

The Planning Board for the Town of Derry held a public meeting on Wednesday, September 16, 2026, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

Members present: Dave Nelson, Chair, Richard Malaby, Secretary, Randy Chase, Town Council Liaison, Derek Minervini, Michael Wood, and Jacob Pelletier, Members, and Thomas Mauzy, Z. Michael Appleton, and Andrew Young, Alternates

Members absent: John O'Connor, Vice Chair, Brian Chirichiello, Town Administrator Representative, and Bryan Fishman, Member

Also present: Elizabeth Robidoux, Planning Director, and Caroline Wilson, Planning Administrative Secretary II

Mr. Nelson opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

Mr. Mauzy was seated for Mr. O'Connor and Mr. Appleton was seated for Mr. Fishman.

Escrow

#26-33

Project Name: Proposed Car Wash

Developer: Stephens Marquis Assoc.

Escrow Account: Same

Escrow Type: Performance Bond

Parcel ID/Location: 35015-002, 10 Manchester Road

The request is to establish performance bond #0278138, issued by Berkley Insurance Company in the amount of \$262,928.81, for the above noted project. There is no expiration date on the Bond.

Motion by Malaby, seconded by Pelletier, to approve Escrow #26-33 as presented.

Roll Call Vote: Chase, Wood, Minervini, Mauzy, Appleton, Pelletier, Malaby, and Nelson vote Yes. The motion passed.

#26-34

Project Name: Subdivision of 5 Mt. Pleasant Street

Developer: FW Holdings

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: 32071, 5 Mt. Pleasant Street

The request is to approve a final release of cash escrow in the amount of \$22,885.00 for the above noted project. The amount to retain is zero.

Motion by Malaby, seconded by Pelletier, to approve Escrow #26-34 as presented.

Roll Call Vote: Chase, Wood, Minervini, Mauzy, Appleton, Pelletier, Malaby, and Nelson vote Yes. The motion passed.

Minutes

The Board reviewed the minutes of the September 02, 2026 public meeting.

Motion by Malaby, seconded by Pelletier, to approve the minutes of the September 02, 2026 public meeting as written.

Roll Call Vote: Chase, Minervini, Mauzy, Appleton, Pelletier, Malaby, and Nelson vote Yes. Wood abstained due to being absent. The motion passed.

Correspondence

Mr. Malaby reported that a notice was received from the Town of Salem that the Town Master Plan Update 3.0, for the West Village project (Tuscan Village), will next be discussed by the Salem Planning Board on September 22 at 7pm.

Other Business

Planning Director / Chairman Updates

Ms. Robidoux reported that the Building Department received an application to install 15 EV chargers at the First Student Bus Depot, 33 Chester Road. Our regulations permit EV chargers in any parking lot that has six or more parking spaces. Staff determined that this project will only require the appropriate permits from Code Enforcement, rather than Planning Board review.

The Southern NH Planning Commission's Annual Meeting will begin at 4pm on Thursday, 9/24 at Bellavance Beverage in Londonderry. The Commission is celebrating 60 years. Planning Board members are invited, please let staff know by 9/22 if you wish to attend.

Mr. Nelson had no updates.

Workshop #1: Review of proposed changes to the Town of Derry Zoning Ordinance to bring the Town regulations in compliance with recent State legislative amendments

Mr. Nelson invited Mr. Young to sit with the Board to participate in the workshop discussion only (no voting).

Mr. Nelson noted the Board has received reference materials from staff and guidance from the NH Municipal Association; and recommended each member review all of these to determine the Board's direction.

Ms. Robidoux explained the Board received two drafts of the proposed language changes to the Ordinance; please use the draft that has more red markups as this is the correct version.

The Board might consider adding and/or amending definitions to the Ordinance. For example, Accessory Dwelling Units (ADUs) no longer have to be attached, so the definition of ADUs might be adjusted to reflect this.

HB 1195:

A definition for Child Care Center is proposed; this would refer to group agencies, not home-based/family daycares. (Ms. Robidoux explained that the family Child Care Centers were home-occupation-based; home occupations are granted by the ZBA by special exception.) The definition for Day Care has been updated; previously it referred the reader to the definition of Group Day Care. Mr. Nelson suggested having only Child Care Center and Adult Care Center so that one definition is not nested in another. Mr. Minervini and Mr. Appleton agreed. Group Day Care can then be removed.

