadamo said he appreciates the requirement but hopes that whatever is built allows him enough room for his future needs. Mr. Picillo suggested Mr. Diadamo coordinate with the developer so that there are not any issues with zoning.

Mr. Chase said he has concerns regarding parcels 04054-004, 005 and 006. The first concern is that the driveway profile has a significant grade. There is a 2-3% drop off going into an 8-9% rise which will pose a problem for service and delivery vehicles. Mr. [ZedeZohdi](#) said that lot 004 has 2% to the edge of tar, transitions to 3% and then to 5%. He can see the concern and can change the profile to make the grading more gentle. For tonight, he had to comply with the driveway plan regulations, but he will make that change to make the grade more gentle.

Mr. Chase said there is a significant grade behind those lots; there will be cuts behind two of the lots, and there is runoff coming from the area known as the

summit. The cuts will exaggerate that. What will mitigate the runoff in those areas? Mr. ZedeZohdi said he looked at that during design. The land will be graded and drainage will be handled in the road. This was part of the drainage study reviewed by KNA and the state for the Site Specific application. They can account for all that runoff.

Mr. Chase indicated his largest concern is with regard to the homes being sprinkled. Well water is an issue in this area and he is not sure the wells will be able to supply the system with the water in that area. There were very big problems with wells in this area in the 1980's with wells running dry and no storage capacity. He is not convinced they can meet NFPA requirements for supplying residential sprinkler systems. It is possible a cistern may be required half way down the road which would meet the 1000 foot requirement.

Mr. ZedeZohdi said he has heard of those issues with the wells and prior to submission of the application spoke with his clients, Mr. Smith and Mr. Young. He knew the Planning Board would ask about this. Mr. Young drilled several wells and the results of those tests were submitted as part of the application. Mr. Young stated he drilled 4 wells on the property that meet or exceed town and state requirements. One overflows and has been for three years. The output on the worst one is 2 ½ gallons per minute. One of the wells is 600 to 800 feet, one is 1100 feet. The well that overflows is 900 feet deep. The wells meet or exceed the state requirements for capacity. He is confident they can get water to the homes. He noted that the sprinkler systems will all have their own tank in the homes and if power is lost, those systems won't work.

Mrs. Roach asked if the applicant would have a problem with the Board requiring a fire cistern as a condition of approval? Mr. ZedeZohdi stated if they can't produce enough water, they will comply with that. Mr. Chase said one of his concerns is timing of when the house is built. That well may overflow now, but what about in August?

Mr. Sioras stated that traditionally in this part of town the Board has asked applicants to provide water supply data prior to the issuance of a building permit. That can be a condition of approval.

Mrs. Roach stated a question has been raised regarding the right of way easement for the Conservation Commission. Is there any thought of including the summit area as well or possibly connecting to a large area on another lot behind?

Mr. ZedeZohdi showed the existing trail system on the colored plans. He noted he did not attend the Conservation Commission meetings, but they approved the proposed trail system. Mrs. Roach inquired if Ms. Ferrante or Mr. Hoyt, who were both in the audience, could provide additional information? Mr. Hoyt a

member of the Conservation Commission, showed the three lots that contain the high point of the property [04054, 04054-004, 04054-005].

Mr. Picillo confirmed there are existing trails and others will be constructed. Will there be an attempt to connect them? Mr. ~~Zede~~Zohdi stated there would not; they would go into the middle of proposed lots and they don't want to interfere with the resident's privacy. He also pointed out the areas of the treatment swales, located on the right side of the map, which are separate from the conservation easement.

Motion by Granese, seconded by Picillo to accept jurisdiction of the completed plan. The motion passed in the affirmative.

Motion by Granese to allow a waiver from Section 170-26A.17, to allow for 2:1 slope from Stations 2+70 to 7+80 on the left side of the proposed Saddle Creek Road. The purpose of this request is to avoid wetland impact and to allow for placement of the treatment swale in the area between Stations 7+00 and 7+80. Chirichiello seconded the motion.

Stenhouse, Picillo, Chirichiello, Granese, Evans, Chase, O'Connor, Heard, and Roach all voted to grant.

Motion by Granese to allow a waiver from Section 170-26.B.3, for the minimum tangent length of 100 feet. The area of concern is within, approximately, the first 600 feet. This section of right of way was created in the 1970's. Chirichiello seconded the motion.

