Town of Boscawen

116 North Main Street, Boscawen, NH 03303 | Telephone: 603.753.9188 | Fax: 603.753.9183

Planning Board Members

Bruce Crawford
Chair

Roberta Witham
Vice-Chair

Bernard O. Davis, Jr.
Member ex Officio

Matt Lampron
Member

Barbara Randall
Member

Roger W. Sanborn
Alternate Member
Ex Officio

James Scrivens
Member

Planning Board Alternates

Rhoda W. Hardy
Alternate Member

Jeff Reardon
Alternate Member

Planning & Community Development Staff

Alan H. Hardy
Planning & Community Development Director

Kellee Jo Easler
Planning & Community Development Assistant

Katie Phelps
Planning & Community Development Clerk

COVER PAGE
BACKGROUND INFORMATION FOR RECORD OF PROCEEDINGS

SITE PLAN REVIEW – 81A 42 DOLLAR GENERAL

1. PLANNING BOARD FINAL MINUTES OF 08.08.17
2. ZONNING BOARD OF ADJUSTMENT LETTER OF 05.20.16 WITH VARIANCES 1, 2, & 3
3. CERTIFICATION OF ZONING COMPLIANCE 11.27.16
4. ZONING BOARD OF ADJUSTMENT MINUTES PACKAGE OF 05.24.16-10.25.16
5. PLANNING BOARD MINUTES PACKAGE OF 12.06.16-04.04.17
6. ELAINE CLOW AND ANDREW NEWCOMB V TOWN OF BOSCAWEN SUPERIOR COURT 217-2-17-CV-00224 NOTICE OF DECISION
7. REGIONAL IMPACT APPENDIX E
8. CENTRAL NH REGIONAL PLANNING COMMISSION & UNDERWOOD ENGINEER REVIEWS
9. DOLLAR GENERAL SITE PLAN COVER LETTER SHOWING 4 REVISIONS BASED ON PB/NHDOT/CNHRPC/PEER REVIEW/
10. ATTY LEFEVRE'S LETTER 07.14.17 PERTAINING TO SEPTEMBER 12TH MEETING DATE AVAILABILITY.

The Town of Boscawen prohibits discrimination on the basis of race, color, national origin, sex, sexual orientation, religion, age, disability, marital or family status. Boscawen is an equal opportunity employer.

Town of Boscawen
Planning Board Boscawen Municipal Complex
Meeting Minutes - Final
Tuesday, August 8, 2017 at 7:00pm

Members Present: Bruce Crawford, Chair, Roberta Witham – Vice-Chair, Matt Lampron, James Scrivens, Barbara Randall, Roberta Witham, Bernie Davis, Ex-Officio, Alan Hardy, Katie Phelps.

Member Absent: none.

Alternate Members Present: Rhoda Hardy, Jeff Reardon

Member Ex-Officio Absent:

Alternate Ex-Officio Absent: Roger Sanborn.

Others Present: Alan Hardy – Planning and Community Development Director, Katie Phelps – Planning and Community Development Clerk

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Chairman Crawford called the meeting to order at 6:58 pm with a voting Board.

Roll call made by recording secretary.

Review and Acceptance of Prior Meeting's Minutes: The Minutes were from the July 11, 2017 meeting. Bernie Davis abstained from the vote. Bruce Crawford noted that the August meeting was cancelled due to a lack of a quorum, which makes this the next meeting. Jeff Reardon noted that this meeting was only for the Dollar General.

Bruce Crawford made a statement that he believed that some of the Board members should recuse themselves from this case before he recused himself as the Chair.

Roberta Witham became Acting Chair.

Old Business:

Acceptance of an Application for Site Plan Review, for ***7500+ SF Retail Store*** submitted by **Boscawen DG, LLC, 83 Orchard Hill Park Drive, Leominster, MA 01453**, owned by, **The Peach Pond Trust, 100 River Road, Boscawen NH 03303** with the location at **Map 81A, Lot 42, 169 King Street** in a **COM zone.**

Acting Chair Roberta Witham called meeting to order 7:05 pm.

Roll call was taken by the recording secretary.

Alan Hardy gave introduction and procedural history. He noted an appeal was filed with the Court. The April 4, 2017 conditional site plan approval is vacated. The Board will be rehearing the application under RSA 676:4 but the record, as previously submitted including testimony and documents submitted by the town consultants and Boscawen Dollar General will remain part of the record. A new hearing will be noticed at the applicant's expense.

The Board may establish a schedule of public hearings including planning issues to be heard at each hearing. Upon the Courts granting this motion the plaintiff's appeal is dismissed. The motion was granted by the Court.

A **motion** that there is no regional impact was made by Bernie Davis, seconded by Barbara Randall and failed for lack of a vote.

Procedural issue were taken up by Attorney David LeFevre who was representing abutters Elaine Clow and Andy Newcomb. Under regulation Article 4, as a condition of acceptance, the plan has to comply with the town's Zoning Ordinance. If the plan does not, if they need a variance or special exception, the rule is that the Board does not accept the plan and they would need to go back to the Zoning Board for relief. He believes 3 variances are needed. As a matter of procedure the Board should not vote to accept the plan without variances being granted. Alan Hardy noted that the court order of remand states that everything up to this point is accepted. Attorney LeFevre said that the first order of business is acceptance and if they need a variance from the ZBA they cannot accept it. What you have in the record is part of the record. Alan Hardy would like to hear what his points are to see if the Board feels they are valid.

He has 3 areas where the Zoning Ordinance needs to come into play. Parking is the first issue. Article 8, Off Street Parking ordinance is surprisingly clear. The requirement is 200 s.f. of gross floor area. The parking calculation on the plan is based on net area, which is the retail space. He assumes that is the area that is open to the public. The parking calculation is based on 5,915 s.f. That is not the gross floor area. Per the plans and the application, it is 7,489 s.f. per his calculation, which means they need 38 spaces and the plan only provides 30 spaces. The plan does not comply. In the alternative if they want to put in 8 more spaces, they will exceed the lot coverage percentage. They would need a variance to exceed the lot coverage requirements. The second point is that the language in the ordinance states that the required parking spaces may not be used for storage, display signage or maneuvering areas for loading docks or bays. The Zoning Ordinance specifically says they cannot use those parking areas for maneuvering a tractor trailer. The lot size is 60,000 s.f. +/-. The minimum lot size is 80,000 s.f. and they need a variance for lot size. This is not a nonconforming lot according to the town Zoning Ordinance. Article 9 deals with nonconforming uses, structures and lots states: 9.05 (c) a nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot. This property was previously developed – it had a home on it. The lot, property and use was conforming. The applicant wants to change the use and make it nonconforming. The lot is substandard for this use and needs a variance from the ZBA. The Ordinance is pretty clear. He suggests they talk with the town Attorney Raymond. If the Board accepts and the plan doesn't comply with zoning and there is an appeal and the judge agrees then they will be back before the Board again. There are 3 or 4 variances that the ZBA need to take up. He asks the Board to take a vote on that before accepting.

Applicant: Attorney Paul Bower of Devine Millimet and Branch is here on behalf of the applicant. Parking: the City Planner Mr. Hardy issued a written opinion on that issue which was never appealed. Parking spots being used for access to the loading docks and bay – they do not propose using parking spots for that use. The minimum lot size issue, Mr. Hardy had addressed this issue as well and brought it before the ZBA as well. These things have been previously addressed.

Alan Hardy stated that the discussion regarding the gross area calculation - he did rule on that based upon retail sales area. The calculation of necessary spaces was based upon that. The issue of where it stands in the ZBA discussion he does not have a clear recollection on that without accessing his files.

Austin Turner of Bohler Engineering spoke. They had appeared before the ZBA on a number of occasions. They had asked Mr. Hardy for an interpretation and he documented it in writing and that document was presented to the ZBA. The ZBA took a formal motion and voted to accept and agree with Alan's interpretation. Without that item, other things would have been moot. He doesn't recall the hearing date without the documentation. Bernie Davis asked if there were a time limit on appeal. Alan Hardy said 30 days.

Attorney LeFevre stated that you have to be a party to be involved in the appeal. His clients were not given an opinion. Is the Board prepared to approve a plan that doesn't comply with zoning? This property was conforming with a residence on it. As far as he knows they granted a variance for a sign, nothing more. If the applicant is getting an opinion that it was a nonconforming lot, was there an appeal of that?

Austin Turner stated that he had originally applied for relief and based on Mr. Hardy's interpretation a variance was not needed or required. It was made by a formal motion at a formal hearing. It wasn't that they were seeking an advisory opinion. Bernie Davis asked Alan Hardy if the lot that the house was on was nonconforming. Alan Hardy said lots become nonconforming over time if the zoning ordinance changes. There is a map in the 1970's showing that strip of land being commercial. The house use being on it, isn't consistent with the zoning. The Town doesn't allow the nonconformity to be replaced after a year of it being vacated. They lose their vested right. If they were trying to create that lot today, the lot would be a much larger lot. Bernie Davis asked if they were not making a conforming lot non-conforming. Alan Hardy stated that they were making changes over time for a reason this action does not make a conforming lot non-conforming. They can go back and pull those records if the Board would like them to do that.

Attorney LeFevre stated that a residential use is allowed in commercial district and the lot size is 40.000 s.f. The prior use of the property with the home was conforming as the use was allowed; the size of the lot was conforming. The prior use of the lot was conforming and the Ordinance says you cannot go from conforming to nonconforming. There would have to be a denial if they requested a variance from the lot size requirement then the ZBA would have denied their request.

Roberta Witham wanted a recess to allow time to pull up the zoning information. The Board recessed at 7:36 pm. The Board came back into session at 8:00 pm.

Roberta Witham will ask for a continuance of the meeting and would like to do that on August 29, 2017 at 7:00 p.m.

A **motion** was made to continue the hearing to August 29, 2017 was made by James Scrivens seconded by Barbara Randall, unanimous vote.

A **motion** to adjourn the meeting at 8:04 pm was made by Bernie Davis, seconded by Matt Lampron and passed by a unanimous vote.

Next Meeting: August 29, 2017 at 7:00 pm.

Respectfully submitted,
Rose Fife

(2)

Town of Boscawen

116 North Main Street, Boscawen, NH 03303 | Telephone: 603.753.9188 | Fax: 603.753.9183

Board of Selectmen

Members

Roger W. Sanborn
Chair
Bernard O. Davis, Jr.
Member
Mark E. Varney
Member

Alan H. Hardy
Code Enforcement Officer

May 20, 2016

Dr. Gail H. Devoid, Ph. D., Chair
Boscawen Zoning Board of Adjustment
116 North Main Street
Boscawen, NH 03303

Dear Dr. Devoid,

Before you tonight is an application, filed by Boscawen DG, LLC to purchase the land parcel at 169 King Street, Map 81A, Lot 42 for the purpose of constructing a retail store and other improvements for a company known as Dollar General.

I respectfully suggest that you pass over the application in your package referred to as Variance Application #1. In the Determination Letter prepared for that application, I made a finding that Boscawen DG, LLC needed a variance from Article V, Lot Dimensions and Area since Article V requires a minimum lot area of 80,000 square feet for the proposed commercial use. Upon further review, I make a finding that Article V would be the guiding Article for the creation of a new lot only.

Since the parcel of land at 169 King Street has existed in its present configuration and zoning, (commercially zoned as far back as 1970, I respectfully submit that the use of this parcel should be regulated under Article IX, Nonconforming Uses, Structures and Lots, Section 9.03 Use of Nonconforming Lots.

If the board accepts this modified finding, I would note that none of the other variance applications are affected by this change.

Respectfully submitted,

Alan H. Hardy
Code Enforcement Officer
Town of Boscawen

The Town of Boscawen prohibits discrimination on the basis of race, color, national origin, sex, sexual orientation, religion, age, disability, marital or family status. Boscawen is an equal opportunity employer.

TOWN OF BOSCAWEN

116 North Main Street
BOSCAWEN, NEW HAMPSHIRE 03303

OFFICE: 603-753-9188 FAX: 603-753-9183

Certification of Zoning Compliance

Name: Lisciotti Development Corp for Boscawen Dollar General, LLC Date: May 16, 2016

Address: 83 Orchard Hill Park Drive Telephone No: on file

City, State, Zip: Leominster, MA 01453

Location of Land: 169 King Street Zone: Com Map: 81A Lot: 42 Sublot: -----

Description of Use - (attach additional information, drawings or plans if helpful):

Lisciotti Development, representing Boscawen DG, LLC, has requested variances for their client's project proposed for 169 King Street. This variance request is for relief from the minimum lot area required for commercial and industrial uses at 80,000 square feet per Article V, Section 5.01, Table 2. The proposed property is 58,919 square feet +/- in gross area.

Research Documents

Boscawen Zoning Ordinance, revised March 8, 2016.
Property file and Land Use file for 169 King Street.

Review of the Record

The prior use of this property was for a single-family dwelling that was destroyed by fire and removed. There has been no commercial use of this property to date. The proposed use, retail sales, is a permitted use in the Commercial Zone.

Code Enforcement Officer Determination(s)

As this lot does not have sufficient area to meet the 80,000 square foot requirement of Article V, the applicant shall apply to the Zoning Board of Adjustment to request and be granted a variance should they wish to proceed with the project as it is proposed.

Alan H. Hardy Digitally signed by Alan H. Hardy Date: 2016.05.16 17:57:20 -04'00' 05.16.16

Alan H. Hardy, Code Enforcement Officer Date

Should any party be aggrieved by a decision of the Code Enforcement Officer, the aggrieved party may file an appeal with the Zoning Board of Adjustment if it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to New Hampshire RSA 674:33 – Powers of the Zoning Board of Adjustment. This appeal must be filed within 30 days of the date of the decision that is complained of.

rev. December 27, 2011

(#2)

TOWN OF BOSCAWEN

116 North Main Street
BOSCAWEN, NEW HAMPSHIRE 03303

OFFICE: 603-753-9188 FAX: 603-753-9183

Certification of Zoning Compliance

Name: Lisciotti Development Corp for Boscawen Dollar General, LLC Date: May 16, 2016

Address: 83 Orchard Hill Park Drive Telephone No: on file

City, State, Zip: Leominster, MA 01453

Location of Land: 169 King Street Zone: Com Map: 81A Lot: 42 Sublot: -----

Description of Use - (attach additional information, drawings or plans if helpful):

Lisciotti Development, representing Boscawen DG, LLC, has requested variances for their client's project proposed for 169 King Street. This variance request is for relief from the Coverage Limits per Article V, Section 5.01, Table 2. The lot area in question is 58,919 square feet +/- in area with a 40% maximum coverage for building and/or structures. The proposal is for approximately 50% coverage.

Research Documents

Boscawen Zoning Ordinance, revised March 8, 2016. Property file and Land Use file for 169 King Street. Note: The proposed lot coverage at 50% noted in this document assumes approval of the off-street parking variance as requested.

Review of the Record

The prior use of this property was for a single-family dwelling that was destroyed by fire and removed. There has been no commercial use of this property to date. The proposed use, retail sales, is a permitted use in the Commercial Zone.

Code Enforcement Officer Determination(s)

As this lot does not have sufficient area to meet the 40% maximum building and structure coverage requirement in Article V, the applicant shall apply to the Zoning Board of Adjustment to request and be granted a variance should they wish to proceed with the project as it is proposed.

Alan H. Hardy Digitally signed by Alan H. Hardy Date: 2016.05.16 18:17:48 -04'00' 05.16.16

Alan H. Hardy, Code Enforcement Officer Date

Should any party be aggrieved by a decision of the Code Enforcement Officer, the aggrieved party may file an appeal with the Zoning Board of Adjustment if it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to New Hampshire RSA 674:33 – Powers of the Zoning Board of Adjustment. This appeal must be filed within 30 days of the date of the decision that is complained of.

rev. December 27, 2011

#3

TOWN OF BOSCAWEN

116 North Main Street
BOSCAWEN, NEW HAMPSHIRE 03303

OFFICE: 603-753-9188 FAX: 603-753-9183

Certification of Zoning Compliance

Name: Lisciotti Development Corp for Boscawen Dollar General, LLC Date: May 17, 2016

Address: 83 Orchard Hill Park Drive Telephone No: on file

City, State, Zip: Leominster, MA 01453

Location of Land: 169 King Street Zone: Com Map: 81A Lot: 42 Sublot: -----

Description of Use - (attach additional information, drawings or plans if helpful):

Lisciotti Development, representing Boscawen DG, LLC, has requested variances for their client's project proposed for 169 King Street. This variance request is for **relief from the required number of off-street parking spaces required by Article VII, Section 8.01, Table 3.** The Applicant is proposing 30 off-street parking spaces where 46 parking spaces are required by our ordinance.

Research Documents

Boscawen Zoning Ordinance, revised March 8, 2016. Property file and Land Use file for 169 King Street.

Review of the Record

The prior use of this property was for a single-family dwelling that was destroyed by fire and removed. There has been no commercial use of this property to date. The proposed use, retail sales, is a permitted use in the Commercial Zone.

Code Enforcement Officer Determination(s)

Applicant is proposing 30 off-street parking spaces where 46 are required by our ordinance in Article VIII, Section 8.01, Table 3. The applicant shall apply to the Zoning Board of Adjustment to request and be granted a variance should they wish to proceed with the project as it is proposed.

Alan H. Hardy Digitally signed by Alan H. Hardy Date: 2016.05.17 12:45:43 -04'00' 05.17.16

Alan H. Hardy, Code Enforcement Officer Date

Should any party be aggrieved by a decision of the Code Enforcement Officer, the aggrieved party may file an appeal with the Zoning Board of Adjustment if it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to New Hampshire RSA 674:33 – Powers of the Zoning Board of Adjustment. This appeal must be filed within 30 days of the date of the decision that is complained of.

3

TOWN OF BOSCAWEN

116 North Main Street
BOSCAWEN, NEW HAMPSHIRE 03303

OFFICE: 603-753-9188 FAX: 603-753-9183

Certification of Zoning Compliance

Name: Boscawen DG, LLC Owner: Peach Pond Trust 100 River Rd Date: 11.27.2016

Address: 83 Orchard Hill Park Drive Telephone No: on file

City, State, Zip: Leominster, MA 01453

Location of Land: 169 King St, Boscawen NH Zone: COM Map: 81A Lot: 42 Sublot:

Description of Use - (attach additional information, drawings or plans if helpful):

The Applicant wishes to construct a 7,500+ SF Retail Store located at 169 King Street in Boscawen. The lot is zoned Commercial. The Applicant has received a Variance for a 50.63 Sq. Ft. freestanding sign with conditions, (attached). The Applicant has asked for a determination regarding the number of parking spaces as indicated in Article VII of the zoning ordinance.

Research Documents

Boscawen Zoning Ordinance, revised March 8, 2016 & Site Plan Regs revised December 8, 2015. Property file for Map 81A, Lot 42 and the Land Use file for Map 81A, Lot 42. Dollar General documents for the 7,500 square foot design.

Review of the Record

The proposed floor plan for the 7,500 square foot design indicates that 5,915 gross square feet of the building footprint is intended for retail use. Article VIII, Off Street Parking Space Requirements indicates that for Retail Use, 1 parking space for ever 200 square feet of gross floor space is required

Code Enforcement Officer Determination(s)

If the Applicant wishes to proceed, the Applicant may file an application with the Planning Board for the proposed 7,500+ SF Retail Store.

Alan H. Hardy Digitally signed by Alan H. Hardy Date: 2016.12.06 09:32:09 -05'00' 11.27.2016

Alan H. Hardy, Code Enforcement Officer Date

Should any party be aggrieved by a decision of the Code Enforcement Officer, the aggrieved party may file an appeal with the Zoning Board of Adjustment if it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to New Hampshire RSA 674:33 – Powers of the Zoning Board of Adjustment. This appeal must be filed within 30 days of the date of the decision that is complained of.

rev. December 27, 2011

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES – Final
Tuesday, May 24, 2016 at 7:00 PM

Members Present: Dr. Gail Devoid, PhD, Chair, Douglas Supry, Edward J. Cherian Jr, Tracy Jo Bartlett and Ann Dominguez.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, Alan Hardy Planning & Community Development Director, and Rose Fife, Recording Secretary

Meeting opened at 7:05 pm.

• Roll call by Secretary

• Welcoming of New Alternate Member – Ann Dominguez

• Review and Acceptance of draft minutes – Motion to accept the Minutes was made by Douglas Supry, seconded by Edward Cherian and passed by a unanimous vote.

Nomination for Chair and Vice-Chair – Roger Sanborn nominated Gail Devoid for Chair, and Vice Chair to be Douglas Supry. Mr. Supry wanted to nominate Ed Cherian as Vice Chair. Mr. Cherian is willing to accept the nomination. Motion by Roger Sanborn, seconded by Tracy Jo Barlett and passed by a unanimous vote.

• Gail Devoid Invitation for continuing on ZBA. Dr. Devoid's appointment is good through June 30, 2016. Dr. Devoid accepted the invitation. Alan Hardy stated that her term is coming up and asked if she would like to be recommended that she continue as ZBA. A motion to recommend that Gail Devoid continue on the ZBA was made by Doug Supry, seconded by Ed Cherian and passed by a unanimous vote.

Old Business
None.

New Business

• Application for a Special Exception from Article 4, Table of Uses, Commercial to allow a Child Day Care, Home Based, submitted by Catherine Steenbeke of 4 Bluebird Lane, Boscawen NH 03303, owned by Janice Steenbeke, Trustee of the Janice Steenbeke Trust, 8 Bluebird Lane, Boscawen NH 03303 with the location of the property at Map 81B, Lot 2, 4 Bluebird Lane, in the R2 zone.

Catherine Steenbeke testified. She has been watching 3 children at her home for the last year. She would like to expand her business. She'd like to have a state license. According to the State of NH she needs the Town's permission. Gail Devoid asked how many children she would have there. She said the State allows 6 under school age and 3 above. A maximum of 9 and 3 additional before and after school. So not more than 6 full time children. Gail Devoid reiterated that there would be 3 before and after school and 6 full time. She said correctly. Her hours will start at 6:00 am for full time; 7:30 am for part time. Her pick up time is 5 pm.

Gail asked how many acres. (1.5 acres. Walking into her home she has a playroom. She has a 4 bedroom home. She has a very large living room area. She can divide half of that up into a playroom. She wants an inside jungle gym so that they have a play area in the winter.) She uses 3 of the upstairs bedrooms as nap and rest. She has beds in the sleeping area for all the children. They have a bathroom they can use. There is a cleanup area.) Gail asked her to show the area on her diagram. (Kitchen is used for lunch or cooking projects. The dining room is the other play area. Outside area is not completely fenced in yet, but she is working on it. She doesn't have a pool and her neighbor's pool is all fenced in.) Gail asked how many years she has been doing this. She said a year. She has a bachelor's degree in early childhood education. She would like to do this at home.

Tracy Jo Barlett asked where the 3 school kids will go in the summer. Catherine Steenbeke said she didn't have them yet, but they would go to Boscawen Parks and Rec program. Ed Cherian asked Alan Hardy and Kellee Jo Easler about the 3 categories in the Table of Uses and where Ms. Steenbeke fell in those three categories. Is it the first one, child care home based. Kellee Jo Easler said yes and she will also have to have a fire inspection for life safety and an inspection from the health officer. Catherine Steenbeke said she also has to get finger printed by the state along with anyone in the house over 17 years old. Alan asked when she thought she'd have her State license. She said that this was her first step. She'd like to get licensed by the end of June at the latest. Doug Supry asked if the finger print process was part of a background check. Catherine Steenbeke said it was. They do a criminal record check, sexual offense list and there is an FBI one but she's not sure if she needs to send that one in. She will go to the State DMV to get those checks done. Ed Cherian thanked her for coming to the Board as a lot of child care centers aren't coming before the Board when they should.

Abutters in favor: none.

Abutters opposed: none.

Members of the public in favor: none.

Members of the public in opposition: none.

Chair Devoid closed the hearing.

Roger Sanborn said Ms. Steenbeke has everything in order and made a motion to approve the request which was seconded by Supry and passed by a unanimous vote.

Ed Cherian asked if this is something that runs with the land and/or does it stay with Ms. Steenbeke. Mr. Sanborn asked Alan Hardy what they can do. Alan Hardy said that there were changes that allow the ZBA to make exceptions. Gail Devoid said the motion has already been passed as it stands. Roger Sanborn said that his intent was that it was granted to Ms. Steenbeke specifically and not to the land lot. Alan Hardy said that would be the way it goes – her with her address. The intent was for the special exception to be granted for the applicant.

• Application for Variances for relief of the following: Article V, Lot Dimensions & Area, 5.01 Table 2-Lot Area Less Than Required; Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VIII, Off-Street Parking Requirements, 8.01 Table 3-Less Spaces than Required; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design A.-Lumen Output & B.-Sign Distance To Property Line & H.-No Internally Lit Signs, submitted by Lisciotti Development Corp of 83 Orchard Hill Park Drive, Leominister MA 01453, owned by Peach Pond Trust, Martha Crete Trustee,

100 River Road, Boscawen NH 03303 with the location of the property at Map 81A, Lot 42, Boscawen NH, in the COM zone.

il Devoid noted that there were two people on the list of abutters who did not respond. She also noted that the own has followed the regulations to the best of their ability and they are willing to re-notice. Austin Turner said that they would like to go forth with their request.

Austin Turner of Bohler Engineering testified. Also available to testify was John Scribner, Lisciotti Development.

Austin Turner testified. They are proposing a Dollar General retail store located on King Street. This is a Commercial District, where retail use is allowed by right. The property existed prior to the dimension requirements for the commercial district so the property has less square footage than is required with the current Ordinance. He noted a letter from Alan Hardy that was sent out. They no longer need to pursue a variance for minimum lot size as the lot is non-conforming and is grandfathered, per Alan Hardy. They will be compliant with town and state with store management. They are talking with the State about the Driveway Permit application. First point of relief was for lot coverage. The Zoning Ordinance for this zone says that a maximum of 40% of a lot area will be allowed to be covered by impervious surface. They are asking for 50% lot coverage. If the lot had the 80,000 s.f. required, their lot coverage would only be 35%. It is an existing non-conforming lot and they cannot control that. It is not contrary to public interest as the zoning provisions allow for a lot that is smaller than required. If the lot existed with the required square footage they would be within what is allowed. The Spirit of the Ordinance will be met as they meet the spirit of the intent, in their opinion. Substantial justice would be done as the Zoning Ordinance identifies this area of town and this lot for this type of development and would be allowed by right. The values of the surrounding properties would not be diminished because the town has identified this property for commercial development and this is a commercial project. Literal enforcement would result in unnecessary hardship because their project is similar to existing projects in that area. The proposed e is reasonable as it is a use allowed by right in that zone. This is for their open space request.

Gail Devoid would like to ask questions as they relate to each request. Her first question is how they determined 30 parking spaces would be enough for this project. Austin Turner said that the study of other Dollar Generals show about 10 transactions an hour and that generally means that the parking lot will have 5-10 vehicles in their lot per hour. There is a Dollar General in Hillsboro and the company measured the parking demands at that location which was 16 vehicles and at the peak it was 23 vehicles. The trend throughout the United States is 25 to 30 vehicles. This is the need that they were seeing. They are asking for 30 spaces where the zoning regulations require 46. They don't want to build more pavement than what is required as realistically they wouldn't be filling them. Gail Devoid asked if that were true during the Holiday season and Mr. Turner said yes. Gail Devoid asked if they did a traffic study. Austin Turner said no. What they typically do is work with DOT first and then they do a Traffic Impact Assessment with DOT. They determine how many trips are generated during specific times of the day. The anticipated traffic for a Dollar General at this location is significantly lower than the DOT would require for a full traffic study. So far the State has not required them to do a full on traffic study. Gail Devoid asked if it were a one story store. Austin Turner said yes. Gail Devoid asked how high the building was going to be. Austin Turner said 19 feet to the top, which would include the limited parapet above the roof line.

Sign variance: Austin Turner stated that they are proposing 2 different signs. The town's Ordinance allows for up to 40 s.f. plus an additional 20 s.f. on the building. What they propose is a single freestanding sign that would be approximate to the road and roughly 5 feet tall by 10 feet wide or a 50 s.f. sign. This would exceed the Ordinance by 10 s.f. The sign would be 20 feet high from the finished grade of the ground. Gail Devoid said that it would then be a foot above the 19 foot building height. Mr. Turner said that was correct. Tracy Jo Bartlett sked if the trees in front of the lot would be cleared. Austin Turner said he may have to do so in order to ccommodate site drainage. Gail Devoid asked about the illumination of the sign. Austin Turner said it's

proposed to be internally illuminated. Gail Devoid asked it if would blink. Austin Turner said no. It will be on when it's dark and then typically on an hour or half hour after store closes.

Mr. Turner said that their standard hours of operation are 7 days a week 8 am to 10 pm. Gail Devoid asked if th lights will be on until 11 pm. Austin Turner said yes. Gail Devoid asked about the height of the sign and whether the sign would be compliant with the "Dark Skies" ordinance. Austin Turner said that Dark Sky compliant is when you don't have the up-glow of the light. This sign does not have lighting upward. It won't be invasive. It will be a back light on the lexicon panel. Not overly bright illumination. Gail Devoid asked if they would have a 20 foot sign out by the driveway and a sign on the store. Mr. Turner said that was correct. Gail Devoid ask if that is also illuminated. Mr. Turner said it was in a similar fashion to the freestanding sign)

Roger Sanborn asked about the grades – preparing the site. He asked if they were proposing to remove trees. Mr. Turner said that they are not as of yet. They are fairly limited in terms of being able to grade. So they are probably clearing close to the property boundary. They will have a storm water basin also close to King Street. Alan Hardy asked where the retention/detention is going. Mr. Turner explained. The basins will be hydraulically connected and provide treatment of ground water. Mr. Sanborn asked if this would be a problem to the neighbors. Mr. Turner said no. Typically when they design they design to town and DES standards. They look at a number of storm events. They design to DES levels. They design up to the 100 year storm events. Alan Hardy stated that DES requires that systems be built to detail/retain water on the property. Roger Sanborn asked if this is a storm drain there you can utilize? Mr. Turner said that there is a storm structure out on King Street. Most of the water makes it out into the direction of King Street. It flows northwesterly in a southeasterly direction. Doug Supry noted that it looks like some of the parking will not be on flat ground. Austin Turner stated that that was correct. They envision that the facility will largely be at street level. It needs to meet ADA requirements. They will incorporate a landscaping plan. Gail Devoid asked if the parking lot will be level. Mr. Turner said yes, but it may be a foot or two difference across the parking lot but it will not be visible to the naked eye. They go halfway back with their grading. Doug Spry asked if this would affect the sidewalks. Will there be walls there. Austi Turner said he envisions short landscaping walls to make the grade differences up. Gail Devoid asked if they were not expecting floods as they dug into the hill. Austin Turner said that if he does his job properly he will have big enough holes in the ground to release it at the right rate. Ed Cherian asked where the septic will go. Mr. Turner said he might mound it and put it on the back of the hill. He now has an idea where storm water is so now he can find an area for septic and will do test pits. Ed Cherian asked where loading docks, snow dumps etc. be located. Austin Turner said the operational component will be in the back northwest side of the site. There will be a delivery once a week Monday morning before store opens, not early. The vehicle will come in and back into loading area. The trash enclosure is screened with a solid fence and located near the loading area. DOT requires that they prove their loading area. Ed Cherian asked about the lot coverage and the reference to the impervious coverage in terms of whether retention/detention areas are included in that percentage. Mr. Turner said no. Ed Cherian asked about the sign variances. Austin Turner said that for lighting the sign, the light height is capped at 20 feet or goes down in height as you get closer to the property boundary. Gail Devoid read the formula. Austin Turner wants to limit the amount of lights on the site so they are proposing to cap the light poles at 20 feet maximum. There are going to be light poles closer to the property line. Ed Cherian asked if it was a 10 foot setback. Alan Hardy asked if they are asking for 5 feet. Alan Hardy is not clear on that either. How far from the front property line will they be. Austin Turner stated that that part of the Ordinance is referring to the sign, but not the light poles. The Ordinance allows 20 feet tall. Austin Turner asked Alan Hardy what the sign setback was. Alan Hardy said 10 feet from the front edge of the cabinet. Austin Turner said the cabinet would be 10 feet inside the boundary. Alan Hardy said that would be compliant. Ed Cherian asked if it were greater than 1800 lumens. Mr. Turner said yes. That equates to a 100 watt light bulb. He doesn't want to do that.

