

1 **TOWN OF DERRY**

2
3 **Zoning Board of Adjustment**

4
5 **MEETING MINUTES – August 20, 2026**

6
7 **MEMBERS PRESENT**

8 Lynn Perkins, Chair
9 Craig Corbett, Vice Chair
10 Crystal Morin
11 Richard Tripp
12 James Dietzel

MEMBERS ABSENT

13
14 **ALTERNATES PRESENT**

15 Michael Donlon
16 Gaspar Obimba
17 Anthony Herny
18 Jason Dragani

ALTERNATES ABSENT

19
20 **CODE ENFORCEMENT**

21 Keri Owen, Code Enforcement

22
23 Minutes prepared by: Eileen Boudreau, ZBA Clerk

24
25 **I. CALL TO ORDER:**

26
27 Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag. Instructions were given on
28 safety. Also noted the meeting is audio and video recorded.

29
30 **II. PUBLIC HEARING**

31
32 **26-118 (Tabled from June 18, 2026, Meeting)**

33 **Applicant:** Cocuzzo Enterprises, LLC

34 **Owner:** 6 Pearl Street, LLC

35 **Parcel ID** 30092

36 **6 Pearl Street**

37 **Zoned:** CBD

38
39 The applicant is requesting a variance to the terms of Article VI, Section 165-33B of the Town of Derry
40 Zoning Ordinance to permit the use of the existing rear of the property as a contractor yard and allow the
41 construction of a contractor garage for use from the abutting property at 27 Franklin St.

42
43 Mr. Perkins said Mr. Dragani will remain on case 26-118 as it is continued from the prior case.

44
45 Mr. Cuzzo explained his client is running a few minutes late and asked if they could go after the next
46 case.

47
48 Mr. Perkins explained that the board would delay the case and the case can be heard at the end of the
49 other cases time permitting.

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51
52

26-121**Applicant:** Prime Storage Rockingham Road Derry LLC (Tabled from July 16, 2026)**Owner:** Prime Storage Rockingham Road Derry LLC**Parcel ID:** 05034

84/86 Rockingham Road

Zoned: WRB

The applicant is requesting a variance to the terms of Article VI, Section 165-32.4.B.20 of the Town of Derry Zoning Ordinance to allow the construction of 3 buildings totaling 11,675 sq ft of additional storage space.

Keith Curran, Bohler, LLC introduced himself and read the five criteria.

Mr. Perkins said one of the members called point of order here. He asked Mr. Curran if he wished to speak to that first or if he wished to have a narrative and proceed.

Mr. Curran said he could speak to that. He said before they started this process he reached out to the town and was told the process. He needed to go to the preliminary planning board first just to get their recommendation. They did that. He was told he needed to come to the Zoning Board of Adjustment because it is an existing nonconforming use and since they are looking to add additional units they need a variance.

Mr. Curran wanted to point out that looking at the plan they are actually infilling. He said at the time when they previously developed, and the buildings were put on the site they probably envisioned coming back as the business grew to add these additional buildings. They probably did not think at the time that the zoning would change and there would be extra steps to go through. He said it is the same use and they are not adding any other impervious besides the buildings themselves and they meet all required setbacks.

Mr. Corbett asked Mr. Curran for the proposed 1,500-square-foot single-story building, how much of the wooded area does he plan on cutting down.

Mr. Curran said just enough to get the building in. It would be close to 1,500 square feet. He said there is a slope there just to note. The idea is it would be built into that slope where there is a grade difference. The structure itself was used as the foundation, so you don't have to clear around it. It is just enough to get the building in.

Mr. Tripp asked Mr. Curran if the planning board said since it is no longer an approved use that he had to come get a variance.

Mr. Curran said that is what he was told. He was at the Planning Board meeting a couple of months ago. He said the steps they told him were that he had to come to them first and they would provide a recommendation to the Zoning Board of Adjustments and he would need to get a variance. After that if they get the variance, they will do a full site plan design and go back to the Planning Board for site plan approval.

Ms. Owen discussed the following:

- The applicant is requesting a variance to allow the construction of 3 single-story buildings totaling 11,675 sq ft of additional storage space on the property.
- This property is located in the West Running Brook Zoning District (WRB).

- The property currently contains a pre-existing, non-conforming Self-Storage facility. Self-Storage is not a permitted use in the WRB, therefore a variance is required.
- Prior to the creation of the West Running Brook District on September 13, 2019, the current self-storage use was considered pre-existing, non-conforming in the General Commercial IV District. When the site plan was originally approved for self-storage in 2005, self-storage was considered a permitted use as the lot was then zoned General Commercial (GC). The lot was moved to the General Commercial IV District August 06, 2015.
- The existing lot of record is approximately 6.08 and contains 1 existing single-story self-storage building, 3 existing two-storage self-storage buildings, and 1 single-story accessory office building.
- The applicants came before the Planning Board on June 3, 2026, and in accordance with Zoning Ordinance, Section 165-32.4.B.20, to hold a non-binding discussion to obtain preliminary feedback on the project.
- If approved by the Board, a site plan amendment will be required to be reviewed and approved by the Planning Board.
- If approved, appropriate permits and inspections will be required.

