

The Planning Board for the Town of Derry held a public hearing on Wednesday, June 3, 2009 at 7:00 p.m. at the Derry Municipal Center (3rd Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chair; Virginia Roach, Vice Chair; Jan Choiniere, Secretary; Randy Chase, Administrative Representative; Phil Picillo, John O'Connor, Paul Hopfgarten, Members; Maureen Heard and Jessica Hodgeman, Alternates

Absent: Brian Chirichiello, Gary Stenhouse, Darrell Park

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk; Mark L'Heureux, Engineering Coordinator

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. He introduced the staff and Board members present, and noted the location of emergency exits and agendas.

Escrow

#09-14

Gennaro Estates

Gennaro Cella

13 Bartlett & 90 Gulf Road, 04074 & 04075

The request is to revise Release #1 in the amount of \$136,541.38. The amount to retain is \$616,686.04, which supersedes the release approved on May 6, 2009.

Motion by Roach, seconded by Hopfgarten to approve as presented. Discussion followed.

Mr. O'Connor inquired if the only reason this was revised was for the reduced cost of asphalt? Mr. Sioras deferred to Mr. L'Heureux who explained that there had been two different spreadsheets used to calculate the escrow for this project. The updated spreadsheet had the revised pricing which accounted for the asphalt cost fluctuation. When the reduction was calculated in May, the wrong spreadsheet was utilized. This request corrects that. Asphalt pricing is typically adjusted annually, but last year the market fluctuated so widely, it was updated more frequently.

The motion passed with all in favor.

09-15
River Bank
River Bank
36019, 51 Crystal Avenue

The request is to approve Release #2 in the amount of \$40,594.61 on Letter of Credit #053008JK, drawn on River Bank. The amount to retain is zero. This is the final release.

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

09-16
Middleridge Subdivision
H&B Homes
03011, 22 Windham Depot Road

The request is to establish cash escrow in the amount of \$456,387.70 for the above noted project.

Motion by Roach, seconded by Choiniere to approve the establishment of cash escrow as noted. The motion passed with Picillo abstained.

Minutes

The Board reviewed the minutes of the May 20, 2009 meeting.

Motion by Hopfgarten, seconded by Roach to approve the minutes as written. The motion passed in the affirmative with Choiniere abstained.

Correspondence

Mrs. Choiniere advised SNHPC is hosting a film entitled *Liquid Assets* on June 23, 2009 at 6:00 p.m. at the PNSH Energy Park. The Board has received notification of an Impact Fee workshop to be held on June 24, 2009, at 7:00 p.m., here in Derry. Also available is the NH Water Resources Primer. For more information on any of these topics, please contact Mr. Sioras.

Other BusinessSchedule public hearing for proposed Livestock Ordinance

Motion by Roach, seconded by O'Connor to schedule the public hearing for the proposed Livestock Ordinance for June 17, 2009.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted yes.

Request for Extension of Approval – Martingate, LLC

Mr. Sioras explained this is the second request. The applicant is waiting for the court to make a decision regarding Enterprise Bank and the timeframe is beyond their control. The plan for Enterprise Bank was approved, but River Bank had filed an appeal regarding the ZBA decision. It was originally upheld at Superior Court and is now at Supreme Court, awaiting the decision.

Motion by Roach to grant an additional 6 month extension as requested, seconded by O'Connor. Discussion followed.

Mr. Picillo inquired why the litigation for Enterprise Bank on Crystal Ave, was holding up an approval on Broadway? Mr. Sioras explained the financing for the Martingate project on Broadway is tied up in the Enterprise property. The applicant is awaiting the sale of the property to Enterprise bank to finance the multi-use building on Broadway.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted yes.

Other

Mr. Sioras advised that after discussion with the Chairman, the summer schedule will be revised. The Planning Board will meet on July 1 and August 5, and will schedule additional public hearings as required based on plan submission.

Public Hearing**Proposed changes to the Town of Derry Zoning Ordinance**

To amend Article VI, Section 165-45.D.2., Medium High Density Residential (MHDR), subparagraph "d" and delete subparagraph "j" in its entirety.

To amend Article VI, Section 165-45.1.C.2, Medium High Density Residential District II (MHDR II), subparagraph "d" and delete subparagraph "j" in its entirety.

