

The Planning Board for the Town of Derry held a public hearing on Wednesday, July 16, 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, Chair; David Granese, Vice Chair; Jan Choiniere, Secretary; Gary Stenhouse, Town Administrator; Randy Chase, Administrative Representative; Brian Chirichiello, Council Representative; Ann Evans, Phil Picillo, Mark Cooper

Alternates present: John O'Connor, Richard Tripp, Maureen Heard
(Mr. Tripp departed the meeting prior to 7:15 p.m.)

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk; Mark L'Heureux, Engineer, Craig Durrett, Environmental Engineer, Derry Public Works; Riana Von Asch, Pamela Garrity; Jim Lavelle, Lavelle Associates; Charlie Lanza, Lewis Builders; Tim Peloquin, Promised Land Survey, and various members of the public.

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, and noted the location of emergency exits and extra agendas.

Escrow

#08-27
Derry Business Center
Astoria Properties, LLC
PID 31005-006, 3 Corporate Park Drive

The request is to approve Release #2 in the amount of \$91,968.93 for the above noted project. The amount to be retained is \$10,542.96.

Motion by Evans, seconded by Choiniere to approve as presented. All voted in favor and the motion passed.

#08-28
Center for Life Management
Center for Life Management
PID 08079, 10 Tsienneto Road

The request is to approve and Release #3 in the amount of \$10,368.00 for the above noted project. This is the final release of the Letter of Credit.

Motion by Granese, seconded by Choiniere to approve as presented. All voted in favor and the motion passed.

#08-29**Walgreens****Mark Investment Group****PID 32123, Crystal Avenue**

The request is to approve Release #2 in the amount of \$39,680.28 for the above noted project. This is the final release of the Letter of Credit.

Motion by Choiniere, seconded by Granese to approve as presented. The motion passed in the affirmative with Picillo abstained.

#08-30**McDonald's****McDonald's Corporation****PID 36020-001, 45 Crystal Avenue**

The request is to approve Release #1 in the amount of \$62,405.32 for the above noted project. The amount retained for the cash escrow will be \$93,192.44.

Motion by Evans, seconded by Choiniere to approve as presented. The motion passed unanimously.

#08-31**Covey Run (Windsong Meadows)****Covey Run, LLC****PID 31021, North High Street**

Please approve Renewal #1 for Letter of Credit Number 20001981, which was previously reduced to \$248,823.90. The new expiration date will be June 30, 2009.

Mr. Granese inquired why is this being renewed and reduced? Mr. Sioras advised that a new letter of credit is issued when the original is renewed.

Motion by Cooper, seconded by Granese to approve as presented. The motion passed unanimously.

#08-32

**Chase Mill
Jones & Wilson Realty
PID 37071, 7 Chester Road**

Please approve the establishment of cash escrow in the amount of \$76,966.84 for the above noted project.

Mr. Picillo confirmed the location of the project.

Motion by Choiniere, seconded by Cooper to approve as presented. The motion passed in favor.

#08-33

**Chase Mill
Jones & Wilson Realty
PID 37071, 7 Chester Road**

Please approve Release #2 in the amount of \$76,966.84 for the above noted project. This is the final release of the Letter of Credit.

Motion by Granese, seconded by Choiniere to approve as presented. The motion passed.

Minutes

The Board reviewed the minutes of the June 18, 2008 meeting. No changes or additions were noted and the Chair accepted the minutes as written.

Correspondence

Mrs. Choiniere acknowledged the following correspondence.

On September 12, 2008, SNHPC will hold its 42nd annual meeting. On Wednesday, July 30, 2008, SNHPC will sponsor a Conservation Commission Institute meeting, from 6:00 p.m. to 8:30 p.m., at its office on Dubuque Street in Manchester. Municipal Volunteer Award nomination forms are available in the Planning Office. The nominations can be for any volunteer or board member. On Wednesday, July 30, 2008, at 7:00 p.m. at the Marion Gerrish Center, the Beaver Lake Improvement Association will hold an informational session on the Comprehensive Shoreland Protection Act. The new issue of *Town and City* is on file in the Planning Office. For more information on the meetings and workshops, please contact Mr. Sioras.

Other Business*Request for Extension of Approval – Pinkerton Academy*

Mrs. Roach read aloud the request from Mary Anderson, Headmaster, to extend the approval granted for the construction of the Freshman Academy. They are working on various plans to obtain a more favorable finance package. This is the first request for an extension. Mr. Sioras advised the first extension is typically for six months. Mr. Chirichiello inquired if that would be enough time? Ms. Anderson stated they hope to have the bonds in place by March 1, 2009.

Motion by Chirichiello, seconded by Cooper to grant a six month extension for the Pinkerton Academy, Freshman Academy site plan.

Stenhouse, Picillo, Chirichiello, Granese, Chase, Evans, Cooper, Choiniere and Roach all voted to grant.

Request for Extension – Gennaro Estates

Mrs. Roach read aloud a letter received from Gennaro Cella, requesting an extension of the subdivision approval. The approval is due to expire on August 6, 2008. Mr. Sioras advised that the engineer, Doug McGuire, is present to answer any questions, but this is the first request for an extension.

Motion by Chirichiello, seconded by Granese to grant a six month extension for the Gennaro Cella, subdivision plan.

Stenhouse, Picillo, Chirichiello, Granese, Chase, Evans, Cooper, Choiniere and Roach all voted to grant.

*Voluntary Merger – Ronald & Dorothy Dyson
PID 19079 and 19078, 1005 Collette's Grove*

Mr. Sioras advised the request is to merge two lots in Collette's Grove. This is not an unusual request from the Grove area. The older lots are undersized. This merger is not for building purposes. The applicant wishes to combine two undersized lots; the resultant lot will still be undersized. Mrs. Roach noted that the lot to be deleted is 19078; the lot to be retained is 19079.

Motion by Stenhouse, seconded by Chirichiello to approve the voluntary merger, the motion passed unanimously.

SNHPC Commissioner Appointments

Mrs. Roach advised that she has been notified that on June 30, 2008, the terms of the current SNHPC Commissioners expired. The names need to be submitted to the Town Council so they can be appointed. Names under consideration are David Gomez, Beverly Ferrante, Jack Dowd, Joel Olbright, and Brian Chirichiello as an alternate. The Board would need to nominate the candidates to the Town Council, which would then approve the appointments.

Motion by Granese to recommend appointment of the candidates to Town Council, seconded by Cooper. Discussion followed.

Ms. Evans inquired if the list of names was contained in the evening's member packets? Mrs. Roach stated they are not. She received the list of names from SNHPC. This is the list of the current Commissioners. Mr. Picillo inquired what purpose do the Commissioners serve? Mr. Chirichiello explained the Regional Planning Commission meets at 12:00 noon on the 4th Tuesday of each month. They discuss federal grants, road projects and highway plans. Mr. Picillo inquired if the positions are open to the public. Mrs. Roach stated the candidates had stated they would like to be reappointed. The town is allowed 4 members and 2 alternates, based on the population. Ms. Evans inquired if anyone else expressed an interest? This was not posted on CH 17. Mrs. Roach advised the letter went to Mr. Metts and she was copied on it. These are the people who are the current Commissioners. Mr. Picillo asked if this Board has to make the recommendations tonight? Mrs. Roach said no. Mr. Sioras noted the current Commissioners will hold their positions until they are replaced or re-appointed. Per the RSA, the Planning Board recommends appointments and the Town Council approves the appointments. The Commission called the town a few days ago. Mr. Chirichiello advised he had been a full member, but can't make all of the meetings and so would like to be an alternate. Someone else could do it and he would encourage anyone with interest to step up. Mrs. Roach said this action could be put off to the August meeting.