Mr. Corbett asked Ms. Owen if this was a high level of dates that was provided. He said it sounds like the zones changed which put them into the pre-existing nonconforming and in 2019 changed again but still in that same status for 11 years.

Mr. Perkins said he is seeing a proposed 1,500 square feet but the application is for 5,325, 4,850, and 1,500 sq ft.

Ms. Owen explained there are three buildings in total. One is 1,500 sq ft on the lower portion, just north of that is 4,850 sq ft a single story, and north of that is a third structure at 5,325 sq ft a single story.

Mr. Dietzel said he is still not entirely clear. He said if this were a permitted use business then the buildings themselves wouldn't require a variance because all the other criteria with setbacks and wetlands are met. He asked if they were ruling on the buildings themselves.

Mr. Corbett said in 2005 it got approved and everything fit. Then starting in 2015 when they started to rezone it no longer fit the criteria for the zone. It became a pre-existing nonconforming.

Mr. Dietzel asked Ms. Owen if they were going make a decision on whether he gets a variance for the building, then what do they base their decision on. He said the five criteria have been met but if they were to rule on whether he could expand the business that might be an issue.

Mr. Perkins said it is a planning board recommendation or direction. It says that you cannot add to any other building that is nonconforming without the zoning board. It is the Zoning Boards place to decide based on the criteria.

Mr. Corbett asked Mr. Curran if they realized this is the last opportunity to capitalize.

Mr. Curran said there are no plans that he knows of to come back and look for more expansion.

155
156 **CALL TO PUBLIC**
157

158 Mr. Perkins made a call to public.
159

160 **FAVOR**
161

162 No gestures in person.
163

164 **OPPOSED**
165

166 No gestures in person.
167

168 **MOTION TO ENTER DELIBERATION**
169

170 Mr. Tripp made a motion to enter deliberation.
171

172 Seconded by Ms. Morin All in favor, none opposed.
173

174 Mr. Corbett said originally, he may have had concerns when hearing the West Running Brook zone
175 because there is some sensitivity surrounding variances to that zone. He said what is being proposed fits
176 because it is already being used for storage and is now nonconforming. Any use of this property from this
177 point forward would have to be completely new. Mr. Corbett said it is a good amount of square footage,
178 and it is tucked in well within the property. He said it meets the five criteria.
179

180 Mr. Dietzel said it meets the five criteria.
181

182 Ms. Morin said she agrees with everything that has been stated.
183

184 Mr. Tripp said it is an expansion of an existing use and does not see any issues with adding to this
185 existing use.
186

187 Mr. Perkins said there is soft usage and thinks it can fit.
188

189 **MOTION TO LEAVE DELIBERATION**
190

191 Mr. Corbett made a motion to leave deliberation.
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193 Seconded by Mr. Tripp All in favor, none opposed.
194

195 **MOTION**
196

197 Ms. Morin made a motion on case 26-121 to grant a variance to the terms of Article VI, Section 165-
198 32.4.B.20 of the Town of Derry Zoning Ordinance to allow the construction of 3 buildings totaling
199 11,675 sq ft of additional storage space.
200

201 Parcel ID: 05034 Zoned: WRB
202

203 as presented with the following conditions:
204

- 205 1. Subject to obtaining all state and town permits and inspections.

2. Subject to Planning Board site plan amendment approval.

Seconded by Mr. Tripp All in favor, none opposed.

Mr. Corbett made a motion to abbreviate the finding a fact.

Seconded by Mr. Tripp All in favor, none opposed.

Mr. Perkins reviewed the finding of fact as follows:

The applicant is seeking to add new storage units to a storage facility. The current business is in the West Running Brook zone, and the storage facility is a nonconforming business, which was approved in 2005. The application is to continue with that approval where it is currently nonconforming.

Voting Members:

Mr. Corbett Yes

Mr. Dietzel Yes

Mr. Tripp Yes

Ms. Morin Yes

Mr. Perkins Yes

The application was **GRANTED** by a vote of 5-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that, the recourse would be to appeal to Superior Court.

26-122

Applicant: Grant Benson III (Tabled from July 16, 2026)

Owner: Grant Benson III

Parcel ID: 09001

Address: 1 Family Ridge Drive

Zoned: MDR

The applicant is requesting a variance to the terms of Article VI, Section 165-46.C.2 & 3 of the Town of Derry Zoning Ordinance to allow the subdivision of the property into 2 lots with both lots proposed to have less than the required frontage and lot width.

Kevin Hatch, licensed land surveyor and owner of Cornerstone Survey Inc. introduced himself and read the five criteria.

Mr. Hatch said there is a typo on the front page of the variance application, which says 75 feet. He said it is 72 feet of frontage.

Mr. Hatch explained the parcel that is being looked at was a right-of-way off of Sherman Drive and was originally intended to be a larger subdivision when Sherman Drive was created. The parcel that has that frontage is a little over 13 acres. One house is being constructed there with an existing driveway. The proposal is to split that to create the lot to the right that will allow for his two children to have homes in Derry without putting in a big subdivision.

Mr. Hatch said if the variance is granted they will work with the conservation commission, department heads, and the planning board for approval. The subdivision will also be reviewed by Department of

Environmental Services for subdivision. He said they have one small wetland impact they will also need a permit for.