To amend Article VI, Section 165-46.B.2, Medium Density Residential District (MDR), subparagraph "d" and delete subparagraph "j" in its entirety.

*Note: full text of the proposed changes is appended to this document.

Motion by Roach to open the public hearing, seconded by Hopfgarten.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted yes.

Mr. Sioras the ZBA has had discussion and some issues have come before it that precipitated the proposed changes. He introduced Robert Mackey, Code Enforcement Officer who explained the proposed changes to the Ordinance.

Mr. Mackey advised the three changes deal essentially with the same thing. In the zoning provisions, home occupations are allowed in all the residential zones with ZBA approval. Three of the sections of the Zoning Ordinance list ten criteria to be met before the ZBA can grant approval. An issue came up with regard to private covenants that may prohibit certain activities and the issue was referred to legal counsel. Counsel has advised the Zoning Board should not be dealing with private covenants, so that criteria should be deleted. With regard to the other proposed change, home occupations can use up to 25% of the finished living area. The list excluded certain rooms and they would like to clarify that the 25% criteria is based on total finished living area, and specific rooms should not be defined. The amendment is for these three sections because that is where that particular wording is found.

There was no public comment.

Motion by Roach to close the public hearing, seconded by Choiniere. Discussion followed.

Mr. Picillo asked what is the purpose behind certain special exceptions? Why are some uses mentioned and some are not? Mr. Mackey thought the original intent was to limit the types of uses to those that would normally be associated with a single family home, such as a lawyer, doctor or tradesman, and to prevent someone from operating a use such as a convenience store from their home. The intent is to keep the more intense uses out of these areas, and to keep it to what you would typically see from a home. The criteria was added to keep the business as the secondary use on the lot.

Mr. Picillo asked if daycare would fall under the acceptable uses? Mr. Mackey advised that historically, the ZBA has allowed it as a related profession. Mrs. Roach recalled it was a day care application that brought this issue forth as daycares need to be able to utilize the kitchen and "kitchen" was not included in the 25% area for the home occupation. Mr. Picillo confirmed that a finished garage is not considered livable area and a finished basement would only be considered livable area if it were finished and heated.

Mr. Hopfgarten stated he could see the point of getting rid of the wording related to covenants, but hesitated with regard to wording relating to the deeds. If there is something specific in the deed that places a use restriction on that property, that is a legitimate benchmark to reach and the ZBA should be considering it. Mr. Mackey said typically you would not see something in the deed. Usually, it would be in a covenant that is referenced in the deed. He could discuss it with counsel again and see what they say. Covenants are a different issue.

Mr. O'Connor asked if the Ordinance retains the wording regarding the deeds, who researches the info and does the title search? Mr. Mackey explained the applicant is required to provide the current deed with the application. Mr. O'Connor thought that if the covenant wording was removed, the town would be covered.

Mr. Picillo asked, procedurally, does the ZBA interpret the deed to see if it has a restriction? Mr. Mackey said restrictions are not typically listed in the deed. Mr. Picillo gave an example of a house being deeded to a sibling under the condition that "x" use does not occur. If "x" use occurs, the deed should be turned over to a different sibling. Mr. Mackey said that type of criteria is not normally in a deed. The deed is included with the application to verify ownership of the lot. Mr. Picillo asked if the wording is left, does it open up the ZBA to legal interpretations and can it create an issue? Should legal look at this again? Mr. Mackey said depending on the wording, the ZBA could interpret it in different ways. If the covenant says the lot cannot be used for commercial uses, then is an in home daycare a commercial use? That would be up to the interpretation of the ZBA. Mr. Picillo commented that the deed would not be enforced because it is considered private.

The Board had no further questions. Mr. Granese noted the motion was still on the table.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted to close the public hearing.

Mrs. Roach noted the attorney suggested that section j be removed so that the ZBA did not have to make interpretations with regard to deeds and covenants. Mr. Mackey noted the deeds typically reference the covenants, but it is not the purview of the ZBA to interpret private covenants.