Motion by Granese to retract his original motion, and to postpone action on this item to August 20, 2008, seconded by Picillo. The motion passed with Stenhouse opposed.

Mountain Home Builders

Mr. Granese stated he would like to publically acknowledge Mountain Home Builders. As part of the conditions of approval for its 5 lot subdivision on Stark Road, MHB was required to relocate and rebuild the stone wall along the frontage. He drove by recently and the wall is beautiful.

Other

Mr. Sioras provided the following update to projects that had been on hold. Tire Warehouse recently held a pre-construction meeting with the Department of Public Works and will begin to break ground soon. The townhouse project on Maple Street has received its Letter of Credit and advised this week they will be providing the town with a copy of the retaining wall design. They would like to start work within a few weeks. Mrs. Roach noted that the person who purchased the property has worked hard to move the project along.

Mr. Sioras advised that this year, the Planning Department elected to utilize two vendors for plan review after going through the RFP process. Keach-Nordstrom, which does a great job, has been retained, as well as Jones & Beach Engineers, which is located on the seacoast. Plans will be delegated between the two vendors. Mr. Keach does a great job reviewing plans and JBE is also well qualified.

Public Hearing**John Picirilli, Jr.****Parcel ID 03165, 135 Island Pond Road****Site Plan Review (Expansion Auto Salvage Yard)****Continued from June 18, 2008**

Jim Lavelle handed out revised plans to the Board members.

Mr. Sioras advised the Board that this application was originally heard in May. It was continued in order for the plan to be revised per the KNA comments. The Planning Board also held a site walk. At this time, he would like to turn the presentation over to Craig Durrett from DPW, who will give the Board an overview of the Green Yard Program.

Mr. Durrett identified himself as the Environmental Engineer for the Town of Derry. He has been involved in the review of this plan and also attended site walks on this project. The project will bring the site into compliance with the Green Yard Program. The focus of this Program is to bring Auto Salvage Yards and Junkyards into full compliance with current regulations, above and beyond the current and future Best Management Practices (BMPs) for these sites. The Program is administered by DES. He attended the Conservation Commission site walk of this property a few weeks ago. The proposal before the Board adds stormwater pollution control measures and puts all practices of dismantling vehicles under cover and eliminates the chances of contaminant release into the environment. He is happy to answer any questions on the Program or in relation to this project.

Mr. Stenhouse inquired if Mr. Durrett was familiar with the existing conditions of the site? Mr. Durrett stated he has been to the site. He has been to many junkyards and has seen some that leave a lot to be desired. The owners have taken proper measures to protect this site; they installed silt fence promptly at his request and have implemented additional storm water pollution prevention measures. Two-thirds of the lot is surrounded by Prime wetland. The proposal adds treatment swales which are BMPs utilized to avoid non-point source pollution and sediment runoff. The proposed measures help control that. Currently, the operations are being performed outdoors. The proposal moves the operations inside and avoids non-point source and point source pollution. The owners will comply with state and federal requirements as well as the requirements of the Green Yard Program.

Mr. Stenhouse asked Mr. Durrett in his professional judgment, if the plan is executed and the applicant follows the BMPs in the Program, will this diminish non-point source pollution, keep it the same, or increase it? Mr. Durrett stated it would diminish it pretty drastically and would be an immense improvement over the current site conditions. The proposed measures will avoid potential contaminants from entering the wetland and surrounding wells.

Mr. Picillo inquired how this site compares to others in size? Mr. Durrett indicated he has been to larger sites and smaller sites. The Candia certified Green Yard site is much larger. The site in Kingston is about the same size. This facility is a lot better cared for than Kingston and the proposal will significantly improve it.

Jim Lavelle of James Lavelle Associates introduced himself as the Land Surveyor of record for this project.

Mr. Lavelle advised that the subject parcel is Lot 03165, located at 135 Island Pond Road. The lot is 8.38 acres in size. They are proposing to add two buildings to the lot which will be used for inside dismantling of vehicles, and an above ground truck scale to the front of the lot. Since the May meeting the Planning Board has held a site walk of the property. He has revised the plans based on comments made at that site walk and at the Conservation Commission site walk. He added stone check dams in the treatment swales at the request of Mr. Durrett. Other revisions to the plan have been made at the request of Steve Keach of Keach-Nordstrom.

Motion by Chirichiello, seconded by Granese to accept the revised plans. The motion passed in the affirmative with Chase abstained.

Mr. Lavelle advised that revisions included a Planning Board signature block, zoning notes, benchmarks, designation of the flood plain line and setbacks (all proposed and existing buildings are outside of that line), the prime wetland line

and setbacks, lighting specifications, road classification specifications, and the addition of the stone check dams. He feels this plan is now ready for approval. They met last night with the Conservation Commission which authorized its Chair to sign the plan without conditions. They were happy with the changes to the plan.

Mr. Chirichiello inquired if the Conservation signature was on file? Mr. Sioras stated the revised plans will need to be signed again as a condition of approval. Mrs. Roach was sent an email from Paul Dionne and Mr. Stenhouse commented he spoke with Mr. Dionne today. Mr. Chirichiello wanted to make sure there was something in the file that confirmed that. Ms. Evans thought there had been a recommendation from the Conservation Commission to place shrubbery between the Kneeland property and the salvage yard. That was not represented by Mr. Lavelle.

Mr. Lavelle advised that was a request from the Conservation Commission that the Picirilli's might consider, and was not a condition of the plan being signed. It was left that it would be a neighborly decision. If this Board wants to make it a condition of approval, the Picirilli's will do it. They were only asked to consider it by the Conservation Commission.

Mr. Stenhouse clarified it was a recommendation by the Conservation Commission, but only this Board can make it a condition of approval.

Mrs. Roach reported the email from Mr. Dionne indicated four items the Conservation Commission would like the Planning Board to review. She read the email aloud, and it has been made a part of the applicant file. In summary, the items are: pulling the buses back 75 feet out of the prime wetland no disturbance buffer; planting of Canadian Hemlock, 6' in size, 8' center spacing, along the fence and wall along the Kneeland buffer as the site is noticeable between October and May from the Kneeland property; water quality tests on the Kneeland well, performed annually as DES is no longer performing these tests, and per the Prime Wetlands Ordinance, a hydrologic study and a special exception may be required for work on this site that requires input from the Conservation Commission and the Planning Board. Mr. Dionne stated in his email that the DCC thinks this is a great improvement over the current conditions and they support the commitment by the applicants.

Ms. Evans asked for a copy of the email and a copy was provided to all board members.