Mr. Perkins asked Mr. Hatch based on the land volume itself what would be the equivalent of lots that could be put on this based on the land mass. Mr. Perkins said instead of overdeveloping the area and creating 10 lots they are trading off for two, creating less of an impact per the land mass than what the zoning ordinances would permit.

Mr. Hatch said they have a conceptual with a cluster subdivision there with over 14 lots.

Mr. Tripp said since the property already has a variance for the driveway access, he does not see a problem. He asked if they needed anything for a shared driveway.

Ms. Owen said they would have an access easement agreement for the shared driveway.

Mr. Corbett said he remembers when this came before the board four years ago and that it could be upwards of 12 houses going in there. He remembers from the abutters they were not in opposition. A lot of them were in favor because of the water and the way that it currently runs down they saw this as an opportunity to fix it.

Ms. Owen discussed the following:

- The applicant is requesting a variance to allow the subdivision of the property into 2 lots with both lots proposed to have less than the required frontage and lot width.
- This is an existing 13.17 acre lot of record. The proposed subdivision would create two lots, one lot measuring 4.00 acres and a second lot measuring 9.17 acres.
- The property is located in the Medium Density Residential District (MDR), which requires a minimum 125 ft lot frontage, and a minimum lot width of 125 feet at the thirty-five-foot front setback line, or 125 feet at the front lot line, therefore a variance is being requested.
- The lot has narrow access from Schurman Drive. As a result, the applicant is proposing the lots to have 35.80 feet of frontage and 39.66 feet of frontage, and both lots will have a lot width of 21 feet for the first 200 feet before widening to the larger portions of the lots.
- A common driveway easement is proposed to provide access into the lots.
- The applicant is actively constructing a 3,113 sq ft single-family residence with attached garage on the property which will be located on the proposed 4-acre lot. A single-family residence is proposed for the 9.17 acre lot.
- The existing and proposed residence are serviced by private septic and private well.
- A variance was granted for the property on April 7, 2022, allowing it to be subdivided into 3 single-family building lots, each with less than the required frontage. However, because the variance was not acted upon within two years of approval, it has since expired.
- If approved, Planning Board subdivision approval will be required.
- If approved, appropriate permits and inspections will be required.

Mr. Perkins asked if there was a call for a municipal waiver of liability.

Ms. Owen said no because they are considered driveways.

Mr. Hatch said Derry regulation allows up to three homes on a driveway. After that it becomes a private road.

Mr. Perkins asked what the distance was for the property.

Mr. Hatach said he can get you an exact number but the existing home and turnaround there was intentional for a fire truck. He said they can get a full fire truck turnaround as required with the building permit

Ms. Owen clarified the municipal waiver of liability is required when it is constructed on a Class 6 road or anything but a public road. Sherman is considered Class 5 public.

CALL TO PUBLIC

Mr. Perkins made a call to public.

FAVOR

No gestures in person.

OPPOSED

No gestures in person.

MOTION TO ENTER DELIBERATION

Mr. Corbett made a motion to enter deliberation.

Seconded by Mr. Trip All in favor, none opposed.

Mr. Tripp said he wanted to steal Crystal's less is more. This is a good use of the land and instead of having three houses, having two, is a good deal.

Mr. Dietzel said it is straightforward and it meets the first five criteria. He said the fifth criteria with the hardship he believes the nature of the characteristics of the land make this a reasonable proposal. There is plenty of land for two buildings.

Mr. Corbett said he agrees considering back to the last meeting it is an improvement for the current residents there. It helps with the need with the water coming down with the drainage issues. I think making two lots out of one giant lot is not asking too much.

Ms. Morin said she agrees with what has been stated. She said anything Mr. Benson touches he makes it look better. The houses are for his kids, and they are going to be nothing but perfect.

Mr. Perkins said, based on the prior approval and the exceptions that were made, then this reduces that impact and makes reasonable use of the property. He thinks that it is key that it is reasonable and not excessive when you consider what the trade-off could be.

MOTION TO LEAVE DELIBERATION

Mr. Dietzel made a motion to leave deliberation.

Seconded by Ms. Morin. All in favor, none opposed.

MOTION

Ms. Morin made a motion on case 26-122 to grant a variance to the terms of Article VI, Section 165-46.C.2 & 3 of the Town of Derry Zoning Ordinance to allow the subdivision of the property into 2 lots with both lots proposed to have less than the required frontage and lot width.

Parcel ID: 09001 Zoned: MDR

as presented with the following conditions:

1. Subject to obtaining all state and town permits and inspections.
2. Subject to Planning Board subdivision approval.

Seconded by Mr. Corbett All in favor, none opposed.

Mr. Corbett made a motion as there was no contentious dialogue regarding this case to abbreviate the finding a fact.

Seconded by Ms. Morin. All in favor, none opposed.

Mr. Corbett reviewed the finding of fact as follows:

Heard August 20, 2026 the ZBA heard the application from Grant Benson III concerning the property located on Sherman Drive. The applicant is seeking to subdivide an existing 13-acre lot into two lots. The ZBA previously approved a three-lot subdivision in which the variance had expired. The application is in the medium-density residential zone. Property has a driveway off Sherman Drive onto the acreage. The applicant is reducing the impact on the 13-plus-acre parcel, and the application is for relief of both the frontage and the lot width. Mr. Corbett asked the Board if this has met the five criteria.