Mr. Hopfgarten inquired if this wording is removed, will a deed still be required to be submitted with the application? Yes it will; it is part of the submission checklist. Mr. Hopfgarten read the change to mean that yes, the Board has the deed, but the deed does not mean anything other than proof of ownership. Mr. Mackey said that is typically the case. The deed is used to make sure that the applicant is either the owner, or has permission to act on the owner's behalf. Mr. Hopfgarten indicated his concern is that short of language that references looking at the deed and using the information on the deed, that the ZBA would have jurisdiction. Mr. Mackey reiterated the purpose of the deed is to document the ownership of the property. Mr. Hopfgarten wondered if the ZBA had the responsibility, covenants aside, to enforce deeded restrictions when the ZBA is focused on making sure that the use does not rise to the level of a commercial use. Mr. Mackey said he would run this by the town's attorney and see if there is something that should be in the ordinance to reference the deed.

Mr. O'Connor felt this should be sent back to legal to clarify the term "deed". Mr. Sioras noted that each of the amendments need to be voted upon separately. Mrs. Roach felt if the Board wants legal review again, then this hearing should be continued. Mr. Sioras noted that only the covenant portion of the amendment would need to go to legal review, so the other amendments could be voted upon, and if approved could be forwarded to Town Council.

Motion by Roach, seconded by Picillo to reschedule the public hearing to June 17, 2009, for the following sections of the Zoning Ordinance: 165-45.D.2.J; 165-45.1.C.2.J and 165-46.B.2.J.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted in favor.

Motion by Roach to amend Article VI, Section 165-45.D.2, Medium High Density Residential (MHDR), subparagraph "d" as noted, seconded by Hopfgarten.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted in favor.

Motion by Roach to amend Article VI, Section 165-45.C.2, Medium High Density Residential District II (MHDR II), subparagraph "d" as noted, seconded by Hopfgarten.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted in favor.

Motion by Roach to amend Article VI, Section 165-46.B.2, Medium Density Residential District (MDR), subparagraph "d" as noted, seconded by Hopfgarten.

Picillo, Chase, Roach, Hopfgarten, O'Connor, Choiniere, and Granese all voted in favor.

Workshop – Proposed Zoning District Changes

Mr. Granese advised the Board would now be entering a workshop to discuss potential zoning district changes; this workshop would not be televised.

Motion by Choiniere, seconded by Roach to enter a workshop. The motion passed with all in favor.

The Board took a short break. Following the break the Board was provided with a legal opinion from town counsel with regard to an outstanding opinion.

Mr. Granese inquired if the Board had any comments or suggestions with regard to the proposed changes?

Mr. O'Connor noted abutting properties are not listed. Did they not request to have their lots changed? Mrs. Roach said they wanted to eliminate spot zoning. The changes are based on specific requests that have been received. They are attempting to make the zones more conforming. Mr. O'Connor said the properties on South Main Street, on the west side are not listed as potential changes. He felt it would be more appropriate to change everything. Mrs. Roach noted the Board members should feel free to add to delete to proposed changes.

Mr. Sioras used Parcels 37111 to 37112 as an example. Did the Board feel it was appropriate to remove 37113 from the list? Mr. Hopfgarten thought it might be okay to remove everything in between. It looks like an attempt to connect one business to the zone. He would hesitate to create more non-conforming uses. He is okay with stopping at 37112. Does the Board want to create that many non-conforming uses to take care of the one on the end? Mr. Sioras said if the lots are changed to General Commercial, it may infringe on some of the residential areas. The area of the rotary [Danforth Circle] has all grandfathered uses. That area has the potential to have some attractive uses, especially if

some of the lots are combined. Requests have been made from Copeland, the Lobster Claw, Thornton Manufacturing and Reynolds to change to General Commercial.

Mr. Picillo asked how many of the parcels contain existing businesses but are listed as residential lots? Mr. Sioras said about half. Some still retain the single family residential use. Mr. Hopfgarten asked if the Board should infringe on the homeowner's right of use? Mr. Sioras advised each homeowner would be notified if their lot is under consideration for change. If the homeowner attends the public hearing and indicates they don't want the lot to change, the Board will consider that request. Mr. Picillo wanted to make sure the homeowner had some recourse. Mrs. Roach noted nothing changes until the lot is sold. Mr. Hopfgarten asked if he owned a home on a parcel that was changed from residential to general commercial, and he wanted to expand his home and did not meet the criteria under the general commercial provisions, he would then need to go get a variance. Mr. Sioras noted if the use is permitted under the zone, a variance would not be required. Mr. Granese noted that if the homeowner states during the public hearing that they do not want the zoning of their lot to change, the Board can decide at that time to remove the lot from the proposed list of changes. Mr. Hopfgarten noted if that breaks the chain of properties to be changed, it would create holes and the Board would then need to make a decision as to whether it wants to approve the change or not. There needs to be connectivity and the Board will need to decide.

