

APPROVED
TOWN OF PELHAM
PLANNING BOARD MEETING MINUTES
April 1, 2019

Chairman Roger Montbleau called the meeting to order at approximately 7:00pm.

PLEDGE OF ALLEGIANCE

Secretary Cindy Kirkpatrick called the roll:

PRESENT: Roger Montbleau, Paul Dadak, Tim Doherty, Jim Bergeron, Blake Clark, Cindy Kirkpatrick, Selectmen Representative Hal Lynde, Alternate Derek Steele, Alternate Paddy Culbert, Alternate Richard Olsen, Alternate Samuel Thomas, Alternate Bruce Bilapka, Planning Director Jeff Gowan

ABSENT: None

MEETING MINUTES

After the proposed amendments were made Mr. Bergeron believed that both the written meeting minutes and tapes were preserved for the record. Mr. Montbleau replied yes and noted that the minutes were a summary of the meeting and not verbatim. Mr. Bergeron knew that the Statute referenced 'minutes' and not necessarily 'tapes' but guessed 'tapes' also counted because they were more accurate and verbatim. Mr. Montbleau said the Town has CDs. Mr. Culbert understood the Statute accepts minutes not 'tapes'. Mr. Montbleau noted the minutes are voted on by the Board for the record.

March 18, 2019

MOTION: (Lynde/Bergeron) To approve the March 18, 2019 meeting minutes as amended.

VOTE: (7-0-0) The motion carried.

OLD BUSINESS

Case #PL2018-00033

Map 35 Lot 7-106

McDONALD'S USA LLC - 113 Bridge Street - Site Plan Review for the proposed redevelopment of the McDonald's Restaurant which includes upgrades to the existing drive-thru features, renovations to the building & minor site improvements

Representing the applicant was Eric Dubrule of Bohler Engineering. He came forward and stated they were last in front of the Board December 3, 2018 to review the proposed renovations to McDonald's. That hearing was continued to provide them time to work through a comment brought forward by an abutter to the rear. He said Mr. Gerard Boucher (8 Willow Street) had brought up the concern that people were trespassing through McDonald's property and through his property to access the street (Willow Street). It was noted that Mr. Boucher was seated in the audience. Mr. Dubrule stated they had worked with Mr. Boucher over the past few months to come up with a solution that he believed was acceptable to Mr. Boucher. The final solution was to add a 6ft. high chain link fence with privacy slats around the rear of the property. The plans provided to the Board reflect that fence; the comment for the privacy slats was added as of Friday, March 29, 2019. Mr. Dubrule told the Board that McDonald's was committed to adding those privacy slats to the plans.

Mr. Bergeron thanked McDonald's Corporation and thanked Mr. Dubrule for working out the situation with the neighbors. He said if Mr. Boucher had nothing negative to say he would support the acceptance of the plan.

Mr. Gowan suggested the applicant provide a recap of the proposed changes. Mr. Dubrule stated the proposal was a renovation project of the building's exterior, interior (bathroom & dining room), menu system/order board and the entire site will be brought into current accessibility regulations. Traffic circulation and parking count will remain the same.

Mr. Culbert asked if the colors would change. Mr. Dubrule believed the proposal was for a neutral 'taupe' color; the entire face of the building would be renovated. Mr. Culbert questioned if 'clown' colors would be used. Mr. Dubrule replied they wouldn't be using any bright reds or yellows.

Mr. Gowan recalled the florescent lights along the roofline would be removed as part of the new design. Mr. Dubrule replied the existing building's white roof beams would come off completely.

Mr. Doherty inquired if the roof façade in the drive-thru area would stay at the same elevation. He noted there were lenses that currently hung down by approximately eight inches and were knocked down by trucks going through. Mr. Dubrule understood that the lighting was proposed to be 'flush' with the new trellis.

Mr. Bergeron questioned if plan sheet C3 was the existing condition. Mr. Dubrule said sheet C3 was essentially the demolition plan showing the existing conditions. Mr. Bergeron saw that there was an improvement with the handicap parking and said the proposed delineation was much better. Mr. Gowan pointed out that the crosswalks were extended from the handicap parking to the front of the building.

Mr. Montbleau opened the discussion for public input. No one came forward. He brought the discussion back to the Board.

MOTION: (Clark/Doherty) To approve the plans submitted.

VOTE: (7-0-0) The motion carried.

Case #PL2019-00003

Map 38 Lot 1-150-6

DEPUTAT, Christopher - 14 Spaulding Hill Road - Proposed 4-Lot Subdivision

The applicant Christopher Deputat came forward with his representative Doug MacGuire of the Dubay Group.