Stenhouse, Picillo, Chirichiello, Granese, Evans, Chase, O'Connor, Heard, and Roach all voted to grant.

Motion by Granese to approve the application pursuant to RSA 676:4, I, Completed Application, subject to the following conditions: voluntary merger of parcels 04075 and 04074; subject to the KNA letter dated May 7, 2008 or revised letter, whichever is most recent; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds, or certify the bounds have been set; establish appropriate escrow as required to complete the project; obtain written approval from Doug Rathburn the GPS disk is received and operable; note approved waivers on the plan; conditions of approval shall be met within 6 months; third party compaction test data shall be supplied to the Building Inspector for areas to be located under foundations; at the time of submission of the building permit request on any single lot in this subdivision, a well must be drilled and tested to meet or exceed the minimum state and town requirements for domestic water services, including the requirements for NFPA residential sprinkler systems; the driveway access easements and trails referred to on the plan shall be 15 feet wide; the 15 foot driveway access easement for Parcel 04054-003 shall be between parcels 04054-009 and 04054-010; the 15 foot

driveway access easement for Parcel 04011 shall be between parcels 04054-007 and 04054-008; the 15 foot trail and recreational easement required by the Conservation Commission shall be as outlined on the plan submitted this evening, in blue. Picillo seconded the motion.

Stenhouse, Picillo, Chirichiello, Granese, Evans, Chase, O'Connor, Heard, and Roach all voted to grant.

Ronald Mead
PID 03035-001, 218 Rockingham Road
Acceptance/Review
Site Plan Amendment

Mr. Chirichiello stepped down from this application.

Mr. Sioras provided the following staff report. This plan was originally approved in October of 2007 as a commercial tow behind trailer sales site. The property is on Ryan's Hill and contains the modular home. The Board had approved the plan, but the applicant wants to phase the project. He would recommend approval subject to the memo written by Mark L'Heureux on May 28, 2008 regarding escrow for the phasing. The Board may want to take a minute to read that prior to hearing from Mr. Mead. The Board took a few minutes to do so.

Mr. Mead stated the plan is self explanatory. When the plan was originally presented it had the future phase, located to the left of the house, marked. Tim Peloquin, of Promised Land Survey, thought that would be sufficient. Mr. Mead stated he is not sure he will build the future phase and does not want to tie up money in escrow. He would like to start on the right hand side of the project and see how it goes.

Mr. Picillo inquired if there was any indication on the plan as to what Phase II will consist of, such as a description? Mr. Mead said there is a line down the plan showing Phase I and II. Mrs. Roach noted page 3 of 4 which notes the gravel storage area. Mr. Picillo inquired if the intent is to approve an escrow amount sufficient to cover Phase I? Mr. Stenhouse stated Phase II would have to come back to the Board for approval because Phase II would not be approved tonight. Mrs. Roach said the options are to approve the plan as one plan and escrow both phases, or phase the plan and come back to the Board for approval of Phase II.

Mr. L'Heureux stated he had no issue, but the project has to be escrowed. If the plan is approved with Phase II on it, then Phase II has to be escrowed. Typically, the town escrows the entire plan and then releases funds as the project is built. This was done recently for the Hess/Rite Aid site. The funds were released for

the Hess portion, but funds were retained for the future bank. This is the same thing. If the applicant is escrowing the entire site, then the plan shows the details of Phase II. It would be simpler to not include Phase II and its details on the plan. Mrs. Roach said the request this evening is to approve Phase I. Mr. Stenhouse clarified that at this point, Phase II does not exist.

There was no public comment and review went back to the Board.

Motion by Granese to accept jurisdiction of the plan, seconded by Picillo. The motion passed unanimously.

Motion by Granese to approve the application pursuant to RSA 676:4, III, Expedited Review, subject to the following conditions: comply with the Mark L'Heureux memo dated May 28, 2008; subject to on-site inspection by the Town's Engineer; establish appropriate escrow as required to complete the project; the above conditions are met within 6 months; any change in use or owner of the lot will require a compliance hearing before this Board, as conditioned at the October 15, 2007 hearing; and this approval is for Phase I only, not Phase II. Chase seconded the motion.

Stenhouse, Picillo, Granese, Evans, Chase, Heard, O'Connor and Roach all voted in favor.