Voting Members:

Mr. Corbett	Yes
Mr. Dietzel	Yes
Mr. Tripp	Yes
Ms. Morin	Yes
Mr. Perkins	Yes

The application was **GRANTED** by a vote of 5-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that, the recourse would be to appeal to Superior Court.

26-123**Applicant: Samrat Raj – Audio Fidelity LLC****Owner: NE QOZ 698 LLC****Parcel ID: 26045****84 West Broadway****Zoned: OBD**

The applicant is requesting a variance to the terms of Article VI, Section 165.34.B of the Town of Derry Zoning Ordinance to allow the operation of a wholesale auto dealer from the property.

Samrat Raj introduced himself and read the five criteria.

Mr. Raj said as stated this is a wholesale dealership. They operate from buying cars from one dealer and selling them to another dealer. If the cars come to him, they have to be stored in a high-security place so they will not be stored at the place of the office. It does not affect the neighbors or the property value as stated.

Mr. Perkins asked Mr. Raj if he said he has to store the cars in a high security location.

Mr. Raj said the cars are in excess of \$100,000 so they have to be stored in a place that is secure. They have a vault that is about 15 minutes away that he will be contracting with to secure all the cars.

Mr. Dragani asked Mr. Raj if he is a dealership or a transactional wholesaler.

Mr. Raj said what happens in a wholesale dealership is that he can buy cars and he can sell cars only to a dealer. For him to get the license to do that he has to go to the DMV and after he gets approval from the town. The variance is from the town so that he can be a wholesale dealer. Once the board approves, he will go to the DMV and get his license. Without the license he cannot operate even if he gets approval.

Mr. Corbett asked Mr. Raj if he is renting an office within the building

Mr. Raj said he is renting at the lower level. He has been paying rent since June 1st but without this variance he cannot operate.

Mr. Tripp confirmed with Mr. Raj that there will be no cars at the site.

Mr. Raj said there will be no cars at the site.

Ms. Owen discussed the following:

- The applicant is requesting a variance to allow the operation of a wholesale automobile dealership sales business from the property.
- The property is located in the Office Business District (OBD). Automobile sales is not a permitted use within the OBD, therefore, a variance is required.
- This application originated as a Change of Use application submitted through the Planning Department. During the review process, a zoning determination was issued identifying automobile sales as a non-permitted use within the OBD, thereby requiring variance relief from the Zoning Board of Adjustment.

- The subject property consists of approximately 0.30 acres and contains an existing multi-tenant office building. The original site plan was approved by the Planning Board in 2003, and the building was constructed in 2003-2004.
- The proposed business activity would be limited to administrative office functions only. No retail vehicle sales or walk-in customers are proposed. No vehicles associated with the business would be stored, parked, or displayed on the property, and all wholesale transactions would occur off-site.
- This approval is required for the applicant to apply for a Wholesale Motor Vehicle Dealer License from the New Hampshire Department of Motor Vehicles (DMV).
- A wholesale dealer license does not permit direct retail sales to the general public.
- Code Enforcement is required to provide sign-off as part of the State's dealer licensing application process.
- If approved by the Board, the applicant is required to complete the Change of Use Application process with the Planning Department.
- If a sign is requested, a permit is required.
- If approved, appropriate permits and inspections will be required.

Mr. Perkins said the change-of-use aspect is this is a renter to the building not the owner of the building. The change-of-use is going to be for a wholesale aspect where there are no displays. He asked if there is a change-of-use when he vacates the building that variance is going to go with him.

Ms. Owen said that is a decision the board can make.

CALL TO PUBLIC

Mr. Perkins made a call to public.

FAVOR

No gestures in person.

OPPOSED

No gestures in person.

Mr. Perkins said before the board goes into deliberation, he would like to specify in the application that this is wholesale only and the variance is going with the individual.

MOTION TO ENTER DELIBERATION

Mr. Corbett made a motion to enter deliberation.

Seconded by Mr. Tripp All in favor, none opposed.

Mr. Corbett said this is interesting when you look at the five criteria. He said at first you see a car dealership and then as you hear from them and you look at the property it is just an administrative business. The wholesale dealer portion of it is not a variance but a position that may not have been thought of at the time. Mr. Corbett said it is not against the public interest and does not see how the spirit of the ordinance or substantial justice would be served by not granting it for this one. He thinks the property can be reasonably used in strict conformance.

Mr. Dietzel agrees with Mr. Corbett's points as well as the chair. He agrees the board should put specific restrictions to alleviate any concerns about the future on-site sales.

Mr. Tripp said he would like to point out that one of the permitted uses in the office business district is an office. He does not see this is much of a stretch to allow a wholesale dealer to have an office to process paperwork.

Ms. Morin said that she knows he is only getting an office because you have to have an office because the state requires it so he can get the proper insurance and a dealer plate. She said a lot of places will not let you in without the paperwork.

MOTION TO LEAVE DELIBERATION

Mr. Corbett made a motion to leave deliberation.