Mr. Lavelle stated that the trees had been requested to be placed between the fence and the stone wall on the northwest property line. The trees would be on the Picirilli property. He further advised that in discussions after the Conservation Commission meeting had adjourned, the Picirilli's said they thought they could do that as a condition of approval from this Board. He noted

the concern with working within the prime wetland area. They intend to put the buses above the swale. It was decided last evening that this Board determines whether they need a variance, or if this Board can authorize the work.

Mrs. Roach noted any special exception goes to the ZBA. Mr. Sioras indicated he received an opinion on June 16, 2008, from Bob Mackey, Code Enforcement Officer, that a special exception is not required in this case. Swale work can be performed in the buffer because this is a pre-existing use. The new buildings will be located outside the 150 foot setback. If this was a brand new site, it would require a special exception. Mr. Stenhouse had it noted for the record that Mr. Mackey, as Code Enforcement Officer has the authority to make interpretations and decisions with regard to the Zoning Ordinance.

The floor was opened to the public.

Albert Dimmock, resident and taxpayer, thanked the Board for volunteering to hear this case. He feels it behooves this Board to grant the Picirilli's this request. Everyone on the town Boards were invited to attend the Green Yard Program seminars. Many could not attend because it was held during the day. He attended. Mr. Picirilli sent three people to the Program so that they could implement what was required by the program. Mr. Dimmock advised he attended the Conservation Commission site walk. Mr. Picirilli and his family have tried to do the best they can to protect the environment and run a business. With regard to the buffer zone between them and the neighbor: they have been there for 45 years. Now the neighbor wants a buffer for the residence? He does not feel it is right that the Picirilli's suffer because someone has changed their mind about looking at a junkyard. They are improving the property 200%. It can be seen that over the years the lot has been improved and is now safer for the environment. They added test wells, removed contaminated soil and did many things to improve the environment. They should be applauded. They did everything to be a good neighbor to the environment and to the residents of the Town of Derry. He had been told by a member of Code Enforcement (while at the Green Yard program) that anything they have been asked to do, they have bent over backwards to do it. They should be allowed to do the right thing. They are not required to do this. He respects this Board and knows the members will make the right decision.

Attorney Brian Germaine representing the applicant, asked to add two points articulated at the Conservation Commission meeting last evening. They approved the plan as is. They requested the addition of the hemlocks between the stone wall and the fence for the winter months, but this is not necessary as it is a forested area, and he is not sure the addition of the hemlocks will accomplish the intent. With regard to the question of a special exception – that has to do with construction of a structure within the 75 foot wetland setback. There is disagreement with regard to the definition of 'structure'. Conservation felt it applied to any activity within the buffer; he feels the ordinance is clear that the

setback applies to construction related to a building. He noted Mr. Lavelle does have several waivers to discuss with the Board.

Linda Kneeland, 131 Island Pond Road, stated her house has been there for 50 years. She expresses concern, not to shut down the business, but to protect her property and the environment. She feels this proposal is good for the environment, the neighborhood and the town. Currently, there is a fence $\frac{1}{4}$ of the way down the boundary of her side of the property. She requested that fir trees be planted for the remainder of the boundary where the fence is not. This will create a sound barrier and environmentally friendly boundary. Hopefully, the Picirillis will be good environmental stewards now and in the future.

Mr. Stenhouse asked Ms. Kneeland if she knew the length of the boundary where the fence stops? She does not. Mr. Lavelle estimated the distance from the fence to the rear property line of the next lot (03640) to be about 70 feet. The fence runs inside the stone wall, past the pond and turns into the new building. So, from where the fence turns in, to her property, is where they would like the trees.

Ms. Evans stated that when Ms. Kneeland spoke, she said the fence ran about $\frac{1}{4}$ of the way, now Mr. Lavelle is saying only 70 feet. So does Ms. Kneeland mean her lot and the Sawyer lot which belongs to her family? She does. It was noted there are no buildings on the Sawyer lot. Ms. Kneeland's home is approximately 200 feet from the road and she thought it was possible she would see the new building from her home, but was not certain. Mr. Lavelle advised the new building will be 154 feet from the street. The existing building will block the view of the first constructed building. She may see the second building, but it is hard to say because her home is not on the plan. He does recall that her home is set back. Ms. Evans felt Ms. Kneeland would have a good view of the new building. Mr. Picillo noted that right now, people are guessing how far the home is. What is behind the Kneeland home? Ms. Kneeland stated wetland and trees. Mr. Lavelle added there are hardwoods in that area. Mostly, the view issue will occur during the winter months when there are no leaves to block the view. Conservation spoke of placing trees between the fence and the stone wall and thought that is where Ms. Kneeland's view was. Conservation looked at the Picirilli lot from Ms. Kneeland's lot line on their site walk. Now, she is asking for trees in a different location. Ms. Kneeland provided pictures of the Picirilli lot taken from her lot during this past fall/winter. Mr. Lavelle noted her lot is elevated higher than this site and would look over the hemlocks. It would take many years for the hemlocks to grow tall enough to block her view. The current fence, which is depicted in the pictures, is 8 feet high.

Mr. Granese confirmed Ms. Kneeland owns Lot 06039; 06040 is owned by her family and does not have a building on it. Can Ms. Kneeland see the existing building? She said only a bit at this time of year, but she can during the winter. Mr. Granese felt the new buildings will be set back and won't be higher than the

existing building which is 33 feet tall. It is common knowledge you can see more in the winter when the leaves are down. He does not recommend planting anything.

The Board took a few minutes to review the picture provided by Ms. Kneeland. The pictures were retained for the file.

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

Mr. Chirichiello inquired why is DES no longer testing the wells? Mr. Durrett explained that he has reviewed the DES files on this property. He understands that sampling is no longer required because nothing has been detected in the water for quite some time. The existing contaminants on the site flow in an opposite direction from the groundwater flow. He believes the previous testing was performed quarterly. Mr. Chirichiello inquired if Ms. Kneeland's property sat higher and therefore the water flowed in the opposite direction. Mr. Durrett concurred.

Mr. Lavelle stated he had several waiver requests. The first was from Section 170-D.A.C.17 [170-61.A.16] for parking calculations. There are approximately 8 employees and they won't grow the business all that much. The buildings are intended to give a better place to dismantle vehicles. The Planning Board and Conservation Commission members had no parking issues during their site walks. Therefore, they are asking for a waiver from providing parking calculations. The second waiver is from Section 170-61.A.20, Landscaping Plan. The Board members have seen the site. During the walks, they stated they were not proposing a landscape plan. This is a recycling facility; it is not the prettiest site in the world. It would be very hard to plant anything in the front of the property. The third waiver is from Section 170-64, Residential Buffer. They are not proposing a residential buffer. Another waiver has come from the KNA review and has to do with HISS mapping. They did not do a HISS map of the upland; the wetland was mapped. There will be no added sewage on this site, and there is no water proposed in the buildings. There is no lot sizing or loading required for this project. Mrs. Roach asked Mr. Lavelle to please put the last waiver in writing for the Board.