Ed Cherian would like to see the formula filled in. Alan Hardy said a lighting engineer can lay out the lighting Somewhere in the process that can be requested so that we have a layout of how he will install lighting on th property. Ed Cherian wants to see the proposal go through the formula. Austin Turner said he would walk

through that. The formula says 3ft+D/3ft where D is distance to the property boundary. Chair Devoid used the formula to calculate that if 10ft is the distance to the property line, 3ft + 10/3 equals 6 1/3 ft. Ed Cherian wanted to see what the formula would yield so that they can see the magnitude of the variance they are asking for. Austin rner went over the site plan and did an overview. They may have lights off the back edge of the pavement. Gail Devoid went over the formula in the Ordinance with him. 1A of Lighting Variance is a lighting level greater than 1800 lumens. 1B is doing the height. They would like to cap the lighting at 20 high maximum. He may not use that amount though. He will provide it to the Board. All lights proposed are cut off and shielded. They don't have a halo that goes up. Good lighting up front but cuts off like a wall in the back. He's looking for the Board to cap the box of what he is able to work within. Alan Hardy said that when you see the photometric math you will see what he is going to do. Alan Hardy also said what it anticipated, he believes, is more space. There is cost getting closer to the property line. Now you are trying to combine the two on a smaller lot. Ed Cherian asked if these are the standard lights that Dollar General uses. Have you done modified or smaller lighting for other cases? Austin Turner said that in certain instances they have. Ed Cherian asked if they have you done signs that are not internally lit. Austin Turner said that they had, but he hasn't done 6' lights for an entire parking lot. Alan Hardy gave an example of the lighting of Shaw's on D'Amante Drive in Concord. Ed Cherian wanted to ask about the lot size. The application says 58,019 s.f. Did they survey the property? Mr. Turner said they had. Ed Cherian wanted to have the history of the lot being the smaller size and the letter Alan Hardy submitted. Alan Hardy said that Article V is the footprint of how the Planning Board would create a new lot. If someone were to take a 20 acre lot and break out a minimum lot in that zone, that's what Article V does. Austin Turner said the lot size creates a lot of different hardships. Alan Hardy said Article V has been used for the creation of new lots not for regulation of existing lots. Ed Cherian asked if it had been subdivided in the last year would it have been disallowed. Alan Hardy said that the minute that the Planning Board approves a lot it then becomes non-conforming, if any of the ordinances change in the future. Once the lot is a lot of record, it's legally no-conforming. Ed Cherian asked if there were a number of lots on King Street in the same situation. Alan Hardy said he believes so. Alan Hardy handed out a map showing lots. Ed Cherian suggested a formal vote on this terpretation that this is a grandfathered lot. Gail Devoid feels a site visit would be appropriate too. Alan Hardy stated that once Article V doesn't apply then Article IX would apply. Ed Cherian asked how a grandfathered non-conforming lot size affects the regulations on maximum lot coverage. Is it handled on its own merits? Alan Hardy said that the percentage is driven by the maximum lot size. Ed Cherian asked if this is a hardship variance vs. a 'nice to have' variance. He went on to discuss the impervious surface issue. How broadly has it been applied in the past? Gail Devoid would consider it landscape. But it looks like it's the parking lot, the store and the sign. Ed Cherian asked if a leach field would count as impervious surface. Alan Hardy said that the Board makes that decision, but he wouldn't count it as a structure. Ed Cherian asked if they knew of any instances where the town included grassed areas as lot coverage. Alan Hardy said that the only other place they've worked with it is the funeral home. They ended up not paving as much. Ed Cherian asked if it was a nonconforming lot as well. Alan Hardy said they did a variance for the parking lot. Gail Devoid said it was a long, narrow lot. Ed Cherian asked if the maximum coverage is assuming the parking variance is granted. Austin Turner said yes. Ed asked if the max coverage was granted and the parking lot number was not, what then. Alan Hardy suggested they do the parking variance first. He also suggested that the Board take their input separately so that when the public testimony is coming in, it comes in at the issue at hand. Ed Cherian asked if they could describe the relationship between the owners/applicants. Austin Turner stated that the Dollar General is the tenant. Lisciotti Development is Mr. Scribner's company. This is a pretty Standard operating procedure. Ed asked if Lisciotti Development is the developer. He asked a few more questions about the hierarchy of the company names. Ed Cherian asked if he owns the land, permit and building and they lease. Mr. Turner said that was correct.

Tracy Jo Bartlett asked if they are approved, how soon they would want to be open. Austin Turner said that they need to go before the Planning Board and they needs State Permits. There is a 4 to 6 month construction period. To possibly open by December 2016.

Abutters in favor: none.

Abutters in opposition: Bruce Crawford, 357 Queen Street testified. He submitted written testimony. He thinks the Dollar General would be successful here as has the Cumberland Farms been. The parking is very important. The Planning Board noted one truck per week. When he goes to the Concord Dollar General, trucks show up on Saturday morning and the trailer can be up to 70 feet long so this area for their parking lot that would be used for backing in and turning around may not work. Backing in from King Street shouldn't be allowed. This truck could block 10 parking spaces. Saturday, at the Fisherville Road location at 10:30 am the process of unload/reload took about 2 hours. That 2 hour period the parking spaces would be useless. During that time 51 vehicles entered the lot. It was the day before Mother's Day when he was there. At one point 24 parking spaces were used. Many different vehicles came in and out, i.e. Pepsi, Coca cola, etc. Their proposed 30 parking spaces will not be enough. Photo #6 in his packet shows the dumpster enclosure. The Hydraulic tail gate is another 10 feet long. The dumpster enclosure should be big enough to keep wired containers that they leave filled with cardboard. He drew the truck size into the parking lot proposed in Boscawen to show how much space would be taken up in the parking lot. The grading is an issue. Lighting – 20 feet of light is too much as there is home right next door. This use doesn't fit. It's an allowed use and if the building were half the size there would not be an issue here. Gail Devoid noted the side slopes are not shown and it appears there is no place for snow. Austin Turner said that they will make accommodations for the snow. Austin Turner said that there will be an open area in the back and they will grade out a flat spot where they can push it through. Those are their thoughts now.

Elaine Clow, who owns 357 Queen Street. She wanted to speak to the parking, grading and impervious surface. 10/22/87 a map was done of the old plumbing and water works of 1770-1893 when Penacook Boscawen water precinct went in. There was plumbing on her front lawn. The water came from springs up on the hill. She has water problems on her property now. If there is any rain of significance they have a lake in their front yard. They have Spring Houses. Her property never had a well on it, it was always spring fed. Water finds its level. Roger Sanborn said everyone on King Street had private water supplies coming across the road.

John Colter of 329 Queen Street spoke. He had to do something as they had a foot of water on their property this spring. Gail Devoid said he hadn't been recognized to speak. Elaine Clow agreed to yield the floor to Mr. Colter. Dr. Devoid asked him to identify himself to continue with his testimony. He complied. He had to put his own drainage system in this year. It is all ledge. He lives in a 1783 house. He always has water in his basement. With trucks coming down off the hill and all the blasting up the road from his home it breaks the ground and loosens the rocks and you get water down through. Dollar General will create problems on the traffic flow also. It takes 10 minutes to get out of Queen Street as it is.

Andy Newcomb, 171 King Street. He has been a Boscawen resident for about 10.5 years. He is a police officer and Lieutenant for the State Prison. He's surprised at how unprepared the applicants are and how a number of issue are up in the air. They do not have concrete information to present to the Board. And as an abutter he hasn't received a letter. The town has done their diligence. Dollar General hasn't approached him at all. He feels this application should be specific if it is going to be voted on. He drives Fisherville Road every day. That store has a lot of volume. He noted that the stores are concave at their entrance. His residence is right next door and he is going to be flooded with fluorescence lights coming out of that interior lighting and entrance lighting. It's offensively bright. There is no traffic study but they want the ZBA to vote. He feels that they should submit one so that we can vote on and make an informed decision. What are the facts, what are the numbers? The lumens are not noted but they want a positive vote. Short landscaping walls – he would encourage the board to do a site walk and he will walk it with you to show the Board the slope. There will be a lot of earth moved out of that property if brought to street level. No septic plan was presented. If the engineer doesn't know then who does? Gail Devoid said the Planning Board will address those issues. Mr. Newcomb said that one delivery a week is grossly inaccurate. Dollar General prides themselves on being a "general" store. The light poles are going to be there. The property values – where is the evidence that shows that they will not decrease. "This lot creates many

hardships" is what they say, he suggest that they find another lot. He has flooding in his front yard also. He has 1.3 acres and a large front yard and he has an underground garage.

il Devoid noted that this meeting will probably continue and if he would like to speak again they will give him an opportunity.

Beverly LaCoy, 351 Queen Street who is an abutter. She agrees with Bruce, Elaine and Andy and would like to reiterate their problems. She'd like to enjoy her backyard but they won't be able to. What about the crime element? She's not in favor.

Ford Pearl, DCT Properties – owns residential property behind this lot. The town rezoned that whole area up there and it is now all residential. Therefore, the lighting, water and traffic is all a concern. Possible shading, fencing, anything to get more separation would be his concern.

Public in favor: none.

Public in Opposition: Lorrie Carey, 151 King Street. The water is a problem, not only where they would like to go. There is inefficient drainage on King Street. They have had two 100 year storm events in the last 5 years. Small businesses on King Street have been held to the parking standards. Observing and having lived on King Street for about 15 years, other businesses on King Street all have horseshoe shaped driveways where trucks can get in and out. Trucks do take up parking spaces. Traffic impact – residents cannot get out of their driveway from 4:30 to 9 am and 3-7 pm. They have had a number of serious accidents at the intersection of King and Queen Streets. The store opens at 8 am how early will the truck deliveries going to be there? The light spillage is a concern. The noise, idling of trucks and air pollution of trucks. Lights bounces off of asphalt pavement, etc. She encourages a site walk on King Street at night. She is not in favor of this type of commercial use at that rner due to traffic impact.

Ed Maloof, 55 Daniel Webster Highway. He knows that they have had a lot of water problems on King Street over the years. DOT had come in and revamped the collection system. The run off will not be handled very well. The Zoning Ordinances were voted on at town meeting over many years. When the ZBA and Planning Board were first put into place they were given the opportunity to use the ZBA and Planning Regulations to benefit the town. This many variance requests is a lot. He doesn't think it is within the purview of the board to want to grant this many variances to the zoning rules. The applicant should go back and rethink his position and the extents of the building and the ZBA should look at limiting the amount of variances given for any one project. This store is much too big for where it is going.

Bill Devine who bought Art Association property at 150 King Street in 2010. The house sits 220 feet from the road. The lighting of King Street is a problem. This is a size 10 foot stuffed in a size 2 shoe. All the variances, with one exception, are a direct result of an inadequate piece of property. His bigger concern is the nature of the town, the integrity of the town. The lighting proposed is nothing short of an abomination. They want to exceed the lighting ordinance by 25%. Dunkin Donuts doesn't conform and they are grandfathered and they were there when they bought his property. Signage on the building would be exceeded by 400%. The Zoning Ordinances are there to protect the integrity of the town and investments of property by homeowners. If this is granted, this will change the nature of King Street and of Boscawen and you can't go back. He'd welcome Dollar General if they met the Zoning requirements.

Gail Devoid said this application will be continued to the next meeting, with the testimony from the public left open.

A motion to adjourn the meeting at 9:10 p.m. was made by Roger Sanborn, seconded by Ed Cherian and passed by a unanimous vote.

Alan Hardy said this will be continued at the June 28, 2016 meeting at 7 pm.

Ed Cherian asked if they should they do a site visit. Alan Hardy said that a site visit is a public meeting of this Board.

Alan Hardy spoke to the public in the audience and said that they are being noticed that the hearing is on June 28th and there won't be a separate mailing. The Board will do a site visit. Gail Devoid suggests a separate night. Roger Sanborn said do it the same night and start at 6 pm. Chair Devoid then agreed.

Gail Devoid stated there will be a 6 pm site walk, and then the public meeting. The public can attend the site walk, but there will be no discussion allowed, except with the applicants and their representatives. Abutter suggested a night visit. Gail Devoid said no. Ed Cherian said no as they wouldn't be able to see general conditions of the property.

Alan Hardy noted that July 5th Bill Lambert will be here from DOT and they will be discussing King Street and the traffic for any who are interested.

Respectfully Submitted,
Rose Fife

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES – Final
Tuesday, June 28, 2016 at 7:00 PM

Members Present: Dr. Gail Devoid, PhD, Chair, Douglas Supry, Edward J. Cherian Jr, Tracy Jo Bartlett and Ann Dominguez.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, and Alan Hardy Planning & Community Development Director.

- Roll call by Kellee Jo Easler.

- Review and Acceptance of Draft Minutes: It was noted by Gail Devoid that the paragraph before 'Old Business' says that Gail Devoid's appointment should read "June 30, 2016". Ed Cherian noted that on Page 4 Board member Doug Supry's last name was spelled incorrectly. Also about 5 lines from the bottom it should say "not refer to the light poles". It was a statement by Mr. Turner so he believes it should say 'not'.

A **motion** to accept the Minutes with corrections was made by Roger Sanborn, seconded by Ed Cherian, and ·ssed by a unanimous.

New Business

A letter was submitted from Katy & Colm Brophy requesting a continuance of their request onto the next agenda. Kellee Jo Easler will move it to the July 25, 2016 agenda. Mr. Cherian wanted it noted that he will not be available that week.

Chair Devoid read the request into the record.

Application for a Variance from NH State Building Code Sections 903.2.1.2 and 903.2.8, to omit sprinkler protection in the existing building located at 215 King Street, submitted by Pastoral Properties of New England of 195 Knox Mountain Road, Sanbornton NH 03269 with the location of the property at Map 81D, Lot 87, 215 King Street, in the COM zone.

A motion to continue this request to the July 25, 2016 agenda was made by Tracy Jo Bartlett, seconded by Roger Sanborn and passed by a unanimous vote.

Old Business

Application for Variances for relief of the following: Article V, Lot Dimensions & Area, 5.01 Table 2-Lot Area Less Than Required; Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than ' llowed; Article VIII, Off-Street Parking Requirements, 8.01 Table 3-Less Spaces than Required; Article , II, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design A.-Lumen Output &

B.-Sign Distance To Property Line & H.-No Internally Lit Signs, submitted by Lisciotti Development Corp of 83 Orchard Hill Park Drive, Leominister MA 01453, owned by Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303 with the location of the property at Map 81A, Lot 42, Boscawen NH in the COM zone. (169 King Street)

Chair Devoid continued the meeting where if left off at the June meeting where the abutter's spoke. Andy Newcomb had given extensive testimony and Chair Devoid had noted that the Board was going to continue the meeting and would allow them an opportunity to continue with testimony.

Lori Murphy, 130 King Street. She noted that Lori Carey talked about local businesses in this community at the last meeting. These businesses take care of their employees. When she looks at the Dollar General and the employees that work there she sees that The Dollar General are not good to their employees. How would they be to their neighbors? What will this do to the values of the surrounding homes? The homes will be devalued. What are the benefits to the town? She figures around $18 - $20,000 in taxes. A few part time employees. One manager. She doesn't consider those pluses to the community. There will be constant traffic in and out. She is in opposition and is requesting the Board to vote no. If the Board decides to approve the request she is asking that the Board writes in some relief to the neighbors.

Andy Newcomb, 171 King Street. Immediate abutter to the property. He's been in law enforcement for 12 years and has spoken in public often. He was nervous speaking at the last meeting because he was speaking about his home and his neighborhood. He attending a meeting on June 8th at the Henniker Community Center regarding The Dollar General. He did learn that the representatives here do not have answers – they are the engineers, etc. They don't know what the company is going to do or what the schedule will be. The Regional Director was at the Henniker meeting. He wondered why he Regional Director isn't here tonight to answer the neighbors and the Board's questions. He learned that there will be more than 1 delivery a week. He will hear the tractor trailer and their backup beepers all day long. He doesn't want to see lights shining on his property or hear slamming car doors all day long. That will negatively impact his life. It will be contrary to public interest. This is a cash cow and it will be a huge business. They have grossly under represented the amount of business they will do. The Spirit of the Ordinance will not be observed. This will adversely affect his neighbors and traffic. Substantial justice will not be done. The value of surrounding properties will be diminished. His property will definitely be devalued being next door to a Dollar General. Literal enforcement of the provision of the Ordinance and how it will affect the application. This is a residential property and has been for many years. This lot could go on the market for $75 or $80,000 easily. That property could be sold today as a residential property and that is not a hardship to the owner or property. The Dollar General has changed their design, their colors, etc. in other communities but they do not want to change it here. He still has not been contacted by Dollar General, not by phone or by letter and he is the direct abutter. Why hasn't he been? He wished the Board had walked the lot. There will be thousands of tons of earth removed from that lot. In October there is no green coverage; no buffer. He has a dog kennel close to the property line. What if, in the future, he wanted to put a garage near their retaining wall 10 to 12 feet away? This will negatively impact his property.

Bill Murphy, 131 King Street. Wanted to know if anyone knew what this building would look like or the lighting? Is there enough information to make an informed decision? He hasn't seen anything. This is information that the Board needs in order to make a decision.

Bruce Crawford spoke. He submitted written information to the Board. He showed them photographs. He showed photographs of the layout of the Dollar General in Franklin. The delivery truck takes up a number of the parking spaces there. The pictures he took were taken on a Saturday. Out front of the Franklin Dollar General there are propane tanks, vending machines and items for sale. Does Boscawen want to look like this? Then there is lighting issues and parking lot lighting issue. His last page he submitted was The Dollar General in Jaffrey

NH. The sign looks to be 20 feet from the road and it's a small sign, fairly close to the ground. They said what they propose is the only sign they have and can do, but that's not what he's seeing at other facilities. He doesn't l it fits the criteria. The lot coverage is a real issue. The parking is a real issue.

Elaine Clowe testified. The quality of life that she enjoys now will disappear. Seven days a week the store will be open from 8 to 10 with an hour before opening and an hour after opening. How is she going to enjoy her property living near that? She is hoping that they can keep their village as it is. She gave a history of Boscawen.

Forest Pearl Sr. DC Property Manager who is a rear abutter to this property. Did anyone walk the lot and see where the rear bounds are? What was the back lot line dimension given? He believes its 150 feet. The survey is in the town record and it is not 150 feet. Gail Devoid asked what it was if not 150 feet. It is 147.02 feet, which is a small error, but it shows that the Board isn't being given correct information. If the applicant says it's been surveyed, it should be surveyed. Gail Devoid has the survey and it says 149.89 feet. He has a survey done 20 years ago and it says 147.02 feet. Gail Devoid said that the survey she has is official.

Bruce Crawford said he knows where Andy Newcomb's property line is. If their survey is correct, they have less land. Gail Devoid said that when Web Stout does a survey and he puts the pins down, those are the boundaries. They have a survey by John P. Lynch who is a NH Professional Surveyor. Alan Hardy asked if the document she has is signed. The copy that he has is unsigned.

Kellee Jo Easler asked if the applicant sent in stamped drawings. Austin Turner of Bohler Engineering said that they did. The boundary was determined by a licensed NH Surveyor. Kellee Jo Easler went to look for a copy of the signed survey. Gail Devoid is looking for a copy of a stamped/signed copy to note that it is the official survey of the parcel.

Roger Sanborn felt that was an important piece of information. Kellee Jo Easler said that she does have one that is signed and stamped. Gail Devoid asked for a copy to be put into the record. There was an iron pipe found on the right side of the property, which answers Ford Pearl's question. Much discussion ensued regarding the survey submitted.

Diane Martin of Daniel Webster Highway spoke. She move here a few years ago because of the country setting. Her husband was from Boscawen. They understand towns change, but not with a commercial building like this. She is opposed to this and feels that they do not need this here. There is a Dollar General in Penacook and one in Franklin. One isn't really needed in this town. She's moved from Concord to Boscawen and would like to say to the Board that she hopes they look at the overall picture of what this would do to the town.

Gail Devoid closed the public testimony portion of the meeting. Roger Sanborn moved to close the public hearing.

Ed Cherian stated that they should start deliberations with request #1. Gail Devoid wanted to go through the variances one by one.

Variance #1: Article V lot dimensions and area: Alan Hardy said there is an attachment dated 5/20/16 that gave the explanation for variance request #1. Gail Devoid said the request was for the minimum lot area to be 80,000 s.f. vs. 58,919 s.f. Alan Hardy said if they had a larger tract of land and were creating a new commercial lot from that tract, the property would have to be, by Ordinance, 80,000 s.f. What they have here is an existing commercial lot of record so they are not required to have that 80,000 s.f. minimum lot size. That would be for the creation of new lot. The 58,000 s.f. lot size then triggers other variance requests. Gail Devoid reiterated that they do not have to meet the 80,000 sf. lot size. Alan Hardy said that was correct. Ed. Cherian said that normally the determination of the lot size was not something that they would see. Alan Hardy prefers that they make a motion.

A motion to accept Mr. Hardy's letter dated 5/20/16 that determines that the lot in question, 169 King Street, is an existing non-conforming lot was made by Ed Cherian, seconded by Doug Supry and passed by a unanimous vote. Ed Cherian said Variance #1 is now a moot point.

Variance #2: Ed Cherian feels that they should pass over it for now because it's dependent on variance #3.

Variance #3: Off-Street Parking: 1/200 s.f. of gross floor area or 46 spaces for the proposed 9,100 s.f. building. They are proposing 30 off street parking spaces. Gail Devoid said there hasn't been any evidence by professionals to say that would work. Roger Sanborn felt that they needed the 46 spaces. Gail Devoid agreed. Ed Cherian said this use was one that you would expect people to park and spend time there. You cannot use the location without parking. He also wanted to know how Cumberland Farms parking was calculated. He is looking to see if this kind of variance was granted before. Alan Hardy said that the reconfiguration of Cumberland Farms created a new parking layout. That number was less than what they had prior to that point. Ed Cherian asked how they would share that number of spaces with another business. Alan Hardy said that the parking Ordinance goes by square footage which makes it easier to calculate, but each of those will be on a case by case basis. Ed Cherian asked if the Board had granted parking variances. Gail Devoid said that Dunkin Donuts has the required number of spaces required by Ordinance. Tracy Jo Bartlett asked what would happen if people would park on the street because they can't get into the lot. Alan Hardy stated that on street parking will be looked at more and more along the entire corridor. Ed Cherian asked where the parking standard came from. Alan Hardy explained. Gail Devoid said that it was voted on by the residence of Boscawen. Alan Hardy said that anything in the Zoning Ordinance applies to us all. Gail Devoid wanted to point out that there was testimony from the public showing that when one of their long trucks are in the parking lot it is taking up parking spaces. The applicant argument is not strong enough to grant this variance. That requirement is there for a purpose. They were not given a traffic study or any other studies. The main argument is that the store will be a low traffic generator and she does not believe that. Doug Supry said that if the businesses in town are doing so well due to traffic flow, they are going to get more business than what they are reporting. He feels that 30 parking spaces are not going to be enough for the business generated there. Ed Cherian said that the applicant should know what the traffic should be as they are building the stores all over. They wouldn't want to design a store without enough parking spaces or people wouldn't go there. But if you take out 2 or 3 for people working there and then take out handicap spots and then take out spots for delivery trucks that makes the spaces less than 30. He hasn't seen anything from the Fire Department stated whether or not they can turn around a fire truck there. Ed Cherian hasn't seen any proof that when they are loading or unloading a semi-truck, it wouldn't block spaces. Roger Sanborn's concern is that the vehicles coming in, like a big truck, it will take up 10 spaces plus and there is no room to expand the parking area. The parking is along the boundary of the neighbors. Gail Devoid spoke about where the snow removal would go. Ed Cherian asked if the Board were to deny this request, would there be no other way to meet the requirement? They could wrap around to the west side of the lot and create spaces. Doug Supry said that testimony was that when you go behind the building the elevation would go up. Tracy Jo Bartlett asked where the septic would go. Alan Hardy said that snow removal will be looked at through the Planning Board process and that would need additional spaces. Gail Devoid reiterated that they have 2 pages of opinions but no studies. Alan Hardy noted that the traffic study wouldn't change the parking spaces. Ed Cherian said that the Minutes of the last meeting said that traffic for Dollar General would be significantly lower than what the DOT would require them to do a traffic study for.

A **motion** to deny variance request #3 was made by Roger Sanborn as he felt there was not enough room for parking, seconded by Doug Supry, and passed by a unanimous vote.

Ed Cherian wanted to clarify how he felt. It was inadequate spaces but the Board doesn't have enough information to say how many spaces they need to run their store. Alan Hardy asked what was creating the hardship so that they couldn't conform. Gail Devoid said that if you put a smaller store in it would help them to meet the 30

parking spaces. Gail Devoid stated that it is not that the land can't be used, it's that the store is too big. Alan Hardy said that in #5b of their request their answer to the question of hardship starts with the strict adherence to the parking Ordinance. Ed Cherian said that unnecessary spaces undermines the town's Ordinance. Gail Devoid said that they are saying that by granting this, they could maintain a responsible footprint but her opinion is that it is an irresponsible development footprint.

Variance #2: The requirement of lot coverage 50% vs 40% allowed. Lot coverage consists of all buildings and impervious surfaces. Ed Cherian stated that they can't require the amount of parking without lot coverage. Gail Devoid reiterated that if the store was smaller, then they wouldn't need a variance. Ed Cherian said that because they were denied the parking space variance they couldn't go back and meet this requirement. Ed Cherian asked if the building were smaller would that be a substantially different proposal. Alan Hardy said that all of those have potential effects. He also wanted to make clear that this is not talking about just buildings, but it is building and structure and a structure is anything constructed or erected having a location on the ground, not limited to freestanding signs, etc. but exclusive of fences, retaining walls, etc. Ed Cherian asked what the interpretation was, as it was vaguely worded. Alan Hardy explained. Ed Cherian said that the lot is substantially smaller than if you were creating a new lot in the commercial district. He asked Alan Hardy how much useable land is there. Alan Hardy explained. Gail Devoid asked if it was too big a building for the lot that even this variance. Ed Cherian said that this is zoned commercial. He said that whoever built there would be strictly limited due to the lot size.

Roger Sanborn stated that anyone that sits on a Board looks out for the people and residence of the town. The abutters on all sides are concerned with closeness and water drainage issue. He feels he is representing the people of the town and potentially the people that are buying the property. He personally can't go along with it, especially with the size of it. Gail Devoid agrees. There is nothing in the application packet that shows how they will manage water retention/flow. Alan Hardy stated that if the Board needs additional information then they have that ability to request that. He also said that the Board would need to quantify what they want and how they want to receive that information. Doug Supry said that by installing retaining walls that would also shrink the useable land for building. Roger Sanborn asked if they had the right to ask for more information at this time. Alan Hardy said that if the Board says no, then the application can go through a motion for reconsideration based on new information or something the Board missed or that the application has changed significantly. So if the Board said no they would have to modify and come back with another application

A **motion** to deny request #2 was made by Roger Sanborn, seconded by Doug Supry and passed by a 4-1 vote with Ed Cherian in the minority.

Ed Cherian felt that as it was a commercial lot and shouldn't be denied. It was an allowed use. You would expect a variance of some kind. He feels it isn't an unreasonable request.

A **motion** to continue this case was made by Tracy Jo Bartlett, seconded by Doug Supry to Tuesday July 19, 2016 at 7 pm and passed by a unanimous vote.

A **motion** to adjourn the meeting at 9:00 pm was made by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

Respectfully Submitted,
Rose Fife

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

Recording secretary never sent final. Changed in house.

MEETING MINUTES – ~~Draft~~Final
Tuesday, June 28, 2016 at 7:00 PM

Members Present: Dr. Gail Devoid, PhD, Chair, Douglas Supry, Edward J. Cherian Jr, Tracy Jo Bartlett and Ann Dominguez.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, and Alan Hardy Planning & Community Development Director.

- Roll call by Kellee Jo Easler.

- Review and Acceptance of Draft Minutes: It was noted by Gail Devoid that the paragraph before 'Old Business' says that Gail Devoid's appointment should read "June 30, 2016". Ed Cherian noted that on Page 4 Board member Doug Supry's last name was spelled incorrectly. Also about 5 lines from the bottom it should say "not refer to the light poles". It was a statement by Mr. Turner so he believes it should say 'not'.

A **motion** to accept the Minutes with corrections was made by Roger Sanborn, seconded by Ed Cherian, and passed by a unanimous.

New Business

A letter was submitted from Kat~~yie~~ & Colm~~? Brochu~~ Brophy requesting a continuance of their request onto the next agenda. Kellee Jo Easler will move it to the July 25, 2016 agenda. Mr. Cherian wanted it noted that he will not be available that week.

Chair Devoid read the request into the record.

Application for a Variance from NH State Building Code Sections 903.2.1.2 and 903.2.8, to omit sprinkler protection in the existing building located at 215 King Street, submitted by Pastoral Properties of New England of 195 Knox Mountain Road, Sanbornton NH 03269 with the location of the property at Map 81D, Lot 87, 215 King Street, in the COM zone.

A motion to continue this request to the July 25, 2016 agenda was made by Tracy Jo Bartlett, seconded by Roger Sanborn and passed by a unanimous vote.

Old Business

Application for Variances for relief of the following: Article V, Lot Dimensions & Area, 5.01 Table 2-Lot Area Less Than Required; Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VIII, Off-Street Parking Requirements, 8.01 Table 3-Less Spaces than Required; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design A.-Lumen Output &

B.-Sign Distance To Property Line & H.-No Internally Lit Signs, submitted by Lisciotti Development Corp of 83 Orchard Hill Park Drive, Leominister MA 01453, owned by Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303 with the location of the property at Map 81A, Lot 42, Boscawen NH in the COM zone. (169 King Street)

Chair Devoid continued the meeting where if left off at the June meeting where the abutter's spoke. Andy Newcomb had given extensive testimony and Chair Devoid had noted that the Board was going to continue the meeting and would allow them an opportunity to continue with testimony.

Lori Murphy, 130 King Street. She noted that Lori Carey talked about local businesses in this community at the last meeting. These businesses take care of their employees. When she looks at the Dollar General and the employees that work there she sees that The Dollar General are not good to their employees. How would they be to their neighbors? What will this do to the values of the surrounding homes? The homes will be devalued. What are the benefits to the town? She figures around $18 - $20,000 in taxes. A few part time employees. One manager. She doesn't consider those pluses to the community. There will be constant traffic in and out. She is in opposition and is requesting the Board to vote no. If the Board decides to approve the request she is asking that the Board writes in some relief to the neighbors.