Mr. Gowan called the Board's attention to the fact that Steve Keach of Keach Nordstrom (Board's engineering review firm) letter dated March 29, 2019 had been provided for review. Mr. Montbleau asked Mr. Keach to come forward and discuss his letter

Mr. Keach commented he was not in attendance at the hearing when the applicant initially presented a plan for a 4-lot subdivision. He believed a lot of the Board's concerns may have been taken care of with the amended proposal by virtue of it now being a 3-lot subdivision. He had an opportunity to review the 3-lot subdivision plans that were last revised March 11, 2019. He noted the application each of the three lots were pending New Hampshire Department of Environmental Services Subdivision approval. He said there were no zoning comments as he didn't see any inconsistencies with applicable Pelham's Zoning. Mr. Keach noted the Planning/Design matters 1-4 were grammatical or notational in nature. He recommended an approval be conditional upon installation of all the monuments to be set on the plan. He understood work had commenced on the application prior to the Board's recent adoption of the amended subdivision regulations, which now

require site specific soil survey mapping; the old regulations did not. He believed the applicant's consultant may have a waiver request for that and had no opposition to the Board granting a waiver for site specific soil survey mapping.

In reference to sheet 5 of 6, Mr. Doherty saw that one of the septic tanks appeared to be within the 75ft. well radius and the leach fields were outside of it and wanted to know if that was okay. Mr. Keach replied the tank could be as long as the pipe extending from the building to the tank was SDR35 or greater rating. The tank must be 50ft. from the well, the leaching portion of the system (or anything that discharges septic effluent to the ground must be 75ft. He said it had been adhered to on the plan.

Mr. Bergeron stated he had attended a seminar with the Department of Environmental Services for his licensing. He understood the new water well rules were going to require the well to have an extended casing because of the septic tank being within the well radii. He asked what would happen with the existing well. Mr. Keach replied the existing well would be grandfathered because neither the existing well or septic would be changed as a result of the proposal. He noted the current version of Chapter ENVWS1000 of the Code of Administrative Rules had been modified as Mr. Bergeron described and pointed out the modification was for new construction. The existing dwelling, well and septic system that will be on the reduced lot contemplates no new construction of those elements. If the septic system failed and needed replacement, the owner would need to relocate the system as to be outside of the applicable radius or modify the well accordingly. Mr. Bergeron asked if the existing system design was on file. Mr. Keach assumed so. Mr. Bergeron said it would have to be proved out. He understood that the system for the proposed duplex would need to be sized for five bedrooms. Mr. Keach stated that aspect would need to be handled by the Health Department/Building Department at the time the conversion was made. Mr. Bergeron felt the plan should indicate the system would fall under the new rules. Mr. Keach believed the Health Officer would deal with that aspect when the septic design is reviewed. Mr. Bergeron was all set with the approval of the subdivision but wanted to make it conditional that the criteria be met. Mr. Keach believed that was reasonable.

Mr. Bergeron heard there was concern about water availability on the hill and asked how it should be handled. Mr. Keach replied the Board opted to require site specific lots the applicant would have to come back to the Board with any changes.

Mr. Lynde wanted to know if the lot containing the single-family would be converted to a duplex. Mr. MacGuire replied that would be the potential future opportunity; however, as of right now they planned to maintain it as a single-family home. He said they were designing the overall site to accommodate a duplex, but it also conforms as a single-family by default. Mr. Lynde wanted to know if the owner had to come back in front of the Board if they decided to convert from a single-family to a duplex. Mr. Gowan replied there would be a subdivision with the new configuration; the remainder would qualify for a duplex without having to come back to the Board.

Mr. Bergeron asked for further clarification of the soil mapping. Mr. Keach explained that site specific soil type mapping in this case wouldn't be used to confirm anything that hadn't already been confirmed. He said to make the lot eligible for two-family construction (under Zoning) it would have to be two acres (55,000SF). The gross and net area on the site are identical as there are no wetlands on the site and none of it has an easement or contains slopes (greater than 25%) or a flood hazard area. He noted there had been eight test pits dug and considered them in the category of moderately well-drained soil. There is bedrock in places at depths of 48"; of the eight pits, 6 had no ledge to report at depths of 66"-78". He said it was a pretty good piece of land. Regarding the two-family, he assumed the applicant made the plan recognize accommodations for a two-family because it did so by default. He noted the well radius increased from 75ft. to 100ft. that was necessary for three-bedroom units.

Mr. Culbert wanted to know how long the plan would be good for; when the applicant would need to re-apply if a duplex wasn't built. Mr. Gowan stated the approval for subdivision of land was good for one year; the

conversion to duplex doesn't expire. Mr. Keach said it wouldn't expire unless the Zoning Ordinance changed. Mr. Culbert asked if the well would need to change if both the septic and leach changed for a six-bedroom. Mr. Keach answered probably not; however, they may want to add a bentonite seal to overcome the limitation that Mr. Bergeron suggested. Mr. Culbert wanted to know if the volume of water had to change. Mr. Keach believed it would be tested to determine the yield.