Motion by Chirichiello to accept jurisdiction of the plan, seconded by Granese. The motion passed in favor with Chase abstained.

Motion by Granese to approve a waiver from Section 170-D.A.C.17 [170-61.A.17], regarding parking calculations as no additional parking is proposed, and from Section 170-61.A.20 regarding a landscaping plan as none is proposed. The motion was seconded by Picillo.

Evans clarified that the waiver for the landscape plan is not the waiver for the landscape or residential buffer.

Stenhouse, Chirichiello, Picillo, Granese, Evans, Cooper, Choiniere, and Roach voted yes. Chase abstained.

Motion by Granese to approve a waiver from Section 170-64, regarding residential buffering as none is proposed. Picillo seconded the motion. Discussion followed.

Ms. Evans noted the KNA comment with regard to this waiver request, which states, "we do believe it would be reasonable to expect that the applicant would advance a plan which would attempt to at least marginally improve the appearance of the site along its frontage at Island Pond Road, as well as attempt to partially screen the "yard portion" of the facility from adjacent residences." She agrees with that comment and does not support the waiver. There needs to be minimal planting and there is also a good neighbor factor. The Sawyer and Kneeland families have been there for decades and she would like to see, at a minimum, 10 trees at the end of the fence, continuing south, that are six feet tall and 8 feet on center. She believes that would help. Mr. Cooper agreed and did not feel that the addition of these plantings would be asking a lot. Mr. Chirichiello noted there has been testimony that the Kneeland home sits higher than the site and the trees will not block the view. Mr. Cooper said they would block the view in the future. Mr. Chirichiello asked if the buffer was for noise or aesthetics? Mr. Picillo said this Board would not be discussing hemlocks in this location if the application had not been advanced tonight. He does not feel hemlocks would matter. He felt the applicant and the neighbor can work on their own to improve the side property line. Mr. Granese agreed.

Stenhouse, Picillo, Chirichiello, Granese, and Roach voted yes on the motion. Chase abstained. Roach noted she sympathizes with the buffer issue but does not feel 6 foot trees will help. Evans, Cooper, and Choiniere voted no. The motion passed 5-3-1.

Mr. Lavelle read his last request aloud requesting a waiver from the regulation requiring High Intensity Soil Mapping of the site as there will be no additional septic load or lot sizing issues.

Mr. Picillo inquired is there regular testing of anything, such as soil on site? Mr. Durrett stated DES performs semi-annual testing of the groundwater and monitoring wells. With regard to soil sampling, there is none at this site because there is no need, since the contaminated soil was remediated. The source of contamination has been removed. This has nothing to do with HISS mapping, which has more to do with leaching capabilities for septic systems. It would be almost impossible to HISS map this site as all the soil would be the same. New fill was brought in as part of the remediation process.

Motion by Granese to accept the waiver request as written and read aloud. This is from Section 170-61.A.11. The motion was seconded by Picillo.

Stenhouse, Picillo, Chirichiello, Granese, Evans, Cooper, Choiniere and Roach voted yes; Chase abstained.

Motion by Granese to approve the application pursuant to RSA 676:4, I, Completed Application, subject to the following conditions: comply with the most recent KNA letter; subject to on-site inspection by the Town's Engineer; show location of the storage tanks on the plan; establish appropriate escrow as required to complete the project; obtain written approval from Doug Rathburn that the GPS disc is received and operable; note the 4 approved waivers on the plan; and the above conditions are met within 6 months. He noted the Picirillis and the Kneeland Trust should discuss a landscape buffer, but this is not a requirement of approval. Choiniere seconded the motion.

Stenhouse, Picillo, Chirichiello, Granese, Evans, Cooper, Choiniere and Roach voted yes; Chase abstained.

Mrs. Roach commended the Picirillis on the Green Yard Program participation and noted this is a vast improvement. Mr. Granese seconded that. Mr. Lavelle thanked the Board for its patience with this project. This was not the normal site plan.

Mr. Sioras advised the public that the engineer for the Cooper plan was present and could meet with them in the hallway to review the plan prior to the public hearing.

Mr. Cooper stepped down for the remainder of the evening and Ms. Heard was elevated to a full voting member in his place for the remainder of the evening.

Mrs. Roach advised the public hearing with regard to the proposed changes to the LDCR would be held to the end of the evening.

Riana Von Asch

Parcel ID 27015, 63 Birch Street

Site Plan Determination pursuant to Section 170-51 of the LDCR

Change in Use from commercial office to a residential daycare

Mr. Sioras provided the following staff report. The property is located at 63 Birch Street and is the site of a former commercial business (cable bucket trucks) across from Parkland on the corner of Eden Street. The purpose of the application is to change from a commercial office to a residential daycare. The lot is located in the Office Medical Business District. The application is for Site

Plan Determination. Both the applicant and Pamela Garrity will present the application. The owner of record is June Clark, who has provided a letter authorizing the applicant to apply for this use; Ms. Clark was also in the audience this evening.

Mrs. Von Asch stated the intent is to be able to take 12 children and have the ability to add an additional 7 in the afternoon; this would be the limit of children because of the septic loading and the size of the building. They would rather have the open spaces. There will be three full time employees, so there will be 4 teachers in all. Three to four cars would be parked on site, but not all employees would be present at the same time; their shifts would be staggered. The ratio is 2 teachers for 12 students; over 12 students an additional teacher is required. The maximum number of employee vehicles on site would be 4. The hours of operation are intended to be 7:00 a.m. to 5:30 p.m., to accommodate the neighbors. She has spoken with the neighbor across the street and this is acceptable. Mr. Granese inquired if there is an existing fence to the front? Mrs. Von Asch stated there is, and they intend to finish installing fence. Some of the fence is chain link to the rear. The children will be in a secure area, with locked gates. Mr. Picillo inquired if approval from any other agency is required for this application?

Mrs. Von Asch advised they need approval from the Planning Board because this is a residential daycare; daycare use does fall within this zone. Ms. Garrity advised they will be seeking state approval for the daycare. Mrs. Von Asch added she will have background checks performed on all employees and residents of her home to ensure the safety of the children. The facility will be inspected by the state and locally by the Fire Department, Code Enforcement and the Health Inspector. Mr. Sioras advised he and Mike Scott of Fire Prevention, visited the site; it has been reviewed by Code Enforcement as well. Code, Fire and Health will sign off on this prior to opening.

Mr. Picillo confirmed cars will enter and turn onto Eden Street. Ms. Garrity stated no cars would back out onto Eden; there is a turnaround area in the parking lot.

Mr. Granese inquired as to the height of the fence? It is 6 feet high on the Eden Street side; to the rear is a 6' tall stockade fence. Currently, the area is overgrown with vegetation. Mr. Granese expressed concern for the safety of the children. Mrs. Von Asch stated the area will be gated to the front and the rear. She is very cautious with regard to the safety of the children; that is her primary goal. The lock will be placed high so that children can't reach it. There will always be two staff members present with the children. Safety is a major issue for her. Ms. Gerrity noted Mrs. Von Asch's own children will also be utilizing the area. Mr. Granese inquired if the town required non-climbable fencing for this type of use? Mr. Sioras advised that would be part of the state requirement or inspection. Locally, the facility is inspected by Fire and Health.