Andy Newcomb, 171 King Street. Immediate abutter to the property. He's been in law enforcement for 12 years and has spoken in public often. He was nervous speaking at the last meeting because he was speaking about his home and his neighborhood. He attending a meeting on June 8th at the Henniker Community Center regarding The Dollar General. He did learn that the representatives here do not have answers – they are the engineers, etc. They don't know what the company is going to do or what the schedule will be. The Regional Director was at the Henniker meeting. He wondered why he Regional Director isn't here tonight to answer the neighbors and the Board's questions. He learned that there will be more than 1 delivery a week. He will hear the tractor trailer and their backup beepers all day long. He doesn't want to see lights shining on his property or hear slamming car doors all day long. That will negatively impact his life. It will be contrary to public interest. This is a cash cow and it will be a huge business. They have grossly under represented the amount of business they will do. The Spirit of the Ordinance will not be observed. This will adversely affect his neighbors and traffic. Substantial justice will not be done. The value of surrounding properties will be diminished. His property will definitely be devalued being next door to a Dollar General. Literal enforcement of the provision of the Ordinance and how it will affect the application. This is a residential property and has been for many years. This lot could go on the market for $75 or $80,000 easily. That property could be sold today as a residential property and that is not a hardship to the owner or property. The Dollar General has changed their design, their colors, etc. in other communities but they do not want to change it here. He still has not been contacted by Dollar General, not by phone or by letter and he is the direct abutter. Why hasn't he been? He wished the Board had walked the lot. There will be thousands of tons of earth removed from that lot. In October there is no green coverage; no buffer. He has a dog kennel close to the property line. What if, in the future, he wanted to put a garage near their retaining wall 10 to 12 feet away? This will negatively impact his property.

Bill Murphy, 131 King Street. Wanted to know if anyone knew what this building would look like or the lighting? Is there enough information to make an informed decision? He hasn't seen anything. This is information that the Board needs in order to make a decision.

Bruce Crawford spoke. He submitted written information to the Board. He showed them photographs. He showed photographs of the layout of the Dollar General in Franklin. The delivery truck takes up a number of the parking spaces there. The pictures he took were taken on a Saturday. Out front of the Franklin Dollar General there are propane tanks, vending machines and items for sale. Does Boscawen want to look like this? Then there is lighting issues and parking lot lighting issue. His last page he submitted was The Dollar General in Jaffrey

NH. The sign looks to be 20 feet from the road and it's a small sign, fairly close to the ground. They said what they propose is the only sign they have and can do, but that's not what he's seeing at other facilities. He doesn't :l it fits the criteria. The lot coverage is a real issue. The parking is a real issue.

Elaine Clowe testified. The quality of life that she enjoys now will disappear. Seven days a week the store will be open from 8 to 10 with an hour before opening and an hour after opening. How is she going to enjoy her property living near that? She is hoping that they can keep their village as it is. She gave a history of Boscawen.

Forest Pearl Sr. DC Property Manager who is a rear abutter to this property. Did anyone walk the lot and see where the rear bounds are? What was the back lot line dimension given? He believes its 150 feet. The survey is in the town record and it is not 150 feet. Gail Devoid asked what it was if not 150 feet. It is 147.02 feet, which is a small error, but it shows that the Board isn't being given correct information. If the applicant says it's been surveyed, it should be surveyed. Gail Devoid has the survey and it says 149.89 feet. He has a survey done 20 years ago and it says 147.02 feet. Gail Devoid said that the survey she has is official.

Bruce Crawford said he knows where Andy Newcomb's property line is. If their survey is correct, they have less land. Gail Devoid said that when Web Stout does a survey and he puts the pins down, those are the boundaries. They have a survey by John P. Lynch who is a NH Professional Surveyor. Alan Hardy asked if the document she has is signed. The copy that he has is unsigned.

Kellee Jo Easler asked if the applicant sent in stamped drawings. Austin Turner of Bohler Engineering said that they did. The boundary was determined by a licensed NH Surveyor. Kellee Jo Easler went to look for a copy of the signed survey. Gail Devoid is looking for a copy of a stamped/signed copy to note that it is the official survey of the parcel.

.oger Sanborn felt that was an important piece of information. Kellee Jo Easler said that she does have one that is signed and stamped. Gail Devoid asked for a copy to be put into the record. There was an iron pipe found on the right side of the property, which answers Ford Pearl's question. Much discussion ensued regarding the survey submitted.

Diane Martin of Daniel Webster Highway spoke. She move here a few years ago because of the country setting. Her husband was from Boscawen. They understand towns change, but not with a commercial building like this. She is opposed to this and feels that they do not need this here. There is a Dollar General in Penacook and one in Franklin. One isn't really needed in this town. She's moved from Concord to Boscawen and would like to say to the Board that she hopes they look at the overall picture of what this would do to the town.

Gail Devoid closed the public testimony portion of the meeting. Roger Sanborn moved to close the public hearing.

Ed Cherian stated that they should start deliberations with request #1. Gail Devoid wanted to go through the variances one by one.

<u>Variance #1:</u> Article V lot dimensions and area: Alan Hardy said there is an attachment dated 5/20/16 that gave the explanation for variance request #1. Gail Devoid said the request was for the minimum lot area to be 80,000 s.f. vs. 58,919 s.f. Alan Hardy said if they had a larger tract of land and were creating a new commercial lot from that tract, the property would have to be, by Ordinance, 80,000 s.f. What they have here is an existing commercial lot of record so they are not required to have that 80,000 s.f. minimum lot size. That would be for the creation of new lot. The 58,000 s.f. lot size then triggers other variance requests. Gail Devoid reiterated that they do not .ave to meet the 80,000 sf. lot size. Alan Hardy said that was correct. Ed. Cherian said that normally the determination of the lot size was not something that they would see. Alan Hardy prefers that they make a motion.

DRAFT

A motion to accept Mr. Hardy's letter dated 5/20/16 that determines that the lot in question, 169 King Street, is an existing non-conforming lot was made by Ed Cherian, seconded by Doug Supry and passed by a unanimous vote. Ed Cherian said Variance #1 is now a moot point.

Variance #2: Ed Cherian feels that they should pass over it for now because it's dependent on variance #3.

Variance #3: Off-Street Parking: 1/200 s.f. of gross floor area or 46 spaces for the proposed 9,100 s.f. building. They are proposing 30 off street parking spaces. Gail Devoid said there hasn't been any evidence by professionals to say that would work. Roger Sanborn felt that they needed the 46 spaces. Gail Devoid agreed. Ed Cherian said this use was one that you would expect people to park and spend time there. You cannot use the location without parking. He also wanted to know how Cumberland Farms parking was calculated. He is looking to see if this kind of variance was granted before. Alan Hardy said that the reconfiguration of Cumberland Farms created a new parking layout. That number was less than what they had prior to that point. Ed Cherian asked how they would share that number of spaces with another business. Alan Hardy said that the parking Ordinance goes by square footage which makes it easier to calculate, but each of those will be on a case by case basis. Ed Cherian asked if the Board had granted parking variances. Gail Devoid said that Dunkin Donuts has the required number of spaces required by Ordinance. Tracy Jo Bartlett asked what would happen if people would park on the street because they can't get into the lot. Alan Hardy stated that on street parking will be looked at more and more along the entire corridor. Ed Cherian asked where the parking standard came from. Alan Hardy explained. Gail Devoid said that it was voted on by the residence of Boscawen. Alan Hardy said that anything in the Zoning Ordinance applies to us all. Gail Devoid wanted to point out that there was testimony from the public showing that when one of their long trucks are in the parking lot it is taking up parking spaces. The applicant argument is not strong enough to grant this variance. That requirement is there for a purpose. They were not given a traffic study or any other studies. The main argument is that the store will be a low traffic generator and she does not believe that. Doug Supry said that if the businesses in town are doing so well due to traffic flow, they are going to get more business than what they are reporting. He feels that 30 parking spaces are not going to be enough for the business generated there. Ed Cherian said that the applicant should know what the traffic should be as they are building the stores all over. They wouldn't want to design a store without enough parking spaces or people wouldn't go there. But if you take out 2 or 3 for people working there and then take out handicap spots and then take out spots for delivery trucks that makes the spaces less than 30. He hasn't seen anything from the Fire Department stated whether or not they can turn around a fire truck there. Ed Cherian hasn't seen any proof that when they are loading or unloading a semi-truck, it wouldn't block spaces. Roger Sanborn's concern is that the vehicles coming in, like a big truck, it will take up 10 spaces plus and there is no room to expand the parking area. The parking is along the boundary of the neighbors. Gail Devoid spoke about where the snow removal would go. Ed Cherian asked if the Board were to deny this request, would there be no other way to meet the requirement? They could wrap around to the west side of the lot and create spaces. Doug Supry said that testimony was that when you go behind the building the elevation would go up. Tracy Jo Bartlett asked where the septic would go. Alan Hardy said that snow removal will be looked at through the Planning Board process and that would need additional spaces. Gail Devoid reiterated that they have 2 pages of opinions but no studies. Alan Hardy noted that the traffic study wouldn't change the parking spaces. Ed Cherian said that the Minutes of the last meeting said that traffic for Dollar General would be significantly lower than what the DOT would require them to do a traffic study for.

A **motion** to deny variance request #3 was made by Roger Sanborn as he felt there was not enough room for parking, seconded by Doug Supry, and passed by a unanimous vote.

Ed Cherian wanted to clarify how he felt. It was inadequate spaces but the Board doesn't have enough information to say how many spaces they need to run their store. Alan Hardy asked what was creating the hardship so tha they couldn't conform. Gail Devoid said that if you put a smaller store in it would help them to meet the 30

parking spaces. Gail Devoid stated that it is not that the land can't be used, it's that the store is too big. Alan Hardy said that in #5b of their request their answer to the question of hardship starts with the strict adherence to the parking Ordinance. Ed Cherian said that unnecessary spaces undermines the town's Ordinance. Gail Devoid said that they are saying that by granting this, they could maintain a responsible footprint but her opinion is that it is an irresponsible development footprint.

Variance #2: The requirement of lot coverage 50% vs 40% allowed. Lot coverage consists of all buildings and impervious surfaces. Ed Cherian stated that they can't require the amount of parking without lot coverage. Gail Devoid reiterated that if the store was smaller, then they wouldn't need a variance. Ed Cherian said that because they were denied the parking space variance they couldn't go back and meet this requirement. Ed Cherian asked if the building were smaller would that be a substantially different proposal. Alan Hardy said that all of those have potential effects. He also wanted to make clear that this is not talking about just buildings, but it is building and structure and a structure is anything constructed or erected having a location on the ground, not limited to freestanding signs, etc. but exclusive of fences, retaining walls, etc. Ed Cherian asked what the interpretation was, as it was vaguely worded. Alan Hardy explained. Ed Cherian said that the lot is substantially smaller than if you were creating a new lot in the commercial district. He asked Alan Hardy how much useable land is there. Alan Hardy explained. Gail Devoid asked if it was too big a building for the lot that even this variance. Ed Cherian said that this is zoned commercial. He said that whoever built there would be strictly limited due to the lot size.

Roger Sanborn stated that anyone that sits on a Board looks out for the people and residence of the town. The abutters on all sides are concerned with closeness and water drainage issue. He feels he is representing the people of the town and potentially the people that are buying the property. He personally can't go along with it, especially with the size of it. Gail Devoid agrees. There is nothing in the application packet that shows how they will manage water retention/flow. Alan Hardy stated that if the Board needs additional information then they have that ability to request that. He also said that the Board would need to quantify what they want and how they want to receive that information. Doug Supry said that by installing retaining walls that would also shrink the useable land for building. Roger Sanborn asked if they had the right to ask for more information at this time. Alan Hardy said that if the Board says no, then the application can go through a motion for reconsideration based on new information or something the Board missed or that the application has changed significantly. So if the Board said no they would have to modify and come back with another application

A **motion** to deny request #2 was made by Roger Sanborn, seconded by Doug Supry and passed by a 4-1 vote with Ed Cherian in the minority.

Ed Cherian felt that as it was a commercial lot and shouldn't be denied. It was an allowed use. You would expect a variance of some kind. He feels it isn't an unreasonable request.

A **motion** to continue this case was made by Tracy Jo Bartlett, seconded by Doug Supry to Tuesday July 19, 2016 at 7 pm and passed by a unanimous vote.

A **motion** to adjourn the meeting at 9:00 pm was made by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

Respectfully Submitted,
Rose Fife

DRAFT

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES – Final
Tuesday, July 19, 2016 at 7:00 PM

Members Present: Dr. Gail Devoid, PhD, Chair, Douglas Supry, Edward J. Cherian Jr, and Ann Dominguez. Tracy Jo Bartlett arrived at 7:41 pm.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, Alan Hardy Planning & Community Development Director, and Rose Fife, Recording Secretary

Roll call by Secretary

Meeting opened at 7:02 pm.

Austin Turner, Bohler Engineering wants to continue his application. He has filed a new application with a revised plan.

Alan Hardy noted that there are 2 issues that they have addressed and those two issues have turned into a new appeal. The 2 sign variances and 1 lighting variance are continued from last month. Those can be heard out of order or they can be withdrawn in favor of a new application that would include all 5 requests. Mr. Turner said he would like to withdraw and would like to go forward with his new application.

- Application for **Variances** for relief of the following: **Article V, Lot Dimensions & Area, 5.01 Table 2-Lot Area Less Than Required; Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VIII, Off-Street Parking Requirements, 8.01 Table 3-Less Spaces than Required; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design A.-Lumen Output & B.-Sign Distance To Property Line & H.-No Internally Lit Signs,** submitted by **Lisciotti Development Corp** of **83 Orchard Hill Park Drive, Leominister MA 01453,** owned by **Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303** with the location of the property at **Map 81A, Lot 42, Boscawen NH, in the COM zone.**

Alan suggested that they start with what was new information. Differences of purposes of significant change, difference between the old application and the new one. Austin Turner, Bohler Engineering with Andrew Comollo-Vice President of Lisciotti Development testified.

First, relief was sought for lot size being deficient by existing configuration and Alan had issued an opinion that it was applicable under the non-conforming item in the zoning ordinance, therefore did not require relief to which the board had voted to accept his opinion. Chair Devoid stated that was correct. That request has been removed from the application. Secondly, they have added additional parking spaces to comply with the Ordinance. That is different. Additional parking, driveways and side walk. In their opinion the application is significantly different than their first application. Chair Devoid reiterated that they no longer need a parking variance. Mr. Turner said that was correct.

Alan Hardy stated that the Board needs to go over the information submitted. How does the Board view this application vs. the original application? Chair Devoid said that it was different; the 30 parking spaces is now

mute and the first application is now removed and this is a new application that is substantially different from the first.

Chair Devoid asked them to explain their new request.

Mr. Turner explained that this is open space. Their plan still requires relief from open space requirement. The variance is not contrary to the public interest because the property is zoned commercial. It's a corridor within the town that is suitable and preferable to this type of development. The hardship is not the size of the development program. The lot does not conform to what is required with this zone. The improvements on the site fit within the requisite setbacks. The parking is appropriately scaled and meets the dimensional requirements of the zone except for the impervious part which is a product of the lot size being deficient, not the development program. The spirit of ordinance is observed because the property is zoned correctly and the use is allowed by right. It is a product of the lot size being deficient. Providing the number of parking spaces was appropriate and important. They need relief for lot coverage. They will provide requisite infiltration. What they will be doing will be within what the town requires. Their design will cover that requirement. The property meets the underlying dimensional requirements except for lot coverage. Substantial justice is being done as it allows for construction of a commercial project that is suitable for this location and property. The hardship is not self-induced but reasonable. Surrounding property values will not be diminished. It is a commercial corridor identified for commercial development. It is allowed by right. Literal enforcement will result in unnecessary hardship. It would be unfair not to grant this variance as it is not self-induced. The proposed use is reasonable. It's a commercial use allowed by right. The unnecessary hardship is that the lot is deficient and therefore the variance is necessary.

Chair Devoid asked about the values of the surrounding properties not being diminished. She asked if they had a letter from a realtor or a professional. Mr. Turner said it is his professional opinion. He hasn't found historically that this use will diminish the value of the surrounding property. There will be a benefit for taxes, for growth of the community. Surrounding properties will not be negatively impacted. As far as financial impacts, they have seen properties have either stayed the same or increased.

Chair Devoid asked if they had formally had that evaluated. Mr. Turner said he had not. He didn't see that in the Ordinance as a requirement. She asked if he'd be willing to do that study. Roger Sanborn said that they could have them do that. Mr. Bombaci said that if the Board wanted to make that a requirement they would comply.

Mr. Supry asked about diminution of value. Will there will be substantial changes on that lot to accommodate your project. Mr. Turner said there would be. Mr. Supry asked if in his opinion that will not affect abutters value? Mr. Turner said that it is a commercial development in a commercially zoned area. Roger Sanborn stated that where there are variances involved in this decision this will have an effect on the value. He suggested that maybe the Board should require an appraisal or something of that nature to find out how the values will be affected. He'd like that information. Ed Cherian said that was a fair question. But what is the impact of the 18% increase of lot coverage. Alan Hardy said having an appraiser bring forth information to the Board would be helpful. Mr. Turner said this property is the lowest spot and will not create water going downhill. They have to look at where water runs onto their property and he needs to be sure appropriate things are in place to deal with it. Ed Cherian asked if there was a permit for DES required. Mr. Turner said that there was not, but they do need to meet their standards. Their design needs to meet certain standards. Ed Cherian asked how they would handle the water. Mr. Turner said there were many ways they will be collecting the water before it is released back out. Ed Cherian said that it is no different than any other paved area that is down on King Street. Hair Devoid reiterated that DES will be sure that they comply.

#2 Signage: 1(a) is relief to allow a larger square footage. 1(b) is asking that the signage be internally luminated. Turner stated that the current requirement is that a frestanding sign can be 40 s.f. in area. Only one allowed. By

right there will be one building sign totally 20 s.f. affixed to the building allowed. The project is proposing a freestanding sign of 50.6 s.f. and an affixed sign of 97.5 s.f.

ıt contrary: The sight signage in combination with building signage is consistent with other retail applications along this corridor. They will have vegetative buffer around the perimeter of the lot which restricts visibility on either side. Perimeter boundaries will keep vegetation. Spirit of Ordinance is observed because the sign is proposed to properly identify the project. It is reasonable signage for a commercial property. Substantial justice is done as the sign they are seeking is similar to what is there along the corridor. It is appropriate for this development. It is not unique to this project but consistent with other projects in the community. Value of property will not diminish as the signage is consistent with commercial use which is allowed by right. Literal enforcement of the ordinance will result in unnecessary hardship: they will have vegetative buffers on their perimeter boundaries. It is consistent with other commercial properties along this corridor. Special conditions of the property: their project is pulled back from the road. The distance from that road is a concern and they want to make sure the building signs are appropriately scaled. Topography made them push the building back so they needed to scale the building sign appropriately. Chair Devoid asked if they are asking for an extra 10 s.f. for that sign? Mr. Turner said 10.5 s.f.

(Tracy Jo Bartlett arrived at 7:41 pm.)

Mr. Turner said they are asking for the sign to be internally illuminated. Chair Devoid asked for a better argument for the affixed sign. How would they see the building sign driving down the road? Mr. Turner tried to show the Board. Ed Cherian said it is not perpendicular to the road. Roger Sanborn asked about the total signage? Mr. Turner said 148 s.f. for both affixed and ground sign. Ed Cherian asked if they wanted this to be looked at as one package of variances or looked separately. Mr. Turner said that the intent was that they would be handled individually as one sign doesn't impact the other. Alan said when the Board went to vote they could do that dividually. Roger asked if any of the signs would be externally lit. Mr. Turner said no, internally illuminated. d Cherian asked if they've done signs at other locations that is smaller than these. Mr. Turner said that they've gotten relief on other sites similar to this. Mr. Supry noted that the building does not come out perpendicular to the highway. Chair Devoid said there is a 30 degree off set. The sign closer to the road is going to be most important for visibility as to where this use is. Chair Devoid asked about the height of the freestanding sign. Mr. Turner said that they will comply with the height. Ed Cherian said that the Ordinance says 20 feet but the building is 19 feet. Mr. Turner said that the 20 feet is measured above grade. It will not project above the top of the building. He said that his interpretation was that 20 feet was a cap. Alan Hardy was asked to clarify. He explained that the controlling factor will be the height of the building. There is an option covered under a Special Exception where the pole can be higher than the building. But they have not asked for this. Mr. Turner said his intent was to comply with that requirement. Roger Sanborn stated that the total signage allowed would be 60 s.f. by Ordinance. Mr. Turner stated that they are asking for approximately 10 s.f. additional and the building sign they are seeking approximately 77 s.f. The affixed sign is almost 5 times larger than allowed. Chair Devoid felt their argument for the affixed sign is weak. Doug Supry felt that the ground sign was more important in his opinion. Mr. Bombaci stated that they are willing to work on the signage. Dollar General asked them to go forward with their standard package.

Mr. Turner went on to discuss the lighting. The lighting is going to be restricted to 1800 lumens. Then there is the light pole height. The total height of the light fixture must be equal to or less than 3 (formula). The parking is reasonably close to the boundaries. Now those light fixtures are 4 feet tall. They won't get adequate lighting. It is not contrary to public interest and granting this would not be contrary because the spirit of the ordinance is intended to govern adequate illumination for proposed use and protects abutting properties from light trespass. Their lighting will be dark sky compliant and shielded. They will have the halo effect. The Spirit of the Ordinance observed for the same reason. Substantial justice is done as the property is appropriately lit. The values of the surrounding properties are not diminished. They will design lighting to observe the Spirit of the Ordinance. They will not negatively impact property values. There is unnecessary hardship if literally enforced. They wouldn't

be able to adequately light the parking lot if they complied with the Ordinance. It wouldn't be secure. No fair and substantial relationship exists as the lighting will meet spirit of ordinance and be suitable for property. Strict adherence of lighting setback requirements will make lighting brighter. He submitted lighting plans to the Board.

Alan Hardy asked who was going to vote and at what point. Ann Dominguez will vote as Tracy Jo Bartlett arrived after substantial testimony had been given.

Mr. Turner showed a plan showing what would be required if they would comply strictly with the Ordinance. He explained the height. Ed Cherian asked how those heights were calculated and why. Mr. Turner said the intensity of the lights they are modeling and the intensity they are hoping they would get. The height of the light is not based on the intensity of the fixture. They are asking for less light poles because he can build them higher – 15 feet, 20 feet, etc. There is a shield at the back of the light to push the lighting into the parking lot. Building lighting is basically to light the sidewalk in front of the building. There will be 5 pole mounted fixtures. Chair Devoid asked if the light was directed toward the building. Roger Sanborn asked if they had this type of lighting at their other stores. He said yes. Roger asked which ones he designed. Mr. Turner said Raymond NH, Lisbon NH. Alan Hardy asked if the plan was configured for the 30 or 46 parking spaces. He said for the 30 parking spaces. Ed Cherian asked if the lights were on all night. Mr. Turner said that they would be on for about an hour after they are closed. It goes down to security level which is 4 lights affixed to the building. Ed Cherian asked about distance to the property line relief for pole signs. Mr. Turner said it is different for each pole. They are acknowledging that they are going to comply with the 20 foot cap per the ordinance. Alan Hardy said that what he's proposing is a lighting plan that is different than what the ordinance requires. Can you accept it as it is presented? Ed Cherian asked him to describe the fixtures. Mr. Turner said that they are not proposing LED fixtures. Pole mounted and cantilevered off the top of the pole with angled shield on the back. Dark brown/bronze color with shields on the back. Roger Sanborn said that the Board could ask for a study to be done. Alan Hardy said that the way the law has morphed the ZBA can ask for the same things at the applicant's expense as the Planning Board. But if the ZBA asks for it, then the Planning Board needs to use the same one. Alan Hardy asked what the temperature of the lighting is. Mr. Turner does not have that information. They will be under the maximum allowable 20 feet. Chair Devoid: 3 + 3.33 feet tall and Dollar General is asking to go higher. Ed Cherian wants to know what the height and setback is for each pole. Chair Devoid agrees. She'd like to know the height of the 3 poles on the side. Mr. Turner stated that on the side they will have 2 pole mounted fixtures at 15 feet tall vs. 6.5 feet allowed. They want 20 foot poles vs. 7 foot allowed. The front pole would be 11.5 allowed and proposes 15 feet. In the rear he's not sure. He will do a lighting assessment if the Board desires. Alan Hardy said that with that plan the Board could get their information. Mr. Turner said he is willing to do that. Ed Cherian said lighting height and setback. Chair Devoid is asking because if they have 2 light poles and 30% overlaps then they could separate them more. Mr. Turner wants to minimize impacts to abutters. The Board would like that information prior to the next meeting.

Mr. Turner wanted to clarify a few points about the survey. Boundary determination: he met with their surveyors. Chair Devoid read a letter by Pearl Ford and he submitted photographs. He spoke about a 1996 recorded deed. And another one recorded in 2001. He took less than 2.5 minutes to find the bounds. There is a 3 foot difference. He feels the applicant should have noted distances to abutters properties. Chair Devoid said that there were 2 survey's referenced by the Pearls. Mr. Turner met with the surveyor. They went back through title documents. They did not find reference to the plans that were referenced in that letter. The surveyor went to the Merrimack County Registry of Deeds and pulled the deed and the plans. He noted where the pin was in the deed. What it notes is that the property is bigger in the back. 58000 s.f. now. It may go to 59000 s.f. +/-. If the boundary is adjusted the property gets bigger in the rear of the property. Alan Hardy asked if the legal description is correct.

Abutters:

Elaine Clow, 357 Queen Street. Showed where her property was on the map. The changes proposed, the lighting will be 50 or 60 feet from their bedroom window. It will be like trying to fit a size 13 foot in a size 9 shoe. It doesn't make sense to her. There are no provisions for snow. There are water problems there now. There is no

integration how it affects the direct abutters. She has no vision of what is going on there. Her land is lower and slopes downhill there. Her home is a 1730's home. It has been a residential use for years and years. Boscawen has a unique town. This will change the character of the town. People are taking pride in their homes. Roger Sanborn asked her if her property was lower than theirs. She said at the front of the property yes.

Bruce Crawford, 357 Queen Street. He submitted information to the Board in writing. He explained where the water runs through his property. May 24th meeting the ZBA voted not to grant the variance for 50% impermeable surface vs. 40 allowed. He submitted a letter. The proposed use is too large for this lot. There has to be a good reason for a variance. He feels the Board made the correct decision not to allow decrease of parking from 46 to 30 spaces. They have put a parking lot around back which will be very little value to the public. There are many other uses for this property which will be far less impact on the property. Property value is a legitimate issues. He feels that an appraiser is a good idea. He believes it needs a traffic study. The large Dollar General sign proposed on the building will be looking right into the home across the street that is in the middle of being sold. He noted that the town of Jaffrey and Milton signs are smaller and lower to the ground. Chair Devoid noted that that he submitted arguments and pictures when they first were heard. Lighting needs to be reviewed. Chair Devoid noted that they did refuse to grant the variance for 30 parking spaces but that was not part of this request.

Andy Newcomb, 171 King Street – His property abuts on the right hand side of the lot in question. Not in favor. He still hasn't received a letter. Impervious surface lot percentage. He doesn't agree that it's the property's size that creates the issue, not their proposed use. He said it is unfortunate there is no one there from Dollar General to speak to. They do not want to make their store smaller. Values of abutting properties will not be diminished/commercial zone is what they say. They are saying there is no way the property can be developed commercial if not granted variances. Look at the surrounding uses. He had a friend from Keller Williams do a study in the town. He valued his property at $230,000 and said this will cut about 1/3 of the value of his property off according to the real estate agent. It took him 2 phone calls to find this information out. They spoke about how, historically, they did not see property being devalued. He'd like to see their study on that. Why haven't they made their application comprehensive? The same questions have been asked in multiple meetings. What is the slope going to be that they are suggesting? There was no mention of retaining walls. He may need a fence to divide the property. Who will provide that? Is the store going to be level with his lot or lower? Where will the light poles be? Will lights be level with his property? There is not enough information. He feels they were much unprepared in their presentation. How close will the lights be to his property as well as other abutters?

Chair Devoid read a letter into the record. Amy Forbes – in opposition. Enjoys the old country feel. This will not add to that. There are Dollar stores in Penacook and Franklin. There is no need for one in our town.

Chair Devoid said they will continue the meeting to August 23, 2016 at 7 pm. A **motion** to continue by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

Pastoral Properties – Katy Brophy – a **motion** to continue was made by Ed Cherian, seconded by Doug Supry and passed by a unanimous vote.

Next Meeting: August 23, 2016 at 7pm

Respectfully submitted,
Rose Fife

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES – Final
Tuesday, August 23, 2016 at 7:00 PM

Members Present: Edward J. Cherian Jr., Acting Chair, Douglas Supry, Ann Dominguez and Tracy Jo Bartlett.

Member Ex-Officio: Roger W. Sanborn.

Members Not Present: Dr. Gail Devoid, PhD, Chair.

Others present: Katie Phelps, Planning & Community Development Clerk and Alan Hardy, Planning & Community Development Director.

Meeting opened at 7:02 pm.

Minutes: A motion to approve the Minutes as amended was made by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

A motion to recommend that the Board of Selectmen reappoint Douglas Supry was made by Roger Sanborn, seconded by Tracy Jo Bartlett and passed by a unanimous vote.

Old Business:

Continuation:

Application for Variances for relief of the following: Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design B.-Sign Distance To Property Line & H.-No Internally Lit Signs, submitted by Lisciotti Development Corp of 83 Orchard Hill Park Drive, Leominster MA 01453, owned by Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303 with the location of the property at Map 81A, Lot 42, Boscawen NH, in the COM zone.

Ed Cherian Jr. gave an overview of the appeal. Alan Hardy said they were taking Public Comment when the hearing closed last meeting. A number of folks had signed up last month to speak, we will take that testimony now. Any abutters to the project who would like to speak on the revised application were given the opportunity.

Elaine Clow, 357 Queen Street, was here to testify for Beverly Lacoy, 351 Queen Street, who was at the Old Home Day event. She abuts Crete's property on the South side. Elaine read her letter into the record. She agrees with the concerns of other abutters. She is concerned with quality of life. She is concerned with the encroachment and lighting and the noise from delivery trucks.

Rachel Thayer, 170 King Street. She is new to Boscawen. Her family is from Boscawen and she recently moved back from North Carolina. She purchased a historical home. It was once a boys town, a legal office, the home of a colonel. She has a son who has severe autism. He is very sensory, lights, smells, sounds greatly affect him. The Dollar General will be directly across the street from her home. She would have to move. The town of Boscawen prides itself for home based businesses. There is a Dollar General 2.8 miles away in Penacook. She

has seen a town grow from nothing to a big business town. This will put the small businesses out of business. Her home was built in 1790. There will be trash blown from their store. Concerned with the goings on that may take place there after hours.

Paul Matthews, 151 King Street. The applicant used the words Spirit of and Intent of the zoning requests. He disagrees with their opinions. Adjusting the lot size for parking that would meet the Spirit and Intent he doesn't agree with. He feels the Spirit and Intent is based on the size of the lot and size of building. The intent is not to put too big a building on too small a piece of property. He feels they do not meet the Spirit and Intent. He believes this will interfere with the look of the neighborhood as well. His wife just purchased a new sign for her business "Marshall's Florist" and she needed to meet the intent of the Ordinance and did. He has concerns with the lighting they are proposing. He request the Board not grant any of the variances.

Norma Reed, 42 High Street. Lived in Boscawen since 1955. She remembers Main Street being beautiful. She now sees a junk yard and unregistered vehicles. Let's not make it any worse.