Mr. Montbleau read the submitted waiver request aloud to Section 202-3.C.3 (B)(4) of Land Use Regulations – to eliminate requirement for site specific soil mapping.

MOTION: (Doherty/Clark) To accept for consideration, the waiver request to Land Use Regulations – Section 202-3.C.3(B)(4) – Site specific soil mapping.

VOTE: (7-0-0) The motion carried.

Mr. Clark commented this was the first time the Board reviewed the proposed version of the plan. In his mind, if the Board approved it during the meeting, it would be a one-day approval, which they didn't typically do. He felt the proposal qualified as a minor subdivision given it had substantially changed from the previous plan they viewed. He wanted to make sure the Board could approve the plan (tonight) without violating their protocol. Mr. Keach noted under the terms of the updated Subdivision Regulations, the proposal classified as a minor subdivision. Mr. Montbleau asked the Board's opinion. Mr. Doherty didn't have a problem doing so, although they still had to open the discussion to the public and vote on the waiver, etc.

(The original plan submission was accepted for consideration March 4, 2019. This being a newly proposed plan the Board made an additional motion)

MOTION: (Bergeron/Dadak) To accept the plan for consideration as presented.

VOTE: (7-0-0) The motion carried.

Mr. Montbleau opened discussion to public input. No one came forward.

Mr. Doherty thanked the applicant for reconsidering their original 4-lot proposal and bringing forward a 3-lot proposal. He liked the way the (lot) lines were drawn and the well radii could easily slide back into the lot if needed. He felt the applicant did a great job with the plan.

Mr. Montbleau echoed Mr. Doherty's comments and felt the applicant had done a great job remodeling the plan over the first submission.

MOTION: (Doherty/Dadak) To approve the waiver request to Land Use Regulations – Section 202-3.C.3(B)(4) – Site specific soil mapping.

VOTE: (7-0-0) The motion carried.

For clarity of the record, Mr. Gowan confirmed that the waivers submitted at the last meeting were being withdrawn. Mr. MacGuire answered yes.

MOTION: (Bergeron/Clark) To accept the plan for approval as it was (submitted).

VOTE: (7-0-0) The motion carried.

Mr. Montbleau stated that the Board approved the plan. Mr. Lynde confirmed that the wording of the motion indicated the Board's approval of the plan. Mr. Bergeron stated his motion was to approve the plan. There was no disagreement with the stated motion; the plan stood as approved.

NEW BUSINESS

Case #PL2019-00004

Map 29 Lot 7-27-1

CROSSROADS BAPTIST CHURCH - 43 Atwood Road - Preliminary Site Plan of proposed 40ftx60ft building

Ms. Kirkpatrick read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Crossroads Baptist Church representative Attorney John Dennehy and Mr. Mark Giampa came forward along with Mr. Peter Zohdi of Herbert Associates. Attorney Dennehy believed Mr. Gowan had a question as to whether the proposal would be a phased project. He said the presentation was a site plan for a stand-alone project; although there were some ideas that there could be a separate project later. Mr. Montbleau questioned if the building would be located within a residential district. Mr. Zohdi answered yes. Mr. Montbleau asked if a Variance was needed. Mr. Zohdi stated he spoke with Mr. Gowan and believed they needed a Special Permit not a Variance. He provided the Board with a copy of Zoning in relation to such. He said it was a simple site plan. He understood there were some questions pertaining to the Fire Department and understood they would need to meet with them and provide certain information.

For clarity of the record, Mr. Gowan noted Mr. Zohdi provided the Board with the chart of uses (Section 307-18) for Special Exception. He further clarified that the Zoning Board issues Special Exceptions and according to Zoning would need to seek such. Although the applicant would need to go in front of the Zoning Board, he believed it was beneficial for them to hear from the Planning Board. He asked if the proposed building was pre-fabricated. Mr. Zohdi replied it would be a modular building and would provide the Board with specifications of such.

Mr. Doherty believed the applicant was already holding a Special Exception since the church and school would have already been granted such. He questioned when anyone had to get two Special Exceptions to do the same thing in Town. He said if they had built prior to Special Exceptions (being required) they would be grandfathered and wanted to know if they received one already if it would apply to enlarging what they already had. Mr. Gowan asked the Zoning Administrator Jenn (Hovey) Beauregard to review the records. He said if they already received a Special Exception for the school operation he would agree with Mr. Doherty; however, he didn't have the answer at this point. Mr. Giampa stated they currently had a kindergarten and K3 / K4.