Mrs. Roach asked that the Board be provided with the list of parcels that have requested changes in writing. Mr. Sioras suggested that maybe the Board needs to look at the strips of the zone. Mr. Picillo felt comfortable with the proposed changes, so long as the homeowner had recourse if they were not in agreement with the zoning change. The homeowner needs to be able to present their individual case.

Mr. Granese noted this discussion has already been postponed once so that Board members could look at the properties. If the Board is comfortable, it can move forward to public hearing and take input from the affected people. Then the Board can make a decision. If six of the homeowners say yes and one says no, then the Board will need to decide if the change is in the best interest of the town as a whole.

Mr. O'Connor wanted to keep it all together and maybe add some more properties to keep the zones in a sequence. There are also areas in town that may be changed to a TIF district; that will increase the value of properties in those zones and may make it more attractive for these residents. It was noted those lots are already zoned commercial. Mr. Picillo felt the changes suggested were reasonable and that it would be okay to move forward and see who wants it and did not want it. Mrs. Choiniere agreed.

Mr. Picillo wanted to make sure that the Board was being fair throughout Derry. The Board is not penalizing one political district over another by these proposed changes. Mrs. Roach agreed and said the suggested changes are to equalize the existing zoning. The Planning Board has, in the past, been accused of spot zoning. The proposed changes create more fluid zones, especially near the traffic circle. If water and sewer are added to the area near Ryan's Hill, and this change goes into effect, it will make those lots more valuable. Mr. Picillo said his concern is that he did not want it to seem the Board was making unequal changes. Mrs. Roach noted most of the proposed changes are along the By-Pass, with the exception of Pinkerton Street.

Mr. Hopfgarten noted there are gaps along South Main Street, should the whole By-Pass be rezoned? It may make sense to do that if there are only a few residential uses left along South Main and Rockingham Road. Mrs. Robidoux commented that until the zoning uses are changed in the zones, there might be a lot of used car dealerships that would spring up as a result of that kind of change. A portion of South Main Street is part of the old village area and that type of historical character should be preserved. Does the Board want the upper end of Ryan's Hill to continue down to the rotary?

Mr. Granese suggested moving forward with the proposed changes and seeing what the property owners say. Mr. Hopfgarten stated, with respect to the uses in the General Commercial zones, it may be beneficial to look at the uses at the same time these changes are made. Mr. Sioras noted the Board has had these zoning request changes for a while and Mrs. Roach has worked hard on the proposal. Mrs. Roach indicated if the Board felt the uses also needed to be reviewed, it might be prudent to do that to make sure the changes are done correctly. If that is the case, then the Board should at this time, only deal with the proposed changes for lots that had the request submitted in writing. The Board can then look at the remainder of the list and the uses following that. Mr. Sioras commented the Board is updating the Master Plan and one of the recommendations in the revised plan is to review uses in particular zones. The Board could look at the parcels, send out the legal notices, and move forward with the public hearing. There is also a Land Use Subcommittee that was formed as a result of the Community Profile. That committee would like to look at the various uses that are allowed in the zones.

Mrs. Roach said some of the requests for change, in particular The Lobster Claw and Mr. Barka, have asked for the change more than once. It is not fair to put them off any longer, now that the Board has time to properly review the requests.

Mr. Sioras confirmed that only the owners of the lots suggested for change would receive a notice by certified mail of the public hearing. For Zoning Ordinance changes, the abutters of those lots are not notified.

Mr. Granese confirmed the Board would move forward at this time to discuss zone changes only for those lots which had zone request changes submitted in writing.

Motion by Roach, seconded by O'Connor to bring to the Board the parcels that had provided a written request for rezoning. Those property owners will be notified in writing that the Board is considering their request. All members voted in favor.

Mr. Sioras noted that the Community Survey responses indicated that residents wanted the Board to look at the various uses that are allowed in each zone and to see if they are still appropriate.

Motion by Choiniere, seconded by Hopfgarten to adjourn. The motion passed in favor and the meeting stood adjourned at 8:07 p.m.