Lorrie Carey, 151 King Street. In opposition. She owns a small business in Boscawen celebrating her 25th year. She owns a home built in 1785. It was a home slated for bulldozing due to its condition. She's put considerable money into the home to save it. Article 7 Section 7.05 Signs – Dollar General is requesting 2 signs. Their size is non-compliant. The Dollar General says that the variance is not contrary to public interest. Abutters have discussed the negative impact this would have on the town. They say the Spirit of the Ordinance is observed. The variance in this case is double the allowable square footage. This doesn't slightly exceed allowable signage, it enormously exceeds it. They say substantial justice is done. Is it fair that Dollar General be granted a sign double in size? Dollar General says the value of other properties are not diminished. When businesses come in it lowers property values. It will negatively impact other businesses on the street also. She is adamantly opposed.

Becky Coulter, 329 Queen Street. She is concerned with the fact that they want to make more of the land impervious surface and with the water issue.

Kathy Reed, Signed in, but decided not to speak.

Theodore Houston, 25 North Water Street. He is not an abutter. It is 5 or 6 miles from his house. His family has been in town since before 1900. Mention has been made of the beauty of Queen Street. He has a picture in his home of Main Street and the elm trees along the street touched from side to side. That will never happen again but he feels that they need to try to keep as much of what they have vs. losing it. The town's people have spoken and they have said to keep it the way it is. He would like to encourage the members of the Board to look back at the number of times changes have been made to the regulations.

Alan noted that two folks whom have already spoken, have asked to speak again. The Chair may allow someone to speak a second time and Vice-Chair Cherian, allowed them to speak.

Andy Newcomb, 171 King Street. Direct abutter. Reiterated his previous opposition to this project and to the application. He doesn't believe they have the abutter's best interest in mind.

Elaine Clow, an abutter at 357 Queen Street. At least 2 long term abutters did not receive notification from the town of this ZBA application. The ZBA has already voted down another proposal they brought forward. The lot size has not changed. They operate 362 days a year. They will have 5792 hours per year that the lighting will be on. Security lighting is on 24 hours a day. The store generates very few full time jobs with benefits. Their homes will never be dark if this proposal is approved. She is 25 yards away from this store. There will be no more privacy of her land. The abutters still haven't seen the plans for this project. This will affect their quality of life.

Bruce Crawford, 357 Queen Street. He has concerns with grade, etc. of property. Concerned with vegetation. Too much on too small of a lot.

Ed Cherian closed the public comment portion of the hearing.

Alan Hardy said that at 8 pm they will continue onto the next item so this case would need to be continued. The applicant provided 2 documents, (lighting plan and a fiscal impact on abutting properties report), that were requested at the prior meeting.

Ed Cherian said that the applicant has an opportunity for rebuttal.

Rebuttal: Austin Turner, Bohler Engineering, and Andrew Comollo. Austin Turner said he heard many comments about lighting, soil, drainage, etc. This property is commercially zoned. The building itself meets all the requisite screening, etc. They talked about storm water at length at prior appearances before the board. This project will meet all the town's and state's standards for storm water. The Board had asked them to provide additional information and calculations regarding lighting and they did provide that. They also provided a fiscal impact assessment by an independent consultant and they did that a week ago. The short version is that they did not find this project would be detrimental to property values. Customarily the relief that they are requesting relative to open space that is a product of the building program proposed here. This situation is unique in that the zoning ordinance requires a larger lot area than provided not only for this property but others in this corridor. Any development that would be commercially oriented will be seeking similar relief.

Ed Cherian noted that the Board received 2 new pieces of information. He asked the Board if those two pieces answered what the Board was questioning. Alan Hardy said that at this point in time, the Board may not be able to make that determination as they have not heard a presentation on it. Ed Cherian stated that the new information would need to be presented at the next meeting. Alan Hardy agreed.

Austin Turner said that at the next meeting they will discuss the additional information. Ed Cherian said that after that information is presented, the public comment time is closed and the Board will move into deliberations. That date for the next meeting of the ZBA is September 27, 2016 at 7 pm.

A motion to continue this hearing to September 27, 2016 at 7 pm, was made by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

Rachel Thayer asked if those documents will be placed on line so that the abutters may see them. Alan Hardy said that they are already updated on line.

Rachel again asked the Chair if they have completely closed off public comment. Ed Cherian stated that the public comment period has been closed. The next meeting the Board can consider if they will open it up again to public comment. Roger Sanborn said that he feels that any new material that hasn't been seen by the abutters, they should have an opportunity to comment on it. Alan Hardy said that they can't open the public hearing it if it hasn't been noticed as a public hearing. The Board has closed the public hearing. If the Board chooses to go back and rescind the vote to close the public hearing and let the public hearing continue, they can do that now.

Austin Turner submitted the information a week ago and he wanted to know when it was available for public comment. Alan Hardy said that day but it hasn't been discussed here yet. The information has been available but the information hasn't been presented or discussed. Roger Sanborn said he didn't realize it was there and others may not have either. He would like to continue the hearing and have opportunity to take public input. Ed

Cherian suggested because this application has gone on for 3 or 4 meetings, that further comments be restricted to the new information. Alan Hardy said that it made sense to do that given the testimony to date.

A **motion** to rescind the closing of the public hearing to continue to the next meeting for discussion of new material only which was the new lighting study and the new property value study was made by Sanborn, seconded by Supry and passed by a unanimous vote.

Old Business - Continued:

Application for a Variance from NH State Building Code Sections 903.2.1.2 and 903.2.8, to omit sprinkler protection in the existing building located at 215 King Street, submitted by Pastoral Properties of New England of 195 Knox Mountain Road, Sanbornton NH 03269 with the location of the property at Map 81D, Lot 87, 215 King Street, in the COM zone.

Pastoral Properties requested a variance. An email was submitted by them requesting the case be continued to it's next meeting, which is September.

A motion to continue this case to the September 27, 2016 meeting was made by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

New Business:

Application for a Variance for relief from the following: Article V, Setback Requirement of 50' to allow 25' setback, submitted by Avaloch Farm Music Institute, 16 Hardy Lane Boscawen, NH 03303 with a Map 47, Lot 56, Sub lot 2 in an AR zone.

Fred Tauber, Founder, Avaloch Farm Music Institute, David Seaton, Avaloch Farm Outreach Director and Kevin M. Leonard, PE, Principal Engineer Northpoint Engineering, LLC, for Avaloch Farms testified.

Fred Tauber testified first. Avaloch Farm opened in August 2013. It has 20 resident rooms and 2 staff apartments. Since that time they have had an increase in people applying to the program. They have been completely filled this year. This year they received twice as many applicants than they could accommodate. This is a place where musicians can develop their artistic skills. They expect 3 times as many applicants as they can accommodate. They would like to build a 12 bed/3 studio building like South Wing, only one-story. They would like to place the building between the flag pole and the woods to the North and West. He submitted conceptual drawings and a site plan. Center Wing has the operating infrastructure, dining room and the kitchen. The new building, we are calling West Wing, will be between North wing and the wetlands/woods. We want to design a one-story building. It will have no impact on the agricultural land which is currently in use. They would like to go from 50 feet to 25 foot setback in the protective setback to the North abutting the Hardy property. They believe this is a benefit to the town as well. This will increase the economic impact the institute has and it is an educational activity.

David Seaton oversees the Outreach Program and he addressed the Board next. The new musicians come to work, practice, study, and compose music. They go out into the community and share their music. The growth of the outreach program has increased from 8 outreach concerts to 40 concerts. They go to various places to hold concerts including nursing homes, schools, etc. The musicians go out to do this willingly.

Kevin Leonard, Avaloch's Civil Engineer went over the plans and the positioning of the buildings on the property. The property is bounded by a stone wall between the Hardy's and Avaloch Farm. They are trying to make it functional by using the existing infrastructure, but continue to work to blend the West Wing into the environment.

They also put a covered walk way throughout the whole perimeter of the buildings. The facility is served by a large septic system and water system. He gave the locations of those two systems. They can accommodate the expansion of the facility without expanding the system. It is not contrary to public interest: The facility is valuable to the community.

Kevin, then moved to go over the five points of the variance, reading from the application. The design team is making sure that they maintain an agricultural style of the building and preserving the agricultural fields.

- Spirit of Ordinance observed: They are trying to mirror the setbacks on the property that already abut the Hardy's. They showed the aerial photo and showed the tree line, etc. They are trying to keep the wooded buffer as much as possible. Fred Tauber noted that there is over 1100 feet between this building and the Hardy's home.
- Substantial justice is done: This location works well to get between one wing and another. The proposed building will not have any negative impact on abutters. Great care has been taken to site the building properly. This allows privacy also.
- The values of surrounding property will not be diminished: It is agriculture in nature. It is the same use as is there today. It provides cultural diversity and gives back to the community.
- Literal enforcement will result in unnecessary hardship: The setbacks are unique to this lot arrangement. Fred Tauber said the hardship is that it is more expensive than it would be to put it anywhere else on the property. Kevin noted that it will not detract from existing agricultural uses.
- Reasonable use: they feel that the land is largely agricultural in all directions around the facility. By allowing Avaloch Farm to site it where they want to it will utilize same well, septic and heating system which is beneficial to project and neighborhood.

Ed Cherian asked Alan Hardy about rear setbacks vs. side. Alan Hardy explained that his property fronted on Water Street and Avaloch Farm fronts on Hardy Lane. Because there is a side setback abutting a rear setback, the setbacks facing each other will not be equal. The front setback is rarely an issue because most folks want to keep their house back as far as they can from the road. Ed Cherian said the rear setback is normally larger. He also asked if it was a dormitory. Fred Tauber said yes. The musicians come for 1-3 weeks. They provide meals, there is a laundry room and a fitness room. Ed Cherian asked Alan Hardy about parking requirements. Alan Hardy said that the parking ordinance does apply but it will be addressed at the next meeting on the site plan. It will then go to either Planning Board or the Technical Review Committee depending on the criteria. Ed Cherian asked if they would come back to the Board for a variance for parking. Alan noted that from what they had seen so far, Kevin Leonard will be able to meet the parking requirement with the existing remote parking lot. This application would be viewed as an expansion of what was already approved.

Vice Chair Cherian then opened the public hearing for comment. Abutters who would like to speak in favor/opposed.

Gary Roy, 216 Corn Hill Road. He is an abutter at 181 Water Street. They have been good neighbors to Avaloch Farm. He is not advocating for or against the request. He has questions and concerns. He wants to confirm that this building is an addition and connected to the existing building. He questioned the issuance of a Building Permit. If he pulls this for this project for 24 students, initially the Board took in the information both pros and cons. Are the Board's consulted with as far as the issuance of the Building Permit is concerned. He finds it funny that in a previous request Avaloch Farm spoke against one of the abutters seeking similar relief. He commended Alan Hardy for his hard work and dedication to the town. He feels parking is an issue and how can the Board make a decision without that request before them. Parking would impact him. Alan Hardy said that the variance before the Board is for the setback. The parking would be reviewed by the Technical Review Committee. This is for an additional 12 students. Does this mean it is now approved for 36 students? Alan Hardy said that the

expansion of the site plan which is the additional building will be reviewed by Technical Review. Gary Roy has concerns, both monetary and quality of life concerns.

Non-Abutters wanting to speak: Rachel Thayer, 170 King Street – she is for music programs. A lot of schools are having their music/art programs taken away. She said she didn't like their statement that they would 'try' to maintain the pine trees. Could they do less of a setback encroachment? She likes the stone walls and trees which add to the agricultural appearance and feel. The 25 feet would not maintain that agricultural appearance on any of the sides. She feels they should not be approved.

Lorrie Carey, 151 King Street questioned the hardship. Hardship relates to the use of the land, correct? Ed Cherian's understanding that is on the applicant, but economic hardship is not a valid crutch to rely on as the only reason. Roger Sanborn agrees. Alan Hardy said that Supreme Court case laws states that economic hardship has become one of the factors; not a sole factor. It can be one but not the only ones. He feels that this is a cultural asset to the families of our community.

Bruce Crawford, 357 Queen Street. He lives 5 miles away. This has been one of the greatest things to happen to Boscawen. He thinks the town's planning board needs to look at the setback requirements. The placement of the building actually makes the property look better. The placement makes sense.

Gary Roy, 216 Corn Hill Road – the statement that the music hall was open May to November. Technically it is open year around. The intent of him increasing to yearly was so that he didn't need to go for a second building.

Rachel Thayer, 170 King Street. Does the State of NH decide whether the building can be done at all? Ed Cherian said that the town issues Building Permits. Ms. Thayer asked what the public opinion was worth. Ed Cherian explained. Ed Cherian stated that he cannot bring his personal opinions for applications with him to the meeting. He has to go by the rules and regulations and laws in order to make opinions.

Kathy Reed, 1 High Street. If the Board gives this variance is it setting a precedent for future variances for other properties? Alan Hardy stated that the Supreme Court continues to hold the opinion that each variance is unique; each is decided on its own merits. As a consequence, the Court never allows a variance to be cited. When the variance is granted it stands alone. The Board goes through a lot of training to be aware of Supreme Court decisions. ZBA's have to follow State Law and Case Law.

Rebuttal. Fred Tauber spoke in terms of the hardship. It will detract from the current land use if they have to move it to another site, i.e. where they do the haying. Kevin Leonard regrets his choice of words on trees, he should have said more. The trees are dangerous if they fall on buildings. Fred Tauber stated that whether the variance is granted or not the two trees need to come down – they are old and frail. Ed Cherian asked if they were a year-round operation. Fred Tauber stated that they operate June 1st to November 1st. They have the ability to be year round but they do not. They have a year around approval.

A motion to close the public hearing was made by Roger Sanborn, seconded by Tracy Jo Bartlett and passed by a unanimous vote.

DECISIONS: A motion to grant the variance as presented was made by Roger Sanborn, seconded by Doug Supry and passed by a unanimous vote.

A motion to adjourn the meeting was made by Doug Supry, seconded by Tracy Jo Bartlett and passed by a unanimous vote.

Next Meeting: September 27, 2016 at 7pm.

Respectfully submitted,

Rose Fife

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES – Final
Tuesday, September 27, 2016 at 7:00 PM

Members Present: Acting Chair Edward J. Cherian Jr., Douglas Supry, Ann Dominguez and Tracy Jo Bartlett.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, Alan Hardy Planning & Community Development Director, Katherine Phelps, Finance and Community Development Clerk and Rose Fife, Recording Secretary

Meeting opened at 7:03 pm.

Roll call by Secretary

Review & Acceptance of Draft Minutes: Austin Turner of Bohler Engineering requesting edits to the Minutes of the 8/23/16 meeting. Point of clarification from last month's meeting. The changes that he would like to see made are on Line 112. The Minutes read "The short version is that they did not find this project would not be detrimental to property values. Customarily the relief that they are requesting relative to open space that is a product of the building program proposed here. This situation is unique in that the zoning ordinance request a larger lot area an provided not only for this property but others in this corridor." Mr. Turner would like them to read "Mr. urner summarized the fiscal Impact Assessment, which found that the project is not anticipated to have a negative impact on surrounding property values. The relief that is being sought for this project is not a product of the building program, but rather the evolution of the Zoning Ordinance. The existing lot configuration of the subject property and those proximate to same would require similar relief, as the Ordinance has changed while the existing geometry of the parcels has not. This situation is unique and a hardship exists for that reason." Recording secretary Rose Fife explained to Mr. Turner that what he has submitted for a change is not what was said at the meeting. As a recording secretary her job is not to interpret what was said, but to record what was said as if this case were to go to court and a transcript was done of the Minutes what he has submitted would not be in the record; what was said would be in the record. She agreed to change the double negative in the Minutes to make it read smoother and to note his request in the Minutes for September. A **motion** to accept the Minutes as amended was made by Supry, seconded by Bartlett and passed by a unanimous vote.

ZBA Draft Minutes Procedures and Review: Recording secretary Fife asked the Board if it would be alright for her to use just their last names when doing the Minutes instead of their full names. The Board agreed that would be alright. Fife also asked who the Minutes should be sent to first for review. Sanborn stated that he would like to have the Minutes sent to Hardy first. Cherian agreed. Supry agreed. Hardy stated that the State Statute says that Minutes need to be available for inspection within 5 days. Cherian asked if draft minutes had legal status. Hardy stated that some towns destroy them, but that's not the guidance from the attorney general's office. The final minutes approved are the official record.

- Application for **Variances** for relief of the following: **Article V, Lot Dimensions & Area, 5.01 Table 2-Lot Area Less Than Required; Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VIII, Off-Street Parking Requirements, 8.01 Table 3-Less Spaces than Required; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second**

Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design A.-Lumen Output & B.-Sign Distance To Property Line & H.-No Internally Lit Signs, submitted by **Lisciotti Development Corp** of **83 Orchard Hill Park Drive, Leominister MA 01453,** owned by **Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303** with th location of the property at **Map 81A, Lot 42, Boscawen NH, in the COM zone.**

Austin Turner, Bohler Engineering wants to continue his application. He has filed a new application with a revised plan.

Hardy suggested that they start with new information. Austin Turner, Bohler Engineering and Andrew Comollo testified.

Prior to the last meeting an independent consultant was acquired and a document was submitted to the Board from them. It shows similar properties which helps them determine that the development of this property before the Board would not be detrimental to property values immediately abutting the site or near it as well. RKG Associates was the company that did the assessment. He asked the Board if they had an opportunity to review the letter they submitted with that information. The Board took a few minutes to review the documents.

Cherian asked the Board if they had any questions regarding the impact assessment. Cherian noted that the study mentioned other towns. What were the size of the towns mentioned? Were they similar to Boscawen? Mr. Turner stated that they mentioned Concord as it was in a neighboring community and it was in a commercially zoned corridor. It was the most direct comparison. Merrimack would be the outlet center on exit 10 in Merrimack NH and it was selected for comparison as it was of similar composition; a commercially zoned property abutting residential property. Greece NY he was not familiar with but it was similar to Merrimack in that it was a mix of uses. The most direct comparison would be Concord; it was of similar size, a commercially zoned corridor with similar uses in that corridor. Cherian asked who had the biggest impact on the changes of property uses. Wha are the primary factors that affect property values? Mr. Turner said the market. And if they were pursuing a use variance it would be different, but they are not pursuing a use variance as it is a commercial zoned parcel and the use is allowed. It would have a negative effect on property values if it weren't commercially zoned. Supry said that the store in Concord was a good reflection to this proposed use. Mr. Turner said the Concord site was not the same configuration and how it looked would not be the same but the composition was similar; it is a commercial use with similar uses in the area. Supry noted that the store referenced in Concord has now been encroached upon by O'Reilly's Auto Parts, which makes it different. Mr. Comollo addressed how they determined the property value; they go for the highest and best use. It may be a residential home in a commercial corridor but a higher use. An auto part store encroaching is retail following retail. There may be further demand for property in that area for that type of use. Cherian said that it was a commercial area and that was the use allowed. He also noted from a commercial value it would increase in value. Sanborn said that the residential area is composed of people's homes. Commercial use can go in there but is it the best commercial use of that land. Sanborn was surprised to hear them say that the best use would be wholesale. Mr. Comollo clarified his statement. He's not discounting neighbors. But for that lot a commercial program is on the higher end of what you could build for that value. Sanborn said that families have lived there for generations. A commercial use could be located there, but that is a large size building. Mr. Turner said what drives value is desirability. They were tasked with looking at the economic value which is bigger than the personal value. Developing a commercial use in a commercial zone is a better use. Supry said that it is a small parcel of land in a residential community. It is hard for him to envision another home owner selling out to allow another commercial use. Fisherville Road, Concord had a lot of land that was vacant in a commercial zone which is different than this situation. Mr. Turner noted that the zoning has evolved. Hardy noted that in 1976 this property was zoned commercial. Mr. Turner noted that there would still be residential uses around this property. Hardy stated that when you target for the future you see the change in zoning. Cherian said that the challenge is industrial areas allow residential uses anc

commercial allows residential uses. The town is working on a mixed use regulation. Hardy said the Planning Board will continue to work on mixed uses. Commercial use has always been there along the King Street corridor.

rdy asked Cherian if Dominguez would be voting tonight. Cherian said yes and with Dr. Devoid's absence Dominguez will be a voting member this evening.

Lighting Plan: Mr. Turner submitted lighting plans. He was trying to get a more graphical representation of a lighting plan. They worked with a lighting model and a lighting bender. The town standard plan is arranged by the definition of the lighting distances and pole heights required when spaced as required by the town. One plan submitted identifies how the lighting would look by town standards. The access drive needs to be appropriately lit. There are a lot of dark spots. The light poles become low. That creates warm spots right under the light. There isn't a lot of 'forward throw' to the interior of the site. This creates the middle of the driveway to become dark. This would also create areas where lighting levels would be low. There isn't anything they can do to make the area brighter. The proposed plan shows the light pole heights higher. They are not using 20 foot height except for 2 locations. They are designed to be minimal which is the industries standards; bare minimal. The driveway needs to be appropriately lit. The lighting levels are far more evenly distributed into the site. There aren't as many dense hot spots. They need to increase the pole heights in order to light the driveway appropriately. It meets the spirit of the ordinance. The lights are designed with the shields and cut off but they need to increase heights. They are asking for higher light poles closer to the property boundaries. They are using fixtures that do not exceed 1800 lumens. Hardy said the cut off is 1900 lumens. Mr. Turner said the lighting would be equivalent to the light bulbs in this meeting room. For the parking lot access drive that wouldn't work. When both plans are put side by side you see the difference. The light poles are 4 feet tall. What they are proposing, as an alternative, is to use 20 foot poles in the middle of the site. This would be efficient use and will not create multiple points of light. Hardy clarified that 1800 lumens was a correct number. That reference in the ordinance is to provide a threshold for the Board's use. Mr. Turner said that the lights including in this site will be shielded. pry asked if it would impact the neighbors. Mr. Turner said it would not. They need to light the driveway so ighting at the drive will extend into the road which is a responsible action. Sanborn asked if there were other stores that had that type of lighting. Mr. Turner said most facilities are similar in context. Mr. Comollo said that the store in Raymond NH would probably be the best reference. Mr. Turner said at the Raymond location the light poles are 28 feet tall in certain locations. There are mixed uses in that area also. Mr. Comollo said that it abuts a residential home, a storage facility and a baseball facility. Supry asked about standard height. Cherian said that in the July Minutes they requested a list of height and setback for each pole. He doesn't see that on the lighting plans submitted. Mr. Turner had that information. He explained. By town standard, going counter clock wise, the corner pole is 4.5 feet tall, next is 6.5 feet tall and then 9.5 feet tall, the next 3 are 6.5 feet tall along the right side property line. From finished grade. The rear right corner is 10 feet tall, 15 feet tall then 20 foot in rear left of property. Front left of driveway is 7 feet, the next two would be 11 feet. The proposed plan, counter clockwise would have a 15 feet pole in front, left of the drive would be 20 feet, right of drive is 15 feet; the next two would be 12 feet tall, then 15 feet and 20 feet around back. Twelve feet is the lowest he would go. Cherian asked about finished grade. Mr. Turner said they would need to lower site by 10 feet approximately. Dominguez asked how that would affect neighbors. Mr. Turner noted the neighbors would be looking down on it. The light poles are 12 feet higher than the road surface. Hardy asked how high the lights will be on side of the building. Mr. Turner said 12 feet high. The ones on the front of the building will be 12-16 feet high. They will be mounted on the building. The wall packs are only intended to serve as pedestrian lighting into the building. Supry asked about the distance from the property lines to the poles. How far in are they? Mr. Turner noted that they were calculated using the town standard's formula. They are about 10 feet lower in grade than that; similar in elevation as King Street. The neighboring properties to the south are higher than this property and the one to the north is similar to them. Supry asked if it would be correct to say that the most impact is to the north not to the south. Mr. Turner said that was correct. They are trying to do the minimum there. Supry asked if there was anything on the southern side of the building. Mr. Turner said it was building lighting mounted as required by code. On the northern boundary they are proposing 4 pole mounted fixtures. Cherian asked what hours the lights would be

on. Mr. Turner said that they will come on around a half hour before the store opened and shut off about half hour after the last employee leaves the facility. Then they go to security lighting level. The building signs will be off and pole lights go off and only one wall mounted light stays on. There will be a total of 4; one on each side of building.

Direct abutters testimony: Bruce Crawford, 357 Queen Street – he submitted his testimony in writing along with photographs. He made comparison of the Dollar General Store in Concord on Fisherville Road. The King Street store will be 60 feet from Newcomb and Clow's homes vs. a quarter of a mile as is Concord's case. The Board has not seen any kind of a finished plan showing finished grade. Will they put up a 10 foot fence so that they do not have to see those lights? This building doesn't fit the neighborhood or the property. It is a detriment to homes in the historic district.

Rachel Thayer, 170 King Street – 2013-2015 is when they gave their assessments. She showed her home vs. the lot where the store would be. There are historical land marks in front of her home less than 60 feet away. The lights, wherever they are projected, will be in the windows of the bedroom of her autistic child. She looked up the hours and they are open until 10 pm at night. That doesn't include the after hour closing. It will be lit up approximately 20 to 21 hours per day. The 20 foot pole will be right near Andy Newcomb's property. It will directly impact his home. They need security lights because the crime rate will go up. There is another Dollar General 2.8 miles away.

Richard Thayer, 170 King Street. He is retiring from the Marine Corp after 20 years. He is shocked that a Dollar General is coming to town. That use doesn't bring in the best of crowds. The lighting plan will be bright and impact all residence in the area. There has always been small businesses there. Dollar General's not the answer. The lights do concern him as his son is high functioning autistic and it affects him. King Street is busy.

Andy Newcomb, 171 King Street. Abutter to the north of the property. It is not the best use of the property a retail attracts retail. If this comes in there will be more retail/commercial coming. Retail attracts retail. This will set precedence. They are a tight neighborhood. It'll be an airport next to him with all the lighting. They haven't heard a firm plan as to what their elevation plan would be. Where will the finished grade be? He will be flooded with those 20 foot lights in the back. There is an 8 foot high screen fence being proposed. He doesn't know if a fence will go down his property line. He would like to see a fence on his side. Merrimack NH is much different than Boscawen. That was noted in their property valuation. This will be an obvious retail store.

Elaine Clow, 357 Queen Street. She abuts directly to the south. The lighting plan submitted is not a design document as noted on their plan. She stated that they still know nothing about run off, etc. She lived away from town for over 40 years. She's happy to be back to town and is active in town. She has chickens and gardens. It is a loss of the character of the town that she fears. The town was established in 1733. She is worried that this will set precedence.

Dominguez wanted clarification of the size of the trucks coming in because their corridor is smaller than the Fisherville Road area. What size are the tractor trailers coming in? She'd like to have it clearer in her mind as to how it will enter the property. She thinks the store will be very busy and will attract a lot of people. Mr. Turner said that the standard Dollar General truck is a WB67; a conventional trailer mounted 18 wheeler. It is a standard tractor trailer. What they need to do when they design the site is assess the turning movements and they have done that. It will be done as to not require use of anything outside the property. King Street is a DOT controlled roadway so they will apply for the driveway permit from DOT. This requires them to show on site turning movements. They will show that to the Planning Board too. Mr. Turner said that they have assessed that. It is approximately 73 feet from cab to end of trailer. Sanborn asked what the width of the lot was. Mr. Turner said it varies. The front boundary on King Street it is approximately 174.8'. The rear boundary is 174.02 feet. Bartlett

asked how deep the property is. Mr. Turner said that on the southern boundary it is 417.20 feet and northern boundary 362.92 feet. Bartlett asked the size of the building. Mr. Turner said the building is 70' x 130'.

n Reed who is not an abutter but lives in the vicinity. The size of lot vs. size of development when looking at ıghting and placement looks like the entire lot is lit up. The lighting will bleed to the neighbors. The size of the lot, the amount of development, and the amount of lighting too much for the size of lot. The height of the lighting poles seem inappropriate for residential property surrounding this property. The traffic flow and the distraction of the lights down by the end of the driveway are a concern. That would be hazardous to people driving. It is a congested area and the lighting will be more of a distraction. He is curious where the loading dock is and how do you get a truck in there during store hours with people there?

Cherian suggested that he look at previous minutes for some answers to his questions.

Sanborn asked about fencing; barrier fencing dealing with the lighting situation. He heard a remark made about fencing on the southwestern side. Bartlett wasn't sure if that was where the fencing was going on the dumpsters. Mr. Turner said it was fencing going along the southerly property line and they would be willing to do fencing on the northerly boundaries. Cherian stated that it would be 8 feet high fencing on the north and south side of the property. Mr. Turner agreed. Cherian said that this would go before the Planning Board for site plan review. It is okay to clarify it though. Hardy said that anything the applicant commits to will move forward. Their commitment to fencing will carry through. Cherian stated that the actions of the board may determine details that will go forward to the Planning Board. Hardy agreed.

Cherian asked for a motion to close public comment on all points. A **motion** to close the public testimony portion of the meeting was made by Sanborn, seconded by Supry and passed by a unanimous vote.

ECISION:
ᴗoverage limits V Lot Dimension and Area, 5.01 Table 2 – Coverage Limits more than allowed. This is a 58,919 s.f. area lot. They are allowed a 40% maximum lot coverage and are requesting 58% coverage. The maximum lot coverage is increased due to the number of parking spaces requested. The request was dated 7/11/16. An earlier version of this request was denied by the Board. The applicant came back with the required number of parking spaces which necessitates a larger coverage area. Sanborn has a problem with the area of the lot vs. size of the business. Safety factor concern. He feels there is not enough room to turn a tractor trailer around on that property. He feels a small entity would be more appropriate. He is in favor of businesses. It's a hard thing to accept a business of this nature on a small lot such as this. He cannot support it. He looked at other Dollar General stores north of here to check out their sites. Cherian stated that the challenge he has is that it is zoned commercial and as a town it is okay for it to be a commercial use in a commercial area. Sanborn said something of a smaller nature would be better; something that would only have approximately 50 cars per day maximum. Cherian asked Hardy about maximum lot coverage and where those numbers came from. Are they designed for drainage concerns? Hardy said that was the relationship. Cherian noted that it is a non-conforming lot so some type of variance would be requested. Hardy stated that the recharge calculations will have to be met. They can't design a structure and put it on the property and not meet that goal. The engineering has to work out. Cherian asked how the figure of 40% was arrived at. Hardy stated that it was a table built into the ordinance quite a while ago. It has not seen modification as long has he's been working with the town; 2006. It is designed to keep from having a situation where there is a lot of nothing but pavement and building. Cherian would be in favor of granting a variance like this as it is non-conforming otherwise you are telling the owner of a commercial lot that they can't build commercially on it. Hardy asked about the proposed building and lot area of this application vs. the one at Cumberland farms lot. Cherian stated that Cumberland farms would probably be a higher percentage there. ⁐anborn noted that the Cumberland farms lot has been there 60 years plus. Hardy noted that the Cumberland .arms lot is .5 acres, and their building footprint is 11,500 s.f. Sanborn felt it was totally a different topography. Hardy noted Cumberland Farm's lot is 1/3 of the size of this lot being requested. Dominguez noted that

Cumberland Farms have a pull through drive. Hardy said the Cumberland Farms building is larger by 2500 s.f. Sanborn had concerns with access. Cherian asked if a DOT driveway permit was required. Hardy said yes. Supry stated that if they continue to grant variances for businesses along this corridor they will exacerbate this situation. Hardy said it was incumbent upon the applicant to show how they would address these issues. Supry noted the previous testimony from the applicant addressed how they would pull in and back around the building. Barlett stated that the hours are 8 am to 10 pm and delivery was to be before business hours. Mr. Turner said about ½ hour before opening. Cherian asked Hardy if the Planning Board regulated the hours of operation. Hardy said yes. Supry was concerned that they couldn't give them a definitive elevation other than 'like the main street'. Hardy said that the change of elevation can't affect properties on either side. Sanborn asked if they could stipulate for example 3:1 slope. Hardy said no. In order to maximize the use of a space it needs to be a retaining wall. Hardy asked how important backing the trailer in is to making their decision. Hardy asked Mr. Turner if they could show the Board a turning radius. Mr. Turner said yes, but asked how it is relevant to lot coverage. Supry asked about the 9,100 sf building; is that size definite. Mr. Turner said it was, that this was their building footprint. Cherian asked Sanborn if he was concerned that the lot coverage was too small to turn a truck around. Supry asked if when they designed the store on this lot size how they determined what size store would be placed on the lot. Mr. Turner said the dimensions are their customary size of the Dollar General building no matter where it is. This size building meets their operational needs. Mr. Turner stated that the Dollar General is a general store and he doesn't believe they can get 2 access points. The DOT looks at their access points all the way to the 1971 deeds. It is deeded for one access to King Street.