Seconded by Mr. Dietzel All in favor, none opposed.

MOTION

Ms. Morin made a motion on case 26-123 to grant a variance to the terms of Article VI, Section 165.34.B of the Town of Derry Zoning Ordinance to allow the operation of a wholesale auto dealer from the property.

Parcel ID: 26045 Zoned: OBD

as presented with the following conditions:

1. Subject to obtaining all state and town permits and inspections.
2. Wholesale dealership only.
3. Variance to sunset clause when the applicant leaves the premises.

Seconded by Mr. Tripp All in favor, none opposed.

Mr. Corbett reviewed the finding of fact as follows:

Heard August 20th, 2026. The ZBA heard the application of Samat Raj, Audio Fidelity LLC, concerning the property located at 84 West Broadway, parcel ID 26045. Notice was provided to the immediate abutters per statute. The board received testimony from the applicant and from town staff.

Mr. Corbett said as no abutters or members of the public spoke, he would like to make a motion to do an abbreviate the finding a fact.

Seconded by Ms. Morin. All in favor, none opposed.

- The applicant is allowing a variance to allow the operation of a wholesale auto-automobile dealership sales business from the property.
- The property is located in the office business district, and automobile sales is not a permitted use within the OBD. Therefore, a variance is required.
- The application did originate as a change-of-use application submitted through the planning department. During that review process, the zoning termination was issued identifying the automobile sales being non-permitted, although this is wholesale auto dealership.
- The subject property consists of approximately 0.3 acre and contains an existing multi-tenant office building. That original site plan was approved by the planning board in 2003 and constructed between then and 2004.
- The proposed business activity for the wholesale automobile dealership will be limited to administrative office functions only. No retail vehicle sales or walking customers are being proposed, and no vehicles associated with the business will be stored, parked, or displayed on the property. All wholesale transactions will occur off-site.
- This approval is required for the applicant to apply for a wholesale motor vehicle dealer license from the New Hampshire Department of Motor Vehicles. The wholesale dealer license does not permit direct retail sales to the general public. Code enforcement will be required to provide sign-off as part of the state dealer licensing application process.
- If approved by the board the applicant is required to complete the change-of-use application process with the planning department.

Voting Members:

Mr. Corbett	Yes
Mr. Tripp	Yes
Ms. Morin	Yes
Mr. Dietzel	Yes
Mr. Perkins	Yes

The application was **GRANTED** by a vote of 5-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that, the recourse would be to appeal to Superior Court.

26-124

Applicant:

Owner: Chapple Family Revocable Trust of 2024

Co-owner: Chapple David H & Terri L Trustees

Parcel ID: 51077

58 Beaver Lake Ave

Zoned: MDR

The applicant is requesting a variance to the terms of Article VI, Section 165.4 of the Town of Derry Zoning ordinance to allow the construction of a shed 18 inches from the side property line at its closest point when 15 feet is required.

David Chapple introduced himself and read the five criteria.

Mr. Chapple said if you look at the abutters almost everyone has a shed or a garage or structure that's on or next to a property line. He said his previous shed the one that he tore down was back-to-back with his neighbor's shed. Mr. Chapple said both sheds were sitting on the property line. He removed his shed and is now asking for permission to add one.

Mr. Perkins asked Mr. Chapple if he was putting the shed back in the same spot as the previous shed.

Mr. Chapple said he is not putting the shed in the same spot as the previous shed. He said it is going to be outside of the 50-foot setback from the water, and it will be the appropriate distance from the street. It will be close to the stockade fence on one side.

Mr. Dragani asked Mr. Chapple if the neighbor's shed was still up against the fence.

Mr. Chapple said it is still there against the fence.

Ms. Owen discussed the following:

- The applicant is seeking approval to allow the construction of a shed approximately 18 inches from the side property line at its closest point and 25 inches from the side property line at its furthest point.
- The property is located in the Medium Density Residential (MDR) Zoning District, which requires a minimum 15-foot side yard setback. Therefore, a variance is required.
- The property is a pre-existing, nonconforming lot with respect to lot area and frontage. The existing single-family residence was constructed in 1940.
- The property is located along the shoreline of Beaver Lake and is located in an area of pre-existing small lots and non-conforming structures.
- The property is serviced by municipal sewer and a private well.
- If approved, a State Shoreland permit will be required to be obtained prior to the issuance of a building permit.
- If approved, appropriate permits and inspections will be required.

CALL TO PUBLIC

Mr. Perkins made a call to public.

FAVOR

No gestures in person.

OPPOSED

No gestures in person.

MOTION TO ENTER DELIBERATION

Mr. Corbett made a motion to enter deliberation.

Seconded by Mr. Tripp All in favor, none opposed.

Mr. Corbett said in the words of Mr. Burgess, it's a shed.

Mr. Dietzel said a wise man once said, "You never want to deny a man his shed." He said the five criteria have been met.

MOTION TO LEAVE DELIBERATION

Mr. Corbett made a motion to leave deliberation.

Seconded by Mr. Tripp. All in favor, none opposed.

MOTION

Ms. Morin made a motion on case 26-124 to grant a variance to the terms of Article VI, Section 165.4 of the Town of Derry Zoning ordinance to allow the construction of a shed 18 inches from the side property line at its closest point when 15 feet is required.