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

Mr. Chase noted the applicant will be living in the two bedroom section of the facility and the daycare is located in the auxiliary building. At one time, the units were separate, but connected. At this time, can both two units be accessed without going outside? Mrs. Von Asch stated you can. Mr. Chase inquired if the daycare would be fully separate? Mrs. Von Asch advised that she intends to utilize her kitchen to prepare meals for the children, and her home for a napping area for the babies. She will have enough staff to cover both areas at all times.

Mrs. Choiniere inquired as to the location of the 16 parking spaces noted on the written application? Ms. Gerrity advised what is noted on the drawn plan is correct. They will abandon the back 7 parking spaces; 9 spaces are proposed, which includes employee parking. There will be a total of 9 spaces on the lot; seven are being abandoned. Mrs. Choiniere inquired as to wheelchair access to the play area. Will this be through the parking lot? Mrs. Von Asch stated there will be a ramp outside and the children can access the play area without touching the parking lot.

Motion by Granese to accept jurisdiction, seconded by Chirichiello. The motion passed unanimously in the affirmative.

Motion by Granese, seconded by Choiniere to approve the application for a site plan determination pursuant to Article XI, Section 170-51 of the LDCR, subject to the following conditions: the number of students is limited to 12; removal of construction materials and construction vehicles is required prior to the issuance of the Occupancy Permit; subject to local Health Office, Code Enforcement, Fire Prevention and state permits as required. Discussion followed.

Mr. Picillo confirmed the change in use is from a commercial use to a residence. What was this in the past? Mr. Sioras advised because the change in use is on a different level than commercial use to commercial use, they required a different level of review and he wanted a more formal process than the change in use form. The use is allowed in the zone.

Stenhouse, Picillo, Chirichiello, Granese, Chase, Evans, Heard, Choiniere, and Roach all voted in favor.

**Lewis Builders Development, Inc.
Parcel ID 07075, 148 Warner Hill Road
Acceptance/Review, Excavation Permit Application**

Mr. Sioras provided the following staff report. The purpose of this plan is for a 3 acre excavation pit. The parcel is located on Warner Hill Road, in the Low Density Residential Zone. The entire parcel contains approximately 159 acres.

All department heads have signed the plan with the exception of the Department of Public Works. There is a memorandum from Michael Fowler attached to the member packet explaining why it was not signed. The applicant is requesting several waivers. All state permits have been obtained. This lot is located near Hunter Drive, near the railroad trail and recreation land. There was a previous Planning Board approval for an excavation pit on this property; this application is not as extensive as the previous.

Charlie Lanza, member of the LBI Planning Department, presented for the applicant, Harold Morse, who was also present.

Mr. Lanza advised the proposal is for a gravel excavation operation located off Warner Hill Road on parcel 07075. They are proposing to remove approximately 35,000 cubic yards of material from a 3 acre portion of the site. The proposed truck route will run down Warner Hill Road to Island Pond Road and then to Route 111. The material will be used on other Lewis Builder projects and is not to be sold commercially. There are two proposed wetland crossings to access the site. The plan is fairly straightforward. They met with the Conservation Commission and held a site walk with them. They have all the department signatures required, with the exception of Michael Fowler's. They have received the Keach-Nordstrom review and are comfortable they can address the comments satisfactorily. Mr. Morse had a question with regard to obtaining the driveway permit; is it still required even though this is an existing driveway? Mr. Sioras advised that would be obtained through DPW. Mr. L'Heureux stated they would need to make sure they have adequate sight distance. It was noted Mr. Lanza had a copy of the memo (MM08-160) from Michael Fowler.

Mr. Picillo inquired if the state requires any testing of the gravel before it is trucked off site to make sure it is not contaminated? Mr. Lanza said to his knowledge no. No blasting is proposed for this operation. Mr. Morse advised if they find a ledge outcrop, they will work around it. Much of the material is bank run gravel and they don't anticipate the need to blast. Mr. Lanza added the material is fairly coarse gravel and sand. Mr. Sioras advised he has walked this site in the past; for the most part it is gravel; there are no large boulders and rocks. The site is part of the Warner Hill/Hunter Drive development when they build the East Derry School. Mr. Morse said the area contains hog backs of gravel; they may screen some of the larger material on site.

Mr. Chirichiello inquired as to hours of operation? Mr. Lanza directed the Board to sheet 3 of 5; the hours will be Monday through Friday, 7:30 a.m. to 4:30 p.m. Mr. Chirichiello inquired why are they starting so early? Mr. Lanza advised their operators begin work at 7:00; this allows them a half an hour to arrive at the site. Mr. Morse noted this site is located in the middle of 160 acres and is in a remote area. There is one house a few hundred feet away; the site is located near the railroad bed. There is recreation land to the other side.

Mr. O'Connor asked if they intend to blast or not? Mr. Morse said he did not intend to blast; normally they do not blast unless it is a roadway. Mr. O'Connor stated if the applicant does blast the town could lose the aquifer. The DPW director has also asked for surety in the amount of \$40,000.00. At the Town Council meeting last night, there was a discussion with regard to the dramatic increase in the cost of liquid asphalt (in one year from \$100.00 to \$600.00). He suggests adding an escalator into the cost of the surety to cover the town for the price of asphalt.

Mr. Granese inquired as to the time frame for the operation? Mr. Morse said there is no immediate need for the material. They will try to do this in the winter. It could go on for three to four years. With the current state of the economy, he does not foresee hauling gravel. Mr. Granese inquired as to the length of the permit issued by the state for the alteration of terrain? It is updated every 24 months. Mr. Granese inquired as to the weight of the trucks (75,000 pounds loaded) and Mr. Picillo asked how close is the nearest home on Hunter from the existing site? Mr. Lanza said the closest home is approximately 800 to 1000 feet from the site.

Mr. Stenhouse inquired if there is any restriction on the time of operation? Mr. L'Heureux explained the town runs into this during construction season. There is no restriction on when operations can begin or end. The town does not have a noise ordinance; they can run any time of day. Mr. Lanza noted they proposed to run between 7:30 a.m. and 4:30 p.m. Mr. Picillo inquired if this is the first time they are going back into the property? Mr. Morse said the homes were there in the 1990's when they operated the previous pit. The proposed area is located below the previous pit.

Mr. Chase said the houses he has in mind sit a bit higher than the pit. He can see the restoration plan, but what do they intend for dust control? Prevailing winds run up the slope toward the homes. Mr. Lanza said they take care of that with Best Management Practices (BMPs). There will be on site water and they will utilize it as needed. There are also dust boards on the trucks and they will be covered. This is noted on the plan (Sheet 3/5, Note 8; Sheet 5/5 notes dust control measures).

The floor was opened to the public.