Minutes prepared by Elizabeth Robidoux, Planning Clerk.

Proposed Zoning Ordinance Changes

Section 165-45 Medium-High Density Residential District (MHDR)

A. Permitted uses. The uses permitted within this district shall be limited to the following:

- Single family detached dwellings.
- Two-family dwellings.
- Multi-family dwellings.
- Accessory apartments (must also comply with the provisions of Section 165.25)
- Private schools. (Effective 5/10/02)

B. Area and dimensional requirements

1. Single family detached and two-family dwellings:

- a. Minimum lot area.
 - i. When served by municipal water or municipal sewer, the minimum lot area required shall be 15,000 square feet per dwelling unit.
 - ii. When served by both municipal water and municipal sewer, the minimum lot area required shall be 10,000 square feet per dwelling unit.
 - iii. When served by a community water system, the minimum lot area required shall be one acre (43,560 square feet) per dwelling unit.

b. Minimum lot frontage (Effective 11/21/03)

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot frontage required shall be 100 feet.
- ii. When served by a community water system, the minimum lot frontage required shall be 125 feet.

c. Minimum lot width

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot width required shall be 100 feet at the 35 foot front setback line, or 100 feet at the front lot line.
- ii. When served by a community water system, the minimum lot width required shall be 125 feet at the 35-foot front setback line.

d. Minimum yard depths.

- i. Front yard shall be 35 feet.
- ii. Side and rear yards shall be 15 feet.

2. Multi-family dwellings.

- a. Minimum lot area. Minimum lot area required shall be 3,630 square feet per dwelling unit.
- b. Minimum lot frontage shall be 150 feet. (Effective 11/21/03)
- c. Minimum lot width. Minimum lot width required shall be 150 feet at the front lot line.
- d. Minimum yard depths. Side and rear yards shall be 30 feet each
- e. Building height. Multi-family dwellings shall not exceed 60 feet in height.

3. Private schools.
 - a. Minimum lot area: One acre (43,560 square feet)
 - b. Minimum lot frontage: 125 feet. (Effective 11/21/03)
 - c. Minimum lot width: 125 feet at the front lot line and 125 at the thirty foot front setback line
 - d. Minimum yard depths.
 - i. Front yard: 30 feet;
 - ii. Side and rear yards: 20 feet
 - e. Building height. Building height shall be subject to the review and approval of the Planning Board.
 - f. Buffer zones. Before any building, parking lot, or driveway can be constructed that is non-residential in nature and abuts a residence or residential district, a buffer zone will be established with the following minimum characteristics:
 - i. It shall be a minimum of 50 feet wide.
 - ii. It shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the nonresidential use.
 - iii. Minimum plantings for the buffer zone shall be three rows of coniferous type trees running parallel with the residential district. These trees shall have a minimum height of six feet, and be planted at a distance of 12 feet to 16 feet on center. They shall be staggered so as to present a more dense buffer zone. Landscaping of the buffer zone shall be approved by the Planning Board.
 - iv. When the existing trees and understory vegetation in the buffer zone are sufficiently dense so as to provide screening at least as effective as the minimum plantings specified in paragraph (iii), above, the Planning Board may opt to require the maintenance of the existing vegetative buffer in lieu of cutting it down to accommodate new plantings, or may opt to require a combination of new plantings and existing vegetative buffer. (Effective 12/2/05)
 - v. Landscaping of the buffer zone shall be approved by the Planning Board. (Effective 12/2/05)
 - g. Off-street parking. Off-street parking shall be provided in accordance with the provisions of Chapter 170, Land Development Control Regulations.
 - h. Site plan review. All development or change or expansion of use of land or buildings for non-residential uses, whether or not such development includes a subdivision or resubdivision of the site, shall be subject to review and approval or disapproval by the Planning Board in accordance with the provisions of this chapter and Chapter 170, Land Development Control Regulations