Martingate, LLC
PID 30047, 1 West Broadway
Acceptance/Review
Site Plan (Multi-use Building)

Mr. Chirichiello resumed his seat on the Board; Ms. Evans stepped down and Mr. Tripp was seated for Ms. Evans.

Mr. Sioras provided the following staff report. The lot is located next to the pocket park adjacent to Martin Street and currently contains the old gas station. The purpose for this plan is for a 13,050 square foot, mixed-use building, to include three stories. The first floor will be retail, the second, offices, and the third floor residential. The building is located in the Traditional Business Overlay District (TBOD). This is a unique district that allows zero setbacks to the sidewalk and less than 5 feet to the other property lines. Town Council, two weeks ago, approved a release of covenants with regard to the railroad easement, which was put in place when the Dion's owned the property; the covenants had prohibited setback requirements. Removal of this easement allowed this project to proceed. With regard to waivers, there is a waiver request letter dated February 5, 2008. The Benson's have agreed to relocate the proposed dumpster and utilize an indoor trash receptacle, the light pole will be removed and lighting placed on the building, and there has been an agreement

reached between the Benson and Evans families with regard to snow removal between the two lots. Mr. Sioras advised he has been working with the Benson's on this project for about 2 years. He wants to commend them on the plan. Architectural drew up plans that meet the architectural requirements of the Board. He would like to compliment the plan; it goes a long way towards improving the downtown and assisting in the downtown revitalization. He would recommend approval of this application.

Chris Tymula of MHF Design presented for the applicant. This property is located in the TBOD zone. The goal is to ~~raise~~-~~raze~~ the existing gas station and construct a three story, 13,050 square foot mixed use building which will contain 4 apartment units. One of the challenges on this site is on-site parking. The proposal is for 7 on-site spaces; the regulations call for 47. They are requesting a waiver for on-site parking and for the proximity of the spaces to the existing property line. It is expected that people will park along Martin Street and in the lot on Pillsbury owned by Benson's Lumber, as well as street parking spaces. They have spoken with Derry Feed with regard to the removal of the light pole and the dumpster. Those changes are not on the plan before the Board this evening. They will now use a wall mounted light, remove the dumpster and provide an internal dumpster. They would also need to remove some of the existing landscaping and are requesting a waiver for that as well. They tried to use the architectural guidelines for the downtown area. The comments in the KNA review letter can be addressed.

Mr. Sioras advised he had spoken with Mr. Stenhouse with regard to the landscaping along the bike path and comments made at Town Council by Bradley Benson. Mr. Tymula noted that at the Town Council meeting, it had been discussed that they would expand some of the landscaping to enhance the area between the new building and Derry Feed, as well as along Manning Street. He will work on the plan for that.

Mr. Granese noted the building will be at the sidewalk. What happens to trucks coming off Broadway to the existing business on the street? Mr. Tymula indicated Sheet 7 which shows 2 truck turn movements; the first is from Route 93 to Martin Street, the second is from the opposite direction which will be rare. There is a dashed line that shows the existing travel way. The new proposal increases the travel way for tractor trailers (they used a WB50 for a model, which is between 45 and 50 feet long).

Mr. Granese inquired why won't there be anyone parking on one side of the street? Mr. Tymula stated there will be no parking signs placed there. Ms. Heard asked if there will be parking spaces reserved for the apartment dwellers? Mr. Tymula said there are one to two per apartment complex. The retail and office spaces will be vacant during the time the tenants would be home.

Mr. Picillo had questions with regard to the decrease in parking from 47 to 7 spaces. Does Economic Development have any comments with regard to parking? This is a new business with no parking and he is not sure how this fits. Mr. O'Connor said he was under the impression that the intent was to move an existing business over from Martin Street. Mr. Tymula said they are potentially looking to move the sports retail facility to the new building. A traffic study was mentioned at the Town Council meeting that referenced 2000 spaces available. Mr. Sioras noted when the zoning was written for the TBOD there are not many places other than Mr. Dupont's that have on-site parking. The zone allows a mixture of on and off site parking. In this case they are providing 7 on-site spaces. In this zone, businesses are also allowed to use the municipal parking lots and to make agreements with other property owners, which in this case is the Benson's.