David Pouliot, 146 Warner Hill Road, had a general question with regard to blasting. The applicant has stated there is no plan for it. Can that be a condition of approval that if blasting is to occur, the applicant comes back to the Board? Regarding the nature of the blasting, how wide an area would the pre-blast survey cover? Is there a proof of insurance requirement and what does it cover? Will it cover damage to Warner Hill and Island Pond Road? This is to be a private only quarry – can that be added as a condition? He has noted that there is usually intercompany business; for example Brox will take material from

Continental, etc. He has looked at the road weight and spoken with DOT. 60,000 pounds is the weight limit on Island Pond. The permit application states the trucks are 75,000 pounds. Will they get an overweight permit? Who will verify the weights? Will there be a scale? Regarding paving the entrance and the gate, can the town ask that the gate be pulled back? This area has become a dump site and it is not unusual to see couches, toilets and computers at the gate. He understands the owner is not on site maintaining it often. How do they plan to respond to accidental spill response on the aquifer? Will there be anything on site or will they rely on the Town to respond? Can the Board request that the trucks not use Jake brakes? He would like to have LBI ensure their operators obey the speed limits on the road. The trucks will be traveling with and behind buses. He advised he was not notified by LBI of the wetland permit; the first notification he received came from the town. He asks the Board to hold the applicant to a higher standard. He stated he gets flooded from past LBI projects because the town did not ask for drainage improvements. He suggests the town look to other towns for examples of ordinances and see how they handle excavation pit operations.

No other members of the public approached the podium.

Mr. Lanza thanked Mr. Pouliot for his concerns. He advised the trucks will be 60,000 pounds. He will verify the weight. He does not see an issue with the gate but will defer to Mr. Morse. Accidental spill response is handled on site through BMPs. Regarding the abutter notice for the wetland application, they are required to notify abutters within a certain radius; it may be that Mr. Pouliot is not within that radius.

Mr. Morse spoke with regard to the gate. He is not sure of the distance off the road, but there is enough room to pull a truck off the road and open the gate. It is unfortunate this has become a dumping area. He wants to be a good neighbor. He noted he did take offence with regard to the comment that he affected the drainage on Warner Hill Road. LBI did a lot of work in the roadway when they built homes in the area. The drainage has always been an issue in this location. He reiterated he wanted to be a good neighbor.

Mr. Sioras advised the town adopted excavation regulations a few years ago and they are fairly standard regulations set out by the state. They are very specific with regard to gravel pit requirements. The town will also have two on site inspectors: Craig Durrett and Nate Montgomery. There are mechanisms in place that the town did not have in the past; there will be more protection. Previously, DPW had required a bond for potential damage to Warner Hill Road; a similar bond has been suggested. Island Pond Road is a state road, so DOT will have the final say on that road. Earth removal regulations are very stringent and the site will be inspected.

Mr. Stenhouse noted Mr. Côté asked for a bond of \$40,000.00 to protect Warner Hill Road; this is similar to the one requested 10 to 14 years ago. Regarding the weights of the trucks, he is not comfortable with Mr. Fowler's figure for the road bond given the conversation regarding asphalt prices at last evening's Town Council meeting. The figure may need to be reviewed to take that into account.

Mr. Morse inquired if any other applicant is required to bond the road when they have trucks traveling on it? Mr. Stenhouse noted Mr. Morse is putting trucks on a town road and he would like to know the weight of the trucks. Mr. Morse said the weights are all over place for trucks on the road. He asked if other applicants are required to bond the roads? He feels an increase in the cost of the bond is asking a lot. He will video the road before they start operations and make sure they don't damage the road any more than anyone else. Mr. Chirichiello felt this is a legitimate concern as this is a residential road. Mr. Sioras noted he has traveled this road recently and the road has improved from the past. DPW can come up with an appropriate number for the bond. In the past, LBI held a similar bond and it was released in its entirety. The bond is put in place to protect the road.

Mrs. Roach noted there is a discrepancy in the truck weight notes and she would like an answer on the weight. Mr. Lanza advised the application paperwork is correct at 60,000 pounds; the plan states 75,000 pounds. That is a typo.

Mr. Lanza read aloud the waiver requests: the first was from Section 165-84.A.4.V, requiring dwelling units, septic systems, and wells on abutting properties within 150 feet of the property boundary be located on the plan. One requirement in the regulation states 150 from the site of activity; the other from the property boundary. They are asking for a waiver from the more stringent requirement. Mrs. Roach confirmed the area of activity is centrally located on the parcel. The second waiver is from Section 165-86.S, which requires a geological assessment of the aquifer. Mr. Keach agreed in his review that this would not be necessary and there would be no negative impact on the aquifer. Mr. Picillo inquired as to the content of Attachment B? It is the trucking route.

Motion by Granese to accept jurisdiction of the application, seconded by Chirichiello. Discussion followed as abutters wished to make comment.
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Jeff Homewood, 37 Hunter Drive, advised he has not walked this property; this is his first notification. He understands the trees are about 150 feet tall to the rear of his property. Will any trees be removed? The blasting question has been answered. Will digging happen within 150 feet of his property? There is a creek between his house and the Difeo property. How does the applicant plan to deal with the creek? How deep will they dig? He would like the opportunity to walk the land out of courtesy. Will there be a cleanup plan? What is entailed because he can see the area that is not restored. Will there be safety precautions for

people who enter the site? He understands this is private property, but neighborhood children do go out to this area and play.

Mr. Lanza thanked Mr. Homewood for his comments and concerns; he advised that Mr. Homewood was notified by certified letter of the wetlands application. The only trees to be cut are the trees on the 3 acres of excavation. He would be happy to review the plan with Mr. Homewood after the hearing. Regarding the flattened portion of the site, that was the original excavation site. The proposed excavation will take place on the steeper portion of the lot that currently has an 11% grade across 500 feet. He does not see a problem walking the site with Mr. Homewood, but that would be up to Mr. Morse. [Mr. Morse nodded]. BMPs will take into affect safety as much as possible.

Mr. Sioras inquired if this is the lot that is 800-1000 feet away? Mr. Lanza advised the distance is approximately 300-400 feet to Mr. Homewood's property line (07075-084. Mr. Sioras inquired of Mr. Morse if he would object to walking the site with the abutters? Mr. Homewood added there are a few other abutter who might like to walk as well. Mr. Morse said he would arrange that.

William Dutton, 19 Hunter Drive, inquired as to blasting and the procedures involved. Mrs. Roach advised it has not been determined if there will be blasting or not. Mr. Sioras advised the applicant would be responsible for notifying the landowners, and videotaping prior to blasting. Mr. L'Heureux explained the applicant would apply to the Fire Department for a permit to blast. The blasters would be required to follow state regulations with regard to blasting permits. He believes that an owner of a structure within 200 feet of the blasting area would be notified. Anyone outside the 200 feet would not be notified and there would not be a pre-blast survey performed. The pre-blast survey includes videotaping of foundations within the 200 foot radius to record existing cracks etc., in the foundation.

Mr. Pouliot advised that the Town of Merrimack has adopted a notification radius of 1000 feet; he would like to see Derry adopt the same radius. Mrs. Roach advised that is a discussion for another day.

There were no further abutter comments and the plan went back to the Board.

The motion passed with Stenhouse opposed. He felt there were unanswered questions with regard to the amount of the road bond and other issues that were raised. Mrs. Roach called for a roll call vote; Picillo, Chirichiello, Granese, Chase, Evans, Heard, Choiniere, and Roach all voted to accept jurisdiction, Stenhouse was opposed.