Parcel ID: 51077 Zoned: MDR

as presented with the following conditions:

1. Subject to obtaining all state and town permits and inspections.

Seconded by Mr. Tripp All in favor, none opposed.

Mr. Corbett reviewed the finding of fact as follows:

Heard August 20th, 2026. The ZBA heard the application of the Chappelle Family Revocable Trust of 2024 concerning the property located at 58 Beaver Lake Avenue, Parcel ID 51071. Notice was provided to the immediate abutters per statute. The board received testimony from the applicant and town staff. And as there are no member abutters or members of the public.

Mr. Corbett made a motion to abbreviate the finding a fact.

Seconded by Ms. Morin. All in favor, none opposed.

The applicant is seeking approval to allow the construction of a shed approximately 18 inches from the side property line at its closest point and 25 inches from the side property line at its furthest point. The property is located in the medium density residential zoning district, which requires a minimum 15-foot side yard setback. The property is a pre-existing non-conforming lot with respect to the lot area and frontage. The existing single-family residence was constructed in 1940. The property is located along the shoreline of Beaver Lake and is located in an area of pre-existing small lots that are all non-conforming structures. The property is serviced by a municipal sewer and a private well. If approved, a state shoreland permit will be required to be obtained prior to the issuance of the building permit.

Voting Members:

Mr. Tripp	Yes
Mr. Dietzel	Yes
Ms. Morin	Yes
Mr. Corbett	Yes

Mr. Perkins Yes

The application was **GRANTED** by a vote of 5-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that, the recourse would be to appeal to Superior Court.

26-118 (Tabled from June 18, 2026, Meeting)

Applicant: Cocuzzo Enterprises, LLC

Owner: 6 Pearl Street, LLC

Parcel ID 30092

6 Pearl Street

Zoned: CBD

The applicant is requesting a variance to the terms of Article VI, Section 165-33B of the Town of Derry Zoning Ordinance to permit the use of the existing rear of the property as a contractor yard and allow the construction of a contractor garage for use from the abutting property at 27 Franklin St.

Mr. Corbett said he was absent the last time on this case and asked to excuse himself.

Mr. Dragani will sit in on the case.

Robert Degan, LLS introduced himself and Micheal Cocuzzo.

Mr. Perkins asked Mr. Degan if he was distributing some plans and photos.

Mr. Degan said that is correct. He has some materials that he submitted to Ms. Owen this afternoon. Ms. Owen asked Mr. Degan to bring hard copies because the packets had already gone out.

Ms. Owen said the photos were circulated electronically this afternoon to the board after the email was received. Mr. Degan has hard copies, and the board members may also have a copy. Updated photos of today's date are in the folder.

Mr. Perkins said he is noting the minutes uh in this matter and wants to consolidate and get right to the point and recaption what is being seen. He confirmed with Mr. Cocuzzo that he is renting Franklin St.

Mr. Cocuzzo said is no longer lives at Pearl or Franklin St.

Mr. Perkins said he wants to recapture and consolidate so they know where they are going. Things get a little rusty after the summer schedule. He said they had a determination of a contractor yard at 6 Pearl St. There is separate access from Pearl and the main entrance off Pearl with side access from Franklin onto the back of Pearl. There was no change of use from Franklin Street it was found that it was a similar use and he is continuing from what was originally established. Mr. Perkins said he saw references in the minutes to building B and asked Mr. Degan to clarify what was referenced.

Mr. Degan said building B, if you look at the plan, is the building in the front of 27 Franklin. That is where the actual contractor use is happening, building A being the existing residence.

Mr. Perkins said Mr. Degan presented the board with new information and the board gave him a loose assignment to see if he might find something that might be a little more appealing. He asked Mr. Degan to continue with his presentation.

Mr. Degan said they are revising the application and are no longer seeking a contractor yard in the back. Mr. Cocuzzo has cleared up all of his materials that are shown on the plan. He said they are seeking expansion of the contractor use into the proposed garage area for purposes of storing vehicles and equipment relative to his contractor use. Looking from Franklin Street towards the area where the garage would go, the storage container and the covered area that is like a salt shed are going to be moved. The building on the right is building B.

Mr. Perkins asked if the storage containers and apparatus are there currently and would they be removed when the garage is built.

Mr. Degan said they are there currently and will be relocated probably onto 27 Franklin, but they have to work with the TRC to figure out where everything's going to end up. Towards the back of building B, the material was removed from 6 Pearl that was taking up most of the parking spaces that are currently on 27 Franklin. Mr. Degan said the thrust of the application is to create the garage and store materials in a covered area. He said if building A was as close to the street as building B this would be a different application because it would be easy to put the material out back, out of the way and it would not be disruptive to the neighborhood. He said the only alternative to occupying the back of 6 Pearl would be to throw all of it in front of 27 Franklin, where it would present a nuisance.

Mr. Perkins asked if the intention was to take this plan back to TRC for review and put everything in perspective.