Mr. Clark asked for clarification regarding the process for Special Exception. Mr. Gowan replied it would be the Zoning Administrator's call and would share those findings with the Board. From a historical perspective, Mr. Bergeron said for as long as he'd been a resident, school activity had always been allowed in the residential/rural district. He felt the Board should review the plan and said if it was determined that an already existing use needs another permission to have the same use it would be an undue hardship placed on the organization. He felt it was granted once, it should be granted in perpetuity. Mr. Culbert recalled the Zoning Board had already granted a Special Exception. Mr. Gowan replied it would be confirmed.

Mr. Dadak recalled during the discussion for the original modification to the site there was concern by some of the neighbors regarding runoff. He noted the proposal would add more impervious surface to the site.

Mr. Zohdi told the Board they had reviewed the existing condition of the site and had measured the driveway, parking, etc. He said at this time they were not addressing the existing detention pond. He told the Board they would provide the calculations for any additional drainage and impervious surfaces at the appropriate time as they were presently in front of the Board for a 'preliminary' discussion. He wanted to hear input from the abutters.

Mr. Clark commented the submission didn't provide a lot to evaluate. He felt he needed to educate himself further. Mr. Bergeron noted the proposed building would be the same type of modular-style building as was recently located at Pelham Memorial School ('PMS'). He asked Mr. Gowan if comments had been received from the Fire Chief. Mr. Gowan replied until there was more information to send, there was nothing for the Fire Chief to comment on. The Fire Chief would need to see the building detail. Mr. Bergeron measured the building at PMS and saw there was a 12ft. separation between the music room and handicap ramps that existed the building. He understood that was a governmental organization and didn't expect the proposed building to be treated any differently. He wanted to know what the Fire Chief wanted for a distance. Mr. Doherty pointed out that the Table in Article XI says public schools. He said the school building would have gone in front of the Zoning Board for a Special Exception. Mr. Bergeron said government institutions were exempt. Mr. Doherty said Zoning indicates 'public or private'.

Mr. Doherty saw an email from Mr. Gowan referencing a 'fire protection engineer' and questioned how the Fire Department determined they needed one if they hadn't seen anything from the applicant. Mr. Gowan replied that language was used for every non-residential building. He said it could well be that the modular already come with certification. He didn't want to substitute his observations for the Fire Department's review.

Mr. Bergeron questioned if the proposed structure and existing structure would be connected. Attorney Dennehy replied that wasn't their plan.

PUBLIC INPUT

Mr. Michael Grant, 6 Dutton Road listed his questions and concerns for the Board's consideration: 1) proposed number of students for the school, 2) concern regarding sewage (given the proximity of the brook), 3) traffic (as it currently backs up along Dutton Road), 4) traffic counts, and 5) noise, as the operation was currently loud. There is a band that practices a few nights per week, and he's called the Police. He stated they had calmed down since the Police were called. He realized the band didn't have much to do with the proposed school but commented it might. He said there was a current problem; it wasn't just on Sunday mornings. Mr. Grant didn't know how the school would affect the sound in the neighborhood. He's spoken to people in the area and learned they (activities on site) were heard up and down Dutton Road. He believed a school would work at the location if they had the parking, safety etc. and it was done right and proper. He reiterated his concern regarding sewage because of the proximity of the brook.

Mr. Andrew Bourdon, 5 Dutton Road was aware that the applicant should be able to do what they want with their property. He wanted to know about the septic situation and noted he didn't have any problems with the existing building. Regarding noise, he said he hadn't heard as much as (the neighbor) across the street and stated it had been better in the last six to eight months. At this time, he offered his general support.

No one else came forward. Mr. Montbleau brought discussion back to the Board but allowed the applicant the opportunity to respond.

Attorney Dennehy was confident they could achieve the septic. In terms of noise, he said the school was not part of the band. The operation would be run during school hours and have its own Certificate of Occupancy with a specified maximum number of students. He believed the abutters raised good points that would be addressed. Mr. Montbleau asked how many students were anticipated. Mr. Giampa replied currently it was

roughly one hundred. Attorney Dennehy added at maximum, but it wouldn't happen overnight. Mr. Montbleau asked for the hours that student would be present. Mr. Giampa replied 7:30am-3pm.

Mr. Lynde said one issue was runoff and the retention pond, which he believed would be discussed as they went through the review process. Mr. Montbleau understood once the building goes in there would be more impervious surface. He believed once the engineering was done for the site the concern would need to be addressed.

Ms. Kirkpatrick raised her concern regarding how pick-up/drop-off would be addressed. Mr. Giampa explained the school hours would be staggered and include staging. They had an entrance and exit at two different locations within the parking lot. Ms. Kirkpatrick wanted to know if all the vehicles would fit on the property during pick-up/drop-off times. Mr. Giampa replied they had ample parking to be able to get people into their lot.