HB 1681:

Innovative Housing Structures (IHS): The proposed definition is “a unique single residential unit such as a tiny house, tiny house on wheels, or a yurt.” A new section in the RSA is being created (674:81). Mr. Appleton wondered if there were more types than these three, the wording seemed unclear. Mr. Nelson wondered how a building permit would be issued for a yurt.

Tiny House: “a detached building used or intended to be used for human habitation, providing permanent provisions for living, sleeping, eating, cooking, and sanitation...” The definition as provided in the bill was compared to the proposed definition for the Ordinance prepared by staff. It was noted that there might be conflicts, for example, in the maximum square footage. Ms. Robidoux felt that including dimensions in a definition could be problematic; if someone is seeking to build a structure of a different dimension, then they would be requesting a variance from the definition. Mr. Appleton suggested that the definition could then apply to any house. Mr. Nelson suggested mirroring the statute. Mr. Mauzy suggested keeping the sanitation language.

Yurt: The proposed definition includes “round, freestanding structure” where the bill states “round or similar shape...” Mr. Minervini felt the language implied a yurt was a round tiny house. Mr. Appleton felt that neither of the definitions specified yurt foundation requirements. Mr. Nelson suggested the Board exercise caution with assuming authority over certain requirements; the intent of the legislators is unknown. Ms. Robidoux added that the building codes govern many of the requirements. Mr. Appleton observed that Tiny House on Wheels and Yurt appear to be a subtype of Tiny Houses. Mr. Nelson suggested cloning the definition to avoid confusion.

HB 1079:

This will allow ADUs to be built within nonconforming structures, and protects single family structures existing as of July 1, 2025. Article III, Section 165-25(a) is the section of the Ordinance to be amended. Ms. Robidoux explained that any legal structure being converted would be vested. If preexisting, nonconforming with regard to setbacks or lot coverage, they would be grandfathered. Mr. Nelson felt the guidance document from NHMA didn’t correspond; should there be a separate section on conversion and grandfathering? Mr. Nelson suggested handling this

by creating a new section, 165-25.1. (Innovative Housing Structures will then be labeled 165-25.2.) Mr. Malaby added that the proposed language for section (m) includes the wording that *building permits "may" be issued if...* should "may" be "shall"? Ms. Robidoux explained there might be other reasons for a building permit to not be issued. Mr. Nelson inquired why the ZO was talking about issuing building permits at all, if that falls under Code's purview. Ms. Robidoux explained that up until recently, some of Code's purview fell under RSA 674 / 676, which is where the land use regulations reside. The recent change under HB 244 moved all of Code's purview to RSA 155. The first 28 pages of the Board's legislative packet are relative to that action. Mr. Nelson suggested the language for 165-25.1 mirror the law.

HB 1681 continued:

To avoid confusion, Ms. Robidoux suggested removing the proposed definition of Innovative Housing Structures from the beginning of the new section to be created, 165-25.2. Total living space shall not exceed 600 square feet. Of the provisions in that new section, proposed (e) and (f) regarding IHS composition and room sizes will be removed, leaving it to the purview of the Code department. Provision (g), the structure not being a trailer, semitrailer, camp trailer, or recreational vehicle might conflict with Tiny House on Wheels (THOW). Mr. Appleton felt that THOW and Yurt are differentially referential to Tiny House; and therefore hooked up in a permanent fashion. Each structure containing heating, cooking, and sanitary facilities should be removed and left to Code's purview as well.

Mr. Chase clarified that a modular home is constructed, set on a frame, towed to the building site, lifted off of the frame, and set on the foundation on the site. A mobile home is constructed on a frame (that is permanent to the structure), towed to the site, and either set on a slab or on a foundation.