C. Additional multi-family requirements

1. The maximum length of a multi-family dwelling shall not exceed 200 feet.

2. The minimum distance between multi-family dwellings shall not be less than 35 feet.
3. All multi-family dwellings shall be connected to the municipal water and the municipal sewer systems.
4. At least 15% of the gross lot area shall be provided for recreation space.
5. Off-street parking shall be provided in accordance with Chapter 170, Land Development Control Regulations.
6. Multi-family dwellings shall be constructed in accordance with the provisions of the (Effective 11/17/05)
 - International Building Code as amended by the State of New Hampshire and the Town of Derry;
 - International Plumbing Code as amended by the State of New Hampshire;
 - International Mechanical Code;
 - International Energy Conservation Code;
 - National Electrical Code (NFPA 70);
 - All codes as may be currently adopted by the State of New Hampshire Fire Marshall's Office and as contained in Chapter SAF-C6000-State Fire Code;

In addition the following codes and/or amendments are adopted by reference:

- International Residential Code;
- International Property Maintenance Code.

D. Special exception uses.

1. A special exception may be granted by the Zoning Board of Adjustment to allow an owner-resident to conduct a home business in her/his dwelling. Such home business shall be limited to the following professions or trades:

- a. Lawyer, doctor, clergyman, real estate agent, insurance agent, or similar recognized profession or business
- b. Artist, artisan or craftsman
- c. Tradesman or repairman

2. A request for only such special exception uses as are specified in subsection D.1 above may be granted, provided that the Zoning Board of Adjustment finds favorably with respect to each of the following conditions:

- a. The applicant claims the dwelling unit as her/his legal residence;
- b. The residential use was established by the applicant prior to the filing of the request for the special exception;
- c. The proposed home business will not be injurious, noxious, or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke vibration, noise, or other cause;
- d. The home business use will be conducted within the residential structure, or other existing structure, and will not exceed -25% -of the ~~total normal finished~~ living area of the dwelling unit. ~~For purposes of this provision, the normal living area shall be defined as that portion of~~

- ~~the residential structure consisting of living room[s], family room[s], den[s], bedroom[s], and laundry room[s];~~
- e. The home business use will not change the residential character of the dwelling, or the property;
 - f. Not more than one sign or other advertising device will be displayed on the property, and it will not exceed three square feet in surface area;
 - g. Not more than one person not residing in the dwelling unit will be employed on the premises at the same time;
 - h. Sufficient off-street parking will be provided for employees, clients, and customers. Where lot size permits, the parking will not be provided within 25 feet of the front lot line, nor within 10 feet of a side or rear lot line;
 - i. Not more than one home business use will be conducted on the property; and
 - j. ~~The proposed home business use will not, in any way, be contrary to any covenants or conditions contained in the deed to the property.~~
- 3. Special exceptions granted under this section are intended for use by the current residents and, as such, shall not be transferable to subsequent occupants. (Effective 10/7/99)
 - 4. Nothing in this subsection D shall be construed to allow sexually oriented businesses within this district.

Section 165-45.1 Medium-High Density Residential District II (MHDR-II) Eff 12/2/05

A. Permitted uses. The uses permitted within this district shall be limited to the following:

- 1. Single family detached dwellings.
- 2. Accessory apartments (must also comply with the provisions of Section 165.25)

B. Area and dimensional requirements

- 1. Single family detached dwellings:
 - a. Minimum lot area.
 - i. When served by municipal water or municipal sewer, the minimum lot area required shall be 15,000 square feet.
 - ii. When served by both municipal water and municipal sewer, the minimum lot area required shall be 10,000 square feet.
 - iii. When served by a community water system, the minimum lot area required shall be one acre (43,560 square feet).
 - b. Minimum lot frontage
 - i. When served by either municipal water or municipal sewer, or by both, the minimum lot frontage required shall be 100 feet.
 - ii. When served by a community water system, the minimum lot frontage required shall be 125 feet.
 - c. Minimum lot width