Mr. Gowan recalled when the applicant came in to 'beef up' their parking lot the Board had Keach Nordstrom review the sizing of the detention area. He said once there is an actual application submitted to the Board for consideration and with the benefit of Fire Department review, the Board may want Mr. Keach to conduct a cursory review.

Mr. Bergeron said it appeared a portion of the proposed building was over the existing parking lot. Mr. Gowan said the plan showed 'additional impervious over an area that was not impervious'. Mr. Giampa commented it would replace the playground. Mr. Zohdi added they weren't requesting additional parking. He said drainage would be included in their application information. Attorney Dennehy didn't see where drainage (from the building) would reach the point of interfering or cause a problem with the current drainage. He commented in a lot of the school designs in Massachusetts they recycle roof drainage water. Mr. Doherty saw that the proposed building appeared to be shown where the existing playground and shed are located. Mr. Zohdi stated the area was sandy soil.

Mr. Gowan suggested the applicant consider showing the new playground area and snow storage area. Currently he said it looked like snow was piled into the detention pond and wasn't sure it was the best management practice. Mr. Zohdi said the snow storage may be able to be in the area of the leach bed to get it out of the detention area.

It was noted that the proposal was submitted as a 'preliminary' plan for discussion only.

Attorney Dennehy understood the Board was looking for building specifications and drainage calculations. Mr. Bergeron added the Board wanted Fire Department review and comment. Mr. Clark stated the Board was waiting for the Zoning Administrator's research. Mr. Gowan invited the applicant to attend/participate with the meeting at the Fire Department.

The applicant thanked the Board.

Case #PL2019-00006

Map 22 Lot 236-1

LIVHOMES REALTY TRUST, George Kenney, Trustee - 1 Nashua Road - Proposed 2-Lot Subdivision – Preliminary Site Plan

Ms. Kirkpatrick read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

The applicant, Mr. George Kenney came forward with his representative, Mr. Peter Zohdi of Herbert Associates.

Mr. Montbleau referenced the Building Inspector's letter and saw a comment that the cost to renovate the building to meet the current building code would exceed the cost of constructing a new building similar in size. Mr. Zohdi stated there were two engineering reports included with the submission that both indicated the building is not suitable for commercial or residential use because it didn't comply with current building code.

Mr. Zohdi stated the parcel contained approximately 2.3 acres and the plan currently shows a two-lot subdivision. They are proposing six (2-bedroom) residential units (32ftx40ft) in the back parcel which will be served by Pennichuck Water. An architectural rendition of the units was submitted. The access driveway to the units enters from Nashua Road. Lot 7-236-1 is proposed to contain a (5,400SF) commercial building; the applicant is working to secure a tenant. Mr. Zohdi said he was seeking the Board's input.

In the submission, Mr. Lynde read concerns about snow loads, etc. with the existing building. He asked how long the building had been in place. Mr. Zohdi didn't know. Mr. Lynde believed it had been at the location possibly 200-250 years.

With a 'phase' project, Mr. Clark inquired if the Board had any way of guaranteeing both projects would get built. He questioned what would happen if only the residential portion was built, and the commercial portion was deemed not feasible. Mr. Gowan stated any time a project is 'phased' the Board needs to know what that 'phasing' is. He recalled the applicant indicating they would build both in the same timeframe. Mr. Kenney explained they would like to get four of the residential units under contract and sold to fund the commercial building. Mr. Zohdi reiterated Mr. Kenney's statement that they would start the commercial building once four of the residential units were built and sold. He felt that was a good guarantee. Mr. Clark's main concern was the two-lot subdivision, which made it so there were two separate projects that were not tied to a common lot or application. He added that a subdivision would create two legally defined parcels and wanted to know what would keep the owner from selling one or the other lot. Mr. Doherty heard Mr. Clark reference 'legal' and pointed out that one of the proposed lots contained 124ft. of frontage where 200ft. is required. Mr. Clark summarized his concern; what guarantee does the Board have that an entire proposal will be completed if they allow two (separate) lots. Mr. Doherty replied there were separate issues. He pointed out they don't allow subdivisions of land under the Mixed Use Zoning District ('MUZD'), the underlying district is Residential. He said the proposal in front of the Board was the subdivision of land with (one lot) lacking 200ft of frontage. Mr. Lynde didn't see how the proposal would work by doing a subdivision first.

Mr. Bergeron believed the Board should understand the history and intentions of the MUZD and why the proposal may not go along with the MUZD because it was an overlay to the Residential district. He said he was part of the MUZD committee; they understood there were existing lots in the Town center that were non-conforming. Provisions for such were made under Section 307-25-5 so non-conforming lots could be relaxed, but no where did they throw out the underlying zoning district. Mr. Bergeron said it wasn't the intention of the MUZD to take the center of Town and develop a project as the one being shown to the Board.