The applicant has committed to an 8 foot solid fence on both the north and south sides of the property.

A **motion** to continue this case to the next meeting on October 25, 2016 at 7pm was made by Sanborn, seconded by Supry and passed by a unanimous vote.

Winthrop Carter case has been withdrawn as the application before the State Fire Marshall's office has been denied.

A motion to adjourn the meeting at 9:13 pm was made by Sanborn, seconded by Supry and passed by a unanimous vote.

- Application for a **Variance** from **NH State Building Code Sections 903.2.1.2 and 903.2.8, to omit sprinkler protection in the existing building located at 215 King Street,** submitted by **Pastoral Properties of New England** of **195 Knox Mountain Road, Sanbornton NH 03269** with the location of the property at **Map 81D, Lot 87, 215 King Street, in the COM zone.**

This case was continued.

Next meeting: October 25, 2016 at 7pm.

Respectfully submitted,
Rose Fife

Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES – Final
Tuesday, October 25, 2016 at 7:00 PM

Members Present: Acting Chair Edward J. Cherian Jr., Douglas Supry, Ann Dominguez and Tracy Jo Bartlett.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, Alan Hardy Planning & Community Development Director, and Rose Fife, Recording Secretary

Ann Dominguez is voting as Gail Devoid is absent.

Meeting opened at 7:05 pm.

Roll call by Secretary

Review & Acceptance of Draft Minutes: The Board noted a few changes in last month's Minutes.

Old Business

Application for a **Variance** from **NH State Building Code Sections 903.2.1.2 and 903.2.8, to omit sprinkler protection in the existing building located at 215 King Street,** submitted by **Pastoral Properties of New England** of **195 Knox Mountain Road, Sanbornton NH 03269** with the location of the property at **Map 81D, Lot 87, 215 King Street, in the COM zone.**

This case is continued to the November 22, 2016 meeting.

Continuation:

Application for **Variances** for relief of the following: **Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design B.-Sign Distance To Property Line & H.-No Internally Lit Signs,** submitted by **Lisciotti Development Corp** of **83 Orchard Hill Park Drive, Leominster MA 01453,** owned by **Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303** with the location of the property at **Map 81A, Lot 42, Boscawen NH, in the COM zone.**

Deliberations continued at 7:10 pm.

Article V section 5.01.2. Cherian asked Hardy if a conforming lot is 80,000 s.f. Hardy said yes. Hardy stated that whether the lot is conforming or not conforming is not the issue before the Board. Cherian noted that it was a nonconforming lot by a fair amount.

Hardy noted that the applicant wanted to address the Board at the beginning of the meeting.

Austin Turner and Andrew Comollo addressed the Board. Dollar General approached them with a smaller building size. The building is about 1600 s.f. smaller than what they proposed. Mr. Turner emailed Hardy a quick layout of the new building. Utilizing this smaller building reduces the impervious coverage and parking requirements and allows them to be more compact. The parking is still compliant with the town's requirement but the spaces are shorter in depth. This means that they no longer need an open space variance. Dollar General has asked to withdraw the Open Space variance. Cherian asked Hardy if he had worked with them for parking calculations. Cherian asked if the new proposal needs a variance. Hardy said that the parking calculations of 1 parking space per 200 feet for retail will come comes under the 40% requirement. Cherian asked if the standards spots are 9x18? Hardy wasn't sure. Mr. Turner said they would be creating 9x19 parking spaces. He is withdrawing the request for the impervious surface.

The variance request from coverage limits is withdrawn by the applicants.

Signs: Cherian noted that it was a single variance request to two different Ordinance Articles. He clarified what was asked for. (1.) Requesting 50.63 s.f. freestanding sign where 40 s.f. freestanding sign is allowed. (2.) Requesting the 50.63 s.f. freestanding sign to be internally lit vs. a downward lit freestanding sign. (3.) Requesting the second affixed sign to be 97.5 s.f. vs. 20 s.f. allowed. (4.) Requesting the 97.5 s.f. affixed sign to be internally lit. Cherian asked Mr. Turner if he wanted the Board to act on them separately or as one request. Mr. Turner felt stated that he would like to have them handled individually.

Hardy asked if they resolved the height of pedestal sign. Cherian noted that the highest point of the building is 19 feet tall and they are proposing a 20 foot high sign. The sign, at road level, will not project above the roof line. The sign will be measured by the natural base line. The sign will be compliant.

Request #1 requesting a 50.63 s.f. freestanding sign vs. 40 s.f. allowed: Supry asked what the rationale was for the increase in size. Mr. Turner said that this sign is the primary identifier and would allow vehicles to see them from a distance. If the sign is smaller it is harder to see from a distance. DOT has asked them to look at it from 400 feet away. Cherian asked what the difference in elevation from the location and base of the building is. Mr. Turner said 4 feet. Cherian asked what the set back is. Hardy said 20 feet from the edge of the right of way. Sanborn asked what the size of the right of way is. Mr. Turner said it was variable width. He said he would have the sign more than 10 feet back from the property line. Cherian asked if Dollar General had other size signs anywhere else. Mr. Turner said that there is no real standard. They have an internal element; they call it "branding". His company shares with the Dollar General Company what the ordinance requirements are. This is what Dollar General has asked for. Mr. Turner said some have been 150 s.f. and some are 40 s.f. Because of the setback and the vegetation they are asking for this size. Cherian is more concerned with the building sign than this one. Sanborn asked about illumination. Austin said it would be internally illuminated.

A **motion** to approve the 50.63 s.f. freestanding sign that conforms to setbacks and heights according to regulations was made by Sanborn, seconded by Supry and passed by a unanimous vote.

Request #2: Applicant is requesting the 50.63 s.f. freestanding sign noted in Request #1 to be internally lit vs. a downward lit freestanding sign. This request dealt with lumens. Supry asked if they would be internally lit with special bulbs. Mr. Turner said that was correct. Sanborn asked if they would be lit during the hours of operation. Mr. Turner stated that after hours they would only have security lighting; one light per side. Cherian asked Hardy about luminaires. Hardy stated that luminaires refers to fixtures. Cherian asked how they would know if an internally lit colored sign would meet the requirements. Hardy explained. Cherian asked if the alternative would be to have down ward lighting from a spot light. Hardy said yes and it would have to be aimed at the sign. Internally lit does not have that issue. Cherian is okay with this request as he feels it is less of an issue this way. There won't be as much glare when people drive by. Hardy said that the closest sign to compare this to would be the sign across the street at the funeral home which was not built according to the lighting ordinance but similar to what the ordinance requires. It is a reflective sign and the light goes up. Cherian asked what type of bulbs, what is the brightness. Mr. Turner he would imagine it would be the standard fluorescent bulb. Mr. Turner said that they can work with the vendor as there is flexibility as to what is used in the cabinet. They can incorporate a softer lighting element. Cherian asked the Board if they should make a note to the Planning Board to look at that. Hardy said that the Board certainly could. If they are offering to take it down to a softer light, that would be good. In the middle of the night, is one bulb going to be brighter than the other? Yes. Mr. Turner said his opinion is that it's not so much wattage but fixture type. He is willing to work with the Board. Hardy said the kelvin temperature is going to be one measurement. Mr. Turner said that the Board can make a recommendation to the Planning Board on what would be better lighting.

A **motion** was made by Bartlett to approve the request to allow this freestanding sign to be internally lit with a condition that the applicant provide to the Planning Board the vendor's specifications of the proposed lighting showing the lower kelvin temperature, seconded by Supry and passed by a unanimous vote.

Request #3: Requesting the second sign affixed to the front of the building, sign to be 97.5 s.f. vs. 20 s.f. allowed. This sign is also proposed to be internally lit which the Board will take up under a separate motion. Cherian asked why the sign needs to be this large as it is parallel to the road. Mr. Turner noted that it was the setback from the road as they were trying to accommodate the topography. Cherian doesn't follow that argument for an affixed sign parallel to the road. It made sense for the freestanding sign, but not on the side of the building. Sanborn said they have a larger pole sign. Cherian noted the National Lumber case signage. Hardy said they took the fascia of the building and used it as a back drop and put individual letters. Cherian said the Board did grant that sign but it wasn't a lit sign. Sanborn feels they should stay within the 20 s.f. Supry felt it was excessive signage. Cherian asked about the lighting. Mr. Turner said the sign would be above the store entrance facing the street. Bartlett asked about the length and width of the building. Mr. Turner said the building would be 85' x 85'. Bartlett asked for the sign length. Mr. Turner said the sign would be 26' long by 3'9" tall. Right now they are proposing to do a cabinet, but he has seen instances where they affix individual letters. That would make the sign less than 97.5 s.f. Bartlett asked if it would be a single line or two lines. Mr. Turner answered a single line. If the Board felt the size was not approvable perhaps they could do the lettering minus the cabinet. Sanborn noted that they still have to box the letters. Hardy asked why the pedestal sign they have two rows of lettering, but on the building sign it is different. Mr. Turner said that they do not have the depth to do a double stack lettering sign. Supry said he thinks he's seen a Dollar General store with the individual letters on it. Sanborn feels they should keep them at 20 s.f. Cherian said the ordinance is designed to

allow a primary sign and a secondary sign. Mr. Turner would like the Board to look at the size and lighting individually. Bartlett asked if there were security lighting over the sign. Mr. Turner said no.

A **motion** to deny the request was made by Sanborn, seconded by Bartlett. Motion was withdrawn by Sanborn. A **motion** to deny the 97.5 secondary signage and the request to have said sign internally lit was made by Sanborn, seconded by Bartlett and passed by a unanimous vote.

Exterior Lighting: Cherian noted that they reviewed exterior lighting. Article 24, III.b. Page 91 of the Ordinance. The calculation for lighting is complicated. The lighting plan was submitted to the Board. He doesn't see a specific request noted in a variance. Sanborn would like to see someone come in and explain it to the Board in layman terms. Cherian said that most of the lights, except for the one in the back of the building and the one in the front seem to require a variance. Hardy said would it help to say what they are proposing is a lighting package that, in their minds, does a better job of lighting the area than the ordinance allows. Mr. Turner said that was a fair statement. Shorter lights would not reach to light pedestrian paths and vehicular travel. Mr. Turner said that as the ordinance reads the maximum light is capped at 20 feet. The height of the fixture above grade must be 3' plus the distance divided by 3. They are asking to exceed the requirement but not the cap of what the ordinance requires. They are asking to go up to 20 feet but not greater than that. Cherian said this is tricky. If the property were 10 feet higher than the neighbors that would also be a concern. Mr. Turner said that in consideration of that point, what he can do would be move the lights interior of the site and they could be flipped to put the lights in the aisles in the parking lot. Cherian said that raises a point. Mr. Turner said that the new building size would require less poles. They are asking to be allowed to deviate from the equation but not the cap. Hardy asked if the Board could simply grant relief from the equation. Right now their lights are capped at 1800 lumens which is roughly equal to a 100 watt light bulb. Cherian is uncomfortable granting an open ended variance. Supry asked if it would be helpful to have an individual lighting engineer firm better explain what is proposed. Sanborn would like that information available to the Board. Mr. Turner stated that the actual lighting plan itself falls under the Planning Board and they need to operate within the confines of the ZBA approvals, etc. Is there a potential option where the Board can decide and put a tag on it so it can go on to site plan review? Hardy said the Planning Board will still take up the lighting. Cherian said even if they don't need a variance it would be reviewed by the Planning Board. Hardy said that was true because it would be part of the site plan packet. Supry asked if the Planning Board could decide on the deviation. Cherian said the heights are in the Minutes from last month for the pole lighting. They do not have fixtures and lumens. Mr. Turner said he believes he did submit fixture cut sheets. He asked if they changed fixtures or location would they need to come back to the Board. Hardy said modifying the plan that was submitted and approved by the Zoning Board may require they come back to the Board. If it was a relief from the equation then they could work with the Planning Board to come up with a lighting plan. Hardy noted that the lighting process through the Planning Board is just as detailed. Cherian would feel better if the decision was made based on the plan that was submitted and if it were to change they would need to come back to the Board. Hardy said if the Board approves the plan over the ordinance, that plan is what gets built as that is what the Board had approved. Hardy said one requirement is the ordinance requirements and then there is site plan regulations and the Planning Board can vary within the site plan regulations. Cherian said if they approved the lighting plan they could not change it. Hardy said that they could come up with a scenario where the Board would get involved again. Mr. Turner said that if the Board decides to vote on a specific plan and they decide they can't operate in that confine and they move the light poles internally and they don't require relief to do that do they need to operate in that box? Cherian said they don't have to. Hardy agrees. Sanborn asked if approved and it goes to the Planning

Board is the placement of the poles the Zoning Board's jurisdiction or the Planning Board's? Mr. Turner, said the submitted lighting plan was put together because the Board asked for something. This could and is likely to change based on what the Planning Board says. Cherian said in a case like this maybe the applicant should go to the Planning Board first and then see if they need a variance or not for lighting. Hardy said they have had a case where they did just that. Cherian said they shouldn't grant them a flexible variance. Sanborn said they do not have the information needed. Hardy said that regardless of whether they withdraw or deny, either case they could work out something that would comply. Cherian is concerned with the building size changing and therefore the parking lot and lighting would change. Mr. Turner said he likes that approach, going to the Planning Board first. The site plan will evolve under the Planning Board's review. The only wrinkle he sees is that if they come back and the Zoning Board doesn't agree, what they should do. Cherian noted that the Planning Board doesn't grant the variance. They can approve a site plan subject to Zoning Board approval. Cherian stated that they would come out of the Planning Board with much more detail than they have before the Board today. Mr. Turner asked that as they are going through the lighting plan with the Planning Board perhaps there is communication between the Planning Board and the Zoning Board. Hardy said that a joint meeting is a possibility and then the Board's deliberate separately. Mr. Turner is amenable to the idea of going to the Planning Board first and then coming back to the Zoning Board regarding the lighting issues. If the Board's amenable to it, is there a motion that gets made? Cherian suggests they withdraw the request as what you proposed will change. Hardy said that this appeal might not be what comes back before this Board, if it comes back. Mr. Turner feels that in that instance they should withdraw.

Mr. Turner requested to withdraw the request for a variances on exterior lighting. They will come back to the Board, provided they need to, after the Planning Board review. Mr. Cherian noted that this was a request being withdrawn was for a variance for outdoor lighting in terms of the lighting plan, setbacks, and heights.

A motion to adjourn the meeting at 8:39 pm was made by Sanborn, seconded by Supry, and passed by a unanimous vote.

Next Meeting: November 22, 2016 at 7pm.

Respectfully submitted,
Rose Fife

Town of Boscawen

Planning Board
Boscawen Municipal Complex

Meeting Minutes – Final
Tuesday, December 6, 2016 at 6:30 PM

Members Present: Bruce Crawford – Chair, Roberta Witham – Vice-Chair, Douglas Hartford, Jeff Reardon, , Rhoda Hardy, James Scrivens.
Members Absent: Matt Lampron
Member Ex-Officio Present: Bernard O. Davis, Jr.
Alternate Member Ex-Officio Absent: Roger W. Sanborn

Others present: Alan Hardy – Planning and Community Development Director, Kellee Jo Easler, Planning and Community Development Assistant, Katie Phelps, Recording Secretary.

Chairman Crawford called the meeting to order at 6:30pm and designated Rhoda Hardy as a voting member.

Review and Acceptance of the Prior Meeting's Minutes:

Motion made by Douglas Hartford and seconded by Rhoda Hardy to approve the minutes from the November meeting as written. All in favor.

Old Business:

- **Continuation – Accessory Dwelling Units**

The board reviewed a response from James Raymond at Upton & Hatfield, LLP, in regards to the drafted Accessory Dwelling Unit Ordinance. He made mention of numerous areas that the board should consider changing. Alan mentioned that in the past the town had two lawyers available from the law firm. One of our lawyers has recently left the firm. This response had been received later than expected which didn't allow for anything to be reviewed prior to the meeting. Going forward, we will have another lawyer available if a faster answer is necessary. The draft will be edited and the public hearing will be continued in January.

- **Continuation – Temporary Events**

Chairman Crawford suggested leaving the number of people completely out of the equation. Technical Review Committee can decide what works for each specific situation. Alan said that if we put it as a Conditional Use we have the advantage of having a Technical Review Committee hearing done within 10 days and the Planning Board would have the final say if someone wants to appeal the TRC decision.

The Table of Uses were reviewed by the board showing Temporary Events requiring Conditional Use permits. Chairman Crawford opened the public hearing and closed with no public comment.

Town of Boscawen

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Meeting Minutes – Final
Tuesday, December 6, 2016 at 6:30 PM

Motion made by Douglas Hartford and seconded by Roberta Witham that the proposal is in its final form and ready for Town Meeting. All in favor.

- **Cluster Ordinance - Zoning Change**

The Planning Board previously agreed to change the wetlands setback from 100' to 25'.

Conditional Use Permit Criteria was reviewed. Specifically #8 which states: *"There shall be a 25' setback from the jurisdictional wetlands. Neither structures or buildings will be allowed."* Discussion ensued with the board on the differences between a structure and building.

The board suggested editing #8 to say: *"There shall be a 25' setback from the jurisdictional wetlands. Buildings will not be allowed in the wetlands setback."*

Chairman Crawford opened a public hearing and closed with no comment from the public.

Motion made by Jeff Reardon and seconded by Bernie Davis to edit Conditional Use Criteria #8 to: *"There shall be a 25' setback from the jurisdictional wetlands. Buildings will not be allowed in the wetlands setback."* All in favor.

- **MTAG Update**

The MTAG Open House was November 14, 2016 from 6-8pm at the Winthrop Carter House. There was a great turnout and everyone had input for the future of the corridor. The board reviewed an Open House Summary from Central NH Regional Planning Commission outlining the different stations and input from attendees. Jeff Reardon thought the response was better than four years ago. The overall consensus was that this was a positive approach to get ideas from the community on what they would like to see in the corridor as well as areas for improvement. Chairman Crawford said he will compile more information about what people wanted to talk about, not just what they said and have that for our next meeting.

- **Impact Fee Review**

Alan said that in order to have impact fees, we need to review the structure on a regular basis. The town's impact fees are coming up on a 5 year review. There are very few people in the market that do this analysis. Alan knows of one change that could potentially impact us. The school district's bond has been retired and will likely change the calculation.

A quote from BCM Planning, LLC was reviewed by the board. The impact fee schedule was last updated in 2012 and includes public schools, roads, police and town administrative offices. Their proposal would cost not more than $6,200.

Bernie Davis asked if we had any other quotes for the work. Alan said we didn't but that if we wait until next month we will miss the budget process. We could approve the funding but leave the person doing the analysis open until a decision is made.

Motion made by Douglas Hartford and seconded by Bernie Davis to approve a study of the impact fee structure in 2017 not to exceed $6,200. All in favor.

- **Voluntary Lot Mergers**

Kellee Easler stated that as of August 23, 2016, RSA 674:39-a, Voluntary Merger, stated if there are any mortgages on the lots being merged that the resident(s) shall give written notice to each mortgage holder at the time of submission of the application. The consent of the mortgage holder(s) shall be required as condition of approval of the merger and must be recorded with the lot merger. This change only applies to lot mergers.

The board also entered into a discussion of the problems created when applicants do not record deeds in a timely manner. Kellee Easler made a recommendation, also backed by Town Counsel, that the board establish a time line by which the applicant(s) shall file the amended deeds with Merrimack County Registry of Deeds.

Motion made by James Scrivens and seconded by Roberta Witham to require that the applicant shall record the deed within 90 days of the approval with the Merrimack County Registry of Deeds. All in favor.

- **Continuations**

The public hearing on **ADUs** in the Cluster Ordinance will be continued in January.

The site plan review for **Dollar General** will also be continued in January.

- **Case Numbers for Applications**

Chairman Crawford suggested a different numbering system for applications going forward. For example: There have been two applications for the Knowlton's this year. If we could assign case numbers it would be easier to keep track of them. Everyone agreed that it made sense to start January 1, 2017.

Town of Boscawen

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Boscawen Municipal Complex

Meeting Minutes – Final
Tuesday, December 6, 2016 at 6:30 PM

New Business:

- **3 Lot Subdivision – Steve Krikorian**

F. Webster Stout of FWS Land Surveying, PLLC stepped forward to present a proposed 3-lot subdivision on behalf of Steve Krikorian. The location of the proposed subdivision is at Map 79, Lot 106 - 12 Goodhue Road, Boscawen, NH 03303 in an R1 zone. It is located on the western end of Goodhue Road. The property currently consists of 3.368 acres. They are looking to subdivide and create two additional new lots – 106-1 and 106-2. There will be no problem supplying the two new lots with water as it is available at the street. State Subdivision Approval is required and as of today it has been submitted and given a work number, however, it has yet to be approved.

Mr. Stout states that he met with Public Works Director Dean Hollins regarding driveways for the two new lots because he had concerns about safe sight distances. He was told it shouldn't be an issue. He also states that he reviewed comments from Central NH Regional Planning with their biggest concern being that the driveways weren't shown on the map. He states he can show the driveways and do the application permits. He can also have a wetlands scientist draft a letter that there are not any wetlands on the property. Test pits have been done on all 3 lots. He was unable to find State septic information on the existing building and thinks it was done prior to 1967. The minimum frontage is 125' and they exceed that requirement.

Chairman Crawford opened a public hearing and asked for any abutter comments first.

Ernie Jones of 9 Goodhue Road came forward. He is happy to see this on his road. He said his home is across the street from the proposed subdivision and that he has concerns because there have been a number of accidents in the area. He would like to know where the driveways are going to be for each lot. Mr. Stout showed him the approximate placement for the driveways. Mr. Jones stated that people speed on Goodhue Road because it connects Route 3 and 4. He asked what type of houses would be built. Mr. Stout replied single family. Mr. Jones asked if the water pressure was ok because it never used to be. Mr. Stout stated the Peter at the Water Precinct said between 45-50 PSI. Ernie closed by saying he is supportive but wants it to be done the right way.

Chairman Crawford asked if any other abutters or non-abutters wished to speak. The public hearing was closed with no further comment. Board discussion regarding driveways ensued.

Motion made by Jeff Reardon and seconded by James Scrivens to conditionally approve the 3 lot subdivision subject to the conditions below. Alan Hardy, as Code Enforcement Officer, will be responsible for ensuring compliance. All in favor.

- **<u>Conditions include</u>:**

    1. **Data table on the contents of Checklist Item #8,**
    2. **Driveway permits from the Town of Boscawen's Public Works Director for the two outside lots,**
    3. **Receipt of State Subdivision Approval,**
    4. **Impact fees have been assessed by the Planning Board,**
    5. **Applicant shall record new deeds as a condition subsequent within 90 days from approval.**

- **<u>7 Lot Subdivision/LLA – Edward & Kenneth Knowlton/Brad & Kennetha Marshall</u>**

Joseph M. Wichert L.L.S. presented a proposed 7 lot subdivision and lot line adjustment on behalf of Edward and Kenneth Knowlton and Brad and Kennetha Marshall.

Mr. Wichert began with the Lot Line Adjustment. Brad and Kennetha Marshall live at Map 45, Lot 95 – 5 Water Street in Boscawen. The current lot is 8.17 acres. Their intent is to purchase 4 acres of backland from the Knowlton Revocable Trust to add to their property. It will allow the Marshalls to apply for a current use designation or buffer for any future use.

The second part of the application involves the Knowltons developing their land by subdivision. The intent of the application is to subdivide up this parcel. The lot is located at Map 45, Lot 30 consists of 44.4 acres. It's in the R1 district and has access to municipal water. It requires 125' of frontage and 40,000 sq. ft. of buildable area. There is a 50ft access on Water Street as well as 50ft access on Corn Hill Road. There is currently a long strip of frontage on Knowlton Road. They are proposing to make 6 new building lots with a reduced remainder lot for a total of 7 lots. 4 acres will be part of the lot line adjustment for the Marshalls. The new building lots acreage created will be: 3.29, 6.79, 1.50, 1.20, 1.17, 5.06, and the remainder will be 21.41. The wetlands delineation has been done and noted on the map. State Subdivision Approval is required for the 4 lots under 5 acres. They just got the final signature but haven't yet submitted for the approval.

Mr. Wichert did receive the review from Central NH Regional Planning Commission. One of the comments touched on the Subdivision data table. There was information provided on the map but Matt wanted it shown on the plat. Another comment was in regards to water connections and where they would be. He spoke to Peter at the Water Precinct and there is an 8" water main that runs on the west side of Knowlton Road, but there aren't any real plans or specifications that show the location. He was hesitant to make an assumption as to its location without a plan because someone could potentially call him on showing it in the wrong spot. He states he added note #13 on sheet one that states that the water connections will be approved by Penacook-Boscawen Water Precinct. The intent is to subdivide and sell the lots so they didn't want to illustrate driveways not knowing where they would end up. Test pits were done.

There is currently a snowmobile trail going through the property. It enters on Corn Hill Road and exits on Knowlton Road. There is no deeded easement for the snowmobile trail. The Knowltons allowed the trail to be there and their approach would be to market the lots with the snowmobile trail there but they aren't looking to guarantee through an easement that it can stay. They would like to leave that decision up to the buyers.

Lot 30-1 was discussed – Bernie was wondering where the proposed house lot was. There are obvious wetlands on the lot. The question was raised of whether the buildable upland is contiguous. Mr. Wichert said the 81,000 is not. It is broken up into 4 pieces of buildable upland. Alan asked what the largest buildable area is. Mr. Wichert was unsure, but wasn't sure if it would be the 40,000 required. He states when he looked he didn't think it had to be contiguous. He will look into it and get back to us.

Alan Hardy suggested that we get back to the Lot Line Adjustment part of the application. Chairman Crawford opened the public hearing for the Lot Line Adjustment.

Paul Dickey of 36 Corn Hill Road stepped forward with a couple questions. He asked for clarification of exactly where the adjustment would be and what happens to the wetlands. Mr. Wichert indicated the cross culvert and wetlands on the map. Part of what the Marshalls would be buying would have wetlands in it. Mr. Dickey showed his home on the map and wondered what would happen to the land behind him. Mr. Wichert told him it would still be part of lot 30, except the acreage would go from 44.4 to 21.41. Mr. Dickey asked how that lot would be accessed. Mr. Wichert showed him the 50ft section on Corn Hill Road but it could potentially be a driveway. Mr. Dickey thinks the location of the snowmobile trail has moved over more.

David Murray, Vice President of the Townline Trail Busters snowmobile club, stepped forward to speak in regards to the application. He stated the Knowlton family has been a gracious family for decades. They have allowed snowmobiles on their property and the last thing he wants to do is take a position of being in the way of allowing any property owner to do what is their right to do with their property. The trail in question is a state primary trail. He is asking the board that as the Knowltons move forward in the process that they try to work with the property owner, new owners, and possibly the snowmobile club. The Townline Trail Busters have done $400,000 worth of trail improvements between Black Water Dam, Riverhill Market, and the Merrimack County Nursing Home. If the board sets a precedent that a property owner can't do what they want with their property, ultimately there will be no one opening up their property to snowmobiles. If a re-route is necessary they are willing to help. Some people look at having snowmobile access on their property as something that adds value.

Chairman Crawford said we would get back to that portion of the application.

Town of Boscawen

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Motion made by Bernie Davis and seconded by James Scrivens to approve the lot line adjustment on the condition that the deed is recorded within 90 days of the *entire* application being approved. All in favor.

Chairman Crawford returned to the snowmobile trail on the Knowlton lot. It has generated tremendous email responses from people looking to preserve the trail. The emails were reviewed by the board. He would like to see the trail accommodated somehow. Mr. Wichert said they would like to leave the trail decision up to the new buyers – but there is no guarantee that it will be protected. Buyers could potentially see the snowmobile trail access as a feature. Mr. Wichert said they could mark the snowmobile trail on the plan and inform potential buyers that it exists. It could be a compromise.

Rhoda Hardy said this subdivision plan was set up in 1993. The snowmobile club should have known for quite some time that this could happen. Things do change and this isn't something she feels the Planning Board should get involved with. We don't even get involved when two people have a common driveway. Bernie Davis recommended seeking legal because the Planning Board may not have the right to get involved with that. If the new buyers aren't ok with the trail, the snowmobile club will have to find another route. Mr. Wichert agreed to include a note on the plan indicating that the snowmobile trail runs through the area.

Chairman Crawford asked for abutters and non-abutters to comment on the subdivision application.

Steve Johnson of 25 Water Street said he came to find out more about information about the application and mentioned that the snowmobile trail could be a selling point. Chairman Crawford closed the public hearing with no further comment from the audience.

Motion made by James Scrivens and seconded by Bernie Davis to conditionally approve the 7 lot subdivision subject to the conditions noted. Alan Hardy, Code Enforcement Officer, will be responsible for ensuring compliance. All in favor.

- **<u>Conditions</u>:**

    1. **Water connections to be shown on the plan,**
    2. **Driveway permit approval by the Public Works Director,**
    3. **State Subdivision Approval must be received by the Code Enforcement Officer,**
    4. **Impact fees have been assessed by the Planning Board,**
    5. **Snowmobile Trails Noted on Plan, and**
    6. **Applicant shall record new deeds as a condition subsequent within 90 days of the *entire* application being approved.**

Town of Boscawen

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Tuesday, December 6, 2016 at 6:30 PM

The meeting adjourned at 9:45pm.

Next meeting of the board will be Tuesday, January 3, 2017 at 6:30pm.

Have a wonderful New Year! See you in 2017!

Minutes respectfully submitted by Katie Phelps

Town of Boscawen

Planning Board
Boscawen Municipal Complex

Meeting Minutes – Final
Tuesday, January 3, 2017 at 6:30 PM

Members Present: Bruce Crawford – Chair, James Scrivens, Douglas Hartford, Matt Lampron, Jeff Reardon
Members Absent: Roberta Witham – Vice-Chair, Rhoda Hardy
Member Ex-Officio Present: Bernard O. Davis, Jr.
Alternate Member Ex-Officio Absent: Roger W. Sanborn

Others present: Alan Hardy – Planning and Community Development Director, Kellee Jo Easler, Planning and Community Development Assistant, Katie Phelps, Recording Secretary.

Chairman Crawford called the meeting to order at 6:33pm with a voting board.

Review and Acceptance of the Prior Meeting's Minutes:

Motion made by Jeff Reardon and seconded by Bernie Davis to approve the minutes from the December 20, 2016 meeting as written. All in favor.

The Board reviewed legislative changes effective January 1, 2017 which include changes to RSA 91-A and House Bill 1418 and 1419. It will now require that nonpublic session minutes include the same contents as public session minutes – ex: board members present, names of people appearing before the board, brief description of subject matter and final decisions. House Bill 1419 will require the addition of each member's vote for all actions taken in nonpublic.