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot width required shall be 100 feet at the 35 foot front setback line, or 100 feet at the front lot line.
 - ii. When served by a community water system, the minimum lot width required shall be 125 feet at the 35-foot front setback line.
 - d. Minimum yard depths.
 - i. Front yard shall be 35 feet.
 - ii. Side and rear yards shall be 15 feet.
- C. Special exception uses.
 - 1. A special exception may be granted by the Zoning Board of Adjustment to allow an owner-resident to conduct a home business in her/his dwelling. Such home business shall be limited to the following professions or trades:
 - a. Lawyer, doctor, clergyman, real estate agent, insurance agent, or similar recognized profession or business
 - b. Artist, artisan or craftsman
 - c. Tradesman or repairman
 - 2. A request for only such special exception uses as are specified in subsection C.1 above may be granted, provided that the Zoning Board of Adjustment finds favorably with respect to each of the following conditions:
 - a. The applicant claims the dwelling unit as her/his legal residence;
 - b. The residential use was established by the applicant prior to the filing of the request for the special exception;
 - c. The proposed home business will not be injurious, noxious, or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke vibration, noise, or other cause;
 - d. The home business use will be conducted within the residential structure, or other existing structure, and will not exceed -25% -of the ~~total normal~~finished living area of the dwelling unit. ~~For purposes of this provision, the normal living area shall be defined as that portion of the residential structure consisting of living room[s], family room[s], den[s], bedroom[s], and laundry room[s];~~
 - e. The home business use will not change the residential character of the dwelling, or the property;
 - f. Not more than one sign or other advertising device will be displayed on the property, and it will not exceed three square feet in surface area;
 - g. Not more than one person not residing in the dwelling unit will be employed on the premises at the same time;
 - h. Sufficient off-street parking will be provided for employees, clients, and customers. Where lot size permits, the parking will not be

provided within 25 feet of the front lot line, nor within 10 feet of a side or rear lot line;

- i. Not more than one home business use will be conducted on the property; and

- j. ~~The proposed home business use will not, in any way, be contrary to any covenants or conditions contained in the deed to the property.~~

- 3. Special exceptions granted under this Section are intended for use by the current residents and, as such, shall not be transferable to subsequent occupants. (Effective 10/7/99)
- 4. Nothing in this subsection C shall be construed to allow sexually oriented businesses within this district.

Section 165-46 Medium Density Residential District (MDR)

A. Permitted uses. The uses permitted within this district shall be limited to:

- 1. Single family detached dwellings, in the form of conventional subdivisions
- 2. Manufactured housing subdivisions
- 3. Accessory apartment
- 4. Campgrounds
- 5. Production or sale of farm produce by residents of the district. The production or sale of farm produce, as permitted above, shall be allowed, provided that such use is not injurious, noxious or offensive to the neighborhood.
- 6. Community-oriented recreational facilities which facilities provide guidance and promote the health, social, education, physical, vocational and character development of boys and girls, with appropriate related social gatherings, child care, appropriate fund raising events and adult programs, such as but not limited to Community Centers, Girls' Clubs, Boys' Clubs, YWCAs and YMCAs.

B. Special exception uses.

- 1. A special exception may be granted by the Zoning Board of Adjustment to allow an owner-resident to conduct a home business in her/his dwelling. Such home business shall be limited to the following professions or trades:
 - a. Lawyer, doctor, clergyman, real estate agent, insurance agent, or similar recognized profession or business
 - b. Artist, artisan or craftsman
 - c. Tradesman or repairman
- 2. A request for only such special exception uses as are specified in Sub-section B.1 above may be granted, provided that the Zoning Board of Adjustment finds favorably with respect to each of the following conditions:

- a. The applicant claims the dwelling unit as her/his legal residence;
 - b. The residential use was established by the applicant prior to the filing of the request for the special exception;
 - c. The proposed home business will not be injurious, noxious, or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke vibration, noise, or other cause;
 - d. The home business use will be conducted within the residential structure, or other existing structure, and will not exceed -25% percent of the ~~total normal~~finished living area of the dwelling-unit. ~~For purposes of this provision, the normal living area shall be defined as that portion of the residential structure consisting of living room[s], family room[s], den[s], bedroom[s], and laundry room[s];~~
 - e. The home business use will not change the residential character of the dwelling, or the property;
 - f. Not more than one sign or other advertising device will be displayed on the property, and it will not exceed three square feet in surface area;
 - g. Not more than one person not residing in the dwelling unit will be employed on the premises at the same time;
 - h. Sufficient off-street parking will be provided for employees, clients, and customers. Where lot size permits, the parking will not be provided within 25 feet of the front lot line, nor within 10 feet of a side or rear lot line;
 - i. Not more than one home business use will be conducted on the property; and
 - j. ~~The proposed home business use will not, in any way, be contrary to any covenants or conditions contained in the deed to the property.~~
3. Special exceptions granted under this Section are intended for use by the current residents and, as such, shall not be transferable to subsequent occupants.
 4. Nothing in this sub-section B shall be construed to allow sexually oriented businesses within this district.