Ms. Owen said understanding what is being proposed or what is being presented this evening is still constructing a contractor garage on 6 Pearl St for use of the adjacent separate property at 27 Franklin Street. It is still creating the use between the two separate properties, different ownerships. Moving the contractor materials over to 27 Franklin that are still contractor yard materials that are not permitted. They look to be in the location of the parking spaces required for the employees, and this is something that would have to be sorted out as well.

Mr. Perkins said there are still a lot of moving pieces. He said to Mr. Degan that he had indicated he is revising the application and asked how is it that his verbiage or revisions are intended.

Mr. Degan said that the original request was for 6 Pearl to maintain the contractor yard and it will not be a contractor yard.

Mr. Perkins said that there is no intention of materials, but they are still looking for a garage for the back.

Mr. Degan said that is correct.

Mr. Perkins confirmed with Mr. Degan that they want to revise the application.

Mr. Perkins asked Ms. Owen if they want a garage on the back of 6 Pearl St but there are no more materials stored there does that eliminate the contractor yard aspect at 6 Pearl St and only takes them back to a garage that must comply with setbacks.

Ms. Owen said some of it she agrees with. By constructing the garage and removing the materials, it removes the contractor yard definition at 6 Pearl Street. However, it is still constructing a garage on the property to be used by a separate property business. That is an operation under separate ownership. So, it is not to be utilized by 6 Pearl Street. It is to be utilized by the business next door. It is beyond just setbacks. It is permitting use of an adjacent property.

Mr. Perkins asked Ms. Owen if It would not be unreasonable that someone could have a garage in the back of their home and rent space out to someone else to be able to store something.

Ms. Owen said that is correct. To her knowledge the garage would be utilized to store commercial vehicles for the business.

Mr. Perkins asked Ms. Owen if there is a stipulation where there is only permitted one access for a parcel, typically one parcel would have a driveway. He said if they wanted a separate driveway they would have to apply for a curb cut.

Ms. Owen said that is correct.

Mr. Perkins asked if there is a stipulation in the ordinances, they cannot have separate access to a property if they own an easement or an access to that same property.

Ms. Owen said with an easement, yes.

Mr. Perkins told Mr. Degan that one of the conflicts that they may have is the fact that this came to the board very late and the opportunity for code enforcement to digest this at a reasonable time becomes an issue.

Mr. Perkins said they are getting rid of the contractor yard as it's been deemed by is it TRC.

Ms. Owen said that is correct.

Mr. Perkins asked Ms. Owen if they wanted to amend the contractor yard and they are taking it off without materials on Pearl Street, is it no longer a contractor yard.

Ms. Owen said it is a lot to digest in the moment. Not having time ahead to be able to be prepared brings up some questions from what we have seen through TRC, through change of use applications, and that this has taken a couple of years to get to this point. It will have to go back through TRC, and she is not clear on the direction of where that will be heading because the plan does not directly answer all of that.

Mr. Perkins asked if it would it be safe to say that the board might want a legal opinion as to what access from Franklin Street onto this means and to break the terminology down.

Ms. Owen said if time allowed, she would like that opportunity.

Ms. Morin said her concern has been the safety aspect. She asked Ms. Owen if she could find out regarding 911 and how they would be able to distinguish the two.

Mr. Perkins told Mr. Cocuzzo and Mr. Degan they have heard the commentary going back and forth and how this is being dissected and how complicated it is. He said it is reasonable that having this brought to the board this afternoon complicates it. He asked if they had some suggestions or directions.

Mr. Degan said he did not think this was vastly different to what was presented last month. He would say it is less of an ask than it was last month because a contractor is an allowed use in the zone, whereas contractor yard is not. He said there was no discussion of the legality of accessing from one lot to the other last month.

Mr. Perkins explained to Mr. Degan that Code enforcement is indicating that they are uneasy about the changes and what they legally represent. He said the board could again table them as opposed to abandoning the application and wait for legal opinion. He said they can decide if they want to continue.

Ms. Morin asked Mr. Cocuzzo what is being used to divide 6 Pearl Street and the back of the property where Rite Aid is. She said the property at Rite Aid is going to be used for kids and kids like construction.

Mr. Degan said they are proposing additional fence. It is off the back of the house to the side of the house and going around. He said they are also proposing some additional fencing at the top of the driveway at 6 Pearl St. It is coming off the bottom side of the back of the building at 6 Pearl St and going down to near the abutter's garage.

Mr. Dragani asked Ms. Owen if Franklin St was an approved construction lot.

Ms. Owen said Franklin St is approved to operate a contractor business out of the garage at the front. However, there is opportunity for accessory storage outside of the garage within reason and within limitations. What was shown in pictures today is in the employee parking spaces so that can propose a challenge.

Mr. Degan said it is not a permanent solution. It is to get it off of 6 Pearl St in the short term.

Mr. Perkins asked if 6 Pearl St is where the violation stems from or was it Franklin Street.

Ms. Owen said is Franklin St.

Mr. Dragani said he is trying to get clarification if the lot is approved to house all the materials crossing back and forth between two properties. He said the original property was not approved to have the materials, but had them for years, and the other lot now has them. It might be changing the whole variance and there may be a different variance for that lot.

Mr. Perkins said the conflict comes from Franklin Street. He said Ms. Owen is leaning towards a legal interpretation of the access of this onto Pearl St. Reflecting on the last meeting was a lot line adjustment that isolates the two parcels together.