Old Business

Public Hearing:

- **Article IV – Use Regulations**

The board reviewed the proposed changes to **Use Regulations** as follows:

1. Educational Facility, Private: **Allowed** in **Commercial** zone.
2. Temporary Events: **Conditional Use in all zones**.
3. Accessory Dwelling Unit designed for and occupied by a person employed on the same premises: **Conditional Use in all zones**.

Chairman Crawford opened a public hearing and closed with no public comment.

Motion made by Douglas Hartford and seconded by Matt Lampron that Article IV, Use Regulations, is in its final form and ready for Town Meeting. All in favor.

- **Article XII – Definitions**

Town of Boscawen

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Meeting Minutes – Final
Tuesday, January 3, 2017 at 6:30 PM

The board reviewed the proposed changes to **Definitions** as follows:

Accessory Dwelling Unit (ADU): A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Agriculture (Farming) and Horticultural Operations: As defined by RSA 21:34-a as amended. In summary, farm, agriculture or farming means land, buildings or structures where agriculture and farming operations are carried out and shall include the residences of owners, managers, interns, students, or employees located and working the agricultural enterprise. Refer to RSA for additional clarification of the definition of agriculture and farming operations. Should the farming enterprise cease, is leased or contracted to others who do not live on the property, the owner occupied primary residence may apply for an Accessory Dwelling Unit. Any other housing created for on-site occupancy shall be discontinued.

Chairman Crawford opened a public hearing and closed with no public comment.

James Scrivens recommended a typographical correction in the written ADU ordinance.

Motion made by Matt Lampron and seconded by Douglas Hartford that Article XII, Definitions, is in its final form and ready for Town Meeting. All in favor.

- **<u>Article XIV – Cluster Developments</u>**

The board reviewed a proposed change to **Cluster Developments** as follows:

Conditional Use Permit Criteria:

- Number 8: **"There shall be a 25' setback from the jurisdictional wetlands. Buildings will not be allowed in the wetland setback."**

Chairman Crawford opened a public hearing and closed with no public comment.

Motion made by Douglas Hartford and seconded by Matt Lampron that Article XIV, Cluster Developments, is in its final form and ready for Town Meeting. All in favor.

- **<u>Article XXIII – Accessory Dwelling Unit Ordinance</u>**

The board reviewed the proposed ordinance for **Accessory Dwelling Units** as follows:

Town of Boscawen

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Tuesday, January 3, 2017 at 6:30 PM

Purpose: The purpose of this article is to provide expanded affordable independent housing opportunities to a permitted, owner-occupied, single-family dwelling, while maintaining the aesthetics and residential use compatible with homes in the neighborhood.

Provisions: An ADU shall be permitted only by Conditional Use Permit in allowed zoning districts and only in accordance with the following provisions:

A. An ADU is allowed only in one-family dwellings. An ADU is not allowed in two family or multifamily dwellings or in any nonresidential buildings.
B. An ADU is not allowed as a freestanding detached structure or as part of any structure which is detached from the primary dwelling unit. Mobile homes or trailers may not be erected or added to the principal dwelling to serve as an ADU.
C. An ADU is not allowed in any dwelling in which the owner of record of said dwelling does not personally reside, and the owner shall demonstrate that one of the units is his or her principal place of residence. The owner may reside in either unit.
D. The front face of the primary dwelling structure is to continue to appear as a one-family dwelling after any alterations to the structure are made to accommodate the ADU. Any additional entrances to the ADU must be located so as to preserve the appearance of a one-family dwelling.
E. At least one common interior access between the primary dwelling unit and an ADU must exist. A second means of egress from both units must exist, but must not face the street address side of the structure.
F. Off-street parking shall be provided to serve the combined parking needs of the principal dwelling unit and the ADU. There shall not be a separate driveway for the ADU.
G. The gross living area of an ADU shall not be less than 350 square feet and shall not exceed 50% of the primary structure or 750 square feet.
H. A building permit for an ADU must be approved and issued prior to the construction of an ADU. The house number for the ADU shall comply with current 911 regulations.
I. Multiple ADUs are not permitted on any individual lot.
J. The original single-family dwelling shall not be a unit of manufactured housing.
K. An ADU shall not be permitted with divided interest ownership.
L. Separate utility entrances and meters are allowed if required by the utility.

Procedural requirements: Applications for Conditional Use Permit approval under the regulation of this Article shall include the following items:

A. All plans submitted with any application for an ADU building permit shall denote, describe and/or identify the intended ADU area as such.
B. Prior to granting a Conditional Use Permit by the Planning Board, the applicant shall provide, as part of the building permit application, the following:

1. The applicant for a permit to construct an accessory dwelling unit shall make adequate

provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485-A: 38,
2. Both units shall have a fire alarm system which is compliant with the NH Fire Marshall's requirements.

Chairman Crawford opened a public hearing and closed with no public comment.

Motion made by Matt Lampron and seconded by Douglas Hartford that Article XXIII, Accessory Dwelling Unit Ordinance, is in its final form and ready for Town Meeting. All in favor.

- **Official Zoning Map Amended**

The Planning Board is recommending the following amendment, as proposed by petition, to the Official Map of the Municipality under the provisions of RSA 674:11. The proposed change is:

> **The proposed change will create consistency between lots within a zoning district if approved. Map 45, Lot 29, Sublot 2 is currently Agricultural/Residential, (A/R), but will change to Residential, Medium Density, or (R1).**

Chairman Crawford opened a public hearing and closed with no public comment.

Motion made by Bernie Davis and seconded by Jeff Reardon to recommend the Zoning Map amendment for Town Meeting. All in favor.

New Business

- **Site Plan Review – Dollar General**

Chairman Bruce Crawford recused himself as Chair because he is a direct abutter for this Site Plan Review. James Scrivens was elected by the members present to act as pro tempore Chair due to Vice-Chair Roberta Witham's absence.

Austin Turner of Bohler Engineering and John Scribner of Lisciotti Development Corp. stepped before the board to present their application for a Dollar General retail store proposed for Map 81A, Lot 42, 169 King Street in a COM zone. Mr. Turner states the Site Plan has evolved throughout the review process with the Zoning Board of Adjustment over the last several months. The product created is dimensionally compliant with the underlying zoning. They are not seeking any other relief from the Zoning Ordinance other than those already approved by the Zoning Board of Adjustment. A more condensed lighting program has been created which, in their interpretation, meets the Town's standards. The Zoning Board had asked that the Planning

Board weigh in on the lighting and if relief was required they would go back to the Zoning Board.

The proposed building would be approximately 7500sq ft., roughly 85x85. It meets building setbacks, parking setbacks and open space requirements. The proposed location is in a Commercial zone. They are not seeking waivers or variances from performance standards. The lot size is 60,146sq ft., just shy of 1.5 acres. It will have pedestrian accessible corridors on the front and side of the building. It will have 30 parking spaces. They are working on the driveway with DOT and their application is under review. They provided the anticipated truck movements for delivery vehicles. There is one primary delivery to the site in a WB 67 tractor trailer. The vehicle typically comes once a week and the maneuver for the vehicle would be to enter off of King Street, run parallel to the store briefly before backing into loading position. The loading door is in the rear side of the building with a ramp for accessibility. Other expected deliveries will be made by separate vendors who will deliver their products throughout the week. In terms of utilities they are proposing a connection to Municipal water on King Street. The electric and telecommunications connections will be made via a pole on the opposite side of King Street which will cross the road and come down to service the building. Sanitation and gas services will be provided onsite by a septic system and above ground propane tank.

The storm water system was designed to be compliant not only with Town's standards but also the Department of Environmental Services. DES requires that they assess a higher rainfall intensity than is on record. Also called the Cornell Rainfall Intensity. To the rear of the building there is a shallow storm water basin collecting runoff from the roof as well as the back of the property. The primary storm water basin is located in the front of the property by King Street. The basin in the front serves as an overflow for the basin in the rear. It also collects runoff from the parking area.

Relative lot and building elevations were discussed with the board. From a grading perspective they intend to bring the site down. The building itself will be about 5 feet higher than the road. The slope out back goes up about 4-5 feet. On the south side of the plan there will be a 5ft tall retaining wall. On the north side of the property the slope will go up. Both sides will have an 8 ft. solid wood fence. The top of the fence on the south side of the building is approximately 13 ft. higher than the first floor of the building.

Mr. Turner discussed lighting with the board. He said that the lighting height proposed couldn't exceed 20 ft. tall, however, it's also governed by proximity to the property boundary. In the case of being closer to the property boundary you apply a specific equation. They developed a new plan that meets the ordinance requirements. It incorporates LED lighting, which is more efficient and gives more even distribution. Mr. Turner explained their proposal in detail with the board. The lights vary from 3.5 ft. to 18 ft. high with a downward throw. Some are pole mounted and some are mounted on the building.

The hours of operation will be from 8am to 10pm – 7 days a week. James Scrivens asked whether deliveries could be expected during business hours. Mr. Turner said they are typically done a half hour before opening so it doesn't affect customers, however he asserted that may not always be the case. Mr. Scrivens also expressed concern that a delivery truck pulling in during business hours could potentially block in customers. Mr. Turner says that's why Dollar General tries to schedule their deliveries during off peak hours - before opening or after closing. Mr. Scrivens said one of the major concerns is parking on King Street and the dangers. He said 18 wheelers are known to park on the side of the street to go to Dunkin Donuts which creates a traffic hazard.

Alan Hardy referenced #11 on the Lighting Plan making reference to an ATM. Mr. Turner states no ATM is included at this location and that they are standard notes. Mr. Turner got back to lighting and anticipated illumination for the Dollar General sign out front. Dollar General revisited this issue with their vendor and looked for ways to blend the sign in better. They are proposing that the sign be externally illuminated by goose neck lighting to give a softer appearance. Security lighting before and after hours will allow one light on each side of the building to remain lit but the sign and pole mounted lights will turn off. Alan asked whether the sign would be the same standard sign that they use and Mr. Turner said yes. The pylon sign proposed will be 20 ft. tall and a 50 sq. ft. panel. The building sign allowed and proposed is 40 sq. ft. Dollar General is proposing race way letters as opposed to a solid panel. The vendor is still working out the appearance and materials. Matt Lampron asked whether the lighting would be dark sky compliant. Mr. Turner said they are fully cut off and shielded so they will be dark sky compliant. The sign itself will not be shielded. Getting back to the height of the building Matt wanted to make it clear to the audience that the building will stick above the fence by 6.5 ft. Jim Scrivens asked if the lights will be above the fence as well. Mr. Turner said the pole mounted light labeled "A" will be approximately 6 ft. above the fence.

Building architecture will have a combination of building materials. There will be a canopy that creates the front entrance. The architect is proposing to use a brick banding on the bottom, a glass front entrance and an upper metal paneling in an off white color. That same metal paneling will wrap the building on the sides and rear. There will be race way letters with an interior illumination as well as goose neck lighting fixtures above. Doug Hartford referenced Central NH Regional Planning Commission's note number 13 which states that given the historic nature of the corridor it may be beneficial to consider a building design that fits the corridor's historic properties and more landscaping to break up the facade. He doesn't feel the proposed building looks aesthetically pleasing. Mr. Turner says they originally made provisions for plantings in the front of the building on either side of the front entrance. They aren't proposing trees as their root systems could have a negative impact on the foundation or tall plants that would obstruct lighting. They are however proposing groundcover that will be around 2-3 ft. tall. Discussion ensued regarding potential plantings such as arborvitae and optional building designs. Mr. Turner suggested HardiePlank siding on the front side of the building and faux windows. Matt Lampron suggested creating a gable end over the front entrance. Discussion ensued. Jim Scrivens asked

whether a wetlands delineation was done. Mr. Turner said yes, no wetlands exist on the lot. Alan Hardy asked about the Fire Chief's recommendation of a fire hydrant. Mr. Turner said they were going to add one to the preference of the Fire Department.

The board reviewed turning exhibits provided. It shows the delivery vehicle arriving from the North or South. The vehicle has to be able to make maneuvers onsite and not in the right of way. The truck cannot cross the double yellow line. The truck must pull in to the site, they are not allowed to back in to the site. Alan Hardy suggested having Underwood Engineers review the storm water, turning exhibits, and lighting plan.

Pro tempore Chairman James Scrivens opened the public hearing and asked for testimony from residents in the audience.

Andy Newcomb, 171 King Street, stepped forward to address the board. He is a direct abutter to the project. He is opposed to the project. He has lived in Boscawen for 11 years. He is impressed with the board's questioning of the applicants so far. He and other abutters attended all of the Zoning Board meetings. He feels the applicant doesn't know the answers to questions asked so they guess at it. There was an ATM listed on the plan and the building will be visible above the fence. They say it's a standard plan. With all the money and resources that go into this application they are not specific to the town. The applicant thinks they can get people to sign off on things. Mr. Turner said you can google anything. He would encourage the board members to go home and google Dollar General. Google their interaction with communities our size. See what their community relations are. This company will do what you ask them to do. He recommends riding up to Bristol to see the new Dollar General there. You don't even know it's there. Bristol shot down a large sign. It isn't a bad looking building. Lighting is an issue and they have been consistently unprepared to discuss it. All the trees will be gone. Traffic and frequency of deliveries have been misrepresented from the beginning. Residents have been asking for a traffic study. There are parking issues now. In this market his home is assessed at $235,000. He has received different estimates that say he could lose up to ¼ of his property value if this project moves in. It will negatively affect him as a direct abutter. He has no plans to move. Would you want to live next to a Dollar General? The Planning Board can dictate what they want to see. Dollar General wants to be there. They are going to be a busy store. There has been minimal if any public support for this project. He wouldn't mind a Dollar General in town, just not there.

Fordace Pearl, Sr., 3 Acre, stepped forward to address the board. He has concerns over screening for the residential properties in the back of the property. There are no landscape plans that show what type of trees are in the back. There are mature pines so the canopy is high in the air and the homes look down on the property. There are leaf trees that shade the area from April to September but the ordinance says it should be year round. Are we going to protect the residential area behind the new store? There is no fence planned for behind the property. Kids will cut through the property to get down there. He would hope it would be controlled onsite. He also has concerns over trash from the store.

Town of Boscawen

Planning Board
Boscawen Municipal Complex

Meeting Minutes – Final
Tuesday, January 3, 2017 at 6:30 PM

Elaine Clow, 357 Queen Street, stepped forward to address the board. She is a direct abutter to the project. She is opposed to the project. She says there is an area in front of her property by King Street that gets very wet. Her bedroom window will face the proposed Dollar General. There will be no privacy and her enjoyment of her property will be diminished. There will be trucks coming and going before and after closing. There will be countless residences affected. The store will operate 362 days a year. It will affect the resident's lifestyle. How will the funeral home be impacted with all the cars coming and going from Dollar General?

Bruce Crawford, 357 Queen Street, stepped forward to address the board. He isn't here to say Dollar General shouldn't build in Boscawen. Quite the contrary. If they can find a lot that fits with the surrounding neighborhood without creating traffic problems he feels a Dollar General location could be very successful. Cumberland Farms in Boscawen is one of the highest volume stores in the state. They said the store would generate 10 transactions an hour and have one delivery truck a week. If you read minutes from all over the state that is typically what they say. You also will have Pepsi, Coke, beer companies, and other vendors coming throughout the week. The applicant has submitted turning exhibits for their trucks. It shows the outline of where the tires will go. Specifically in WB 67 arrival from the south: if there are any cars in the front parking lot the truck will be unable to make the maneuvers into the lot or cars will be stuck in the parking lot until the truck leaves. It would take a very skilled driver to make the maneuvers. The Penacook Dollar General store's delivery is Saturday mid-morning when it's busy. It takes an hour to an hour and a half to unload. During delivery time, 12 spaces at the Boscawen store would be unusable. There are limited opportunities to stop at a store along Route 3 or 4 once you get past Boscawen. He did traffic counts at various times at the Penacook location which he shared with the board. He recommends a traffic study by a professional chosen by the Town of Boscawen, Central NH Regional Planning Commission, or NH DOT at the expense of Dollar General. He would like to reserve the right to speak again when various reports come in.

James Scrivens addressed the applicants to see if either had comment. Mr. Turner had a comment relative to traffic. They had done a traffic impact assessment which was filed with their driveway application with DOT. They look at traffic counts based on ITE or Institute of Transportation Engineers as the industry and professional standard. They look at peak hours and assess what the store is expected to generate. Based on the ITE count that is approximately 44 trips. Each trip counts as a car in or a car out. One vehicle is generating two trips. ITE in the state suggests additional assessment is required if the counts are at 100 or greater. They are less than half of that requirement. There is no need to do further traffic impact assessment.

Lorrie Carey, 151 King Street, stepped forward to address the board. She agrees with what Fordace Pearl, Sr. had mentioned previously regarding screening and trash. She lives three houses down from the proposed project. She also lives beside a Sunoco and across the street from a Dunkin Donuts. It is important to protect the neighbors as well as keep trash on the lots where it's generated. She would like the board to consider reinforced sidewalks in the vicinity of

this project. A lot of residents walk on the sidewalks and there is a lot of degeneration caused by large trucks. There is a cross-walk by the proposed project lot. She would like the board to consider an enhanced sidewalk crossing for safety. She has concerns for snow removal. There is a 43 ft. space that needs to go into a 10ft. area. It could potentially impact the integrity of the fence because of the weight and the need to press it into a contained space. Drainage could be a potential issue that should be investigated further. In terms of aesthetics, Franklin Savings Bank made a building that fits the character of the area. Landscaping serves an important purpose including drainage, screening and curb appeal. She would recommend more landscaping on this property. She recommends a traffic study, not just an assessment. Assessment looks at existing, studies look at projections. If a delivery truck comes north at 7am they will wait in the road to turn because the traffic going south at that time in the morning is excessive. She would suggest a turning lane as well.

Elaine Clow, 357 Queen Street, stepped forward again. These assessments and studies are done by people selected by Dollar General. The town has the right to order studies by people of their choosing at the expense of Dollar General. She urges the Planning Board to do the proper studies that are there to help us.

Paul Matthews, 151 King Street, stepped forward to address the board. The developer's challenge will be snow removal, aesthetics, and parking. They didn't designate landscape in their snow removal areas because they can't afford to lose that space. They can't reduce parking area because they need it for vehicles to turn around. It has been commented before that the property is too small for what they are trying to accomplish. He agrees with Bruce that any Dollar General that goes in on the corridor will be very successful.

Pro tempore Chairman James Scrivens closed the public hearing with no further comment from the audience.

Mr. Scrivens said the public brought up a lot of concerns that they will need more information on in order to make a decision. He suggested contacting Underwood to have them review information. Matt Lampron suggested that the board gather their thoughts and review the information prior to sending to Underwood. The applicant will make revisions within 10 days.

Motion to continue discussion February 7, 2017 at 6:30pm made by Matt Lampron and seconded by Jeff Reardon. All in favor.

Motion to adjourn made by Douglas Hartford and seconded by Jeff Reardon. All in favor. The meeting adjourned at 10:00pm.

Next meeting of the board will be Tuesday, February 7, 2017 at 6:30pm.

Minutes respectfully submitted by Katie Phelps

Town of Boscawen

Planning Board
Boscawen Municipal Complex
Meeting Minutes – Final
Tuesday, February 14, 2017 at 6:30 PM

Members Present: Bruce Crawford – Chair, Roberta Witham – Vice-Chair, James Scrivens, Barbara Randall, Rhoda Hardy.
Members Absent: Matt Lampron and Jeff Reardon
Member Ex-Officio Absent: Bernard O. Davis, Jr.
Alternate Member Ex-Officio Absent: Roger W. Sanborn

Others Present: Alan Hardy – Planning and Community Development Director, Kellee Jo Easler, Planning and Community Development Assistant, Katie Phelps, Recording Secretary.

Chairman Crawford called the meeting to order at 6:33pm and appointed Rhoda Hardy as a voting member.

New Member Recommendation:

Recommendation made by the Planning Board and the Board of Selectmen to appoint Barbara Randall as a member of the Planning Board.

Motion to recommend Barbara Randall as member of the Planning Board made by Rhoda Hardy, and seconded by Jim Scrivens. All in favor.

Mobile Homes on Rented Land:

Bruce Crawford said if you rent the land that a mobile home sits on and don't pay the taxes then the bill doesn't revert back to the property owner. The property taxes stay with the mobile home. He is following a new bill that is in the Legislature this year with this intent. He will continue to follow it and report back. Discussion ensued. Alan also stated there is now a new owner at the mobile home park by Alan's restaurant. The new owner is looking to clean it up.

Town Meeting Volunteers:

We are looking for volunteers to be present for Town Meeting on March 14, 2017 to represent the Planning Board. Rhoda Hardy will be working on food. Jim Scrivens will be Assistant Moderator. Kellee, Alan, and Katie will be there during the day.

Douglas Hartford Resignation:

Bruce Crawford read a letter to the board from Douglas Hartford. He is resigning as a member of the Planning Board effective as of his term end date. He thanked the board for the experience.

Motion to accept Douglas Hartford's resignation with regrets made by Rhoda Hardy, and seconded by Jim Scrivens. All in favor.

Town of Boscawen

Planning Board
Boscawen Municipal Complex
Meeting Minutes – Final
Tuesday, February 14, 2017 at 6:30 PM

RSA 676:4 – Administrative & Enforcement Procedures:

Kellee Jo Easler explained that this is the meeting that the board needs to accept the Dollar General application under statute. She has gone through it and deemed it administratively complete.

"The board shall, at the next regular meeting or within 30 days following the delivery of the application… determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance…"

Bruce Crawford recused himself and appointed Vice-Chair Roberta Witham to Chair the remainder of the meeting.

Motion to accept the Dollar General application as administratively complete made by Rhoda Hardy, and seconded by Jim Scrivens. All in favor.

Review and Acceptance of the Prior Meeting's Minutes:

The board reviewed meeting minutes from the January 3, 2017 meeting.

Motion to approve the minutes from the January 3, 2017 meeting with one change made by Jim Scrivens, and seconded by Rhoda Hardy. All in favor.

Old Business

Dollar General (Continuation):

The board was given a new document from resident Elaine Clow. Due to the public hearing being closed the board requested that Alan to ask counsel for advice on this new document in between meetings.

Motion to seek legal counsel's advice on this new document made by Rhoda Hardy, and seconded by Jim Scrivens. All in favor.

Austin Turner from Bohler Engineering along with John Scribner from Lisciotti Development stepped before the board to resume the Dollar General Site Plan application. There was a lengthy discussion at the last meeting about the Site Plan specifics. They have returned to inform the board of their progress. They are looking to have a peer review, (Underwood Engineers), started.

They have addressed their DOT driveway permitting and DOT is ready to issue the permit – they just want to make sure the plans don't change too much. They also worked out the pylon sign details with the vendor to fabricate it out of low reflectivity material. Finally, the building architecture has been updated based on the board discussion in January. The new design includes

an updated canopy entrance on the front of the building, using HardiePlank siding and bringing in low greenery to break up the facade. There will also be faux windows incorporated on the front of the building. Mr. Turner passed around a material board which also showed the softer color palate for the board to see.

Alan Hardy brought up snow storage stating it may need to be better defined. Mr. Turner said they were thinking more about that. They were trying to minimize land disturbance in the back of the building but they could grade back further to give more room for snow storage. They are willing to make additional provisions for this if the board sees fit.

Motion to have Underwood Engineering do a peer review on drainage calculations, turning exhibits, and the traffic memorandum made by Jim Scrivens, and seconded by Barbara Randall. All in favor.

Motion to continue the Dollar General application to March 7, 2017 at 7:15pm made by Rhoda Hardy and seconded by Jim Scrivens. All in favor.

Commercial Street Update:

There is a tank in the soap building that was modified many years ago and DES is in the process of removing it. The process will be completed within the next couple weeks.

Next Meeting:

There will be a Lot Line Adjustment application from Cityside Development probably next month. They are looking to change the lot configuration due to the actual location of the hide pile that is mostly on Lot 5. This project's condominium documents are currently being reviewed at the Attorney General's office. The board reviewed the plat and discussion ensued.

Motion to adjourn made by Barbara Randall and seconded by Jim Scrivens. All in favor. The meeting adjourned at 8:30pm.

Next meeting of the board will be Tuesday, March 7, 2017 at 6:30pm.

Minutes respectfully submitted by Katie Phelps

Town of Boscawen

Planning Board
Boscawen Municipal Complex
Meeting Minutes – Final
Tuesday, March 7, 2017 at 6:30 PM

Members Present: Bruce Crawford – Chair, Roberta Witham – Vice-Chair, James Scrivens, Barbara Randall, Matt Lampron and Jeff Reardon
Members Absent: Rhoda Hardy
Member Ex-Officio Present: Bernard O. Davis, Jr.
Alternate Member Ex-Officio Absent: Roger W. Sanborn

Others present: Alan Hardy – Planning and Community Development Director, Kellee Jo Easler, Planning and Community Development Assistant

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Chairman Crawford called the meeting to order at 6:30pm with a voting board.

Joe Spain stepped before the board to authorize F. Webb Stout to represent Cityside Development, LLC on a Lot Line Adjustment on the agenda today.

Conceptual Plan Review – Tiny House:

Caroline Corriveau of Warren Street Architects stepped before the board to present a conceptual plan for a tiny house. She is a tiny house enthusiast who has been following the movement since 2007. She is currently building one in Gilmanton. She has used locally sourced timber and recycled materials and began construction in April of 2016. It is bigger than the typical tiny house coming in at 280 sq. ft. It is built on a goose neck trailer. Her plan is to complete building in Gilmanton and buy land to put the tiny house on.

Ms. Corriveau passed around her contact information as well as some publications she has done. Her graduate thesis centered on the community of tiny houses. She states that people interested in tiny houses are typically environmental enthusiasts. She showed renderings of the tiny house including a plan for utilities. She says some people build on a trailer to circumvent the planning and zoning codes but asserts that isn't why she did it. She knew she would be building on her father's property and moving it to another location. She doesn't want to touch the earth very much, her only plan is a dug well. She doesn't want a concrete foundation or to bury a large septic tank. One thing you can't do is put your tiny house on someone's land if you plan to live off the land – because the land isn't yours. Her plan is to live off grid – and solar panels, wind turbines and using rainwater are her plan to help achieve that. Waste disposal and grey water were discussed. She opened up a general discussion with the board and audience.

Alan Hardy asked Ms. Corriveau if she had spoken to the DES Subsurface Bureau. She said she hadn't. Alan said they are the ones that would give us the standard. It would be a good place to address the waste disposal. If they could come out with some guidance documents it would be helpful. He would be surprised if they weren't already looking into it.

Jim Scrivens asked if it would be registered like a motor vehicle. Ms. Corriveau said it would be registered as a recreational vehicle or RV. The trailer is currently registered to haul so she can bring it on the road. She is wondering how it could be taxed if she put in on a piece of land. Jim says it's not technically real estate, it's a vehicle. Kellee Easler said you would pay taxes on it as a building if it were in one place for substantial length of time. Jeff Reardon thought we had an ordinance that you can't live in an RV. Alan said there are a lot of things an RV can't do. In the accessory dwelling unit exemptions

you can't take an RV and turn it into an accessory dwelling unit. He suspects this will grow over time, but at this time we know the current limitations. RVs are a temporary use as it is now.

Ms. Corriveau noted an article that came out December 15, 2016 which stated that tiny houses are joining the building code. The IRC has passed an appendix that has some guidelines for tiny houses. The only thing they don't address is the trailer. She said they are hoping to have it adopted by 2018. Discussion ensued. Alan says this is a new topic for planning and zoning. There is no easy solution. He referenced an article from the American Planning Association specifically in regards to tiny houses. It is the beginning of structure.

Alan suggested getting Central NH Regional Planning Commission or Plan NH involved in a discussion that involves the creation of a model ordinance for tiny houses. Elaine Clow had a question about community and how the building would be taxed. Alan said the issue of taxation is that if you leave something sitting in the same place long enough it will be taxed. There isn't an easy answer to the question, but in terms of septic we could have a discussion with the DES Subsurface Bureau. Matt Lampron said you will need to come up with a definition for a tiny house so it doesn't qualify as anything else. You don't want someone to pull in a mobile home or RV and call it a tiny house because of towing capability. He thinks it's beneficial to the town to better define it because having one wouldn't disturb the ground and you wouldn't need a septic system. Discussion ensued. Alan said we will look at the issues and meet again in the future. Alan will contact the subsurface bureau.

Review and Acceptance of Prior Meeting's Minutes:

Motion to accept the minutes from the February meeting with one change made by Bernie Davis, and seconded by Roberta Witham. All in favor.

New Business:

Public Meeting - Lot Line Adjustment – Cityside Development, LLC:

F. Webb Stout stepped forward to represent Cityside Development, LLC on a Lot Line Adjustment. The property is located at Map 183C, Lots 62, and Sublots 1, 3 & 5 – Kayak Way and Shoreline Drive in an MRD Zone. Mr. Stout said there is a known hide pile from the tannery that has been capped on the property. During the process of construction of Kayak Way, the location of the road was moved because they found they were in the hide pile. They don't want a hazardous waste pile on the property so they are proposing a change to the right of way so the entire hide pile is on lot 62-5. He showed on a map how the lot lines would be changed. There isn't a large amount of area being swapped. The Merrimack County Registry of Deeds is requiring sign off from the City of Concord because this goes along the municipal boundary. He would have the mylars to us as soon as possible to be signed off so he could meet with the City of Concord the following Wednesday.

Alan says he presumes this information is in the condominium documents. Mr. Stout says it will be revised to reflect the change to lots 1 and 3. Alan says counsel has been reviewing the condominium documents and they are in a proper form, they are just waiting on this change. Bernie Davis asked if they dug into the hides. Mr. Stout said the road was proposed to go right through where the hide pile is located. Alan said the applicant brought in an engineer that does this type of work and they were the ones working with the state giving them guidance on what to do. Alan said the people who came in to do the dirt work

have equipment that is GPS driven and when they tried to locate points on the plan the hide pile was not where the plan said it was. Bruce Crawford asked if the entire area of lot 5 is in Boscawen. Mr. Stout said yes. Mr. Stout also said the state would like to see the entire area be paved over and become a parking lot. It would be a better cap. Discussion ensued. Alan says there is a protective nature in our statutes that says the Town doesn't need to take land with problems.

Chairman Crawford asked the board for their input. Matt Lampron said he doesn't see anything procedurally that would prevent approval. Alan says we would generally need a specific reason to deny.

Motion to approve the lot line adjustment for Cityside Development, LLC made by Matt Lampron, and seconded by Bernie Davis. All in favor.

Motion to allow the Chair to sign documents outside of the meeting made by Matt Lampron, and seconded by Bernie Davis. All in favor.

Dollar General: Continued to April 4, 2017 at 6:30pm.

Kellee Jo Easler sent out information for the Spring Conference for the Office of Energy and Planning. If anyone is interested in signing up for anything please contact the office. Bruce Crawford asked if there was something planned for June 3rd. Kellee said she would look into it and get back to him.

Motion to adjourn made by Matt Lampron, and seconded by Roberta Witham. All in favor. The meeting adjourned at 8:15pm.

Next meeting of the board will be Tuesday, April 4, 2017 at 6:30pm.

Minutes respectfully submitted by Katie Phelps

Town of Boscawen

Planning Board
Boscawen Municipal Complex
Meeting Minutes – Final
Tuesday, April 4, 2017 at 6:30pm

Members Present: Bruce Crawford – Chair, Roberta Witham – Vice-Chair, James Scrivens, Barbara Randall, Jeff Reardon, Matt Lampron
Alternate Members Present: Rhoda Hardy
Member Ex-Officio Absent: Bernard O. Davis, Jr.
Alternate Member Ex-Officio Present: Roger W. Sanborn

Others Present: Alan Hardy – Planning and Community Development Director, Kellee Jo Easler – Planning and Community Development Assistant, Katie Phelps – Recording Secretary

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Chairman Crawford called the meeting to order at 6:31pm with a voting board.