Mr. Sioras stated Mr. Fowler and Mr. Côté will look at the road number again. No damage was done to the road the last time this applicant performed excavation on the site. This could be added as a condition of approval.

A Conditional Use Permit is required because work will be done on the site. He referred the Board to the KNA report. This would require a separate vote.

Motion by Granese to grant a Conditional Use Permit pursuant to Section 165-80.B.2.A, seconded by Choiniere. Stenhouse, Picillo, Chirichiello, Granese, Chase, Heard, Evans, Choiniere, and Roach all voted in favor.

Mr. Sioras commented he felt the waiver requests were reasonable; Steve Keach did not have a problem supporting them.

Motion by Granese to grant waivers from Section 165-84.A.4.V, and 165-86.S, seconded by Choiniere. Discussion followed.

Mr. Picillo noted the applicant states they do not expect to have a negative effect on the aquifer. Does the applicant need to prove that or does the Board take them at their word? Mr. Sioras said in discussion and by watching the Conservation Commission meeting, there is a permit in place for the wetland crossing from DES. Mr. Lanza advised the Conservation Commission's main concern was the wetland crossing, not the aquifer.

Stenhouse, Chirichiello, Evans, Heard, Choiniere, Granese and Roach voted to grant the waivers. Picillo voted no as he is not sure he understands the applicant won't have a negative impact on the aquifer. Chase voted no for the same reason. The motion passed in the affirmative with a vote of 7-2.

Motion by Granese to approve the completed application, subject to the following conditions: Comply with KNA report dated July 11, 2008, excluding General Comments No. 4; subject to owner's signature; subject to revised Department Head signatures; subject to on-site inspection by the Town's engineer; establish appropriate escrow as required to complete the project, such escrow shall not expire until 18 months following the end of the permit as specified under Section 165-92.A.1 of the Derry Zoning Ordinance; establish a separate three year escrow, amount to be determined by DPW and agreed upon by the LBI, to cover the cost of potential overlay to Warner Hill Road in areas affected by trucking of materials off site, pursuant to the June 20, 2008 memo from M. Fowler (MM08-160); obtain written approval from Doug Rathburn the GPS disc is received and operable; note approved waivers on the plan; the above conditions be met within 6 months; the excavation permit shall expire on December 31, 2011; trucks will not exceed 60,000 pounds in weight; hours of operation shall be as stated on the plan (7:30 a.m. to 4:30 p.m., Monday through Friday), and no blasting of any kind is allowed on site. If blasting is required, LBI will come back to this Board for approval. Chirichiello seconded the motion. Discussion followed.

Mrs. Roach requested that once an amount for the road bond has been agreed upon, that the Planning Board be alerted as to the amount. Mr. Granese

explained that the intent of the condition is that the bond will likely cost more than the \$40,000.00 originally estimated, but it should not cost less. Mr. Stenhouse noted that if the amount is determined by DPW and not agreed upon by LBI, and they can't come to an agreement, it leaves the approval in the air and the applicant cannot obtain their permit. The conditions would not be met.

Stenhouse, Picillo, Chirichiello, Granese, Chase, Evans, Heard, Choiniere and Roach all voted yes.

The Board took a five minute break and reconvened at 9:22 p.m.

**Cooper and Associates, Inc.
Parcel ID 03119, Lawrence Road and Stark Road
Acceptance/Review, 10 lot subdivision**

Mr. Sioras provided the following staff report. The parcel 03119 is located on the corner of Lawrence and Stark Roads. The purpose of the plan is for a 10 lot subdivision. The parcel is located in the Low Medium Density Residential zone. The lots are frontage lots. All departments with the exception of DPW have signed the plan. A memo from Michael Fowler is attached. There is one waiver requested. State subdivision approval has been received. Because Stark Road is a scenic road, the Board will need to take a site walk and continue the public hearing as part of the process. Mr. Peloquin can review the application for the Board, and then the hearing can be continued to the August 20th public hearing. This will give the abutters an opportunity to attend the site walk and ask questions.

Tim Peloquin, Promised Land Survey, presented on behalf of the applicants. The parcel is 23.6 acres and the intent is to divide it into 10 lots. The application meets the zoning requirements. There is nothing egregious in the Jones and Beach (JBE) review and they can address all the comments.

He highlighted the plan features which included boundary, topographical, wetland and HISS mapping. There were no issues with the surveys. Jim Gove of Gove Environmental served as the soil and wetland scientist. Todd Connors is the Professional Engineer of record and is also present this evening. Kevin and Mark Cooper Development, LLC is the owner of record, as well as Jane Palmer who owns a 21% interest per title research. Her name does not appear on any deeds.

Mr. Peloquin advised there are several issues of note. Stark Road is a scenic road. The goal and desire is to minimize tree cutting along Stark Road. DPW requested a 4 foot shoulder with 3:1 slopes to a 2 foot ditch, coming up to a 3:1

slope. That will cut 20 feet back from the pavement. They tried to minimize the cut and came up with with a plan for a 2 foot gravel shoulder, respecting the 3:1 slope to the 2 foot wide ditch, transitioning to a 2:1 slope to minimize the tree cut. With respect to DPW, he understands they want to clear the roadway for the maintenance and plowing. This proposal significantly improves the area, but they want to balance roadside work with the scenic drive.

Wherever the tree line stops along Stark Road they will assure a 20 foot no cut buffer to retain the trees. He is prepared to discuss the waiver request and answer any questions.

Mr. Stenhouse inquired if the abutters would be notified of the site walk? Mrs. Roach advised a notice would be placed on Channel 17 and in the newspaper.

The floor was opened to the public.

George Gregoire, 28 Lawrence Road, advised he lives across from the intersection of Stark and Lawrence. His primary concern is the relocation of the monument. He has witnessed multiple accidents in front of his home because of speeds, the blind corner and icing in the winter. There is a northerly slope at this intersection and the ice does not melt. He described a collision in front of his mailbox, and advised this is a dangerous intersection. His concern is that the parking area for the monument may be in a blind area. Only a portion of accidents that occur in this location are reported to the Police Department. He has seen many cars off the road. This is a hazardous intersection because of limited visibility, especially with regard to the parking area. He feels there will be visibility issues readily viewed on the site walk. He suggests adding road signs cautioning of the hazardous road/curve.

Mr. Chirichiello inquired as to the location of the proposed parking area? Mr. Gregoire noted that sheet 6 of 17 did not designate a parking area. It looks like more of a pull over area. He does not expect a lot of visitors to the monument but those that do stop there might be caught by surprise. Mrs. Choiniere noted that those that visit the monument will likely not be from the area and aware of road conditions. Mrs. Roach stated the Board would look at this during the site walk.

Thomas Mosco, 24 Lawrence Road spoke against moving the monument. There is no good reason to move it. The abutters were not taken into consideration. This is the Coopers' property and they may have made an arrangement with the Daughters of the American Revolution (DAR). He has run on this road for 30 years and has witnessed the traffic accidents; the monument relocation makes no sense. He feels it will just create problems.