Mr. Chase suggested the Board prepare for the instance in which a Tiny House is constructed on a lot, and an additional Tiny House is proposed to be added to the lot as an ADU. Ms. Robidoux stated that in the recent Housing Preferences Survey, the "Cottage Court" concept was perceived very favorably. Water and sewer amenities for these developments were discussed; Mr. Chase added that it depends on how much land one is built upon. It was noted that the provisions currently allow only one ADU per single family dwelling.

Mr. Nelson suggested adding provisions to the LDCR covering septic, water, and other utilities for ADUs and IHS; as the ZBA would not be able to grant variances from the LDCR. It was noted that the building code and state law for ADUs cover those requirements. Ms. Robidoux will collaborate with the Code Enforcement Director to develop language. Presently, Fire and Public Works sign off on the building permit applications where the utilities are concerned.

Mr. Minervini added that if a TH is limited to 600 SF, and requires a kitchen, living room, bathroom, and bedroom(s), then does that exclude a studio layout? Mr. Nelson felt that aside from the bathroom, a layout wouldn't necessarily need walls to separate the rooms. The language will be amended to include a sleeping area in the requirements for IHS.

Mr. Minervini wondered if the zoning districts in which IHS would be allowed needed to be itemized. Mr. Nelson suggested noting "all districts which permit single family residential uses." Mr. Nelson wanted to be sure that corrections are uniformly made in future revisions.

Article VI – District Provisions

Section 165-32 GC – General Commercial District

Ms. Robidoux clarified that family Child Care Centers, by design, are not permitted in Commercial zones per the RSA, since they are intended to be operated within residential uses. Adult Day Care will be added to the permitted uses in GC and Group Day Care will be deleted, as it is being removed from definitions.

Proposed subsection (F), relative to multifamily residential uses approved through Conditional Use Permits (CUPs), will be amended. The state's guidance reiterated that multifamily uses were uses of right and no CUP would be required. The subsection will now begin with the text in section 1. The sections addressing application and appeals will be deleted.

The non-residential use portion was discussed. Mr. Chase added that under HB 1010, "a municipality may require all available ground floor space or a percentage thereof to be dedicated to retail or similar uses." In HB 1010, "ground floor" is specified, so this will be revised in the language. Mr. Chase felt that it can be put in, but for adaptive reuse, a developer may ask what precludes them from using the second floor. Mr. Nelson reminded that NH is a Dillon's Rule state; municipalities can only do things that the State specifically says can be done. The language will be amended to mimic HB 1010. Ms. Robidoux will amend the provisions for IND-II as well.

(G), relative to CUPs, will be amended to delete language on CUPs and to only address (1), Site Suitability, and (2), Availability of Public Services and Facilities. Mr. Nelson suggested changing (1) to (G) and (2) to (H). Ms. Robidoux felt it should be clarified that this section addresses *public* water and sewer. Language states the Town could deny an application if there was not public sewer available; there are commercial zones without public sewer available yet (including GC near the Atkinson line where LaBelle is, and a portion of GC-III near the Robert Frost Farm, and the entire GC-IV, Ryan's Hill south). Mr. Nelson added that if there is no public water and/or sewer available and a developer wants to pay to have it extended, then this shall be allowed. Ms. Robidoux added that if a developer wished to construct multifamily south of Fody's, by right they would be allowed, but they will not likely pay to have the sewer brought down from Berry Rd. Does the Board wish to contemplate allowing septic systems, or to simply deny such a proposal for lack of public sewer?

Mr. Nelson added that in most commercial districts, the maintenance of the private septic system is the responsibility of the owner. Mr. Pelletier believed that sewer was in the works for Ryan's Hill; Ms. Robidoux stated there is funding for the engineering for the sewer, but the construction is years away.

Mr. Minervini stated that in light of the housing shortage in NH, multifamily on septic should be allowed if there is adequate space for it. Mr. Nelson agreed that space is the key.

Ms. Robidoux mentioned that the Town has very little developable commercial land left; how would these new rules affect the goals of the Master Plan? Mr. Nelson suggested that if the Master Plan is not in alignment with the State laws, then the Master Plan needs to be amended.