Mr. Tripp thought there was a large municipal lot behind the Depot. That would give about 50 spaces. Mr. Sioras stated Manning Street also has the public parking lot that is utilized by people who frequent businesses on Broadway, such as Sabitino's, and there are also spaces available in the lot behind the Adam's Building.

Mr. Granese inquired how large are the apartments? There are 4, and they are about 1000 square feet each. Mr. Granese asked for an outline of the floor plan of the building. Mr. Tymula stated the first floor will be devoted to two retail areas, with mixed-office use on the second floor. Mr. Granese asked for an explanation of the outside of the building. Mr. Tymula said there will be multiple entrances. To the left on Martin Street there will be an entrance that leads to the elevator to the offices and apartments, as well as access to the retail portion. The architectural features include clapboard siding, brick and windows.

Mr. Chase inquired if the apartments are one or two bedroom? Mr. Tymula thought there were a minimum of 2 bedrooms per unit. Mr. Chase had a concern, not so much with the daytime traffic, but with the lack of parking on the main street November through April. There is no overnight parking on the main street during that time. There are no provisions for 8 vehicles on site. There needs to be provisions for them. Those residents would not be able to utilize the municipal lots during a snow emergency. Mr. Tymula stated there are parking spaces along Martin Street and on Pillsbury if there is a need for additional parking. Mr. Chase asked if Benson's will allow the use of storefront parking? The answer was yes.

The floor was opened to the public.

Beth Thompson, Town of Derry Business Development Coordinator, said she supports this project. It is a wonderful project for the town. They have been looking at the gas station lot for many years and now they have achieved a mixed use building, which is what they wanted to see for the downtown. People

will live, work and take advantage of recreation in the downtown. This building fits with the downtown landscape and moves the town in a positive direction. She hopes everyone supports this.

Jack Dowd, of the Derry Economic Development Corporation, said he would like to reiterate Ms. Thompson's comments. This has been a long time in coming. The DEDC has worked with the former owner and worked with this property for five to six years. It is fortunate the Benson family is willing to move this project forward. They have been exploring options for this lot for a long time and he hopes this project will spearhead the downtown effort and that the Downtown Study results will combine with this project. He hopes the Board will support this project.

Mr. Granese said it looks like a good building; does Mr. Dowd have any opinion on the parking? Mr. Dowd said there was a well defined study performed during 1997 and 1998 as part of the Main Street Program. It identified 2000 parking spaces. Those spaces need to be better identified. He hopes that is part of this new study. He hopes the town can get a developer to work on a parking garage. Larger communities do not have parking either. He agreed that people run into trouble during the winter, but in this case, Benson's can accommodate the overflow in the lot they own across the street.

Mr. Tripp inquired if it was stated on the plan that occupants can utilize Benson's parking? Mr. Tymula pointed to Note 4 on the plan.

Mr. Ronald Dupont of Red Oak Property Management said he owns 4 Martin Street, which is diagonally across the street. He agrees with Ms. Thompson and Mr. Dowd this is a nice building. Parking is a wonderful problem to have. He did not feel parking will be a problem today; it might be in ten years. Mixed-use is the way of the downtown today. He has three concerns. The first is half of the streetscape will have a nice sidewalk, the other side is an ugly side. Derry has an opportunity to clean up the streetscape; maybe this is the opportunity to clean up the other side of Broadway and Martin Street. The second comment is with regard to parking on Martin Street. Currently there is a porch on 4 Martin Street; people sit there and the quality of life of those people will be affected. He suggests putting parking on the commercial side of the street. He can see that suggestion will interfere with the movement of tractor trailers, so maybe there should be no parking on either side. Cars should not park where people will live; it should be on the commercial side. From the perspective of streetscape, attractiveness and safety, parking should be on the other side of the street. His third comment is with regard to the small problem of tractor trailers exiting out the one way in the wrong direction 3 to 4 times per month. That is a concern.

Mr. Granese said that as planners the Board needs to look to the parking problems of the future, not the ones that don't exist today. He can see the point of parking on the business side, but people park there already. Mr. Dupont said

there will be parking where it is now, which interrupts with people entering their homes. There is no sidewalk to speak of. Tonight, he walked down there, and people are parking on the sidewalk. Now a portion of that parking will be taken away. If a nice width of sidewalk was created, they will park in the street. It is important to have sidewalks on both sides.