Monica Cataldo, 30 Lawrence Road, stated she has observed many accidents in this location. There is a blind turn on Stark Road from Lawrence. That is also a

school bus stop for all grades. Buses have a hard time making the turn onto that road. Mrs. Roach agreed it is a tight area.

There were no further public comments and the plan came back to the Board.

Mr. Peloquin advised DAR owns 36 square feet where the monument is currently located on Stark Road. The Coopers have spoken with DAR and Richard Holmes regarding the small sheephole at the corner of Stark and Lawrence. That area has 39.09 square feet of land and it will be deeded to DAR. The monument will be moved to this location. It improves safety concerns at the existing location. There will be more land around the monument and it will be more visible. Most people will only stop to view the monument once. He understands the concerns with regard to parking.

Mr. Picillo inquired what would be the challenges if the monument was left in its current location? Mr. Peloquin advised it interferes with drainage. They need to run the swale along the roadside. Currently, the monument is 4 to 5 feet off the edge of pavement. They are designing the swale and shoulder and detention pond and the monument is in the way. They can potentially steer around it, but with the drainage directive from DPW, it is in the way. They thought the proposed was a better location.

Mr. Peloquin advised this proposal will not have driveways within 600 feet of the intersection of Stark and Lawrence. There will be good sight distance with the installation of the drainage swales. It may be that he can approach the Highway Safety Committee prior to the next meeting to address the concerns from the abutter. He has spoken with Captain Feole of the Derry Police Department. He was provided with the following statistics. Between January 3, 2003 and January 1, 2008, 3 accidents were reported in this location. He does understand that some accidents are not reported. The stop sign at Stark Road does have some vegetation around it. He feels small improvements can be made.

Mr. Sioras advised Mr. Peloquin to contact Sharon Trenholm at DPW to discuss the Highway Safety agenda.

With regard to parking, Mr. Peloquin stated although it is not shown on the plan to date, depending on the final width of the shoulder, there should be ample parking. Perhaps they could post "no parking here to corner" signs if Highway Safety is amenable. He does not want to put too many signs on this road.

Mr. Gregoire had a comment with regard to the swale and why the swale is in front of the monument. He suggested placing a 20' culvert with aggregate over the culvert. This would provide a pull off area. He does not see the swale as being a suitable argument regarding the movement of the monument. Mrs. Roach stated the Board would look at that as an option if that is the recommendation of the Highway Safety Committee. Mr. Sioras advised

someone from DPW would be on the site walk. Mrs. Roach stated she would like a representative of DPW to attend the site walk to explain why the swale is required.

Mr. Mosco commented on the tradeoff between the drainage issue and the monument. He asks the Board to consider drainage versus safety.

Mr. Picillo had a question with regard to the monument. Can a DAR representative be present on the site walk as well to share their concerns and comments? Mr. Peloquin advised he would get a message to them and contact Mr. Holmes as well.

Ms. Evans requested that a plan be presented for the August 20th meeting showing all the lots on one page that shows the placement of the homes. It is very confusing trying to see what the plan looks like with the number of match lines in this plan set. She would like to see all of the homes at once. Mr. Peloquin said he would try to have that prepared prior to the site walk. Regarding the houses as they are shown on the topographical subdivision sheets; these are the potential locations of the homes. Minimum information has been placed on Sheet 2 as that is the sheet that will be recorded and they need to meet recording requirements. He would like to provide an exhibit to the Board that is separate from Sheet 2.

Motion by Granese, seconded by Choiniere to schedule the site walk for Wednesday, August 13, 2008 at 6:00 p.m.

Picillo, Chirichiello, Granese, Chase, Evans, Heard, Choiniere and Roach voted in favor. Stenhouse was absent from the vote.

Mrs. Roach noted abutters are invited to attend the walk.

Mr. Peloquin advised he needs direction with regard to the shoulder width and asked if the Board can vote on the waiver. Otherwise he will only have a week between August 13 and the public hearing to make any changes to the plan and get them to the engineer for review. He was advised direction would be provided at the site walk; the waiver would be discussed on the 20th.

Motion by Granese, seconded by Choiniere to continue this public hearing to August 20, 2008.

Picillo, Chirichiello, Granese, Chase, Evans, Heard, Choiniere and Roach voted in favor. Stenhouse was absent from the vote.

Mrs. Roach advised there would be no further public notice to abutters.

Public Hearing – LDCR Amendments**Section 170-26, Streets, to amend construction requirements of driveway aprons during construction of new streets****Continued from June 18, 2008**

Mr. L'Heureux advised the Board has been provided with a copy of the detail for the requirements for a typical driveway apron. The photo provided to the Board was taken on Lampton Drive (approved 3 years ago). It shows the dimensions that have been outlined in the amendment. This is typically what the town sees at subdivision review. What the Board is looking at in detail is a picture of what has been provided in text as the amendment.

Changes to the text from last meeting include the addition of the words, "driveway apron shall", the 5th bullet has been expanded to note that the specification for gravel is for a length of 40 feet and for the width of the driveway, and it spells out the edge of right of way and edge of pavement.

Mr. Picillo confirmed that the wording corresponded to what is shown in the picture.

Motion by Granese to approve the amendment to Section 170-26, Streets, of the Land Development Control Regulations, as stated in the document provided this evening. Motion seconded by Choiniere.

Picillo, Chirichiello, Granese, Chase, Heard, Evans, Choiniere and Roach voted to approve. Stenhouse was absent from the vote.

Motion made by Granese and seconded Choiniere to adjourn the meeting. The motion passed and the meeting stood adjourned at 9:55 p.m.

Minutes prepared by Elizabeth Robidoux, Planning Clerk.

Amend Article V, Design and Construction Standards, related to engineering and construction requirements.

Section 170-26 Streets

16. Driveway curb cuts will be installed prior to the placement of wearing course of hot bituminous asphalt pavement. No driveway locations shall be amended or relocated once the curbing is installed and wearing course is in place. All proposed driveway aprons shall be constructed to a point 40 feet inward from the edge of pavement on all streets at the time of street construction. (Effective 5/18/05)

All Driveway Aprons Shall:

- Slope away from the edge of the road at no less than 3% for open drainage and slope toward the road at no more than 3% in closed drainage subdivisions for a minimum of 10 feet.
- Maximum grades allowed for next 30 feet are 5% and -5% respectively.
- Be no wider than 24 feet except that the Driveway may be flared at the entrance.
- Have a minimum site distance of 200 feet in both directions 10 feet from edge of traveled way.
- Be constructed with a minimum of 12 inch depth of NHDOT Crushed Gravel 304.3 Specification for entire length and width of the 40 foot driveway apron.
- Include minimum 2" thickness of bituminous asphalt base course pavement between edge of pavement and edge of right of way (typically 13 feet from edge of roadway pavement).
- Be completed along new roadways as part of the road drainage feature as a factor for Substantial Completion and Eligibility of Occupancy Permits.
- Be completed along existing roadways as part of the road drainage feature as a factor for completion of all off-site improvements and Eligibility of Occupancy Permits.