Ms. Kirkpatrick understood that multiple detached dwellings were not permitted in the MUZD, such as that being shown on the plan in front of the Board. She recalled there had been a project in front of the Board with multiple residential buildings that was required to change.

Mr. Gowan stated the MUZD belonged to the Board and although he read certain sections differently, he wouldn't challenge the Board. He didn't feel they would see the kinds of things the ordinance would like to see if the Board took the approach that he was hearing during the meeting. He noted the saving clause in the ordinance was that any discrepancy between the underlying residential district and the MUZD overlay district, the MUZD language shall apply. He said Section 307-25-4 allowed more flexibility than in the residential zoning district. Mr. Gowan was excited about the prospects of there being a restaurant in the front lot. Mr. Doherty said they (committee who worked on MUZD) specifically didn't put 'frontage' in the section that allows a relaxation. They didn't want someone subdividing a lot and having less than 200ft. of frontage. Mr.

Gowan noted pre-existing non-conforming lots wouldn't require zoning relief. Mr. Doherty said the subcommittee discussed the fact that they weren't going to allow subdivisions in the MUZD.

From the discussion, Mr. Lynde understood if the Board allowed the subdivision, the lot being created wouldn't qualify for the MUZD. Mr. Gowan felt any lot within the MUZD qualified for MUZD uses if the Board is satisfied with such. He believed the issue was whether the lot could be subdivided and, in the process, create a non-conforming lot in the underlying district. Mr. Lynde asked if it would qualify without the subdivision. Mr. Doherty reiterated Ms. Kirkpatrick's point that the project couldn't have individual dwelling buildings. From the point of view of seeing what could be developed, Mr. Lynde didn't see a problem with the proposed detached units if they look good and serve a good purpose.

Mr. Montbleau asked if the applicant would consider making the proposal one project. Mr. Zohdi said they absolutely would. Mr. Bergeron said the applicant had to realize the proposed lot shape (with six units) didn't have a clear/defined line of sight for ownership. He spoke about the fact that they didn't know what would go on the proposed 5,400SF or its loading or how the EDA would be handled. He added there was no consideration (of EDA) for private wells currently in use on adjacent properties. He said if they were all on Pennichuck Water it would be a different situation. Mr. Zohdi stated he knew the Board wanted him to do his work, including the loading calculation. He pointed out that the proposal was a preliminary plan and they were asking for 'conceptual' 'non-binding' input. He understood they would also have their submitted plan reviewed by Keach Nordstrom (Board's engineering review firm). Mr. Bergeron stated the Board was telling the applicant they didn't like the plan in front of them, and at the same time would not design it for them.

Mr. Zohdi discussed the nature of the building market and said there were certain projects that couldn't sell, therefore the builders wouldn't build them. Mr. Bergeron stated the ordinance (Section 307-25-3) reads: 'single, duplex or multi-family residential'. He said he couldn't change the black letter law in front of him by edict. Mr. Gowan share the language with Mr. Zohdi. Mr. Zohdi stated they had 'single' units. Mr. Bergeron stated they created the ordinance to relax the standards of all the non-conforming lots in the district, but at no time did they want to change the underlying residential district zoning requirements. He said since the proposal was new (development), he would have a hard time with multi-family structures on the lot as proposed. Mr. Zohdi understood the words 'single, duplex or multi-residential' to mean something different than Mr. Bergeron. Mr. Lynde said the language didn't say they could only have one single unit. He said the language says they could have single units, duplex units and multi-family units. Mr. Bergeron noted the ordinance states housing units can be above the business unit or adjacent to; it doesn't talk about multi-single units. He recalled when Pelham built multi-family units, which became unpopular very fast and zoning was repealed. He pointed out that the proposal was a conditional use permit and subjective by the Board. Mr. Bergeron commented that the applicant would need to stick to what was allowed in the underlying district. Mr. Zohdi understood that the Board would want to review all pertinent lot calculations. Mr. Bergeron noted that the ordinance states parking is to be at the back of the building, not in the front (as shown on the proposal). Mr. Zohdi replied he brought the preliminary plan to the Board for direction.

Mr. Doherty stated when they presented the MUZD to the public there was a 'prohibitive use' column he felt was beneficial to promoting it to the Town. He said when a project on Windham Road had problems/stumbling blocks and proposed multiple detached structures. At that time the Board discussed removing the 'prohibited use' column because if everything wasn't listed an applicant would probably be able to do it. The Board removed the 'prohibited use' column and by doing so Mr. Doherty believed they opened a 'can of worms' for applicants. He said in the entire Town one residential building is allowed per lot (Section 307-9) which was carried over when the MUZD was carried over. With the 'prohibited use' column being removed the Board had to periodically reference the underlying district language when plans come in. Mr. Doherty stated other applicants had been prohibited from doing what the applicant was requesting and believed they should stay consistent with zoning. Mr. Bergeron agreed with Mr. Doherty that the language leaned in the direction of prohibiting multiple single-standing units.