Mr. Granese noted that if people are parking on the sidewalk that is a Police issue and the Police Department should be notified. He is not sure how this plan will change what is already occurring in the downtown. Mr. Dupont said the town has an opportunity to do something with that corner to fix both sides. Mr. Chirichiello thought that issue could be sent to the Highway Safety Committee for a recommendation. Mrs. Roach asked if this issue has to do with parking on Martin Street? Mr. Dupont said he feels parking should be on the other side of the street or there should be no parking on either side. Mrs. Roach pointed out parking is not an issue on the plan in front of the Board and that is what the Board has to work with. Mr. Chirichiello said Mr. Dupont made good points and the input is appreciated. Mrs. Roach noted the parking for the apartments will be behind the building.

There was no further public comment and the plan came back to the Board.

Motion by Granese, seconded by Picillo to accept jurisdiction. The motion passed unanimously.

Motion by Granese to approve a waiver from Section 170-63.A.2, to provide parking within the five foot setback along the northern property line as the current parking exists within the setback. O'Connor seconded the motion.

Stenhouse, Picillo, Chirichiello, Granese, Tripp, Chase, Heard, O'Connor and Roach all voted in favor.

Motion by Granese, seconded by Chirichiello to approve a waiver from Section 170-63.B.4 to only construct 7 parking spaces on site. A total of 47 spaces are proposed on the site plan, with 7 on site. Additional off street parking is located along Broadway and northerly at two parking lots along Pillsbury Street. The multi-use building will provide the opportunity for nighttime use by the apartments with no daytime parking for tenants. Daytime usage for the office and retail uses will also utilize off street parking and promote downtown business.

Discussion took place during the vote. Stenhouse, Picillo, Chirichiello, voted yes. Granese voted no, stating there should be more parking in order to plan for the future, unless there is a parking garage available. Ms. Heard asked if there will be no tenant parking available during the day? What if one of the tenants is ill? Will they be asked to move their car? That seems harsh. Mr. Tymula discussed the issue with his client, Scott Benson, and advised that could not be enforced and they were willing to allow daytime parking for tenants.

Motion amended by Granese to strike the wording from the original motion "with no daytime parking for tenants." Amended motion seconded by Chirichiello. The vote continued, with Heard, O'Connor, Tripp and Chase in favor and Roach voting no, as she agreed there are issues with parking in that area. No members changed their original vote and the amended motion passed by a vote of 7 to 2.

Motion by Granese to approve a waiver from Section 170-64.B.1.43 to provide less landscaping than is required by the regulations, which calls for 4 street trees, 9 trees along the site perimeter, 24 shrubs along the parking lot and 19 plantings within raised islands. A paved sidewalk currently exists along West Broadway. The TBOD requires proposed uses to maintain a zero foot setback from the right of way, therefore limiting any street tree plantings for this proposal. Site size limits the amount of plantings proposed and the parking circulation does not provide interior raised islands. Motion was seconded by Chirichiello.

Mr. Granese inquired if there will be more landscaping on the opposite side? Mr. Tymula confirmed there will be more landscaping on the right hand side of the building.

Stenhouse, Picillo, Chirichiello, Granese, Tripp, Chase, O'Connor, Heard and Roach all voted in favor.

Motion by Granese seconded by Chirichiello to approve the application pursuant to RSA 676:4, I, Completed Application, subject to the following conditions: Comply with KNA report dated June 3, 2008; subject to owner's signature; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds or certify the bounds have been set; establish escrow as required to complete the project; obtain written approval from Doug Rathburn that the GPS disk is received and operable; note approved waivers on the plan; the above conditions be met within 6 months; remove the dumpster and provide internal trash pickup; remove the light pole to the north/rear of the property and place the light fixture on the building; subject to the agreement reached between the Benson and Evans families with regard to snow removal; a detailed landscape plan for the area along the bike trail is provided (this is for the east side, or right hand side of the building); the building is built as specified with regard to colors and materials as rendered on the architectural drawing presented this evening.

Stenhouse, Picillo, Chirichiello, Granese, Tripp, Chase, O'Connor, Heard and Roach all voted in favor

Mrs. Roach noted this will be a great improvement to the downtown; other Board members agreed.

A motion was made and seconded to adjourn. The motion passed and the meeting stood adjourned at 8:30 p.m.

Minutes prepared by Elizabeth Robidoux, Planning Clerk.