Mr. Tripp said it seems like the plan of what they are going to do is still up in the air because they moved the material from 6 Pearl St to 27 Franklin St but in the process of doing that, they eliminated the employee parking spaces.

Mr. Degan said it is not intended to be a permanent solution.

Mr. Tripp said they need to understand how they plan to use the property before they can approve it. He said right now it appears that they are still trying to figure that out. Mr. Tripp asked Mr. Degan if TRC has any input into how this will play out and if they have to have a variance before they go back to TRC.

Mr. Degan said yes, they will. They need to know what they are proposing to TRC. He said they cannot go to TRC with this with this plan with the garage and have them bless it and then have this board say that it won't fly because then the plan's invalid.

Mr. Perkins said going back to process can the board agree that an amendment to the application is in order on the basis of the contractor yard at Pearl Street.

917 Mr. Dragani said that is correct.

918
919 Mr. Dietzel agrees.

920
921 Mr. Tripp agrees.

922
923 Ms. Morin agrees.

924
925 Mr. Perkins said it circles back to what is on Franklin Street and the long-term plan of that, whereas the
926 violations are initiated from 27 Franklin Street.

927
928 Mr. Dragani said with that said, this variance wouldn't be voted on because it is no longer an issue on the
929 original application.

930
931 Mr. Perkins said that the contractor garage, Ms. Owen code enforcement, needs a legal interpretation for
932 the accessibility of that. With that said if she can get a legal interpretation to make sure that the contractor
933 garage issue can be utilized then we can amend this application. At that point Ms. Owen can have
934 discussions with TRC and the applicant and applicants' representatives about their long-term plan. Then
935 this board can review that.

936
937 Mr. Corbett asked if 27 Franklin St had the change of use to operate as a contractor business. He said it
938 seems like a bled over onto 6 Pearl St and if everything has been moved from 6 Pearl St to 27 Franklin St.
939 Then 27 Franklin St is in compliance currently. 6 Pearl St no longer has the violations. He asked if the
940 variance is for the contractor garage on 6 Pearl St.

941
942 Mr. Perkins said yes, except that they are not sure and they would like a legal interpretation because there
943 is an access from Franklin St onto Pearl St that is of a concern and the contractor garage stipulation.

944
945 Mr. Corbett asked if it is because he owns both of these lots, it is two LLCs for each one and that is where
946 they get the different ownership. He said if he if it was just Franklin Street Derry LLC for the two
947 wouldn't he be allowed to transit. He could use the properties for both things. If he owns both LLCs, it is
948 like a subsidiary.

949
950 Mr. Cocuzzo said they all go into a trust.

951
952 Mr. Perkins said that is where they are going with the legal interpretation.

953
954 Mr. Dragani said there is also the part of the construction yard on 27 Franklin St and on Pearl St. If they
955 move it over to 27 Franklin St it is it still a valid use of that property. He said the construction company
956 was approved but was the construction material.

957
958 Ms. Morin said the garage would have to be used for residential, not a business.

959
960 Mr. Dietzel said if members of the board have legal questions that they want to be answered by counsel it
961 appropriate to table and get those questions answered.

962
963 Mr. Dragani agrees with Mr. Dietzel.

964
965 Ms. Morin said she is not comfortable making a decision until they find out the 911 aspect of the entrance
966 on Franklin Street.

967

Mr. Tripp said there are unanswered questions that would require the board to table tonight.

Mr. Perkins asked Mr. Degan and Mr. Cocuzzo if they want to table the case for a date certain and they will be put on the agenda for the next meeting. He said if for whatever reason they do not hash this stuff out, let code enforcement know that you need a continuance to the next meeting.

Ms. Morin made a motion to table Case 26-118 to September 3, 2026.

Seconded by Mr. Dragani. All in favor.

Mr. Degan asked if the board and/or Ms. Owen will be reaching out to town council regarding questions that were asked tonight and if there is anything that they can provide that they need you know or anything that they need from them to be able to move forward.

Mr. Perkins said the board spelled it out. It is about the legal interpretation, the two LLCs on two different parcels, the access from one to the other, and continuation. He suggested that they start to have the long-term plan of what is going to happen on Franklin St and make sure that it is clear. He is not telling them they have to go to TRC but through the exploration of what they are asking for Ms. Owen may relay different information or reflect back to where she thinks the path is going.

Mr. Degan said the long-term plans can depend on whether the board will approve the use.

Mr. Perkins said to Mr. Degan they have heard the commentary that they can concur about the contractor yard aspects on Pearl Street. The gray area is whether or not they can stipulate this as a contractor garage or just a garage, what that means, and the access to it. That needs to be defined for the board because this all stemmed from access going in and out of Pearl Street and then the realization of what was on Pearl Street. There are a lot of gray areas.

REVIEW MEETING MINUTES

Mr. Tripp made a motion to table July 16, 2026, meeting minutes.

Seconded by Mr. Donlon. All in favor, none opposed.

ADJOURNMENT

Ms. Morin made a motion to adjourn. Second by Mr. Dragani. All in favor of adjourning, none opposed.

The meeting adjourned at 8:53pm.

X 

Lynn Perkins
Chair