Mr. Clark discussed his concern that the full benefit of whatever was proposed in the zone is built out. Aside from the discussion regarding single units or multiple units, having a mixed-use structure there was a guarantee of the building being completed. He didn't see the same guarantee in the proposal being discussed and wanted to know the Board's recourse if only the stand-alone single-family units were built. He said the ordinance was there for the benefit of the Town, not the builder; although he understood it had to be both or a project wouldn't be built. He didn't know how to enforce having the total project built.

Mr. Doherty noted one of the sticking points on the plan was the label 'residential' (for the six units). He said they could have as many commercial or mixed-use buildings on the parcel as they wanted. Mr. Clark noted having one mixed-use building would satisfy his concern versus having one residential building. Mr. Doherty stated the current proposal didn't meet the standards of the ordinance or how it was promoted as a district. He suggested it might be time to review the district and possibly do away with it.

Mr. Montbleau spoke about the spirit of language in the ordinance and questioned how it could be further drafted to allow for development; otherwise it would only rely on the conversion of existing buildings. Mr. Doherty pointed out that the language doesn't 'require' a mix of uses, it 'allows' a mix. He said it doesn't allow individual detached dwelling units. He said they could have just apartment buildings or commercial buildings in the district. He reiterated both commercial and residential were 'allowed' not 'required'. Mr. Montbleau understood the applicant could tear the existing building down and construct a commercial building (i.e. restaurant) so the spirit of the ordinance for the Town center would be maintained. Mr. Doherty said they could also have an additional commercial building behind the restaurant, or a variety of commercial buildings. Mr. Montbleau said the dilemma was to tear the existing building down and construct an aesthetically pleasing structure that would balance the Town center and provide the applicant with a return. He felt it would be difficult to attract developers without having housing generating some of the profit, unless there was something other than a restaurant.

For discussion, Mr. Zohdi questioned if the Board's concern would be satisfied if the six structures had individual mixed-use such as one having a hair dresser, another having an engineer, etc. Mr. Doherty replied they could have as many commercial buildings/mixed-use buildings as the lot could hold regarding 'septic' use. He said they couldn't have detached residential buildings. Mr. Zohdi wanted confirmation that small businesses, such as having a hair dresser (or other small business) would be allowed in the detached units and conform with Zoning. No one offered confirmation. Mr. Clark said he would want to see an architectural design that would facilitate that type of professional operation. For him the key was the architecture because that's what would stay. Mr. Zohdi understood the Board would want to review the floor plan and architectural design.

Mr. Doherty recalled a proposal that came in front of the Board across from the cemetery (next to an autobody business) that submitted a plan with multiple buildings; both mixed-use and straight commercial. He said the Board allowed for multiple buildings but they've always specifically restricted residential. He said if a building is done with a 1st floor business and 2nd floor apartment, the footprint was smaller for the septic load.

Mr. Montbleau asked the Board what they propose for the applicant. Mr. Bergeron replied they shouldn't propose anything. He said the underlying residential district granted them the freedom of that district. If the applicant wants to try and conform to the MUZD, it was up to them to come in with a plan for the Board to accept. He believed it would be tough because the MUZD had to remain a sacred ordinance.

Mr. Lynde heard from the Board's comments that multiple units could be put on the lots if they weren't residential. He stated there was a need in Town for affordable housing. He noted the Town was looking forward to the renovation of the Sutton House (on Main Street across from the VFW) with a coffee shop and apartments. Regarding having six commercial 'pods' on the applicant's lot, he didn't know what type of business would move there to make them viable. Mr. Lynde believed the ordinance could be interpreted two different ways; the way the Board had tried to, or that there could be single-family units, duplexes etc. He

didn't feel it stated there could only be one. Mr. Lynde thought it would be beneficial for the Town to have affordable housing.

Mr. Doherty felt Mr. Lynde made valid points. He explained that the MUZD was set up to try to stop the Zoning Board from changing the center of Town through the Zoning Board process. He said the approval of the medical center was the last project of having the residential district being converted to commercial. After that building, a subcommittee was put together to discuss having a district that would give the center of Town a commercial look without losing the ability of still having residential. He said it was done specifically so the Zoning Board wouldn't have to get involved with the center of Town anymore. He said the ordinance wasn't created for workforce housing. Mr. Lynde replied it doesn't sound like it's very flexible. Mr. Doherty said the proposal wasn't in a bad spot being next to open lots and the funeral home; but it wasn't allowed.