C. Single family detached dwellings, in conventional subdivisions

1. Minimum lot area

a. The minimum lot area required shall be one acre, or larger as shall be determined by the soils based lot size determination provisions of Chapter 170, Land Development Control Regulations.

b. This requirement shall not be applicable to any legally existing or approved lot containing at least 25,000 square feet and having a width of at least 125 feet at the 35-foot front setback line, and having frontage of at least 125 feet, provided that said lot meets the requirements of the Water Supply and Pollution Control Division of the New Hampshire Department of Environmental Services. (Effective 11/21/03)

2. Minimum lot frontage: The minimum frontage required in this district shall be 125 feet. (Effective 11/21/03)
3. Minimum lot width. The minimum lot width required in this district shall be 125 feet at the thirty-five foot front setback line, or 125 feet at the front lot line.
4. Minimum yard depths: The minimum front yard shall be 35 feet; the minimum side and rear yards shall be 15 feet.

D. Manufactured housing subdivisions —

1. Housing types permitted. Manufactured housing subdivisions may contain manufactured and pre-site built housing, as defined in this chapter, as well as conventional site-built housing.

2. Limitation. Manufactured housing subdivisions shall be limited to single family detached dwellings.

3. Provisions. The area and dimensional requirements for individual lots within a manufactured housing subdivision shall be the same as those which apply to conventional single family subdivisions in this district. [See sub-section C.1, 2, and 3.

4. Manufactured housing construction standards

All manufactured housing units placed within a manufactured housing subdivision after the effective date of this chapter shall be certified as being constructed in accordance with the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974.

E. Campgrounds. Nothing herein shall prevent land from being utilized, maintained, or operated as a recreational campground, provided that the campground conforms to the regulations of the State of New Hampshire and meets the following requirements:

1. Operation. All campgrounds shall be permitted to operate only from May 1 through October 31.

2. Access. Access to the campgrounds shall be from a state highway. Before any campground can be constructed, entrance and exit roadways shall be established with the following minimum characteristics:
 - a. They shall be a minimum of 25 feet wide.
 - b. They shall be no closer than two 250 feet from any existing residence or center line of any existing residential curb cut, whichever is closer.
3. Sites and facilities. Campsites and facilities shall be no closer than 1,000 feet from an existing residence.
4. Buffer zone. Before any campground can be constructed, a buffer zone of 500 feet from the lot lines for the entire perimeter of the parcel shall be maintained in its natural state. In the absence of natural screening, additional buffer zone requirements may be imposed by the Planning Board.
5. Signs. Campground signs shall conform to a maximum size 10 square feet, and be limited to one sign for each entrance.
6. Plan review: Review and approval by the Planning Board shall be required in accordance with Chapter 170, Land Development Control Regulations.
7. Camping spaces. Each camping space shall:
 - a. Contain a minimum land area of 2,000 square feet, not including roads and access drives.
 - b. Have, as part of the two thousand square feet area, a minimum of 200 square feet for off-street parking.
 - c. Be at least 40 feet wide.
8. Service facilities. A service building, or buildings, for toilets and shower facilities shall be provided. No camping space shall be more than 500 feet from a service building.
9. State approval. Prior to the granting of an Occupancy Permit, written approval of the State Board of Health shall be furnished, certifying that all facilities for water supply, toilets, sewage disposal, and solid waste disposal comply with the State Board's requirements.
10. Accessory buildings.
 - a. Permitted accessory buildings in a campground shall be limited to the following:
 - i. An office for the manager and staff of the campground, and an office providing adequate first aid facilities, both of which may be in a dwelling or service building.
 - ii. A service building, not to exceed 1,500 square feet of gross floor space, which may contain equipment and supplies, recreation rooms, and a shop for convenience goods primarily

for the occupants of the campground, provided that no advertising device is visible from a street or from adjacent lots.

iii. Service buildings to accommodate bathers at beach or pool sites.

b. Additional requirements may be imposed by the Planning Board for any other buildings or structures incidental to the recreational aspects of the campground, including commercial recreational facilities as defined in this chapter.

11. Nothing in this subsection E shall be construed to permit a sexually oriented business within a campground.