Mr. Minervini wondered if the percentage of commercial space on the ground floor should be increased. Mr. Appleton suggested requiring a higher percentage of the ground floor be required in areas of Town that it is anticipated that multifamily housing will be created. Mr. Nelson felt there could be different percentages for different districts; Ms. Robidoux agreed. Ms. Robidoux added that GC consists of Crystal Ave. and a small section near LaBelle. Mr. Nelson suggested being aware of what could occur in cases of redevelopment in any given district. Many storefronts are going for lease. Mr. Minervini would much rather see an apartment than an empty storefront.

This section will be discussed further in the next workshop.

Section 165-32.1 GC-II – General Commercial II District

This district comprises Tsienneto Road and north up By Pass 28 and ends at the cell tower. This was originally intended to be more of a medical office area. Ms. Robidoux explained the GC requirements are mimicked, adding Child Care Centers as a permitted use.

Section 165-32.2 GC-III – General Commercial III District

This is the area around the Robert Frost Farm. As above, the GC requirements were mimicked and Child Care Centers were added. Ms. Robidoux suggested that due to the proximity to the historical property, perhaps different density requirements are considered. Mr. Nelson felt that being GC-III *and* trying to protect the neighborhood was contradictory. Mr. Nelson reminded that although a district needs a purpose, purpose statements are not sufficient to limit what goes in.

Mr. Mauzy added that the land between the farm and the trailer park will eventually be developed. Ms. Robidoux clarified that parcel is in the WRB District. Mr. Nelson suggested discussing this further.

Section 165-32.3 GC-IV – General Commercial IV District

The GC and GC-II changes were mimicked here. This district starts in the area of Fody's and runs to the Town line. Mr. Mauzy inquired if an assisted living facility went in across from Ace's Paving, how would septic and water work? Ms. Robidoux explained water is available, but would have to be brought under the street.

Section 165-34 OBD – Office/Business District

This section is West Broadway to the Londonderry line. Currently, multifamily dwellings are permitted in the OBD via section 165-48 B (1) - the TBOD – which allows 45 units per acre. Ms. Robidoux thought the Board may not want to refer back to the TBOD.

Section 165-37 NC – Neighborhood Commercial District

Mr. Nelson felt that the NC should continue to be subject to the dimensional requirements in subsection C. Unless there are teardowns, there are not many parcels in the NC suited for new construction.

Section 165-40 IND-II – Industrial II District

Under H., subsection 1. will be deleted and the subsections renumbered. 5. and 6. will be deleted, as they speak to CUPs.

Section 165-45.1 MHDR-II – Medium-High Density Residential District II,**Section 165-46 MDR – Medium Density Residential District,****Section 165-47 LMDR – Low-Medium Density Residential District, and****Section 165-48 LDR – Low Density Residential District**

As single family detached dwellings are allowed in these districts, Innovative Housing Structures will be added to permitted uses.

Article XV Zoning Board of Adjustment**Section 165-126 Powers**

Ms. Robidoux was not clear about the intent of HB 244. Ms. Robidoux felt it may relate to permitting structures on roads that are not on the official map of the Town. For example, if the building official denies a permit, it seems that the ZBA - upon appeal - could grant permission to issue the permit if the structure was placed a certain way. This would be a power granted by an RSA, but that did not necessarily mean that it had to be addressed in the Town's Zoning Ordinance; Mr. Nelson agreed. Ms. Robidoux suggested obtaining additional guidance and discussing further. Changes to this section will not be made at this time, as the RSA governs.

Board Member Comments

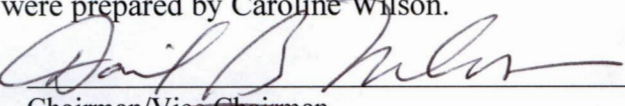
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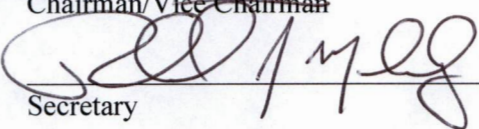
Motion by Malaby, seconded by Pelletier to adjourn.

All members present voted Yes. The motion passed, and the meeting was adjourned at 8:58pm.

The minutes were prepared by Caroline Wilson.

Approved by:


Chairman/Vice Chairman


Secretary

Approval date: October 07, 2026