PUBLIC INPUT

Mr. Paul Staniec, 4 Nashua Road felt the proposal was too densely populated and believed it would be made better if the number of units was reduced. He was concerned with the number of vehicles that would be entering/exiting the proposed development given that the headlights would be pointing directly at his house. He told the Board that his house was serviced by a well. He wanted to know if the development would affect his property. Mr. Staniec stated he was not opposed to developing the center of Town and thought it was a good thing and hoped the improvements continued. He noted that the proposal would impact his house because his setback was approximately 10ft. from the road. He asked that a walkway be included with any commercial building. He hoped the Board would consider his comments.

Mr. Mike Sherman, Old Bridge Street stated he was on the subcommittee that helped devise the ordinance and commented it (the proposed project) was not what they devised. He said this was the second or third proposal and wanted to know if they were going to start picking the properties out one-by-one and tearing buildings down to build other structures. He informed that was not what they (the committee) designed. He stated they designed the ordinance to fit developments into the neighborhood; into what was already existing, looked good and possibly add a small shop. Mr. Sherman commented the ordinance was supposed to help the Town, not help developers and builders sell buildings.

Being a preliminary discussion, Mr. Gowan suggested the Board ask the applicant if they felt they had sufficient direction from the conversation, or if they had specific questions. Mr. Bergeron believed some things work on their own merit. He said it was the applicant's job to prove it. He didn't feel the Board should design a plan.

In summary, Mr. Montbleau believed members of the Board, along with testimony from Mr. Sherman (MUZD committee member), were trying to say that the proposal wasn't the concept they intended when the MUZD was developed or what the ordinance was looking to get done. He said some other (design) idea may work.

When the plan was previously in front of the Board Mr. Clark recalled there was a lot of concern about the existing structure. He asked if they could give any guidance regarding such given the engineering reports the Board had received. He understood from the report that the structure was not salvageable and upon seeing the pictures could understand why. He said it was not only an old structure but was also a modified structure that had been compromised from its original form. It was his understanding that the building was probably not salvageable. Mr. Culbert stated it had to be razed. Mr. Lynde stated the Town 'missed the boat' on the building a long time ago when it could have been placed on the historical roster. He spoke about his observation of the building's features when he walked through the home years ago. He said it had a huge beehive shaped oven and the upstairs area was wallpapered with newspapers from the Civil War era. From what he understood the prior owners 'butchered' the house and he saw the issues. He hoped the owner would find a way to preserve the beehive oven.

Mr. Montbleau asked the Board if they wanted the applicant to come back with an alternative plan. Mr. Zohdi appreciated the Board's input and stated he had direction. He will speak to his client and their attorney to review the Town's zoning further.

DISCUSSION - Zoning Discussion

Mr. Montbleau stated he had thought about the topic since the last meeting and asked the Board members and invited members of the public to submit Zoning issues they would like to work on to Mr. Gowan. Those submitted issues will be reviewed and prioritized at the Board's next meeting. He stated once those items were in order, they would form a committee to start working. He said he would like to Chair the committee and would need a Vice Chair and volunteers.

Mr. Bergeron stated they would need to prioritize the items because it would require a lot of work and effort to review the items. Mr. Montbleau noted they would pick how many items they could handle. He explained once they created a priority list they would work through to get as many items done as possible. Mr. Bergeron felt the Board should fulfil promises made during the last Zoning hearings to have legal language adjusted for the 'livestock' zoning (petition article). He said Zoning should work for everyone.

Mr. Gowan understood during the next two weeks (prior to the next Board meeting) anyone who has a Zoning suggestion should submit the item to the Planning Department for the Board to prioritize. Mr. Bergeron questioned if there was a website to invite members of the public to submit items. Mr. Gowan replied people could call the Planning Department, send an email or whatever was most convenient for people. He said he would make a list for the Board to review. He said they could put a message on the website informing the public they were welcome to submit items for Zoning to be undertaken by the Board.

Mr. Doherty said if the Board was going to set up a subcommittee and work on specific types of zoning, they should first determine what they were going to work on, before they decide whether they would bring in members of the public. He said there were people in various clubs and those with interests that may want to attend the meetings. Mr. Montbleau said people could attend the meetings and make comments if they didn't want to be on the subcommittee. Mr. Doherty replied there were people on past subcommittees that had been of great influence. He heard Mr. Montbleau announce he would be the Chair and would look for a Vice Chair. He said past subcommittees nominated someone from the Board. He wasn't sure that they would get certain people based on the way it was announced. Mr. Montbleau suggested they give it a try and see how it works.

Off topic, Mr. Clark asked that the Board recycle paperwork/plans at the conclusion of meetings. Mr. Gowan replied he collected plans and recycled at his office.

NON-PUBLIC SESSION - If requested in accordance with RSA 91:A:3

Not requested.

ADJOURNMENT

MOTION: (Lynde/Kirkpatrick) To adjourn the meeting.

VOTE: (7-0-0) The motion carried.

The meeting was adjourned at approximately 10:01pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary