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TOWN OF DERRY

Zoning Board of Adjustment

MEETING MINUTES – September 3, 2026

MEMBERS PRESENT

Lynn Perkins, Chair
Crystal Morin
Richard Tripp
James Dietzel

MEMBERS ABSENT

Craig Corbett, Vice Chair

ALTERNATES PRESENT

Michael Donlon
Gaspar Obimba
Anthony Herny

ALTERNATES ABSENT

Jason Dragani

CODE ENFORCEMENT

Keri Owen, Code Enforcement

Minutes prepared by: Tina Guilford, Town Clerk

I. CALL TO ORDER:

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

II. PUBLIC HEARING

26-118 (Tabled from August 20, 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. Perkins asked Mr. Obimba to sit in on case 26-118 filling in for Mr. Dragani.

Mr. Perkins asked if the applicants had anything they had to start with.

Applicants responded that they don't really have anything significant to say since the last meeting. I understand that the board was reaching out to town council and safety services about some questions, and I know— my understanding is those questions have been answered, and we're hoping to move forward. Mr. Perkins responded essentially, what we're looking for now, you've kind of amended your position, which was that you wanted to put a garage on 6 Pearl and access it from Franklin Street, correct?

53 Applicant responded that is correct.

54
55 Mr. Perkins - This is Franklin Street parcel. You are going to be moving your materials, or have moved
56 them, off of Pearl Street onto Franklin Street, isolating the contractor use idea. Is that correct?

57
58 Applicant - That's the idea, yes.

59
60 Mr. Perkins asked Ms. Owen how the Town feels in regards to your liability and your concerns
61 addressing access from Franklin onto Pearl, and anything else that comes under your purview?

62
63 Ms. Owens stated that based on discussions with legal counsel, and we also conferred with the fire
64 department on addressing and access and safety regulations. So, what we are basically going through all
65 our due diligence, there doesn't appear to be any immediate concerns from a town perspective. The owner
66 may wish to choose to explore the need for easements if they decide to, but the town would not get
67 involved in a civil matter. That would be private and any such agreements would be on the owner's behalf
68 and would be so if the properties were to sell. Site access and addressing would be reviewed and
69 determined by the fire department during the TRC process, which would be part of the planning board
70 application.

71
72 Mr. Perkins asked if the board were to approve this, subject to town permits and inspections, the applicant
73 would be required to review with TRC. Am I correct?

74
75 Ms. Owens confirmed they would be required to complete the site plan process with the planning board,
76 which includes the TRC process.

77
78 Mr. Perkins opens up to questions from the board.

79
80 Mr. Obimba – I am all set.

81
82 Mr. Deitzel - is it my understanding that if you were to put this garage on the Franklin Street property
83 where that lawn is, that it would conform, but you simply feel that you don't want to wreck the lawn and
84 for aesthetic purposes, would it conform if you were to put it on that lawn?

85
86 Applicant – I believe that it would.

87
88 Mr. Tripp - so the only variance that you're asking for is to be able to construct a contractor garage on
89 Pearl. And that would be the only use you would be making of the Pearl Street address.

90
91 Applicant – The reason we need a variance is because the district, Central Business District, allows for
92 combined residential and, like, multifamily and commercial use, but it's supposed to be an over/under
93 situation, which does not exist. Right now, there's a three-unit building, residential building on the
94 property. And according to town records, it is not grandfathered commercial use. That was that use was
95 started in error, and that's the situation we are looking to get a remedy for, that the town has asked us to
96 come in for site plan determination, and this got flagged, so we're trying to get it properly permitted. And
97 so, we're supposed to have, like, an over/under situation. You can't have that. So, it's technically a use
98 variance to allow contractor use on the same lot as residential use without that situation, the over/under
99 thing.

100
101 Mr. Tripp - But that would not include the storage of construction material on Pearl Street?

102
103 Applicant - This is correct.

Ms. Owen - If I may clarify, this property is located in the Central Business District. Mixed use is permitted, with residential. Residential is not permitted below the second floor. So that kind of comes into play, adding commercial use onto the property. It's creating the mixed-use condition. They have residential existing on the property. This mixed use doesn't really align with the ordinance as far as the configuration with residential above. That's the request for variance.

Ms. Morin – My question has been asked and answered.

Mr. Perkins - we're to be clear now, the original motion, Ms. Owen, you just keep your ear to this, is that the request in the application is 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 Street. We are eliminating, I believe now, this as referenced and directed towards the Pearl Street, the contractor yard version, correct?

Ms. Owen – Correct

Mr. Perkins - I believe that we are eliminating in this a contractor yard use.

Ms. Owens - Correct.

Mr. Perkins - Which you are shifting onto the Franklin Street parcel, correct?

Applicant - Yes.

Mr. Perkins - you are still looking for what you call the contractor garage, but I don't care if it's called a contractor garage or just a garage myself. Are we having a conflict there, Ms. Owen? Are we to stipulate that the garage is specifically a contractor garage, or is it just being called a garage?

Ms. Owen - It's called a garage, but it's being used for the commercial business operation from the adjacent lot.

Mr. Perkins - And when we when we speak of it being used for the contractor from the abutting lot, are we just stipulating that it is a garage for somebody's lettered truck? Is that what we're looking at, or are we defining contractor garage differently?

Ms. Owens - can you clarify your question, please?

Mr. Perkins - I think that what we discussed in one of the past meetings on this case was that somebody could build a garage and rent out the spaces, correct? And now the owner under the trust, the LLC owns both properties under different LLC names, but it still doesn't restrict the owner from Pearl Street to rent a garage space to whoever with having a truck, right, a lettered vehicle. And I think that's calling it a contractor garage, so to speak, where there's no specified materials there, again, this is going to have to go through TRC and planning, correct?

Ms. Owen - Correct.

Mr. Perkins - I did hear some verbiage to Mr. Tripp's question that may indicate some latitude that may be looked for. To that point, somebody could have two by fours in their pickup and park in the garage, and no one knows about it, correct? So, what's the stipulation of the materials that are there, and if they're in a truck and they're in that garage, does it matter, right? That becomes the gray area. What I'm trying to do is

155 give you what I'm looking for for the contractor garage stipulation. To me, as I think I've already
156 indicated in a past meeting, that this could be just a garage, and that's what we're giving the usage for, but
157 we're not giving usage as a contractor yard at Pearl Street. That is all our understanding, correct? And that
158 works for Code Enforcement as well. What I'm really trying to articulate here is how this motion is to be
159 constructed as it's weaned its way away from what the original request was. And I just want to make sure
160 that all parties are clear on this. If you decide at some later point that you're going to start putting
161 materials outside on Pearl Street, it doesn't remove your contractor garage, but you end up back here
162 before us again, correct?

163
164 Applicant – Yes, sir.

165
166 Mr. Perkins – Are we on the same page, Ms. Owen?

167
168 Ms. Owens - We are on the same page, but I would like to clarify that 27 Franklin Street is not permitted
169 to have a contractor yard either. They could be permitted to have small amounts of accessory storage
170 space in the yard, but how it exists today would be considered a contractor yard.

171
172 Mr. Perkins - And so if there's any conflicts on Franklin Street that, again, could bring up a red flag, and
173 you could have concerns there as well. This board, for this matter, right now, is only looking at the fact
174 that you wanted a garage. How you deal with your storage, what you park there, we are not giving you
175 any permission to do that. That's outside of our purview. Is that fair enough?

176
177 Applicant - That's fair enough. I believe and correct me if I'm wrong, but I think the variance is for the use
178 of the property as part of the contractor's business and not explicitly for the garage, which would be as
179 you said, he would be allowed to just build a garage. It's the use of the property that's at stake.

180
181 Mr. Perkins - That is correct. And that use is as a contractor yard on Pearl Street. And, you know, again,
182 this approval for, I guess, a garage does not give you a green light for anything else beyond that. And for
183 that matter, this board, I guess, is going to clear this case. And you had an opportunity perhaps to consider
184 a lot line adjustment that would make part of Pearl Street part of Franklin Street, correct? And you chose
185 not to go that way as well.

186
187 Applicant – Correct.

188
189 Mr. Perkins - The board has heard the narrative on this. I guess in some ways we have to amend this
190 motion a little bit. Does anybody have any questions or concerns?

191
192 Mr. Tripp – I believe Ms. Owens said a contractor yard is not permitted on Franklin Street either?

193
194 Ms. Owens – Correct. They would be permitted to have exterior storage, but not what we would consider
195 a contractor yard.

196
197 Mr. Perkins – This is a garage, what relief are they looking for?

198
199 Ms. Owens - Section 165-33(b)(5), and I'm going to go to subsection (b)(III)(I). All residential so this is
200 multi-unit residential uses are permitted as mixed use in conjunction with permitted non-residential uses
201 subject to the following limitations. All residential units permitted under the subsection shall be
202 prohibited below the second floor. So, the residential is in the primary existing structure on the property.
203 There'll be a detached garage containing commercial use, and I think that that's the relief that's needed. I
204 believe that the variance would be required for in this condition. It was contractor use is permitted in
205 CBD, and a contractor yard is not. They've removed the contractor yard. We can call it a garage, but now

you're creating the mixed use on the property with commercial and residential. And so, I think that that is the relief, the variance that's needed.

Mr. Perkins – so at this point it is not a contractor garage but a commercial garage, for use from the abutting property at 27 Franklin.

Applicant – Correct.

MOTION TO ENTER DELIBERATION

Mr. Tripp made a motion to enter deliberation.

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

Mr. Dietzel - I think since we simplified it quite a bit then I'm just going to go by the five criteria. The reason I asked my question about whether he could build a conforming garage on the on the Franklin Street property is because primarily due to the fifth criterion, the hardship criterion. It says, "For purposes of this paragraph, the little no fair and substantial relationship exists between the general public purposes and the ordinance provision." And it's almost like by conforming with the ordinance strictly, we'd wind up with a less desirable result than granting the variance because that piece of property with its lawn is attractive aesthetically, and also can be used in the future if they decide that the lawn is not the best use. I think I'd almost rather have a non-conforming structure than a conforming one. And so having said that, reviewing the other five criteria I think it is in the best interest of the town to first of all, clean it up, which is the ultimate goal. It'll allow them to continue the business. I don't think property values will be diminished at all. And I think, after all is reviewed and all the all the TRC and planning and everything, I think that it'll be okay. I think it meets the five criteria.

Mr. Obimba - I echo the similar sentiments as Mr. Dietzel. I like how we've cleaned up the motion. It makes it very simple for code enforcement to work with the applicants. And it's very clear. I think I've been on this case for on the sidelines for a while. It's, it's clear on the on the variance they're seeking. I don't see any problem with the five criteria just because it's already has some non-conforming, usages on the property. The spirit of the ordinance here is to promote health, public safety, and general welfare to the community. We are already using that as a business. I don't see how that gets greatly affected by granting this variance. I think the motion is clear enough.

Mr. Tripp – I am all set.

Ms. Morin – My only concern was the public interest and that has been addressed.

Mr. Perkins – Without being repetitive, it would be absurd for me to disagree at this point.

MOTION TO LEAVE DELIBERATION

Mr. Tripp made a motion to leave deliberation.

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

MOTION

Ms. Morin made a motion on case 26-118 to grant 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 to allow the construction of a commercial garage at 6 Pearl Street for use from the abutting property at 27 Franklin St.

Parcel ID: 30092 Zoned: CBD

as presented with the following conditions:

1. Subject to obtaining all state and town permits and inspections.
2. Completion of the site plan process with the Planning Board is required.

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

Mr. Perkins reviewed the finding of fact as follows:

Motion by Mr. Tripp to abbreviate the finding of fact, seconded by Mr. Obimba. All in favor, none opposed.

Mr. Perkins reviewed the Finding of Fact as follows:

The applicant desires to create a contractor yard over two parcels. The application is in the central business district. The applicant owns the adjoining parcels and has been utilizing one as a contractor yard. By definition. The applicant originally started working on a change of use compliance request in November 2024. The board granted relief for a commercial garage on 6 Pearl St.

Voting Members:

Ms. Morin	Yes
Mr. Obimba	Yes
Mr. Tripp	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.

26-125

Applicant:	Dolores Desiderio
Owner:	Dolores Desiderio
Parcel ID	26030-001
	19 Aiken Street
Zoned:	MHDR

The applicant is requesting a variance to the terms of Article VI, Section 165-45.1.B.d of the Town of Derry Zoning Ordinance to allow the construction of a sunroom 11.5 feet from the side property line at its closest point when 15 feet is required.

Mr. Perkins asked Mr. Henry to sit in on case 26-125.

Mr. Timothy Lynch spoke for the applicant and read the application and the 5 criteria.

The first point is that the variance is not contrary to public interest. And our response to that is the requested variance of 11.5 feet for side yard setback to accommodate a corner of the proposed sunroom would only impact a 15-square-foot area within the standard 15-foot setback. This would increase the property value without adversely impacting the abutters or the neighborhood. And just to point out, that 15-square-foot area is equal to a half a sheet of plywood. The second point, the spirit of the ordinance is observed because the variance would not adversely impact the abutters, negatively affect the surrounding property values, or change the character of the neighborhood. Substantial justice is done because the lot is a very restrictive odd shape, almost pie-shaped, requiring a small variance to accommodate a corner of the proposed sunroom. Item four, the values of surrounding properties are not diminished because the variance and construction of the sunroom would increase the property value, benefiting the value of surrounding properties. There are no negative impacts to the surrounding properties. Item five, literal enforcement of the provision of the ordinance would result in an unnecessary hardship. The odd shape of the lot is restrictive, and a small variance is necessary to accommodate one corner of the sunroom to provide reasonable use while meeting the general intent of the ordinance. The existing house is small. It's, it's 1,310 square feet and has one common room. The addition of a sunroom is a significant improvement for the period that the owner has to spend at home while undergoing treatment for a medical condition. And those are the five points.

I think that the biggest point is it's a very restrictive property. As I said, there's one common room. She uses a deck when the weather is good to get a little more room. She's spending a great deal of time at the residence because she is undergoing medical treatment. And as I said, we're talking about encroaching on that 15-foot setback by half a sheet of plywood. So, we're not talking much. It's just at the corner of the sunroom.

Mr. Perkins - You're replacing a deck that's there now?

Applicant – Correct. We're tying the sunroom into the existing building. The roof ties in, the walls tie in. So, you're also limited on where you can tie in to the building.

Mr. Perkins – for the record, the board has 2 letters of recommendation from abutters that will be read into the record later.

Ms. Owens - I'll just start by reiterating what the applicant has stated. They're requesting a variance to allow the construction of a 14-foot by 14-foot sunroom 11 and a half feet off of the side property line at its closest point when 15 feet is required. The property is located in the medium-high-density residential zoning district, which requires a minimum of a 15-foot side setback. Therefore, the variance is required. The applicant proposes to replace the existing deck, as we can see, was 11-foot by 12-foot, and now build an enclosed sunroom measuring 14-foot by 14. The existing single-family residence was constructed in 2015. The existing parcel is approximately just under a quarter of an acre, and is serviced by municipal water and sewer. The existing single-family residence is considered conforming with respect to the front setback requirements pursuant to Article 3, Section 165-10, which allows the required setback to be determined by averaging the setbacks of principal structures located within 300 feet of the property on the same side of the street. So, we're using that, which was what permitted the existing single-family home. We are confirming with that section and that was permitted at that time that the front setback is preexisting nonconforming or is conforming per this Article 165-10. The proposed sunroom addition would expand the existing footprint while maintaining the established residential use of the property. The variance pertains solely to the side setback, and if approved, appropriate permits and inspections are required.

359
360 **CALL TO PUBLIC**

361
362 Mr. Perkins made a call to public.

363
364 **FAVOR**

365
366 No gestures in person.

367
368 Ms. Morin acknowledges the letters received in favor.

369
370 The direct abutter at 20 Akin Street under VIT LLC, for the sunroom request at 19 Aiken, I approve of
371 their zoning request and wish them good luck. And then the other one is, as owner of two properties on
372 Aiken Street and other nearby properties, I am in support of allowing the construction of a sunroom 11.5
373 feet from the side property line at the closest point when 15 feet is required. And that is from Ralph
374 Valentine.

375
376 **OPPOSED**

377
378 No gestures in person.

379
380 **MOTION TO ENTER DELIBERATION**

381
382 Mr. Tripp made a motion to enter deliberation.

383
384 Seconded by Mr. Deitzel, All in favor, none opposed.

385
386 We have a motion that's structured. This is in the medium-high-density residential area. We have one
387 condition already structured there, subject to obtaining all state and town permits and inspections.
388 Anybody have anything else they'd like to add here? No gestures.

389
390 **MOTION TO LEAVE DELIBERATION**

391
392 Mr. Henry made a motion to leave deliberation.

393
394 Seconded by Mr. Tripp. All in favor, none opposed.

395
396 **MOTION**

397
398 Ms. Morin made a motion on case 26-125 to grant a variance to the terms of Article VI, Section 165-
399 45.1.B.d of the Town of Derry Zoning Ordinance to allow the construction of a sunroom 11.5 feet from
400 the side property line at its closest point when 15 feet is required.

401
402 Parcel ID: 26030-001 Zoned: MHDR

403
404 as presented with the following conditions:

- 405
406 1. Subject to obtaining all state and town permits and inspections.

407
408 Seconded by Mr. Tripp. All in favor, none opposed.

Mr. Perkins reviewed the Finding of Fact as follows:

The board has seen no opposition or abutter concerns with this. The application is in the medium high density residential zone. The application is for a setback of a newly constructed sunroom. The application replaces an existing porch and the applicant seeks relief from a 15 foot side setback and the lot constraint is it is a triangular shaped lot.

Voting Members:

Mr. Dietzel	Yes
Mr. Henry	Yes
Mr. Tripp	Yes
Mr. 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.

26-126

Applicant:	Patricia M. Paciocco, Esquire – Paciocco Law, LLC
Owner:	Robert Scott Rowe
Parcel ID	02149-014
	67 Frost Rd
Zoned:	LMDR

The applicant is requesting a variance to the terms of Article III, Section 165-25.a and Article VI, Section 165-47.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 2-car attached garage with ADU above 25.1 feet from the front property line where 15 feet is required due to the right-of-way.

Mr. Perkins asked Mr. Donlan to sit in on case 26-126.

Ms. Paciocco reads the application, including the 5 criteria into the record.

First criteria, the variance will not be contrary to the public interest. For the variance to be contrary to the public interest, it must markedly alter the essential character of the neighborhood or threaten the public health, safety, or welfare of the community. Harrington v. Warner. The subject property is located in the low-medium-density residential district in an area of Derry where there are primarily single-family homes located on one and two-acre lots. The owner is proposing to add a two-car attached garage to his existing single-family home and finish approximately 911 square feet above the garage as an ADU where he will reside with his daughter, Danielle. The plans for the structure have been submitted with the application as Exhibit F. Due to a 50-foot right-of-way, which was laid out by a 1980 subdivision, a 35-foot front setback applies to the northerly sideline of the applicant's lot. That is shown on Exhibit B. There is also a 20-foot-wide drainage easement extending along the lot's northerly boundary. The exterior renderings for the ADU attached as Exhibit F show the front elevation was designed to match the existing home when viewed from Frost Road. For this reason, the ADU will not be seen from the road and will not change the character of the or the of the area or threaten the public health, safety, or welfare, as shown in the two photos attached as Exhibit D of structures that are in the area. For the spirit of the ordinance to be observed, it must markedly conflict with its intended purpose. The owner is requesting a variance from the 35-foot front setback applied to the northerly sideline of his lot due to the unimproved roadway right-of-way created in 1980. The purpose of setbacks is to ensure adequate spacing between structures and between structures and roads. Greater

setbacks generally apply to roads where traffic is anticipated to exist. The right-of-way, however, has existed on plans for 46 years and has yet to be improved. It is very unlikely there will never be a roadway built in the right-of-way due to the stream that flows across the right-of-way shown on Exhibit E1, where there is also a wetland, and its topography drops off and then goes up dramatically, actually about 20 feet, as shown on Exhibit E2. There is also a wetland located on the parcel directly abutting the rear of the lot, and collectively, these physical challenges likely explain why the right-of-way has not been improved. It would not be contrary to the spirit and intent of the ordinance to grant the owner's request for a modest reduction of the front setback requirement being applied to his side lot line to accommodate the construction of the garage and the ADU. Substantial justice will be done by granting the variance because, for it to be done, the benefit to the owner must outweigh any public harm. Since it is very unlikely the right-of-way will ever be improved due to its physical challenges, there will be no loss to the public by granting this modest relief to allow the garage and ADU to be constructed on the lot. The values of the surrounding properties will not be diminished. The owner's construction plans attached as Exhibit F show the exterior elevation of the proposed ADU is designed to match the exterior of his existing home. The house located directly across Frost Road from the lot is similarly styled. That's shown on Exhibit C. There is also a much larger duplex located on Frost Road with an ADU near the lot that's also, uh, similarly styled. Collectively, these photos confirm the owner's proposed improvement will blend in with the area and not diminish surrounding property values. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The purpose of the of the unnecessary hardship, it means owing to the special conditions of the property that distinguish it from other properties in this area. The special conditions of this lot include there being no area available along the southerly side of the home to add the proposed structure, which is the opposite end of where the garage addition is proposed. In addition, there is the right-of-way. There's a 20-foot-wide drainage easement extending the full length of the northerly sideline inside the limits of the lot. That is shown on Exhibit A. There is also a stream that crosses through the right-of-way to the lot directly on the opposite side of the right-of-way that empties into a pond further down Frost Road. The photos shown on Exhibit D also show a very large outcropping alleged located directly behind the existing home where the well and a patio are also located before the topography drops down dramatically. These existing improvements and conditions prevent the garage ADU from being placed elsewhere, um, behind the home. No fair and substantial relationship exists between the general public purpose of the ordinance, which is the setback ordinance, and the specific application to that provision to this property. The proposed garage ADU cannot be moved back further due to the pool patio and ledge outcropping, and the proposed ADU cannot be placed on the other side of the building because the existing home is too close to the southerly boundary. The purpose of a front setback is to ensure there is adequate space between the structures and vehicles traveling along a public way. As applied to the northerly sideline of the lot, the right-of-way planted 46 years ago has never been improved, and upon closer examination of its physical characteristics and consideration of the permitting that would be required to improve the right-of-way, it is highly unlikely it ever will be. In addition, the relief being requested here is approximately 10 feet it's actually 9 feet 11 inches in the front and 7 feet in the rear. It's actually 6 and a half feet. Exceeding the distance required by the side setback otherwise required in the MLMTR zone if the side setback requirement were applied to this particular lot. But because it's a Connor lot, the front setback applies on both sides. The proposed use is reasonable. It the relief is 7 feet and 10 feet for the front and rear setbacks of the garage and the ADU, and it's reasonable in light of the age of the right-of-way and the likelihood it will remain unimproved.

When we first looked at this and, and I spoke with Ms. Owens about this she wondered if we needed the variance because the plan originally from 1980 showed a 15-foot side setback. Along the right-of-way. But given the extent of the investment my client is making into this particular improvement, to be cautious, we elected to come before the board and ask for relief from a front setback to ensure that there was no violation in the future. The property is really substantially encumbered. As you can see from the site plan, you've got the drainage easement that goes across the lot and then down the side that goes out under Frost Road. But there's also another drainage easement that you can see on the old recorded plans that actually crosses the

lot and continues, to the east where it crosses the other lots on that side of Frost Road and empties into a detention basin. There really is not a lot of area or wiggle room for Mr. Rowe to work within to accomplish this desire. He is moving into the ADU himself with his daughter who is disabled. They're both here tonight with me and his other daughter and their family are moving into his home in the main house. So, this is really his only option to be able to remain in place on the site and have a separate living space. The topography drop also, if you look on Exhibit E, it's E1 or E2, is really substantial when you go in. There are photographs of the right-of-way from the road. As you go in towards where the stream crosses the right-of-way, there's like a 20-foot drop in that area. So, the chances of that ever being improved are pretty slim. The topography is shown on E2. So, the relief is also fairly modest and well within what it would have been if we had elected to just follow the side setback.

Mr. Perkins - what was your argument or point as to why the new construction cannot slide back so it's flush with the front of the other of the main home?

Applicant - I'm sorry. I didn't understand your question, Mr. Chairman.

Mr. Perkins - Did you specify why the ADU can't be constructed so that it was flush with the front of the existing house?

Applicant - If we were to slide the structure further back, Mr. Chairman, we would still need relief from the ordinance. And directly behind where the ADU is proposed, there's also a patio which is in the well radius, we're moving closer to the well. And there is a photograph also included as an exhibit that shows a very, very large outcropping of ledge.

Ms. Owen - As the applicant stated, requesting a variance to allow the construction of a two-car attached garage with an ADU above to 25.1 feet from the side property line where 35 feet could be required due to the existing right-of-way. The property is located in a low-medium density residential district, which requires a 35-foot front yard setback and a 15-foot side and rear yard setback. The property abuts a 50-foot wide right-of-way established as part of the original subdivision in 1980. The lot has frontage along Frost Road, an approved public street, and the existing driveway access is also off of Frost Road. Based on the property's existing orientation and access, the property's frontage typically is considered along Frost Road, and the property line adjacent to the right-of-way functions as a side yard, in which case, the applicable setbacks would be 15 feet. However, as the applicant stated, because the right-of-way remains in existence and could potentially be developed in the future, the applicant is seeking a variance to allow the proposed addition to remain compliant regardless of any future changes to the status of the right-of-way. One other thing I'd like to mention is in accordance with the revised zoning ordinance, which is effective as of today, September 3rd, 2026, the definition of frontage has also revised. So, the new definition is as following. The lot line which directly abuts the street side of the lot except for the lots which have multiple lot lines which abut streets, in which case the front lot line shall be deemed to be that lot line abutting a street from which the address is designated by the fire department is located. So, this has a 67 Frost Road address. And based on this new definition effective as of today, the frontage is considered Frost Road as well.

CALL TO PUBLIC

Mr. Perkins made a call to public.

FAVOR

No gestures in person.

OPPOSED

Jeff Thomas, 57.5 Frost Road – I own that piece of land that's in question that I'm looking for an easement for it. My problem is, I don't have a problem granting them an easement on that property, but if I decide to use that land that we're planning a subdivision, we're planning on bringing our drainage down Frost Road and continue into the existing right-of-way that I have. And right now, the town has drainage also going into that right-of-way. The problem is that floods out in the spring. I'm just questioning that when they build that garage so far close to the area that's wet. It's gonna be a significant more water going down there than before because it's supposed to increase that culvert size.

Mr. Perkins - what's your timeline plan on that?

Mr. Thomas - Four or five months.

Mr. Perkins - Okay. Is that before planning now?

Mr. Thomas - No. We have been in TRC a couple times.

Mr. Perkins - I mean, the relief here is that they're asking for consideration because of that right-of-way due to the space, I guess you're giving fair notice that some kind of change in water flow and improvement will come along. They're not technically asking for an easement. They're asking for relief, from that side setback. I guess in this case, you're giving them fair warning that at some point, whatever the ground design is now that God left, it is going to be altered or could be altered. Is that correct?

Mr. Thomas - Could be. Yeah. Exactly. The thing is, is it floods pretty much in the spring over there quite a bit. And then where they're putting that garage setup is right where that culvert enters from the street, the crossover culvert.

Mr. Perkins - So are you suggesting that they are interfering with the culvert?

Mr. Thomas - Well, I just don't wanna be at risk. If I decide to run my drainage down and the plan to drain in there, and all of a sudden, we're creating more water flow because it is a drainage easement in there. I don't wanna be at risk of them coming back and saying their garage is flooding now because they created more water down there. That's the only issue I have.

Mr. Perkins - I've never come across this one before. I understand your concern, and you are giving fair warning on this. How much relief are they looking for on this side?

Ms. Owen - 10 feet effectively.

Mr. Perkins - what is the distance between where they're at here and the edge of the right-of-way currently? I don't mean to put you in a pinch. What is the current distance between, and perhaps Attorney Panciocco may have to answer this. I just wanna get clarity before Mr. Thomas steps away. What is the current distance between the existing structure and the edge of the right-of-way? Do you know that?

Ms. Owens - If I were to roughly scale, I would consider it around 60 feet.

Mr. Perkins - Yes. I see. So understandably the easement that's there, I can't read the numbers, but, the easement that's there is pretty close to the garage side. What's the width on that easement? Can you help me out with that, Ms. Owen?

614 Ms. Owen - Typically, they're 20 feet. Again, roughly scaling, it looks about 20 feet.

615
616 Mr. Perkins - Okay. How much culvert are you putting in, you think?

617
618 Mr. Thomas - I believe they're coming down with a 36-inch from 57 and a half down just one.

619
620 One. Okay. All right. The board have any questions for Mr. Thomas?

621
622 Mr. Deitzel - this building looks like it's kind of on a little crest on the lot, and, uh, there's like a four-foot
623 drop on the back. And it looks like there's gonna be like a four-foot drop on the side too. Is that correct?

624
625 Mr. Thomas - You're gonna have to run some drainage from the exit at proposed new structure down the
626 right-of-way into the area to get to move some water away. You're gonna when they if they build the
627 garage there, the only way to get rid of that water that's on the right-hand side of it would be to run down
628 my 50-foot easement and then get the water away from that their existing unit. It's gonna flood over there.

629
630 Mr. Perkins - That's your drainage easement?

631
632 The town's drainage easement that crosses, um, Frost Road now, uh, pretty much floods that area in the
633 spring. And now we're gonna be coming down there. The pipe that crosses Frost Road, I believe, is a 16-
634 inch crossover culvert that's existing from the when they first put Frost Road in. And that culvert goes in
635 about 40 feet and then drains pretty much right at the corner of their foundation, their new proposed
636 foundation. It's either should be added on the culvert to keep continuing down towards the wetlands to
637 alleviate that water problem that's gonna be there.

638
639 Mr. Perkins - So you project that you'll be running a three-foot diameter drainage pipe down along that
640 right-of-way.

641
642 Mr. Thomas - If we use that, that's what the plan was to come down. If we couldn't filter the water at the
643 top of Frost Road, then we were gonna come down Frost Road and run it into that easement that I own.

644
645 Mr. Thomas - you own the easement?

646
647 Mr. Perkins - Well, I own the whole 34 acres. It's all one piece right now. Hasn't been subdivided yet.
648 There's just one house on it.

649
650 Mr. Perkins - So at this point, by the way, what they're asking for is relief on the side setback from the
651 easement. And with any consideration, whenever someone is expanding into that setback, they do so at
652 their own risk.

653
654 Applicant - just to add a little bit of clarity to the comments provided by Mr. Thomas. The abutter.
655 The striped area that you see on Exhibit A is an underground pipe. And my client just explained to me it's
656 a reinforced concrete pipe that is buried underground on his property, on his side of the boundary line
657 there. And the 50-foot right-of-way, I think that Mr. Thomas had talked about running the three-foot pipe
658 in. Is beyond that. So of course, they're going call DigSafe. They'll check what's in the ground before they
659 put the corners of the foundation in. Underneath the garage. But it is setback relief, as you've stated, Mr.
660 Chairman. The culvert also to which he referred is closer to where if you look at the plan up near the
661 shed. Where the topography dips down quite dramatically. And my client is telling me he's never had any
662 flooding coming onto his property. So, I think there may be some confusion about where the boundary
663 line of the property is. The 50-foot right-of-way is beyond the striped underground easement that's shown

on the plan. And I don't think there is any easement for the benefit of the abutting property owner in the striped area, but he does own the whole 50-foot width of that right-of-way.

Mr. Perkins - Sure. But we're in agreement. The relief, if this board chooses to grant it, does not hold the abutter liable for anything that your client is expanding into.

Applicant - Absolutely not. And we understand it's at our own risk.

MOTION TO ENTER DELIBERATION

Mr. Tripp made a motion to enter deliberation.

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

So, we have our motion structured and we have one condition on it, which is the typical state and town permits and inspections. I don't know if any of the testimony alarms any of the board members in a way other than what was narrated by myself and Attorney Panciocco. Does anybody have any other conditions they would wish to add to this or commentary to the approval period?

Ms. Morin - My only thing is making a decision on a tentative thing that's not there or even started. I understand we have to consider it, but it doesn't hold much weight.

Mr. Perkins - And that is the future expansion or development with drainage?

Ms. Morin - Correct.

Mr. Perkins - Okay. Yeah. I think we understand that it's been expressed that the, if the board grants the relief, the applicant does so at their own risk.

Mr. Donlan - I'm okay with the motion. Just to speak to the case a little bit. With the relief being for what would be considered for all intents and purposes a side setback, which would be 15 in reality, certainly in light of what changed today because they obviously could just resubmit. Even if that notwithstanding, they're not in the drainage easement, and the 50-foot right-of-way is 25 feet away. I don't I don't see a problem with this at all.

MOTION TO LEAVE DELIBERATION

Mr. Tripp made a motion to leave deliberation.

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

MOTION

Ms. Morin made a motion on case 26-126 to grant a variance to the terms of Article III, Section 165-25.a and Article VI, Section 165-47.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 2-car attached garage with ADU above 25.1 feet from the front property line where 35 feet is required due to the right-of-way.

Parcel ID: 02149-014 Zoned: LHDR

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. Perkins reviewed the Finding of Fact as follows:

The application is for side and front setbacks. Relief from an easement on the right of way. The setback has increased from 15 ft to 35 feet. The application is in the low medium density residential zone and the application is for a garage with an ADU above.

1. The board's findings that the unnecessary hardship is demonstrated because the hardship relates to the unique characteristics of the property:

Mr. Dietzel said the proposal in of itself is reasonable and thinks due to the topography and the other various characteristics of the property that was spelled out in the application make conformance nearly impossible. The hardship criteria has been met.

Mr. Tripp concurs.

Ms. Morin concurs.

Mr. Donlon concurs.

Mr. Perkins concurs.

2. The board's findings that this is not contrary to the public interest:

Mr. Dietzel said Attorney Panciocco addressed this well. It is not contrary to the public interest in that it is not highly visible from the street, and it does not change the character of the neighborhood. The criteria is met.

Mr. Tripp has nothing on public interest.

Ms. Morin said she agrees with Mr. Dietzel.

Mr. Donlon agrees and has nothing to add.

Mr. Perkins sees no conflict with the public interest. The area is expansive and there is plenty of space.

3. The board's findings that this is consistent with the spirit of the ordinance:

Mr. Dietzel said he has a similar response. It was pointed out that the ordinance is written to make sure there is adequate spacing and that is observed.

Mr. Tripp does not see any conflict with the spirit of the ordinance.

Ms. Morin does not see any conflict with the spirit of the ordinance.

Mr. Donlon does not see any conflict with the spirit of the ordinance and has nothing to add.

Mr. Perkins does not see any conflict with the spirit of the ordinance. It is a fairly rural area and wide open.

4. The board's finding that Substantial Justice would be served by denying this variance request:

Mr. Dietzel said he sees no harm to the public and there is a benefit to the applicant. Substantial justice is met.

Mr. Tripp said since the variance requested is a setback to the right of way of 35 ft and the typical setback is 15 ft the only time that the right of way would come into effect would be if the road was ever put there. He does not see an issue with substantial justice.

Ms. Morin said she agrees.

Mr. Donlon said he agrees.

Mr. Perkins said substantial justice is served as the encroachment into the setbacks is minimal and does not disturb the prior two conditions of the five criteria.

5. The board's findings that the applicant has adequately demonstrated that surrounding property values will not be diminished.

Mr. Dietzel said surrounding property values are not diminished.

Mr. Tripp said surrounding property values are not diminished.

Ms. Morin said surrounding property values are not diminished.

Mr. Donlon said surrounding property values are not diminished.

Mr. Perkins concurs.

Voting Members:

Mr. Tripp Yes

Mr. Donlon 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.

Due to a case dropping out, we are going to alter case numbers 128 to 127 and case 129 to 128.

26-127

Applicant: Revive Recovery Resource Center; Jessica Carter

Owner: Dovaro Trust, Palmisano Robert J. Trustee

Parcel ID 32020

32 Crystal Ave

Zoned: GC

The applicant is requesting a variance to the terms of Article VI, Section 165-3.1.A of the Town of Derry Zoning Ordinance to permit the operation of a 10-bed, Level III Men's group recovery residence within the existing structure on the property.

Mr. Perkins asks Mr. Donlan to sit on case 26-127.

Mr. Harris, attorney, reads the application and the 5 criteria into the record.

Criteria number one, Mr. Chair, the variance will not be contrary to the public interest for two reasons. The essential character of the neighborhood is preserved. The property is and will remain a residential structure. While Revive Recovery will undertake repairs and improvements to the residential structure, the structure will retain its outward residential character and appearance. The proposed residential use is consistent with the residential and mixed commercial residential character of Downtown Derry. And given the modest scale, 10 beds, and the fact that residents will rely primarily on public transportation, bicycles, rideshare services, there will be no meaningful increase in vehicular traffic and residents will not be permitted to have vehicles at the residence. Secondly, the public health, safety, and welfare are advanced and not threatened. The residents will operate as a structured, well-supervised living environment with on-site house management staff and resident policies governing curfews, community engagement, and property upkeep. The project directly addresses an acute and well-documented unmet need where there's presently no publicly funded recovery housing for people in Derry. Individuals in recovery must frequently leave the community to access housing and New Hampshire continues to confront severe housing shortages and high substance use. The second criteria, the spirit of the ordinance is observed because the GC district, the general commercial district purposes are advanced, not frustrated. The GC district is intended to accommodate a range of commercial, service, and related uses in addition to multifamily dwellings permitted via a conditional use permit. Group residents whose occupants will live within walking distance of and will patronize and seek employment at nearby commercial establishments is fully consistent and complementary to the apparent uses in the GC district. No district in Derry permits group residences as is. Because a group residence is not a permitted use in any district within the town, the spirit of the ordinance is best observed by permitting this needed residential use in the district that is most appropriate for it, which we argue is the GC district. Granting the variance advances rather than undermines the general welfare of the objectives underlying the ordinance. The third criteria, substantial justice, is done for two reasons. Because one, denial causes enormous harm with no countervailing public gain. Denial would result in significant loss not only to my client, Revive, which has secured site control, taken substantial predeveloped planning, and committed funds to this project, but also to the intended residents of this place whose need for stable, recovery-oriented housing is particularly acute in light of the ongoing housing shortage and opioid and substance use crisis I mentioned earlier.

The proposed use is consistent with the present residential use of the property, which is an existing single-family dwelling. Secondly, there is no gain to the public from a denial. Denying this variance would do a disservice to the general public by needlessly frustrating a charitable initiative addressing one of the community's pressing needs. The fourth criteria is that values of surrounding properties will not be diminished for several reasons. One, there's no evidence of an adverse impact. The proposed residential use is consistent with the largely residential and mixed commercial residential character of the surrounding area and will not fundamentally alter the appearance or character of the neighborhood.

Secondly, this residence will be well-managed and well-supervised. The residents will have on-site staff, professional property maintenance, and resident policies designed to ensure the property and landscaping remain well-kept and visually consistent with the surrounding community. In fact, improvements will actually enhance the property values. Revive intends to rehabilitate and repair the existing structure and make significant exterior and interior improvements that will preserve the property's character while improving its aesthetic appeal and longevity, potentially enhancing the overall appeal of the neighborhood. The last criteria, Mr. Chair, literal enforcement would result in unnecessary hardship. Under this fifth criteria, the applicant must show that owing to special conditions of the property that distinguish it from other properties in the area, such as no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of the provision to the property, and two, the proposed use is a reasonable one. Speaking to the special conditions of the property, first, the property is an existing appropriately sized single-family dwelling supplemented by a detached garage well-suited to adaptive reuse as community programming and support space for recovery residents. The property is developed as a residential site but is located in Downtown Derry in a highly walkable setting providing ready access to employment, healthcare, retail, and other such services for the residents. Characteristics that make it especially well-suited to the proposed use and that reduce transportation-related barriers for residents in early recovery. Additionally, the residents' proximity to Derry Friendship Center is important as well. In terms of no fair and substantial relationship, the use restrictions of the GC district are intended to promote an orderly mix of commercial and related uses. The proposed use advances does not frustrate those purposes. The residents will be well-supervised residential use whose occupants will support and integrate with surrounding commercial establishments involving adaptive reuse of existing residential structure rather than any intensification of a redevelopment. Lastly, the proposed use is a reasonable one. The property, again, is an existing residential structure and is well-situated for the proposed 10-bed recovery residence. The garage is well-suited to convert into a complementary community and support space. And again, its proximity to the Derry Friendship Center will be beneficial for the residents that go there. And I'll stop there.

Jessica Carter - Good evening, Mr. Chair and members of the zoning board. My name's Jessica Carter, and I'm actually the executive director, not quite CEO yet, but hopefully in the future. Revive is requesting a variance to establish a 10-bed, ADA-accessible, level 3 men's recovery residence at 32 Crystal Ave. Revive is a New Hampshire-based nonprofit recovery community organization. We provide peer recovery support, harm reduction services, criminal justice recovery navigation, youth and family programming, and other community-based services for individuals and families affected by substance use disorders. We are not a new organization entering Derry without local relationships or experience. Revive already operates recovery services at in Derry at through our partnership with the Derry Friendship Center. This residence would be a natural extension of the work we are already doing in this community. There is currently no recovery residence in Derry and no publicly funded recovery residence in Rockingham County at all. This project would fill a significant gap by allowing individuals to access structured recovery housing while remaining connected to their families, employment, treatment providers, and community-based support systems. The property at 32 Crystal Ave is an existing single-family built in 1905 in Derry's general commercial district. We are not proposing new development or a large institutional facility. We are proposing to rehabilitate an existing residential property while preserving its residential appearance and character, also doing something about that shrubbery. The property is particularly well-suited for this purpose because of its downtown location. Residents will be within walking distance of employment, healthcare, stores, community services, and Revive's existing recovery support network at the Derry Friendship Center. The proposed use is classified as group residence under Derry zoning ordinance. Group residences are not currently permitted in the general commercial district or, importantly, any zoning district in Derry. This leaves us no location within the town where the it would be needed or reasonable to use and be established without a variance. I would like to briefly address the five criteria the board must consider. The home will only accommodate 10 residents, and we'll have on-site staff 24/7. Staff will be living on-site, and there will be additional staff

there during daytime hours. We'll have structured policies, good neighbor we already have a good neighbor policy, we will be governing recovery status, curfews, conduct, community participation, and property upkeep. Our residents will not be permitted to keep vehicles on-site. So we do not anticipate meaningful increase in parking demands or traffic. This residence will not threaten public health, safety, or welfare. It will advance them. Stable, structured housing gives people in recovery the accountability and support they need to become healthier, maintain employment, rebuild relationships, and participate positively in their communities. This property, we found super special, and some of the characteristics that make it particularly appropriate for its proposed use, it's an existing residential property of a suitable size with additional structures that may support programming and community space. It is also located in a highly walkable downtown area near employment, healthcare, retail, transportation, and what we're already doing downtown. Because Derry does not permit group residences in any zoning district, strict enforcement would effectively prevent Revive from establishing this type of need in or housing anywhere in the town. So, we respectfully believe that an outcome would create unnecessary hardship and would not serve the community's broader interests. We just want to reiterate that recovery doesn't happen in isolation. It requires safe housing, accountability, peer support, meaningful community connections, and access to employment and services. This project represents responsible growth by an established nonprofit org, and we have identified a documented gap, selected a property that's well-suited to meet the need, and developed a plan for a structured and professionally operated residence that will complement the recovery services already here in Derry. This decision is about the use of one property, but its impact will reach much further. It is an opportunity for Derry to strengthen its local recovery infrastructure and for Rockingham County to gain a level of structured recovery housing it does not currently have. We respectfully ask the board to approve Revive Recovery Resource Center's variance application and allow this important project to move forward. Thank you for your time and consideration. I'm happy to answer any questions.

Mr. Perkins - How is this different than the Granite Sober Living?

Applicant - So Granite Sober Living does not exist in this area anymore. They took that property and turned it into a treatment center. So, we're much different. We provide peer support. We won't be, you know, billing insurances for all, you know, clinical codes. It's all peer support. People that are in recovery just trying to help other people in recovery maintain what it looks like for them.

Mr. Perkins - So, you said it was a treatment center?

Applicant - It so the Granite House was originally recovery housing back in, like, 2016 through maybe 2019, and then they converted into a treatment center. So, they used that same building.

Mr. Perkins - So, would you define the difference between what's the definition of a treatment center versus what you're doing?

Applicant - So, what we're doing is non-clinical. Yes. That's okay. Happy to happy to explain it. But, um, we're non-clinical, and we're not going to be, um, offering clinical support or it's not like a residential, uh, treatment center. It will be people who can come on their own free will, choose to partake into a recovery plan that we help them establish, and it's not necessarily something that's going to be forced or prescribed onto them. A lot of times, people end up in treatment centers because they're being told they need to go there. We are working more with the folks that are coming on their own accord and looking to develop a recovery plan that works for them.

Mr. Perkins - And the position of you've given a lot of information, correct? I just want to sort through some of it for myself. The idea that or the argument that, it's inappropriate for a general commercial district is kind of what I'm looking at right now. Basic zoning objectives is spoken under the contrary to

the public interest criteria. I'm curious as to how you see the basic zoning objectives and a little more clarification there to how this meets that.

Applicant - Sure. Yeah. So, we think the essential character of the neighborhood is preserved. This was single-family residence. To our knowledge, it was rented out. The previous owner rented it to tenants. We're not turning this into a development or anything. This is gonna be more residents in the in the building. But we're not gonna, change the exterior or infrastructure or enhance the exterior and do renovations on the interior. So we feel that it fits within the general commercial district because, it's a modest renovation, and there's not gonna be an increase in vehicle traffic or anything like that. That's gonna stay the same as it is.

Mr. Perkins - The supervisory phrase, this is really supervisory. It takes us to the question of how do you monitor, and keep that supervisory role in check? That becomes one of the primary arguments that you're presenting. I think to in contrast to these are individuals that could support commercial activity within a close proximity, the supervisory role, kind of is, is suggested in that aspect. Can you define that?

Applicant - So is your question what steps in terms of supervisory role is Revive gonna play?

Mr. Perkins - Yeah.

Applicant - So, our plan is to have three staff involved in the housing project. Two, there will be at least two present at all times, but during daytime hours, there will be up to three.

Mr. Perkins - Okay. And what kind of constraint do you have in that supervisory role? I say constraint, I guess control in that with those individuals. How does that work?

Applicant - The individuals that are living in the house or will be monitored by our peer leaders, who will be well-trained, and in the process of getting their certified recovery support worker certification through, the board of licensing. We do have, staff also that are located at the center, which is about a half a mile down the road, that can be of assistance, should anything be needed. We have members of our leadership here that are all on the emergency contact list for the fire department, and they're all willing and able to come in crisis or if there's anything needed at the house at any hour. We have board members that live in the area that are also on that emergency contact list, and we have a whole protocol for what happens if this happens and what happens if that happens. And we have this whole handbook for our certification. We are already provisionally certified through the New Hampshire partnership for recovery residences for our first housing project, which is unrelated to this, but those same policies will carry over to this project, and we do anticipate provisional certification probably before we even open.

Mr. Tripp - What exactly are you asking for here?

Applicant - A variance on the ordinance that does not allow congregate housing in the entire town.

Mr. Tripp - The motion needs to be corrected; the wrong ordinance is noted. It should be 165-32.1.A

Ms. Morin - I have a question. So, with substance use, usually, there's mental health. There's often during diagnosis. And also they have a past, a criminal past. Is there any level that you won't allow, like, crime-wise?

Applicant - So our policies now, for our, it's called the Hive Recovery Residences is any violent crimes, any sex crimes, arson, and there was one other.

Ms. Morin - Because it's super close to a school, but you already mentioned the one with my concern.

1021
1022 Applicant - the other one was domestic violence, but that kinda goes along with violence.

1023
1024 Mr. Obimba - you said there's 10 beds, so that's 10 individuals you'll be taking care of with two
1025 permanent staff. So that's a ratio of two to five, two staff for five members.

1026
1027 Applicant - the two of those staff are included in the 10.

1028
1029 Mr. Obimba - So two and four, two to four. And how many beds does this property have? How many
1030 bedrooms?

1031
1032 Applicant - It's technically a three-bedroom house, but some of the rooms on the first floor are the ones
1033 we're gonna be converting into ADA accessible.

1034
1035 Mr. Perkins - Okay. Uh, what is defined under the ADA in this sense?

1036
1037 Applicant - Two beds per room

1038
1039 Ms. Morin - I'm assuming people are going to question the outside of the building. Are you gonna have a
1040 sign? Is it gonna be noticeable, or is it just going to look like the house is as now?

1041
1042 Applicant - It's gonna look a little better version of what the house looks like right now. We don't intend
1043 on having a sign. And our plan for our first housing projects are called the Hive, so we were gonna have a
1044 bumblebee-shaped mailbox, and that was the only way that you could really identify who we are. We, you
1045 know, intend on trying to keep our, you know, privacy and protect the privacy of the people living there as
1046 much as the community around us.

1047
1048 Applicant - Mr. Chair. One point of clarification. In our application we submitted, in the deed, it was
1049 pending sale, with the Devaro Trust. That's been conveyed to Revive Recovery. So, Revive Recovery is
1050 the owner now. We're happy to supplement with the deed, the most current deed, well, after this, this
1051 hearing, if the if the board wants. But we just wanted to clarify that our application materials, that one
1052 piece, the deed we included has changed since we submitted it, so we're happy to supplement that at the
1053 board's request. We're happy to do that.

1054
1055 Ms. Owen - as previously stated, the applicant is requesting a variance to permit the operation of a 10-
1056 bed, level 3 men's recovery group recovery residence within the existing structure on the property.
1057 Property is located within the general commercial zoning district. Group residence is not a permitted use.
1058 Therefore, a variance is required. The applicant proposes to convert the existing building to establish and
1059 operate a nonprofit, fully accessible, peer-supported 10-bed, level 3 men's recover group recovery
1060 residence for individuals recovering from substance use disorder. The residence will include onsite
1061 management and support staff. The applicant is not new a new organization to Derry and currently
1062 facilitates recovery support services through the Derry Friendship Center. The property consists of
1063 approximately 0.08 acres and contains an existing 1,876-square-foot single-family residence constructed
1064 in 1905, along with a detached garage on the property. If approved by the board, a site plan amendment
1065 will be required to be reviewed and approved by the planning board. And if approved, appropriate permits
1066 and inspections will be required.

1067
1068 Mr. Donlan – Ms. Owens, to the best of your knowledge now, can you just touch on what the residence
1069 looks like as far as how many is it two-family, three-family, the beds, that sort of thing?

1070

Ms. Owens - Absolutely. Happy to. The existing property, it's a single-family residence. It is three bedrooms. It's approximately a little over 1,000 square feet on the first floor and about 500 just over 500 square feet on the second story is what they're calling it, so it's built into the roofline. There is a detached garage on the property as well.

Mr. Tripp – Can some define level 3?

Applicant - level 3 recovery residence is intended for folks that are reentering from treatment centers or, from other residential treatment options. Level 3 means that there's 24/7 staff on site. With the NAR standards, they make different levels based on the amount of staffing and the amount of treatment that might be provided or not provided in a space.

CALL TO PUBLIC

Mr. Perkins made a call to public.

FAVOR

Carol Bowen - I am the chairman of the, um, Derry Friendship Center here in town. And a lot of you know the Friendship Center. We've been in the community for probably over 40 years. And what I'd like to start out by saying is I'm hoping that the conversation around substance misuse is changing, that it's not a moral issue. It's a health issue. And I you know, and I wanna say this, that I don't think that people that have problems with substance misuse wake up one morning and say, "You know what? I'm bored to death. I think I have nothing better to do. I think I'll just start using alcohol and drugs." That's not how it goes. But I don't wanna get into that, but I did wanna say that. So, the Friendship Center, you know, like I said, it's been in the community for over 40 years, and we've never had any trouble. We've never had any trouble. It's peer-to-peer support, you know, and I don't see anything but a benefit because Revive has been renting space in our building. You know, we've fortunate enough to have moved to Railroad Ave. I'm sure a lot of you remember when we were on Broadway, which was, you know, a notch above sketchy at the time. We have our own building. We've been in our own building now for about 11 years, and Revive has been renting an office space there. And they have a staff that is there every day from 11:00 to 3:00. So, if someone were to come in off the street looking for help or call looking for help, they're there to give it. And they have their finger on the pulse. They know where to go, where to send this person for maybe help with rent or, uh, utilities, utility bills or finding them a detox or a residential program. So, they're very active in Derry community as well as Nashua and Manchester. And I think that expanding their services would be a boost to this town. Again, you know, they have a great track record, and I'm all for it. I think it's great. And I get the concern. You know, I get the concern because, you know, people have sort of an idea of people that have been addicted to alcohol and drugs, but people that are looking for help need the help. They need help. So that's why I'm here to say I think it's a great idea, and I'm hoping that the board approves it.

Mr. Tripp - do you anticipate working with the people that are requesting the variance?

Ms. Bowen - Yes. I would imagine that the people that are gonna be in the house will be able to attend meetings at the Friendship Center. We have over 20 meetings a week. And we have approximately about 400 people a week that come through our doors looking for help. And it's all peer-to-peer. There are no clinicians or professionals involved. So, I anticipate that, you know, they would be coming to the Friendship Center and attending meetings as well.

Jake Barry - Good evening, Mr. Chairman, members of the committee. My name is Jake Barry. I'm the senior vice president in New Futures. We are a statewide nonprofit health policy and advocacy

organization. We've been working for more than 30 years to help address drug and alcohol issues in our state. I can't speak much to the specifics that you've heard so much about tonight. I'll leave that to others in the room. But I do wanna talk about, from a statewide perspective about the importance of recovery housing projects like this. I know I don't need to tell you the vital role that housing plays in helping us to address the ongoing addiction crisis, here in New Hampshire and all across the country. Research is crystal clear that homelessness and housing instability contribute to higher rates of substance use. And conversely, access to recovery housing is associated with decreased rates of substance use, reduced probability of recurrence, and lower rates of criminal activity and incarceration. These benefits are crystal clear, yet as a state, we continue to face a severe shortage of recovery housing, as you heard tonight, not only is there not one single recovery house here in Derry, but there aren't any publicly funded or certified houses to be found in all of Rockingham County. In total, projections show that around that New Hampshire needs more than 15,000 recovery beds to meet the needs of our state and its people. I should say additional recovery beds. Thankfully, these people here before you tonight want desperately to help. Revive Recovery is known around New Hampshire as one of our largest and strongest recovery community organizations. Here in Derry, they've been an important community partner for several years with their resource center on Railroad Ave. And their recovery centers and housing units in Manchester and Nashua are saving lives every day. I understand fully, fully that land use decisions like this one are complicated and require careful considerations but Revive has shown here in Derry and all around the state that it's a respected, responsible, and impactful community partner. And projects like this that they're proposing will not only benefit the individuals they serve but the entire Derry community and our state as a whole. For these reasons, I'd ask you to support this to grant the variance and support the projects. And I'm happy to take any questions.

Priscilla Montos - Good evening. And thank you for the opportunity to speak tonight. My name is Priscilla Montos. I am the director of operations of Revive Recovery Resource Center. But my story with Revive didn't begin with employment. I first walked through the door as a participant looking for support in my own recovery. I eventually became a volunteer, served multiple years through the AmeriCorps program, continued growing within the organization, and today, I have the privilege of serving as the director of operations. I share that because I know firsthand what can happen when somebody is given support, responsibility, and the opportunity to grow. That belief is at the heart of why Revive wants to expand recovery into recovery housing. A few years ago, during a strategic planning session, our board and leadership team were given markers and blank pieces of paper. One question was asked: What do you wanna see the future of Revive look like? When we laid the drawings out, we all noticed something. There were little houses everywhere. Without planning it, without talking about it, we had all drawn the same thing. We recognized that while recovery centers are incredibly important, recovery doesn't only happen inside a center. It happens in everyday life: going to work, rebuilding relationships, learning to manage money, developing healthy routines, and figuring out who you want to become. To do those things, people need stability. Those little drawings eventually became the hive, Revive's 18-bed, ADA-accessible women's recovery residence. We chose the name The Hive because The Hive represents connection and shared purpose. Each member contributes while also growing individually. And a hive isn't meant to keep its members inside forever. It gives them what they need to eventually go out and thrive. Now, we hope to bring that same philosophy to Derry through 10-bed men's recovery residence. I understand why residents may have questions about having a recovery home in their community. Those questions are important, and we want to hear them. I also think it's important for Derry to know who Revive is. We are not a large corporation coming into New Hampshire from somewhere else. Revive was grown right here in New Hampshire. We are local people who live, work, raise families, recover in these same communities. I personally went to Alverne High School. I understand what it's like to grow up in a New Hampshire town and why people care deeply about what happens in their neighborhoods. We care about that too. If there is ever a concern, Revive isn't some corporation with a headquarters hundreds of miles away, a phone number that leads nowhere. You can call us. You can talk to us. You can know the people responsible for the home. We want to have a relationship with Derry. Its neighbors, town officials,

businesses, and community organizations because being a good neighbor is part of making recovery residents successful. The individuals living in this home will be people actively working to move their lives forward. The residents will provide structure and expectations while residents work towards employment, independence, stronger relationships, and long-term stability. It isn't simply about providing someone with a bed. It's about providing an environment where people are expected to take responsibility for what comes next. And ultimately, our goal is for residents to reach a point where they no longer need us. I think about my own journey when I think about the men who will be living in this house. When I first walked into Revive, nobody would have known that one day I'd become the director of operations. I certainly didn't. But someone gave me the room to grow. Today I have today, I have a career, and I serve the recovery communities throughout New Hampshire by creating opportunities for people who are standing where I once stood. That's what these 10 beds represent to me. Not 10 beds. 10 people with futures we cannot predict yet. One may become a business owner. One may become a mentor. One may rebuild a relationship with his children. One may eventually become a leader in this community. We don't know what their stories will become. We just want to give them a safe place to start writing the next chapter. Years ago, those little drawings on a piece of paper is something we couldn't imagine, and here we are. Today, those drawings are becoming real homes. We hope Derry will allow us to continue the vision, not as outsiders coming into the community, but as fellow New Hampshire residents who believe that strong recovery communities help create stronger communities for everyone. Thank you for your time and your consideration.

Justin Mecho - I am the director of operations at On the Road to Wellness. And we are a peer-run mental health organization. So, we are a peer-run mental health organization that serves the Derry and Manchester communities. Our Derry location, we just relocated from 45 South Main to 16 Manning Street, right next door. I'm here tonight not only as a professional working in peer support but also as someone with my own lived experience with mental health challenges and recovery. My experiences are a large part of what brought me into this work, and they have taught me something very important. People can and they do recover when they are given the right opportunities, support, and environment. At On the Road to Wellness, we have developed a strong partnership with Revive Recovery. Our organizations serve many of the same people, make referrals to one another, connect individuals or resources, and share the belief that recovery happens through community, connection, and meeting people where they are. Revive is already doing amazing work here in Derry and throughout New Hampshire. They provide peer recovery support and help people navigate some of the most difficult moments of their lives. I would love to see them have the opportunity to expand that work by opening this men's recovery house. There is a real need for safe, supportive recovery housing. Someone can make the decision to change their life, complete treatment, or begin their recovery journey. But if they do not have a stable and recovery-focused place to go afterward, maintaining recovery becomes significantly harder. New Hampshire has seen encouraging decreases in overdose deaths in recent years. That progress should be celebrated, but it shouldn't make us believe that the work is finished. I believe that progress is happening in part because we have continued creating opportunities for recovery, places where people can find support, connection, stability, and hope. Organizations like Revive are part of that solution. A recovery house isn't simply a house. It's an opportunity, it's a place where someone can rebuild their life, find employment, reconnect with family, and become part of their community again, eventually be the person helping the next person through the door. I respectfully ask the board to support Revive and give them the opportunity to continue expanding their life-saving work that they are already doing in the community. And thank you for your time.

Louis Hastings - it's pretty basically co-tailing on what a lot of people have said. I'm a person of long-term recovery. I've been working in the field for over 30 years, with approximately 20 of those years focused specifically on substance abuse and recovery. Throughout my years of experience, I have been the privilege of seeing firsthand how individuals can change their lives when they are given the right opportunity, support, structure. Watching someone who has once struggled to find direction begin to

rebuild their lives, regain their independence, become productive members of the community, and truly, it's been heartwarming. That is the purpose behind recovery housing, especially the men's housing that we are proposing here. Recovery is about much more than simply stopping substance use. It is about learning how to live a healthy, responsible, and productive life. Stable housing can be an important part of that process, a safe, support place to live, give individuals the opportunity to work on themselves, maintain employment, build healthy relationships, develop life skills, and take responsibly for their futures. Our goal is to provide men in recovery with a structured and supportive living environment while engaging them to become responsible, contributing members in the Derry community. We want the men who live at Revive Recovery men's housing to understand that they are not to be defined by their past. With accountability, support, and determination, they can create something very different for their futures. I believe strongly in the value of recovery housing because I have seen firsthand the impact. Men who have given an opportunity to establish stability can go on to work, support their families, do volunteering, pay taxes, contribute positive in the community. We understand that being a good neighbor is an important part of operating in a recovery residence. Revive Recovery men's housing will strive to maintain a safe, respectful, clean, and well-managed house and be a positive presence within the Derry community. I respectfully ask the Derry Zoning Board to consider the importance of this house and the opportunity to provide the men who are working hard to change their lives. After more than 30 years working in this field, I have learned recovery is possible. I've seen people who have once felt that they had very little hope to going on to build meaningful, purposed life. Revive Recovery men's housing is about creating another opportunity for transformation to happen. Thank you once again for listening

OPPOSED

Brian Chirichiello - 6 Rollins Street. For the record, I want it to be known I'm not against the project itself. It's a worthy project. What my concerns are the zoning behind this building is actually multi-high-density residential too, which many years ago, the planning board, kept it that way, as a strict neighborhood because of the old, older homes in that area. It was stated that this home was built in 1905, and it's a three-bedroom, one-bathroom single-family home. I think it was said it was 1,500 square feet. My house, which is a block away, my house is 1902. I have a 1,350-square-foot home. I raised two daughters in there, so it's me and my wife and my two daughters. And the home was tight. I think this home it's too intensive of per square foot for 10 beds, is just a lot. I can't envision how they're gonna fit it all. The lot was, 0.08. So, it's the teeniest lot possible. I know they mentioned that some of these people won't be driving, but, yeah, will, will staff be driving? Because you've probably got maybe space maybe you can squeeze three cars in that lot. So while I think it's a good cause, I just don't think this is the right location. Now, in full disclosure, I am a real estate agent. I did see this property on the market for months. The owner that owned it prior, in my humble opinion, was just overpriced and that's probably why it didn't it did not sell. So, my question to the board is, you know, where is where is the hardship? There's no hardship because you can actually sell that home as a single-family home. There are other locations that may be a better location for their 10-bed community home. This is not it. And I hope you kinda consider that as well. So, thank you.

Letter from 43.5 Crystal Ave - this is from the owner of 43.5 Crystal Ave. He says, "The town, along with myself, are all working on a retail corridor with limited frontage on Crystal Ave and Broadway. That use is contrary to public interest. We need to compete with Woodmont and not lose valuable frontage. That use does not meet the spirit of the ordinance observed. That use in no way meets the underlying intent and general objectives of the zoning regulation for that district. That is a large component of retail restaurants. Attracting that will attract pedestrians from all over SNH. That use does not warrant relief. Substantial justice will not be done. This relief does not benefit the applicant but does cause harm and loss to the public and neighbors, removing one of the few locations on the main downtown road for retail traffic. Finally, there's definitely no hardship. There is no special conditions at the property that distinguishes it from other properties in the area. That property can be reasonably used in compliance with the ordinance

and zone it is in. It may be used for retail offices, or most importantly, it is ripe for assemblage, especially when the new 4A exit comes in 2028. Let's not help shoot the town of Derry in the foot here. I understand the use and substance abuse is allowed in every area, but zoning cannot allow this use that ultimately will cause harm to deny its tax base and economic development. Thanks, Steve. 43.5 Crystal Ave, H and B, Bergeron LLC." And that concludes the reading.

Applicant - If I may respond, Mr. Chair. I'll be brief. Just a couple points of clarification. The residence currently is a three-bed, two-bath. There's previously stated three-bed, one-bath. It is 1,800 square feet. I think one of the abutters, in opposition said it was 1,500 square feet. The Manchester Revive group residence is roughly 2,000 square feet. Just for comparison, it's extra 200 to what we're proposing here. In terms of full capacity of the 10 beds, Revive anticipates roughly around 80% of it being filled at one time. So, there will be times, obviously, where it's not at full at capacity. In terms of the hardship, where else is the applicant supposed to go? There's no permitted use of group residence in the town. When we look at the districts writ large, the commercial GC district has is the best district, that retains, you know, to the spirit of the ordinance. It's a versatile district that caters to residential and commercial. In terms of special conditions, you know, as we stated, this is close to the Derry Friendship Center where the residents can walk to without getting any vehicles, which is of course, getting out of treatment is a serious concern, and it's you know, there's a commercial building if you're facing Revive from the street to the right, I believe it's State Farm. There's residential behind them. So this is a mixed-use block. Um, and we think the central character of the neighborhood doesn't change. Um, so, you know, for the reasons we stated in terms of the criteria and addressing the words in opposition, we feel that this is a permissible use, you know, before the board. We thank you for your consideration.

Mr. Perkins - Is, is the board to consider this just because there's no other approved location in the community for such a such a use? Or is case law indicating that this should be approved for that because there's no other place in the community for it?

Applicant - If I'm understanding your question, you're asking does is, is there a reason for the board to approve this based on there's no permitted use?

Mr. Perkins - Right.

Applicant - I'm not exactly sure on the question of that. It's perfectly within the court's capacity, you know, obviously, to hear this variance. And, the reasons we're bringing this in this district, we think are, you know, dispositive in our favor because of the reasons outlined of the versatility of the GC district. The applicant didn't just look here. They looked else-elsewhere. This property popped up. The proximity to the Friendship Center was attractive, and everything else seemed to fall into place. So to answer your question, I don't know on the case law, but this is a variance before the board, and they have you know, it's that's the way it's positioned right now for, for acceptance or denial.

Mr. Perkins - what are the other, I guess, locations that are being sought after for this type of application, not just in this community but, but elsewhere? Why is it this parcel here becomes a motivation for this with your client?

Applicant - Jessica, you can come up if you want. I will say, I mean, the Manchester, for example, as you heard the West Manchester location was attractive for that group residence because of the proximity to the center. They're gonna be, you know, walking to AA meetings, engaging in, you know, education. So keeping it urban and confined, is attractive to my client, but I'm sure Jessica can also speak to, to that consideration as well.

Applicant/Jessica - Yeah. This location in particular, this was, like, the fourth location that we looked at here specifically in Derry. It was closer to businesses. So, for our residents to get to work, this would have been the most convenient location out of all four places that we looked at. It was also the closest location to the Derry Friendship Center that we looked at. It's smaller in size than other buildings that we looked at, believe it or not, which we thought would be more manageable and create less hardship on the Derry community than, you know, the million-dollar buildings that we were looking at elsewhere. Also, it's the Crystal Ave being a main route. We thought with the public parking, being an option, you know, in case people had visitors, lots of things in the area, pizza places that people can get jobs at. There is community action, they are a partner, like, directly adjacent to us at Sals. There's other nonprofits in the area. On the Road to Wellness is not far from here. So, if we were having someone that was struggling with mental health, we would call our friends over from there if it was something we couldn't manage. We really thought that this would be the best location for us for what we were looking to do given its travelability, you know, how it's located with other things. There's parks in the area. There is a little bit of, you know, grassy area that is pretty, private so that, like, if, you know, residents are outside, you can't really see them congregating because there's fences and the shed in the way. We also liked the idea of the shed, and we're hoping to be able to kind of renovate that a little bit into some staff offices, and a group room where people can come from all over and participate in our meetings and being able to utilize the Derry Friendship Center. So if case in people don't like the meetings we're doing, there's an option for them to go to there, and it's walking distance where they don't have to find rides. We do intend on providing transportation. So, if people do need to get places, it's not like they're gonna be walking around or calling Lyft rides. We'll be providing them the rides ourselves. We really thought this was the best fit for us.

MOTION TO ENTER DELIBERATION

Mr. Tripp made a motion to enter deliberation.

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

Mr. Deitzel - Well, it's well established that, because something is a good idea is not in and of itself sufficient to grant a variance. I would be hard-pressed to say that this isn't a good idea. The need for this type of service is, is indisputable and well known. But I have concerns with the location and the general overall purpose of the ordinance in that we want to, to create a, a more vibrant business community in that area that'll generate business activity. So while I certainly admire these folks for their commitment and certainly the people that they're that they're helping are, are fine examples of what these programs can accomplish. I don't think any of the five criteria are met, and I can't support this.

Ms. Morin - my biggest concern was advertising. I understand that we have to compete with something like Woodmont, but it's a postage stamp. You can't put Kmart there. You can keep it as a house. I know a family of six that lived there, so I know it's suitable housing. But if not there, then where? That's what's going on in my head. I do know that on the news last night, it said Manchester didn't have it have an overdose for the whole month for the first time since 2015. So, addiction, I know, is everywhere, and it's hard.

Mr. Donlan - While I don't completely agree with everything that's been said so far, I am struggling with a couple of points here. I'll start with mainly this is obviously an admirable idea, but I'm trying to think about it as a burden on the lot. So, let's say when they're so successful that they're moving on to a bigger and better establishment with 20 beds, God willing. If they were proposing someone bought this property and was proposing to put to turn this into a three-family with two three-bedrooms and a four-bedroom, it, it would certainly shine a different light, right? Can we agree on that? That would be 10 beds, if my math's correct. So what's, what's to happen to the property later down the road? We're just gonna have a

single-family house with three bedrooms in it that's now a hotel, basically? I'm not necessarily opposed to the use variance. I'm struggling with the, the quantity of "beds".

Mr. Tripp - Well, as everyone has said, this is a admirable endeavor. I don't believe it is a workable endeavor, though. It's located in a good spot, you know, so that the people that are in recovery would be able to go to where the other people, the other organizations in the town are located. You know, so that, it's one of these things that, I believe that there wouldn't be any real treatment being done at the building because there's a number of other organizations like the Friendship Center, the New Futures, the On the Road People, you know, that would be, you know, assisting in the residents' recovery. So, the building would be essentially just a, a place to for them to live while they're going through their recovery. Well, they, they got a place they can eat. They can get cleaned up, and they got a place to sleep, you know. So, now it's just a matter of is the building they chose suitable for that use? And I think as others have said, you know, that's I don't think it meets the requirements. So, as others have said, that there's a, you know, the area is, you know, redeveloping, you know, and the building could be used actually, I don't know if they'd actually use the building, but the land could be used for, you know, a more productive use.

Mr. Perkins - I certainly understand the public service aspect of it as we dig into our criteria, the substantial justice to it. I don't even really know if the values of surrounding properties are diminished by it. I can't quite wrap my head around that. And even if I saw a date on it, I don't know that I could correlate with that either. The spirit of the ordinance, I certainly can't wrap my head around on this either. So, I'm feeling those frictions in this regard. Let's jump ahead and start.

Mr. Deitzel – Motion to extend this hearing another 15 minutes, second by Mr. Donlan, all in favor, none opposed

MOTION TO LEAVE DELIBERATION

Ms. Morin made a motion to leave deliberation.

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

MOTION

Ms. Morin made a motion on case 26-127 to grant a variance to the terms of Article VI, Section 165-32.1.A of the Town of Derry Zoning Ordinance to permit the operation of a 10-bed, Level III Men's group recovery residence within the existing structure on the property.

Parcel ID: 32020 Zoned: GC

as presented with the following conditions:

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. Perkins reviewed the Finding of Fact as follows:

The application is in the general commercial zone. The application is for a recovery resource center. The application wishes to have 10 beds as part of its residence. The property parcel is 0.08 size lot. The parcel has public water and sewer.

1. The board's findings that the unnecessary hardship is demonstrated because the hardship relates to the unique characteristics of the property:

Mr. Dietzel said the point was made earlier that they entered into this real estate deal knowing that what they were asking was not in compliance with the ordinances and the fact that they had to hurry through the closing is unfortunate but the hardship is self-imposed and he does not see anything particular about the piece property that makes it literal enforcement and the property be used in strict conformance with the ordinance.

Mr. Perkins said Mr. Dietzel has well-spoken on the literal enforcement creates unnecessary hardship and he disagrees with that.

Mr. Donlon said he concurs and for reason stated at deliberative session.

Mr. Tripp concurs,

Ms. Morin concurs.

Mr. Perkins agrees as well.

2. The board's findings that this is not contrary to the public interest:

Mr. Donlon said the variance in the general commercial district, generally speaking the variance would not be contrary to the public interest.

Mr. Tripp said this is a tough call because the services that the organization would be providing are definitely in the public interest, but he does not believe that the building would enable them to achieve those goals. He believes as it is in the general commercial district that the property could probably be used for something that is in the public interest. He does not believe the building that exists would enable them to achieve that goal.

Ms. Morin said she concurs with what Mr. Tripp stated.

Mr. Dietzel said he believes the public interest in the context of this particular ordinance is contrary to the public interest in that the general commercial district is supposed to be general commercial and the interest is derived from more business, more business tax revenue, more jobs, ad so forth. He does not see how this is consistent with that goal and therefore it is contrary to the public interest.

Mr. Perkins said on the compassion side he sees that this meets the public interest n regard that of the service that it provides. Mr. Perkins said the majority of the board does not feel that this is contrary to the public interest.

1475 3. The board's findings that this is consistent with the spirit of the ordinance:
1476

1477 Mr. Donlon said it is tough because it is general commercial, but it is residential, so the spirit of
1478 the ordinance is already obscure. He would say no that it is not grossly out of line with the
1479 intentions of the ordinance.
1480

1481 Mr. Perkins said if the ordinance allowed certain specifications and though you still have non-
1482 conforming uses going on. He said the question is, is this so grossly out of line with what the
1483 intentions of the district were. So, the answer to that would be is it so grossly out of line with the
1484 intentions of the ordinance or not.
1485

1486 Mr. Tripp said that the issue is if you do look at the approved uses for the general commercial,
1487 none of them are of this type. All the uses are some type of commercial organizations with the
1488 exception of multi-family dwelling which is essentially a holdover from what the district was 125
1489 years ago. He said he would not go as far as to say it was an oversight. Therefore, it is not gross.
1490

1491 Mr. Perkins said in past cases the board evaluates certain uses that are not or are prohibited and
1492 sometimes they are seen as oversights. The use is an oversight, perhaps an FL license to sell
1493 firearms. He said it is possible that sometimes the designers of the ordinances may not have
1494 considered that the federal government may want to do some checking. So, in regard is this use
1495 gross to the listed ordinances or is it something that was an oversight.
1496

1497 Ms. Moore said she does not feel that it meets the spirit of the ordinance. She knows cases can not
1498 be compared but recently she stated about it being commercial and keeping it at commercial.
1499

1500 Mr. Dietzel does not believe it is in the spirit of the ordinance. The spirit of the ordinance is to
1501 generate commercial businesses along that quarter.
1502

1503 Mr. Perkins concurs with Mr. Dietzel.
1504

1505 4. The board's finding that Substantial Justice would be served by denying this variance request:
1506

1507 Mr. Dietzel said it is a break even because there is harm to the community and it would be losing
1508 commercial property. There is a benefit to the applicants. He said substantial justice is not done
1509 because it is outweighed and it is sort of a balance.
1510

1511 Mr. Donlon said he believes substantial justice is not done.
1512

1513 Mr. Tripp said he agrees with everyone.
1514

1515 Ms. Morin said he agrees.
1516

1517 Mr. Perkins said substantial justice is not served.
1518

1519 5. The board's findings that the applicant has adequately demonstrated that surrounding property
1520 values will not be diminished.
1521

1522 Mr. Dietzel said this is difficult, but the burden is on the applicant to show that it is not which is
1523 difficult to prove. He is sorry to say and ashamed but there is a not in my backyard attitude and
1524 thinks it would diminish the surrounding properties in that people would be less attracted to move
1525 into that area if we had that type of facility.

Mr. Tripp believes that the potential value of the surrounding properties will be diminished should the variance be approved.

Ms. Morin said she likes how Mr. Tripp worded it because she knows she would let everyone live with her, so it is not in her backyard type of thing but the potential for that lot is being taken away.

Mr. Perkins concurs. He said it is unfortunate verses the Friendship Center its location verses this you see possibly an effect on the neighborhood or perhaps some potential businesses.

Mr. Donlon said he was having a hard time articulating that and it was well said.

6. Can the property be used in strict conformance with the ordinance?

Mr. Donlon said yes.

Mr. Tripp said no.

Mr. Perkins asked Mr. Tripp if it can be utilized in a different way that is an approved use.

Mr. Tripp said Yes.

Ms. Morin said yes.

Mr. Perkins concurs.

Voting Members:

Mr. Donlon	No
Mr. Dietzel	No
Mr. Tripp	No
Ms. Morin	No
Mr. Perkins	No

The application was **DENIED** by a vote of 0-5. 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.

26-128

Applicant:	Etz Hayim Synagogue
Owner:	Andrew Dellapelle
Parcel ID	32062-002
	1.5 Hood Rd
Zoned:	MHDR

The applicant is requesting a variance to the terms of Article VI, Section 165-45.A of the Town of Derry Zoning Ordinance to permit the operation of a child group daycare facility within a portion of the existing building.

MOTION to table to 9/17/26 by Mr. Tripp, seconded by Mr. Donlan, all in favor

REVIEW MEETING MINUTES

Motion to table to 9/17/26 by Mr. Tripp, seconded by Mr. Donlan, all in favor

ADJOURNMENT

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

The meeting adjourned at 10:14 pm.

X 

Lynn Perkins
Chair

1590