Roger Sanborn was named as Member Ex-Officio alternate for the meeting replacing Bernie Davis who was excused.

Roll Call by Recording Secretary

Review and Acceptance of Prior Meeting's Minutes:

The board reviewed draft minutes from the March 7, 2017 meeting.

Motion made by James Scrivens, and seconded by Jeff Reardon to accept the minutes as written. All in favor.

Winnepocket Subdivision Continuation:

An application for a 3 lot subdivision has been continued to the next Planning Board meeting on May 2, 2017 at 6:30pm.

New Business:

- **Cold Brook Gravel:**

The board reviewed a memo dated April 4, 2017 from Code Enforcement Officer Alan Hardy in regards to the start of the 2017 season at Cold Brook Gravel. Cold Brook Gravel anticipates utilizing some of their floating crusher production days prior to the May 1, 2017 start date. They are entitled to 40 floating days before or after their normal season. Crushing operations and related work will be conducted under the conditions outlined in the Town of Boscawen Earth Excavation Permit #PB01122016-1.

- **Member Update:**

Jeff Reardon's Planning Board term expires in April 2017. He would like to continue as an Alternate Member of the board going forward. No one had any objections.

Town of Boscawen

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Tuesday, April 4, 2017 at 6:30pm

- **One Riverside Place – Update:**

Alan discussed with the Board members the significance of the Certificate of Registration issued February 6, 2017 from the Attorney General's office. This review is required by RSA 356-B:54, II. This review is to ascertain if the disposition of any condominium unit or interest therein is legally sufficient to protect the rights of the purchasers. As a reminder, the Planning Board still must review and accept the condominium documents as part of their approval.

Old Business:

- **Dollar General – Continuation:**

Please note: All documents referred to in these minutes that the board members review are contained in our digital Dropbox. If you wish to review these documents, please contact Kellee Jo Easler for access.

Chairman Bruce Crawford recused himself as Chair because he is a direct abutter to the Site Plan Application. He then excused himself from the table and moved to the audience. Roberta Witham, Vice-Chair, was named Chair for the remainder of the meeting.

Application for Site Plan Review for 7500+ SF Retail Store submitted by Boscawen DG, LLC, 83 Orchard Hill Park Drive, Leominster, MA 01453, on land owned by The Peach Pond Trust, 100 River Road, Boscawen, NH 03303 with the location at Map 81A, Lot 42, 169 King Street in a COM zone.

Austin Turner of Bohler Engineering and John Scribner of Lisciotti Development stepped before the board with an update on the status of the Site Plan Application. At the last hearing the board had voted to release the application for an independent peer review to be completed by Underwood Engineering, Inc. under ESR-45. Underwood Engineering was given a specific scope and they were tasked with reviewing the application material and offering feedback both to the board and the applicant. UEI issued a comment letter, (UEI 1st Review), dated March 6, 2017. At that time Bohler Engineering was able to engage with the peer review engineer to satisfy any comments or answer questions. Bohler Engineering, (BE), received the letter from Underwood Engineering before the March 7, 2017 Planning Board meeting. The applicant opted to continue to the next month in order to understand the comments and address them prior to the meeting. The comments from UEI have been satisfactorily addressed by the applicant. A 2nd Review letter dated April 3, 2017 from Underwood states that they concur with the applicant's responses. The new plans are representative not only of their meeting, but they also capture their conversations and document the applicant's feedback in regards to their comments. Mr. Turner states he would be happy to review the specifics of the review. Chairwoman Witham requested that the applicant briefly go over the specifics.

Town of Boscawen

Planning Board
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Tuesday, April 4, 2017 at 6:30pm

Mr. Turner explained the following:

1. **Site Drainage Design (Sheet 5 of 15)**
    a. Utility Crossing: Making sure that pipes weren't intersecting and that there is sufficient soil coverage. BE provided documentation on the plans. No further comment.
    b. Catch Basin CB-3: Making sure there was appropriate cover over the pipe out of the catch basin. BE confirmed they do, it meets manufacturer recommendation. No exception taken.
    c. Pipe Separation at Drain Structures: Proximity of pipes to each other and drainage configuration. They do have the separation. Controls are in place. No exception taken.
    d. Ridgeline at Drive Entrance: Grading at the driveway. UEI wanted additional information – identify gutter lines/specific grading conditions. BE added detail.
    e. Proposed Driveway Culvert: Sized appropriately. Size bump from 12 to 15 which BE accommodated. No exception taken.
    f. Drain Pipe Connections at Existing Structures: UEI asked that the current structure be replaced because it is dated. Ensure integrity. BE agreed to replace it. No exception taken.
    g. Drain manhole and ADA Curb Ramp: Existing structures will be maintained. No exception taken.
    h. NHDOT Approval: DOT has reviewed their plans. The new plans are representative of the applicant's response to NH-DOT. NH-DOT had similar comments as Underwood. No exception taken.
    i. Infiltration Basin #1: Specific grading within the basin itself. No exception taken.
2. **Soil Erosion and Sediment Control Plan (Sheet 7 of 15)**
    a. How sediment will be removed from basins. No exception taken.
    b. Measures in place already identified in Erosion Control Plan. No further comment.
3. **Drainage Construction Details (Sheet 13 of 15)**
    a. Flared End Section w. Rip Rap Apron: Side sloping of basins, calculations showing length of rip rap. No exception taken.
    b. Infiltration Basin #1 Outlet: Performance of storm water basin. No exception taken.
    c. Typical Section through Infiltration Basin: Clarify information further to give contractor additional information. There is a plan view, and section view going through the basin. No further comment.
4. **Drainage Report:**
    a. Basis of Design Infiltration Rate: Confirmation of infiltration rate, soil type. Additional information provided based on their exploration findings. No further comment.
    b. Recharge Volume: Confirmation of existing and post development recharge volumes. UEI requests that BE document that they meet the standard. No exception taken.
    c. Watershed Maps: Full scale watershed plans to confirm delineation. No exception taken.

d. HydroCAD Model Conditions: Modeling for storm water system. Models refined and provided the new calculations. No exception taken.
e. Operations and Maintenance Plan: Provided additional logs so the owner can document that maintenance is being performed. There are specific time intervals where maintenance is recommended. No further comment.

5. WB-67 Turning Exhibit:

a. Range of Turning Movements: Onsite vehicle turning movements were discussed. Specific information was presented for loading. This particular comment was also made by DOT. DOT wanted proof that vehicles could maneuver into loading position onsite and not have to use Route 3. Dollar General coordinates their loading to off-peak hours. They don't want it impeding operations. A note has been added to the Site Plan that a vehicle maneuvering has to be onsite and not using the public right of way. Notes will be added to the site plan to clarify unloading requirements.

6. Traffic Memorandum:

a. UEI takes no exception to the Applicant's statement that a traffic impact study is not warranted since the trip generation will be under 100 trips per hour. No further review is required. This standard can be found in the Institute of Transportation Engineers, (ITE), Trip Generation Manual, 9th Edition.

UEI noted that they have no further comments based upon the information provided and therefore no further review is necessary at this time.

James Scrivens says he still has concerns in regards to parking and turning radiuses for delivery trucks. Even if delivery was done during off peak hours, if there is a car in the parking lot it's going to prevent a truck from getting in. Mr. Turner says they have alternate loading approaches. Dollar General is going to make sure that when the delivery truck arrives, that it's not impeding on operations. Roger Sanborn asked if Dollar General can assure that there won't be trucks parking on the street. Mr. Turner stated that trucks aren't allow to, but that he can't say they won't. Matt Lampron stated there is no parking allowed on King Street and there are already notes on the site plan.

Matt Lampron states he did some measurements in regards to turning movements based on Dollar General's drawings and it clearly shows the vehicle driving up over the curb in two different locations. "That's with a perfect driver" he said. Matt builds roads for a living and has replaced many curbs because there isn't a perfect driver out there. When turning movements show tires going over the curb as they are entering he gets concerned because you need to add a couple feet on either side for real life drivers. He also measured from the nose of the truck to the fence – which is 8 feet. If there is 12 inch snow cover it will use up 100% of the snow storage and it will prevent a truck from turning around. Mr. Turner says they had talked previously about adding more snow storage out back. He can also refine the truck movements and flare the openings. A rumble strip can also be considered. Discussion ensued. Mr. Lampron wanted to make sure that a security fence in the rear of the property was included. A resident,

Fordyce Pearl, had concerns at a prior meeting about people cutting through the woods. Mr. Turner noted that the recommended fence is included in the new plan.

Mr. Hardy noted that they printed the approved septic design and made mention to the placement of the snow storage area in regards to the leach field. If the snow can't be stored on top of the leach field then the snow storage becomes a limiting factor. Mr. Turner stated he wouldn't advocate for putting snow on top of the leach field. Snow would go on a level area by the trash enclosure. He went on to say that if there is more snow than can be accommodated onsite, then it will be moved offsite.

Barbara Randall returned to the turning exhibits and asked whether it would be possible to use a smaller delivery vehicle at this location. Mr. Turner said his company is tasked with showing the largest possible vehicle in the turning exhibits – which in this case is a WB-67. Dollar General will decide what trucks to use based on the demands of the location. Mr. Turner says typically one truck is carrying supplies for multiple locations in the region.

Mr. Hardy said at this point the missing approval is the driveway permit. He asked Mr. Turner if that is awaiting final changes. Mr. Turner states BE has responded to the DOT comments and anticipates that they will be issuing their permit soon.

Mr. Reardon asked how they were going to preserve the privacy for the neighbors. Mr. Turner says they have incorporated 8 foot solid wood fences on the north and south side of the property. Building aesthetics were discussed. Architecture was changed per board discussion and recommendations at a prior meeting. Mr. Lampron asked whether the fence would be pressure treated. Mr. Turner confirmed that the fence would be pressure treated.

Mr. Hardy asked the board that review a draft proposal dated April 4, 2017 from Underwood Engineering entitled "Engineering Services Request Authorization to Proceed". It would allow Underwood Engineers to supervise the site work and utility connections. It is an option that would replace adding numerous conditions to the Notice of Decision and a professional would ensure everything is installed properly. Under RSA 676:4-b the board can decide that this expense would be the responsibility of the applicant. Kellee Jo Easler mentioned that we could include a shop drawing review as well. Mr. Turner says the engineer of record being BE would review shop drawings due to liability. Mr. Lampron noted that if any additional review was needed for the shop drawings, he would review them. Mr. Hardy says there haven't been projects with this amount of detail since around 2008 and he recommends using UEI to provide this engineering oversight. UEI would essentially be the eyes and ears for the town. Mr. Reardon asked who bears the cost of this. Mr. Hardy noted RSA 676:4-b allows the board to impose the cost on the applicant should the board require it. Mr. Turner asked if this is fairly customary in town. Mr. Hardy said yes.

Motion to request that Underwood Engineering, Inc. to supervise the project under the provisions of ESR #48 and request that the expenses are borne by the applicant per RSA 676:4-b. The motion was made by Jeff Reardon, and seconded by Roger Sanborn. All in favor.

Mr. Turner asked whether documentation of Underwood Engineering's time and services will be provided to them. Mr. Hardy said that BE would receive the same information as the town. UEI would create an Engineering Service Request (ESR) that would come to the Board of Selectmen to be approved. The BOS takes the initial responsibility to pay UEI for the work. The applicant would set up an escrow account which would be drawn from to pay the bills. An estimated cost was included in the proposal. Mr. Turner asked that if costs get towards the threshold limit, to please advise BE ahead of time. The town would be paying the bill and the applicant would reimburse that cost. Mr. Lampron asked if anything should be added to the proposal. He said there is a retaining wall on the property that is a critical thing to watch as far as backfill materials and compaction of such materials. Mr. Turner said the wall's structural system isn't designed by BE. There is a licensed structural engineer retained by either the Architect or the Contractor. The Contractor will get a set of stamped drawings. Mr. Lampron suggested having the wall reviewed by UE. Retaining wall options discussed.

Motion to include a design review and installation inspection for the earth wall or retaining wall to ensure adequate construction by Underwood Engineering made by Matt Lampron, and seconded by Roger Sanborn. All in favor.

The board entered deliberations. Mr. Hardy said a question had come up regarding the WB-67 and the reference to delivery at "other than peak hours". What does that mean? Mr. Turner said peak would be your weekday 4-6pm or mid-morning when people are on their way to work. Mr. Hardy says arrival time and back up alarms seem to be a recurring issue at numerous other businesses. He asked if the town could reasonably limit the delivery window so deliveries aren't made too early in the morning. Store hours are 8am – 10pm. Mr. Hardy said a preferable place to notate this would be in the Site Plan.

Resident Bruce Crawford made a point of order. He states "The original hearing was cut short and the public was not given a complete opportunity to hear the presentation which has continued for several months now past when the abbreviated hearing was held." He went on to say that, "So I think in the interest of the town, now that we have the whole proposal it would do well to re-open the hearing." Mr. Scrivens asked Mr. Hardy if the public hearing was closed at a prior discussion. Mr. Hardy said to the board members, "You now have before you a point of order." The point is being made that the public wasn't given an opportunity to speak. After reviewing the January 3rd minutes, Mr. Hardy commented, "That position doesn't appear in the record." Mr. Hardy further noted, "The board should decide if his point of order is valid. How was the hearing cut short?" Mr. Crawford said, "It was cut short in that we heard a 25 or 30 minute presentation on the first go-around and since then there has been discussion by the board and discussion by the applicant but there's a lot of information that has come up since that the public never got an opportunity to comment on. He went on to say that, "Normally when it happens everything is presented and then the hearing is held. This one for whatever reason was done backwards and there is case law to support what I'm saying." Mr. Sanborn asked if we need advice from counsel on this. Mr. Hardy said this is not something that counsel will weigh in on. "Counsel makes it very clear that they don't vote," Mr. Hardy said. Mr. Sanborn asked if they have a valid point. Mr. Hardy said when a notice is put together it says that the board may go into a public hearing as a result of the

presentation and discussion. The board did go into a public hearing as a result of the discussion and took comment from everybody that was present who wished to speak. Mr. Hardy says Mr. Crawford has the floor as part of the point of order. The question was asked whether we could open up a public hearing without providing notice to the public. Chairwoman Witham said no it's part of the law. Mr. Hardy said you'd have to have the basis for why you opened it up, what change took place that caused you to open it up. Mr. Scrivens asked if it could be opened if there was substantial change. Mr. Hardy asked substantial change in what way? Mr. Scrivens asked has anything changed since the public hearing was closed. Mr. Lampron says the changes he's seen were from things requested by the public and the board during the public hearing. The snow storage, the aesthetics, the fencing, and turning movements were all points that the public brought up in the hearing. Mr. Lampron missed the February meeting so he's not sure what was brought up then. Kellee Jo Easler says they talked about peer review at that meeting and the motion was made for UE to do a peer review on drainage calculations, turning exhibits, and traffic memorandum. Mr. Hardy says the final comment in the January minutes states that Pro-Tempore Chair James Scrivens closed the public hearing with no further comment from the audience. Mr. Crawford said that, "I think you remember, everyone that was here, that both Andy and I squawked about that. You know there was much more information to come, a lot of unanswered questions and that we wanted to be able to comment when all the information was in." He went on to say that, "The turning radius for the trucks wasn't in, the snow storage wasn't in, 520 cubic yards of snow that has to be bucketed out back with a 3 yard loader is 120 trips with a loader in the middle of the night. Depending on what the guy has for a loader that can definitely impact the neighbors. There's all kinds of things that have been covered and I think we deserve the right to be heard." Mr. Turner states that the initial application indicated snow storage on the plans. They also provided the truck turning movements with the initial application. That was discussed at our initial hearing as he recalls. In his opinion it isn't new information – they have refined their information based on feedback gathered during the public hearing and comments made by the board. Mr. Crawford went on to say, "There has also been another traffic study done by me which compares the two Cumberland Farms stores – the one on Fisherville Road and the one here." Mr. Hardy interjected, "This is a point of order, this isn't testimony." Mr. Crawford continued, "Ok, but, what I'm saying is there is more information." Mr. Turner said, "I'd suggest this is not a Cumberland Farms." Mr. Lampron asked if snow storage was on the plan during the hearing. Mr. Hardy said you have to determine what has transpired since the public hearing. Is opening up a new hearing justified? If you get to that point are you able to keep discussion to the matter at hand? "That would be the only thing you are discussing", Hardy said. Has new information been presented since the public hearing? That's what you have to decide to move on from the point of order. Chairwoman Witham asked if it was possible to have a private discussion amongst the board pertaining to that to see if they all agree. Mr. Hardy said in order to go into non-public there are only a few ways to do that. The board's ability to consult with counsel is an entirely different process. A discussion with counsel should be face-to-face. If you feel conflicted without talking to counsel then you would continue the hearing and make arrangements for counsel. Mr. Reardon said he thinks that makes sense because the board is being asked to make a judgment call.

Motion to continue the hearing after a meeting with counsel to discuss the matters at hand made by Jeff Reardon and seconded by James Scrivens. No vote taken.

Mr. Hardy said there is a discussion on the motion. Mr. Turner asked if by the Town's ordinance and regulations after an application is accepted is there timeframe in which a decision has to be rendered by the Planning Board? Mr. Hardy said there is. Mr. Turner asked what the timeframe is. Mr. Hardy said 65 days. Mr. Turner says the acceptance was at the January hearing. The applicant could make a request to the Board of Selectmen to compel. It's essentially a legal process for due process. Mr. Scribner asked what needs to be discussed with counsel. Mr. Hardy says that's between the board and counsel. If the applicant wishes to follow that process let them know. Mr. Hardy discussed the process with Mr. Turner explaining the risks and benefits.

Resident Andy Newcomb asked if he could comment on Bruce Crawford's point of order as another member of the public and an abutter. Mr. Hardy asked if he was making a different point of order. "Well I'd like to suggest that if the applicant wants to talk about timelines perhaps they should stop postponing hearings", Newcomb said. "There are many members of the public that would like to speak", he continued. Chairwoman Witham said we need to move on to the original point of order.

Alternate Member Ex-Officio Roger Sanborn said for the record, as a Selectman, he would like to recuse himself from this discussion at this time as the Board of Selectmen may become involved.

Mr. Hardy said there is a point of order as well as a motion awaiting the board's decision to seek counsel. If the meeting is continued the point of order stays in place and starts at the next meeting. At the same time you stand the possibility that the 65 day statute will come in to play which compels the Board of Selectmen to act.

Motion to continue the meeting made by Barbara Randall, and seconded by Chairwoman Roberta Witham. No vote taken.

Mr. Reardon said he needs more clarification. He thinks it sounds like if we continue we'll have to come back next month and make a decision regardless; which takes away the ability for us to have another public hearing. Mr. Hardy said that's not correct. You will have two things at play – the process that we're in right now and regardless of the conversation with counsel is if the 65 day statute is invoked. That process has a clear purpose. Mr. Reardon said if it is invoked we're likely to come to the next meeting with an order from the Select Board saying make a decision. Mr. Lampron asked if there has been a proclamation of what has changed. He hasn't heard concretely what is new. He asked Mr. Hardy, "What do you think has changed?" "Nothing, I don't believe anything has changed" said Chairwoman Roberta Witham. The point of order said the hearing was cut short. Mr. Crawford said, "The hearing concluded because nobody had anything else to talk about because there was never much information given in the first place. Since then, there has been all kinds of information – like tonight the thing with the retaining wall. Never gave that a thought but it's going to be a couple feet from the property line but it's got to stick back how far? Other issues I made before were trees that were cut that the stumps not be

excavated, that they be ground. So now we have to dig up to put those things in. So there's all kinds of things that weren't brought up before and now we have more information and it can be brought up." Mr. Hardy asked if that helped. Mr. Lampron said no, because that's not new on the plan. The inspection is new. "That's providing a higher level of scrutiny for the town", Hardy said. "You've got abutters and neighbors who aren't engineers… I don't know how you did it, what holds it up, or whether it will fall down or anything else about it. Obviously you do and these guys do, so ya know its information we didn't have before." Crawford said. "The retaining wall has been up plenty of times Alan - it hasn't changed, the grading hasn't changed, we're talking about construction oversight which is a customary practice for the town." Mr. Turner said. "It's not a Site Plan item that's been revised or adjusted. It didn't just appear, it's been there since our initial application." Turner said.

Mr. Hardy said the board has to resolve the question of what is different. You still have a motion and second. Mr. Reardon said there is a motion to meet with counsel and another motion to continue the meeting. Mr. Crawford said, "I guess if I can reinforce what I was saying, you see that black bag I left up on the table? In January I had one folder, that's what I have now. Everything in that bag has to do with Dollar General. So was there more information since January? Yep. As far as the 65 day things, those usually don't end well for the applicant because you have to make a decision. Ok we made one – No." Mr. Hardy said this is a very dangerous area where you're walking in between a point of order and testimony in his opinion. Chairwoman Witham asked if everyone was in agreement to continue the meeting. Mr. Turner said he could tell the board where they stand on the situation. We're approaching the 90 day mark and from their opinion they've done everything the board asked of them. They were close to the 65 day mark when they were asked to do the peer review which they did and responded to. They have a letter that says no further action required. In his opinion there hasn't been any new information provided during this process other than refining. They haven't changed anything. Mr. Hardy asked that the board deal with something – either the point of order or continuation. It cannot sit here because both sides will think of things and it will cross the line between the original point of order and testimony.

Chairwoman Witham asked if we could withdraw the motions and start over. Mr. Hardy said the motion can be withdrawn and the board can return to deliberation again. Mr. Lampron says the board's responsibility is to protect the public and their interests. "The point is the public hearing was held before all the information was in." Crawford said. Mr. Hardy said if Mr. Crawford wants to comment on the point of order that's fine, but it's not an open debate. This is at a deliberation stage with the board. Chairwoman Witham said we need to vote yes or no. Further discussion ensued.

Bruce Crawford made a second point of order that the board can appoint Rhoda Hardy as a voting member seeing he recused himself. Mr. Hardy says Rhoda cannot replace the Selectman's representative by statute. Mr. Crawford said she would replace him, not the Selectmen's representative. Mr. Hardy concurred with Mr. Crawford's point that the Chair could make that decision.

Chairwoman Witham appointed Rhoda Hardy as a voting member.

Motion that the board dismiss Bruce Crawford's first point of order on the basis that new information has not been presented since the hearing on January 3, 2017 was closed. The motion was made by Rhoda Hardy and seconded by James Scrivens. All in favor.

Two Motion(s) Withdrawn – Jeff Reardon and James Scrivens withdrew their motion and second to seek counsel and Barbara Randall and Chairwoman Roberta Witham withdrew their motion and second to continue the meeting.

Bruce Crawford made a third point of order that he left a packet of letters for the board to review. Mr. Hardy asked if the board was taking testimony. Testimony can take two forms – verbal and written. That would have to be done in a public hearing. Chairwoman Witham said this information would have to be presented in a public hearing.

Motion to dismiss Bruce Crawford's third point of order made by James Scrivens, and seconded by Rhoda Hardy. All in favor.

Mr. Hardy said the only item outstanding, to his knowledge, is the driveway permit. He noted that the septic system design is there along with an approval to construct. In order for the board to move forward with an approval it would need to be a Conditional Approval subject to receipt of a driveway permit. The board cannot withhold an approval subject to a State or Federal permit. Rhoda Hardy noted UE's 2nd Review dated April 3, 2017 #5 which states, "The Town should consider approval conditions that restrict deliveries or require smaller delivery vehicles during business hours." Mrs. Hardy asked if this is a condition. Mr. Hardy said it was discussed – whether to put a note in the plan or make it a condition of approval. At this point there isn't a motion to approve or deny. If the board approves, at that time they can decide what the conditions of approval are.

Motion made by Rhoda Hardy and seconded by James Scrivens that the Application for Site Plan Review for a 7500+ SF Retail Store submitted by Boscawen Dollar General, LLC, 83 Orchard Hill Park Drive, Leominster, MA 01453, on land owned by, The Peach Pond Trust, 100 River Road, Boscawen, NH 03303 with the location at Map 81A, Lot 42, 169 King Street in a COM Zone be conditionally approved subject to receipt of a NH DOT Driveway permit. Alan Hardy, Code Enforcement Officer, is named as Compliance Officer to confirm receipt of the document and placement of the conditions on the plan. All in Favor.

The board discussed conditions for approval.

<u>Items to be incorporated into Site Plan:</u>

- **Side lot privacy fence shall be submitted to side abutters with a choice from three (3) fence details including pressure treated and paint, vinyl, or stained pressure treated to be hand delivered by Boscawen Police Department with a response time limit of ten (10) business days or the fence detail reverts back to the original plan.**
- **The Security Fence shall be placed along back of lot on the 317 contour.**

- **Stumps shall be ground instead of removed along the side lot borders to prevent any encroachment to an abutter.**
- **Snow removal by trucking or loader on or off site shall take place no earlier than 7:00am and no later than 10:00pm.**
- **Sheet 4 – Change Delivery note from "are anticipated to" to "shall".**
    - **Deliveries shall occur between 7am and 10pm outside peak hours.**
- **No Outside Sales – Merchandise shall be restricted to inside the store only.**
- **As-built plans shall be submitted upon project completion.**
- **Zoning Ordinance Article XXIV – Reference lighting ordinance in the Outside Lighting Plan.**

Motion to authorize Vice-Chair Roberta Witham to sign outside of a meeting made by Rhoda Hardy, and seconded by James Scrivens. All in favor.

Motion to adjourn made by Vice-Chair Roberta Witham, and seconded by Barbara Randall. All in favor. The meeting adjourned at 10:00pm.

The next meeting will be May 2, 2017 at 6:30pm.

Minutes respectfully submitted by Katie Phelps

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

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Concord NH 03302-2880

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http://www.courts.state.nh.us

NOTICE OF DECISION

FILE COPY

Case Name: **Elaine Clow and Andrew Newcomb v Town of Boscawen**
Case Number: **217-2017-CV-00224**

Please be advised that on June 12, 2017 Judge Kissinger made the following order relative to:

The Town of Boscawen's Assented-to Motion for Remand and Extension of the Town's Deadline to File Certified Record and Answer

"Granted"

June 13, 2017

Tracy A. Uhrin
Clerk of Court

(826)

C: David LeFevre, ESQ; James F. Raymond, ESQ; Michael P. Courtney, ESQ

Upton & Hatfield LLP
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Please respond to the Concord office

June 8, 2017

Tracy A. Uhrin, Clerk
Merrimack Superior Court
163 North Main Street
P.O. Box 2880
Concord, NH 03302-2880

Re: Elain Clow and Andrew Newcomb v. Town of Boscawen
Case Number 217-2017-CV-00224

Dear Clerk Uhrin:

Enclosed for filing on behalf of the Defendant in the above-captioned case are the following:

1. Appearance by James Raymond;
2. Appearance by Michael Courtney; and
3. Assented-To Motion for Remand and Extension of Town's Deadline to File Certified Record and Answer

Very truly yours,

Michael P. Courtney
mcourtney@uptonhatfield.com

MPC/cmd
Enclosures
cc: Alan H. Hardy, Town of Boscawen, Planning & Community Development
David E. LeFevre, Esquire
Paul J. Bauer, Esquire

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS **SUPERIOR COURT**

CASE NO. 217-2017-CV-00224

ELAINE CLOW AND
ANDREW NEWCOMB

V.

TOWN OF BOSCAWEN

THE TOWN OF BOSCAWEN'S ASSENTED-TO MOTION FOR REMAND AND EXTENSION OF THE TOWN'S DEADLINE TO FILE CERTIFIED RECORD AND ANSWER

NOW COMES the Town of Boscawen, by its attorneys, Upton & Hatfield, LLP, and respectfully moves this Honorable Court to remand this case to the Planning Board of the Town of Boscawen, and states:

1. The Plaintiffs filed this appeal from a decision by the Boscawen Planning Board (the "Board") on April 4, 2017, granting conditional site plan approval for an application by Boscawen DG, LLC (the "Applicant"), for a Dollar General Store on King Street (the "Prior Approval").

2. In their appeal, among other contentions, the Plaintiffs assert that they were denied the opportunity to be heard at the January 3, 2017 Board hearing on the application, and request that the case be remanded "to present material and critical evidence and testimony to the Planning Board relative to the proposed development." *See Verified Petition for Declaratory Judgment and Appeal Pursuant to RSA 677:15* at ¶4.

3. In order to address the Plaintiffs' concerns and preserve scarce judicial resources, the Board requests that this Court remand this case for a hearing *de novo* in accordance with this motion.

4. On remand:

A. The April 4, 2017 Conditional Site Plan Approval is vacated;

B. The Board will rehear the application, commencing with acceptance of the application under RSA 676:4, but the record as previously submitted, including testimony and documents previously submitted by the Town's consultants, Boscawen DG, LLC, abutters, and members of the public, will remain part of the record of the Board on remand;

C. The new hearing will be noticed at the Applicant's expense, but no new application fees shall otherwise be due;

D. The Board may establish a schedule for public hearings on the application, including the schedule for planning issues to be heard at each hearing.

5. Upon the Court's granting this motion, the Plaintiffs' appeal is dismissed, without limiting the right of any interested party to file an appeal of any future action by the Board on remand.

6. In the alternative, the time for filing the Town's answer and certified record in this appeal is extended to thirty days following the Court's denial of this motion.

7. The Applicant and the Plaintiffs assent to the relief requested in this motion.

WHEREFORE, the Town of Boscawen respectfully requests that this Honorable Court:

A. Remand this matter for a *de novo* hearing before the Planning Board on the application filed by Boscawen DG, LLC, in accordance with this motion;

B. Dismiss this appeal in its entirety;

C. In the alternative, extend the time for filing the Town's answer and certified record to thirty days following the Court's denial of this motion and,

D. Grant such other relief as may be just.

Dated: June 8, 2017

Respectfully submitted,

The Town of Boscawen

By their attorneys

Upton & Hatfield, LLP

James F. Raymond, NHBA #2111
Michael P. Courtney NHBA #21150
10 Centre St., Box 1090
Concord, NH 03302-1090
(603) 224-7791

Certificate of Service

I hereby certify that a copy of the foregoing was this day forwarded to David E. LeFevre, counsel the Plaintiffs, and Paul J. Bauer, counsel for Boscawen DG, LLC.

Michael P. Courtney

THE STATE OF NEW HAMPSHIRE

MERRIMACK COUNTY SUPERIOR COURT

Elaine Clow and
Andrew Newcomb

v.

Town of Boscawen

Docket No.: _____

VERIFIED PETITION FOR DECLARATORY JUDGMENT AND
APPEAL PURSUANT TO RSA § 677:15

NOW COME the Petitioners, Elaine Clow and Andrew Newcomb, by and through their attorneys, Tarbell & Brodich, P.A., and respectfully submit the within Verified Petition for Declaratory Judgment and Appeal Pursuant to RSA § 677:15, and in support thereof state as follows:

Parties

1. The Petitioner, Elaine Clow, is an individual with an address of 357 Queen Street, Boscawen, NH 03303.

2. The Petitioner, Andrew Newcomb, is an individual with an address of 171 King Street, Boscawen, NH 03303.

3. The Respondent, Town of Boscawen, is a New Hampshire municipal corporation, with its principal offices located at 116 North Main Street, Boscawen, NH 03303, acting by and through its Planning Board.

Introduction

4. This case is an appeal of the decision of the Town of Boscawen Planning Board granting site plan approval for a Dollar General store. At the crux of the Petitioners' appeal is the fact that

they were denied due process. The Petitioners, as direct abutters to the proposed development, are constitutionally entitled to notice and a meaningful opportunity to be heard under both the fourteenth amendment to the United States Constitution and part I, article 15 of the Constitution of New Hampshire. Equally, New Hampshire's statutory requirements relative to procedures for planning board acceptance, review, and approval of site plans, require that the Petitioners be given a meaningful opportunity to be heard. The Petitioners were denied that right, and as such, have commenced this appeal requesting that the decision of the Planning Board be reversed, and the matter be remanded to the Boscawen Planning Board such that they are given the opportunity to present material and critical evidence and testimony to the Planning Board relative to the proposed development.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction pursuant to RSA § 491:7, RSA § 491:22, RSA § 498:1, and RSA § 677:15

6. The property which is the subject of this action is located in the Town of Boscawen, County of Merrimack, State of New Hampshire, and venue is proper in the Merrimack County Superior Court.

Applicable Law

7. The Petitioners are direct abutters to the proposed development in this case, the approval of which will negatively and significantly impact the value of their real estate; in accordance with the fourteenth amendment to United States Constitution, and part I, article 15 of the Constitution of New Hampshire, the Petitioners may not be deprived of their valuable property rights without due process of law.

8. Planning boards, authorized to review site plans under RSA § 674:43, must adopt site plan review regulations according to the procedures set forth in RSA § 675:6. *See* RSA § 674:44.

9. The site plan review regulations adopted by the planning board shall "[p]rovide the procedures which the board shall follow in reviewing site plans." RSA § 674:44, III (a).

10. Every planning board shall also "adopt rules of procedure concerning the method for conducting its business." RSA § 676:1.

11. The planning board's regulations must specify what "constitutes a completed application," and "[a] completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board . . ." RSA § 676:4, I (b) (emphasis added).

12. The planning board ". . . shall vote upon its acceptance." RSA § 676:4, I (c)(1) (emphasis added).

13. Only after a ". . . determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act . . ." to approve, conditionally approved or disapprove the application. *Id.*

14. Notice for submission of acceptance shall be in accordance with provisions of RSA § 676:4, I (d).

15. "[N]o application may be denied or approved without a public hearing on the application. At the hearing, any applicant, abutter . . . or any person with a direct interest in the matter may testify in person or in writing." RSA § 676:1, I (e). [1]

16. Notice "[f]or any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that hearing is not required nor

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[1] Subject to certain exceptions not applicable to this case, e.g. minor lot line adjustments, etc.

shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session was made known at the prior hearing." RSA § 676:4, I (d).

17. A planning board's rules of procedure must ". . . provide fair and reasonable treatment for all parties and persons." RSA § 676:1, IV.

18. The Boscawen Planning Board's rules of procedure further state, "[t]he Chair shall endeavor to insure that all questions get fair and impartial consideration and that all members, abutters, and the public have an opportunity to be heard and their opinions considered." Rules of Procedure, Boscawen Planning Board, Article 5.

19. When the planning board's procedures on an application ". . . create serious impairment of [the] opportunity for notice and participation," judicial reversal of the planning board's action is appropriate. *Id.*

Facts

20. The property in question is described as 169 King Street (NH Route 3 and 4), Boscawen, NH 03303, and is further identified in reference to the Town of Boscawen's tax maps as Map 81A, Lot 42 ("Property").

21. The Property is owned by The Peach Pond Trust, 100 River Road, Boscawen, NH 03303; the application for site plan review was submitted by Boscawen DG, LLC, 83 Orchard Hill Park Drive, Leominster, MA 01453 (collectively "Applicant").

22. The Property is located in a Commercial Zone according to the Boscawen Zoning Ordinance, is approximately 1.440 acres in size, and is situated approximately 150 feet north of the intersection of King Street and Queen Street.

23. The Applicant is proposing to develop the Property with a 7,500 square foot Dollar General retail store and associated parking and site development.

24. The application was submitted to the Boscawen Planning Board ("Planning Board") for acceptance on December 6, 2016.

25. According to the notice sent to abutters, "[u]pon a finding by the Board that the application meets the submission requirements for the Site Plan Review the Board will vote to accept the application as complete and the Board will hear the merits of the proposals." Whether this notice was proper as to all abutters is questionable.

26. The meeting minutes of December 6, 2016 make no mention of the Dollar General submission having been considered for acceptance by the Planning Board whatsoever; equally, the meeting minutes do not state whether the hearing was continued to a specific date, time, and place as required by RSA § 676:4, I (d).

27. The Planning Board did take up consideration of the Dollar General application for the first time on January 3, 2017; no new notice was provided to the abutters or the public.

28. Following a packed agenda involving zoning amendments prior to Town Meeting, the Dollar General application was taken up late in the evening as the last item of business.

29. The Applicant was given ample time to speak to the application and answer questions of the Planning Board; then, with less than a half hour remaining in the meeting, the Acting/Pro Tempore Chair of the Planning Board opened the case for public comment.

30. Directly contrary to applicable law, the Planning Board never voted to accept the application as complete.

31. Directly contrary to applicable law, the Planning Board's rule of procedure, and established past practice, the Planning Board opened the case for public comment without a completed application.

32. The members of the public that were present, including the Chairman of the Planning Board who had to recuse himself because he is a direct abutter, while greatly surprised by this gross deviation from procedure, did the best they could to offer what testimony they could in the short time allotted to them.

33. At 10:00 p.m. sharp, the Acting Chairman closed the public hearing, and the meeting was adjourned.

34. The Petitioner Elaine Clow sought to submit written comments to the Planning Board dated January 16, 2017.

35. The Petitioner Elaine Clow submitted further written comments dated February 13, 2017 to the Planning Board and multiple agencies of the Town's local government noting numerous defects in the Planning Board's process, including the Planning Board's failure to vote to accept the application as complete.

36. At the next meeting of the Planning Board on February 14, 2017 (continued from February 7, 2017 due to weather), the Planning Board refused to consider the Petitioner's comments due to the "public hearing being closed" and decided to get the advice of legal counsel; not surprisingly, the minutes of the February 14, 2017 meeting do reflect that the Planning Board voted to accept the Dollar General application at this time.

37. In a letter dated February 28, 2017, the Petitioner Elaine Clow was advised that the Dollar General application was deemed complete on January 24, 2017, by Kellee Jo Easler, the Planning & Community Development Assistant.

38. The Dollar General application was scheduled for further review by the Planning Board on March 7, 2017; the Applicant requested a continuance and the Planning Board did not take up the matter at that meeting.

39. At its next meeting on April 4, 2017, the Planning Board voted to approve the site plan for Dollar General, over the objections of the abutters specifically asking for an opportunity to be heard; the Town's Land Use Coordinator, Alan Hardy, counseled the Planning Board against giving the abutters an opportunity to be heard as it was "dangerous territory."

40. On information and belief, and by offer of proof, the Petitioners are requesting the opportunity to speak to the application, rebut the evidence offered by the Applicant, testify and offer independent evidence relative to the following, which would have materially affected the merits of the application, and the manner in which the Planning Board reviewed the application:

- Austin Turner of Bohler Engineering and John Scribner of Lisciotti Development represented the Applicant. No representative of Dollar General ever attended any meeting of the Planning Board to attest to or affirm the veracity of the representations made by the Applicant. The presentations and representations to the Planning Board that were made on behalf of the Applicant, particularly in reference to statistical data and traffic, were generic "averages" based on "similar" retail stores, not this site, and not necessarily Dollar General stores specifically. The Planning Board and staff made no effort to verify the truthfulness of these "facts" or how these averages were calculated.

- Proper consideration was not given to the unique location of the proposed Dollar General in Boscawen. The Property is located on the approximately one (1) mile section where Routes 3 and 4 run overlap, approximately 150 feet north of the intersection of King Street and Queen Street. The Planning Board wholly ignored the existing traffic patterns which often times result in congestion as a result of local business (convenience store(s), funeral home, trucking, Duncan Donuts), services, events and funerals at the State Veteran's Cemetery, school bus traffic, residential traffic, and high speed travel of emergency services, as well as, the lack of any similar general retail establishments in the vicinity, and how the traffic associated with such a retail use would further negatively impact the already difficult flow of traffic.

- The "traffic projections" submitted by the Applicant within the "national standards" are not specific to the Application. Comparisons with actual similar

retail uses, including Dollar General, in similar and neighboring communities in New Hampshire, yield substantially different data.

- The Planning Board was not provided with a recent NH-DOT "traffic count" which was apparently provided to the NH Central Regional Planning Commission; if it was provided to the Planning Board it was not made available to the public.

- Based on the foregoing, a through traffic study by an independent third party, taking into consideration all of the above, present traffic congestion at the intersection of King and Queen Streets, along with actual traffic counts which can be expected from the Dollar General, is necessary.

- In specific reference to the feasibility of deliveries, being proposed during "off-peak hours," no definition was ever provided as to what time is "off-peak hours," how deliveries would be made when the parking lot had even a few parking spaces occupied, or with winter snow storage occupying necessary parking spaces. Moreover, no reassurance was given that there would be no "on street" parking, either by delivery vehicles waiting to access the Property, or customer's vehicles unable to enter the parking lot due to deliveries in progress.

- The Planning Board failed to meaningfully become familiar with, consider, review, or make available to the public for comment, documents and recommendations from Underwood Engineering, Central NH Regional Planning, or other consultants, which were in some cases dated the day of, or the day before the meeting at which they were to be discussed, as the Planning Board members had little or no time to read and understand the contents of these documents until the day of the meeting.

- The Planning Board failed to hear from abutters relative to numerous conditions of approval to protect surrounding residential property values from the impacts of a high volume retail store in a low impact commercial/residential area, and to preserve the quality of life of surrounding residential property owners, by way of example, such as conditions relative to hours of operation, when lights would be on, restricting the hours dumpsters may be emptied, varmint control, drainage and runoff onto abutting properties, truck deliveries, sound pollution, restricting outside loudspeakers, restricting outside storage, or any other legitimate concerns.

- Construction details were not made available to the public for comment in any meaningful way prior to the meeting of January 3, 2017, such as hours of construction, construction in the building property line set-back zones, details of disturbance in the setback may vary depending on which vendor supplies the blocks for construction of the retaining wall, or location of fencing. No views was ever taken nor were grade stakes placed on the Property for purposes of illustrating the proximity of improvements to existing residential uses, parking or snow storage.

- The Planning Board wholly failed to consider or accept public comment relative to the overall character, look and feel of the neighborhood, and development of the Property in keeping therewith, including the character of surrounding historic homes, local historic landmarks and buildings, and pedestrian traffic.

- The Planning Board refused to accept public comment relative to Boscawen's Master Plan, and development of the Property in conformity therewith.

- The Planning Board erroneously rushed to a decision on April 4, 2017, in order to make a decision within 65 days, when having accepted the application for review on February 14, 2017, the Planning Board had until April 20, 2017, and could have easily scheduled another meeting to hear from the public.

41. Based on the refusal of the Planning Board to even consider the Petitioners testimony and evidence, the Petitioners have been denied due process of law.

42. Based on the refusal of the Planning Board to even consider the Petitioners testimony and evidence, the decision to the Planning Board to approve the site plan was unreasonable and illegal.

WHEREFORE, The Petitioners, Elaine Clow and Andrew Newcomb, respectfully request that this Honorable Court:

A. Issue a Writ of Certiorari;

B. Order the Planning Board to prepare a Certified Record of its proceedings for delivery to the Court and opposing counsel;

C. Find and rule that the decision of the Boscawen Planning Board is unreasonable and/or illegal;

D. Enter a declaratory ruling that the Petitioner were denied due process of law;

E. Reverse the decision of the Boscawen Planning Board; and

F. Grant such other and further relief as may be just and appropriate.

Respectfully submitted,
Elaine Clow and Andrew Newcomb,

By through their attorneys,
TARBELL & BRODICH, P.A.

Dated: May 1, 2017

By: David E. LeFevre, Esq. BNH #13811
45 Centre Street
Concord, NH 03301
(603) 226-3900

VERIFICATION

I, Elaine Clow, have verified that the facts set forth in the foregoing Verified Petition for Declaratory Judgment and Appeal Pursuant to RSA § 677:15, are true and accurate to the best of our knowledge and belief.

Elaine Clow

State of New Hampshire
County of Merrimack

On this day, before me, personally appeared Elaine Clow, and swore that the foregoing statements are true to the best of her knowledge and belief.

Dated: May 1, 2017

Notary Public
My Commission Expires:

DAVID E. LEFEVRE
JUSTICE OF THE PEACE
MY COMMISSION EXPIRES AUG. 14, 2018
NOTARY PUBLIC
NEW HAMPSHIRE

VERIFICATION

I, Andrew Newcomb, have verified that the facts set forth in the foregoing Verified Petition for Declaratory Judgment and Appeal Pursuant to RSA § 677:15, are true and accurate to the best of our knowledge and belief.

Andrew Newcomb

State of New Hampshire
County of Merrimack

On this day, before me, personally appeared Andrew Newcomb, and swore that the foregoing statements are true to the best of her knowledge and belief.

Dated: May 1, 2017

Notary Public
My Commission Expires:

DAVID E. LEFEVRE
JUSTICE OF THE PEACE
MY COMMISSION EXPIRES AUG. 14, 2018
NOTARY PUBLIC
NEW HAMPSHIRE

APPENDIX E: CRITERIA FOR DETERMINING REGIONAL IMPACT

Land use board responsibilities relative to developments of regional impact are laid out in RSA 36:54-58. The statutes give a basic definition of what may constitute a regional impact. Boards may wish to establish more specific guidelines or criteria for making such determinations.

Generally, impact criteria shall include, but not be limited to, the items below. These shall in no way be considered exhaustive, but rather guidelines for the Board to follow in making a determination of impact on a neighboring municipality.

1. Residential Development: Proposals for lots or dwellings that would increase the existing housing stock of the town by more than 25%.
2. Commercial Development: Proposals for new or expanded space of 50,000 square feet or greater.
3. Industrial Development: Proposals for new or expanded space of 100,000 square feet or greater.
4. Other factors to be considered:
   a. Proximity to other municipal boundaries.
   b. Traffic impacts on the regional road network.
   c. Potential effect on groundwater, surface water and wetlands that transcend municipal boundaries.
   d. The potential to disturb or destroy a significant or important natural environment or habitat.
   e. The necessity for shared public facilities such as schools or solid waste disposal.
   f. Anticipated emissions such as light, noise, smoke, odors, or particulates.
   g. The potential for accidents that would require evacuation of a large area.
   h. The generation and/or use of any hazardous materials.

NOTE: Some Regional Planning Commissions in New Hampshire have developed regional impact guidelines, with help and input from communities in their region. Contact NH OEP or your Regional Planning Commission for more information.

Allenstown ❖ Boscawen ❖ Bow ❖ Bradford ❖ Canterbury ❖ Chichester ❖ Concord ❖ Deering ❖ Dunbarton ❖

Central New Hampshire Regional Planning Commission
28 Commercial Street ❖ Concord, NH 03301
Telephone: (603) 226-6020 ❖ Fax: (603) 226-6023 ❖ www.cnhrpc.org

❖ Epsom ❖ Henniker ❖ Hillsborough ❖ Hopkinton ❖ Loudon ❖ Pembroke ❖ Pittsfield ❖ Salisbury ❖ Sutton ❖ Warner ❖ Webster ❖

DATE: DECEMBER 27, 2016

TO: BOSCAWEN PLANNING BOARD

FROM: MATT MONAHAN, CNHRPC

RE: DOLLAR GENERAL

CC: BOHLER ENGINEERING (via email through Town)

The applicant, Boscawen DG LLC (Dollar General), submitted an application for Map 81A Lot 42 and totaling 1.44 +/- acres on land owned by Peach Pond Trust for the purpose of creating a 7,500 SF Dollar General retail store. The site is located at 169 King Street (Rt 3), within the Commercial Zone.

CNHRPC received a set of plans for the proposed Site Plan on November 27, 2016. The plan sets reviewed were entitled SITE DEVELOPMENT PLANS FOR DOLLAR GENERAL LISCOITTI DEVELOPMENT LOCATION OF SITE: 169 KING STREET (ROUTE 3), TOWN OF B OSCAWEN MERRIMACK COUNTY, NEW HAMPSHIRE MAP # 81A, LOT # 42 and dated November 14, 2016 and consisted of 16 sheets as prepared by Bohler Engineering of Southborough, MA. Revised materials were received by CNHRPC on December 27, 2016.

Pursuant to the request of the Town of Boscawen Planning Board, CNHRPC reviewed the plans for compliance with the Boscawen Site Plan Regulations and applicable requirements. A memorandum intended to apprise the Planning Board of submittal items required by the Boscawen Site Plan Regulations that were missing from the plan as well as zoning and general planning issues that should be considered with the proposed Site Plan was submitted to the Board and the Applicant on December 2, 2016. The Applicant has since submitted items and updated information in response to the December 2 review memorandum. This memorandum is intended to apprise the Planning Board of any issues that still remain. CNHRPC responses to applicant comments are in **red and bold.**

SUBMITTAL DETAILS

CNHRPC **INITIALLY** reviewed the following plans and documents:

- A plan set entitled SITE DEVELOPMENT PLANS FOR DOLLAR GENERAL LISCOITTI DEVELOPMENT LOCATION OF SITE: 169 KING STREET (ROUTE 3), TOWN OF BOSCAWEN MERRIMACK COUNTY, NEW HAMPSHIRE MAP # 81A, LOT # 42 and dated November 14, 2016 and consisted of 16 sheets as prepared by Bohler Engineering of Southborough, MA.
- A Town of Boscawen tax map, map number 81A.
- An October 26 ZBA notice of decision granting a variance for signs (Article 7.05) and outdoor lighting (Article XXIV) relief.

- An October 26 ZBA notice of decision denying a variance for signs (Article 7.08) and Lighting (Article XXIV; second sign to be internally lit)
- An abutters list.
- A cover letter to the Planning Board from Bohler Engineering.
- Architectural renderings.
- A Purchase and Sale Agreement.
- A copy of a public notice for the Planning Board Meeting.
- A departmental review form.
- A deed.
- A traffic memorandum.
- A tax card.
- A Town of Boscawen Application for Site Plan Review, Checklist, and Waiver Request.
- 1999 Planning Board approval records and meeting minutes from the Dunkin Donuts approval.

The following items were received by CNHRPC on December 27, 2016 and were considered with this **UPDATED** review memorandum:

- A revised plan set entitled SITE DEVELOPMENT PLANS FOR DOLLAR GENERAL LISCOITTI DEVELOPMENT LOCATION OF SITE: 169 KING STREET (ROUTE 3), TOWN OF B OSCAWEN MERRIMACK COUNTY, NEW HAMPSHIRE MAP # 81A, LOT # 42 and dated November 14, 2016 and consisted of 16 sheets as prepared by Bohler Engineering of Southborough, MA, with a revision date of December 15, 2016.
- A turning movement plan consisting of 4 sheets
- A response letter to CNHRPC comments.
- A zoning compliance certificate
- A wetland response letter.
- A transmittal letter.

TOWN OF BOSCAWEN SITE PLAN CHECKLIST & SITE PLAN REGULATION REQUIREMENTS

The following are advisory comments based upon the Town of Boscawen Site Plan Regulations and Site Plan Checklist Requirements used during the consideration of materials received by CNHRPC pertaining to this proposal.

Overall Summary: The applicant is seeking approval establish a 7,500 square foot Dollar General retail store. Major areas of focus for the project will include:

- Town Engineer review of drainage study and traffic memo before PB acts on the application.
- Given the historic nature of the corridor and the architecture of some nearby properties, it may be beneficial to consider either a building design that "fits" with the corridor's historic properties more or additional landscaping that "breaks up" the façade of the proposed building.
- An improved buffer strategy including:
    - Landscaping to screen abutting property to the rear if existing trees are inadequate or cut down during development.
    - Other landscape buffers as appropriate.
- Department head reviews and the inclusion of their feedback as conditions of approval.

- Lighting analysis should be updated to include internally lit sign. **Pending.**
- The turning movement plan should be reviewed by Town's engineer.

Potential Conditions of Approval: The following list is a potential list of conditions the board could attach to the approval of the project based upon this review. This list neither restricts the Board to these conditions nor mandates that the Board require them. All conditions attached to any approval are subject to the discretion of the Board.

- Evergreen trees along the westerly property line in the event the existing tree stand is inadequate following construction.
- A plan note on the lighting plan indicating that all exterior lighting will be down-cast and dark sky compliant in accordance with Article III.A of the Zoning Ordinance.
- Receipt of NHDOT driveway permit.
- Completion of any actions recommended by the Town's Engineer(s).
- Completion of any provisions suggested by Town of Boscawen Department Heads.
- Any other conditions the Board may require.

Boscawen Site Plan Checklist Requirements:

1. Checklist Item 1 – CNHRPC did not receive a copy of a Determination Letter from the Code Enforcement Officer. This should be required for completeness. **Addressed.**

2. Checklist Item 2 – Several items from Article IV.D.2 were missing. They are contained throughout this memorandum. **See below.**

3. Checklist Item 7 – Wetlands have not been delineated, though note thirty-one on sheet two indicates that there are no wetlands "to the best of their knowledge." This note does not indicate that a wetland scientist has made such a determination. If no such wetlands are present on the site a letter bearing the stamp and signature of a certified wetland scientist stating no wetlands are present should be provided. This should be required for completeness. **Addressed.**

4. Checklist Item 13 – The location for the proposed business sign does not appear to be on the plan. This could be a condition of approval. **Addressed.**

5. Checklist Item 14 – It is not clear if the internally light sign was part of the lighting analysis. If it was not part of the analysis it should be revised to depict the sign's impact on the lighting plan. This should be required for completeness. **Issue still pending.**

6. Checklist Item 17 – It does not appear that the 100-year flood elevation was assessed. If the property is outside of the 100-year, a plan note indicating this fact, along with the citation of the map and panel used to make this determination should be provided. This could be a condition of approval. **Addressed.**

Boscawen Site Plan Regulation Requirements:

7. Site Plan Regulation Section V.B – An 8' privacy wall is shown to the northerly property the whole length of the building and partially for the property to the south. Elevations were not provided for the retaining wall and, as such, if the elevation does not match the 8' wall to the south, the privacy wall should be extended the length of the building there as well. Landscaping may also be an effective buffer too. **Addressed; Board still may choose to discuss adequacy and need for landscaping.**

8. Site Plan Regulation Section V.D.5 – Although snow storage areas were depicted, it is not clear what percentage of the parking area the storage represents. The Regulations require at least 25%. This could be a condition of approval. **Addressed.**

9. Site Plan Regulation Section V.D.2 – Safe traffic flow, truck loading and unloading, and no truck maneuvers on the street are requirements. A turning movement plan should be provided to demonstrate compliance. Also, a plan note should indicate that all loading/unloading of trucks should be done on the site and not in the street. This should be required for completeness. **Applicant has provided a turning plan. Town's Engineer should review.**

Waivers Requested from Site Plan Regulation Items:

The applicant has not requested any waivers as part of the submittal package.

Boscawen Zoning Ordinance Requirements:

10. Article 7.08.b – The business's sign needs to be setback at least ten feet from the front property line. As it did not appear to be on the plan compliance could not be determined. This could be a condition of approval. **Addressed.**

11. Article III.A – All lighting shall be down-cast and dark sky compliant. A note on the lighting plan should indicate this. This could be a condition of approval. **Addressed; though a plan note should specify "down-cast."**

DEVELOPMENT OF REGIONAL IMPACT

12. In accordance with RSA 36:56, the Board shall determine if the proposal is a development of regional impact:

"A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact." That said, the proposal does not appear to have a regional impact.

OTHER COMMENTS

The following are advisory comments based upon commonly held planning principles and the review of the plans received. These comments represent the opinion and professional discretion of the reviewer in considering the materials received in relation to this proposal.

13. Given the historic nature of the corridor and the architecture of some nearby properties it may be beneficial to consider either a building design that "fits" with the corridor's historic properties more or additional landscaping that "breaks up" the façade of the proposed building. This would also be consistent with Site Plan Regulation Section II.B which states that one of the purposes of Site Plan Review is aesthetically pleasing development. **Board should discuss.**

14. Given the mix of uses in the area, adequate landscaping and screening of the residential property to the rear (west) of the site should be provided in the event that the current tree stand is inadequate, and/or too many existing trees are proposed to be cut down during development. Evergreen trees along the property line that directly screen the proposed

building could accomplish this. This would also be consistent with Site Plan Regulation Section V.D.5. This could be a condition of approval. **Board should discuss.**

15. The Town's engineer should review the drainage study for compliance with stormwater management provisions and overall engineering feasibility. **Board should discuss.**

16. The Town's engineer should review the traffic memorandum for adequate traffic analysis, appropriate traffic count data, and whether or not traffic mitigation strategies are required. **Board should discuss.**

17. Prior to acting on the application, the Board should receive and review Town Engineer comments on drainage and traffic. Any articulated issues should be addressed either prior to, or as a condition of approval. **Board should discuss.**

18. A driveway permit from the NHDOT should be required as a condition of approval. Also, coordination with NHDOT regarding their design standard requirements would be beneficial to identify any potential off-site improvements that may be required. **Board should discuss.**

19. Other town departments should review the plans and any recommendations should be a condition of approval. **Board should discuss.**

20. Any conditions of approval and waivers granted should be listed on the final plan to be signed. **Board should discuss.**

Given the nature of the proposal and the items submitted, the application could be considered substantially complete once the following are addressed:

- Determination Letter from Code Enforcement Officer is provided. **Addressed.**
- Wetland delineation or letter from a certified wetland scientist saying none on site is provided. **Addressed.**
- If internally light sign was not part of the lighting analysis an updated lighting plan should be provided. **Pending.**
- A turning movement plan that meets the requirements of Site Plan Regulation Section V.D.2 is provided. **Addressed.**

Any item indicated in this memo as missing from the plan could be a condition of approval if the Board felt such item(s) are relevant and are not waived. If the Board chooses to invoke jurisdiction and accept this application as complete, the timelines set forth in RSA 676:4C shall apply. If the application is accepted as complete, the Planning Board can enter into a public hearing if such a hearing was properly noticed in accordance with 676:4D.

Central New Hampshire Regional Planning Commission
28 Commercial Street ❖ Concord, NH 03301
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DATE: DECEMBER 2, 2016

TO: BOSCAWEN PLANNING BOARD

FROM: MATT MONAHAN, CNHRPC

RE: DOLLAR GENERAL

CC: BOHLER ENGINEERING (via email through Town)

The applicant, Boscawen DG LLC (Dollar General), submitted an application for Map 81A Lot 42 and totaling 1.44 +/- acres on land owned by Peach Pond Trust for the purpose of creating a 7,500 SF Dollar General retail store. The site is located at 169 King Street (Rt 3), within the Commercial Zone.

CNHRPC received a set of plans for the proposed Site Plan on November 27, 2016. The plan sets reviewed were entitled SITE DEVELOPMENT PLANS FOR DOLLAR GENERAL LISCOITTI DEVELOPMENT LOCATION OF SITE: 169 KING STREET (ROUTE 3), TOWN OF B OSCAWEN MERRIMACK COUNTY, NEW HAMPSHIRE MAP # 81A, LOT # 42 and dated November 14, 2016 and consisted of 16 sheets as prepared by Bohler Engineering of Southborough, MA. Pursuant to the request of the Town of Boscawen Planning Board, CNHRPC has reviewed the plans for compliance with the Boscawen Site Plan Regulations and applicable requirements. This memorandum is intended to apprise the Planning Board of submittal items required by the Boscawen Site Plan Regulations that are missing from the plan as well as zoning and general planning issues that should be considered with this proposed Site Plan. It is recommended to the Planning Board that any waivers or deviations from the submittal requirements be requested by the applicant in writing.

SUBMITTAL DETAILS

CNHRPC has reviewed the following plans and documents:

- A plan set entitled SITE DEVELOPMENT PLANS FOR DOLLAR GENERAL LISCOITTI DEVELOPMENT LOCATION OF SITE: 169 KING STREET (ROUTE 3), TOWN OF BOSCAWEN MERRIMACK COUNTY, NEW HAMPSHIRE MAP # 81A, LOT # 42 and dated November 14, 2016 and consisted of 16 sheets as prepared by Bohler Engineering of Southborough, MA.
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TOWN OF BOSCAWEN SITE PLAN CHECKLIST & SITE PLAN REGULATION REQUIREMENTS

The following are advisory comments based upon the Town of Boscawen Site Plan Regulations and Site Plan Checklist Requirements used during the consideration of materials received by CNHRPC pertaining to this proposal.

Overall Summary: The applicant is seeking approval establish a 7,500 square foot Dollar General retail store. Major areas of focus for the project will include:

- Town Engineer review of drainage study and traffic memo before PB acts on the application.
- Given the historic nature of the corridor and the architecture of some nearby properties, it may be beneficial to consider either a building design that "fits" with the corridor's historic properties more or additional landscaping that "breaks up" the façade of the proposed building.
- An improved buffer strategy including:
    - Landscaping to screen abutting property to the rear if existing trees are inadequate or cut down during development.
    - Continuation of the privacy fence the whole length of the building along the southerly property line.
    - Other landscape buffers as appropriate.
- Department head reviews and the inclusion of their feedback as conditions of approval.
- Does the lighting plan include analysis of the internally lit sign? If not, the lighting analysis should be updated.
- Determination Letter from Code Enforcement Officer is needed.
- Wetland delineation or letter from a certified wetland scientist saying none are present on site should be provided.
- A turning movement plan should be provided showing both single occupancy vehicle and truck traffic movements and a plan note indicating no trucks parking/unloading on street.

Potential Conditions of Approval: The following list is a potential list of conditions the board could attach to the approval of the project based upon this review. This list neither restricts the Board to these conditions nor mandates that the Board require them. All conditions attached to any approval are subject to the discretion of the Board.

- The location for the proposed store sign should be shown at least ten feet behind the front property line.
- 100-year flood plain note, with referenced map and panel number.

- Evergreen trees along the westerly property line in the event the existing tree stand is inadequate following construction.
- Depict the percentage of snow storage in relation to the parking area on the plan.
- A plan note on the lighting plan indicating that all exterior lighting will be down-cast and dark sky compliant in accordance with Article III.A of the Zoning Ordinance.
- Plan note stating that trucks cannot park in the road or unload from the road. All unloading should be done on site.
- Receipt of NHDOT driveway permit.
- Completion of any actions recommended by the Town's Engineer(s).
- Continuation of 8' high privacy fence along the southerly property line the length of the building.
- Completion of any provisions suggested by Town of Boscawen Department Heads.
- Any other conditions the Board may require.

Boscawen Site Plan Checklist Requirements:

1. Checklist Item 1 – CNHRPC did not receive a copy of a Determination Letter from the Code Enforcement Officer. This should be required for completeness.

2. Checklist Item 2 – Several items from Article IV.D.2 were missing. They are contained throughout this memorandum.

3. Checklist Item 7 – Wetlands have not been delineated, though note thirty-one on sheet two indicates that there are no wetlands "to the best of their knowledge." This note does not indicate that a wetland scientist has made such a determination. If no such wetlands are present on the site a letter bearing the stamp and signature of a certified wetland scientist stating no wetlands are present should be provided. This should be required for completeness.

4. Checklist Item 13 – The location for the proposed business sign does not appear to be on the plan. This could be a condition of approval.

5. Checklist Item 14 – It is not clear if the internally light sign was part of the lighting analysis. If it was not part of the analysis it should be revised to depict the sign's impact on the lighting plan. This should be required for completeness.

6. Checklist Item 17 – It does not appear that the 100-year flood elevation was assessed. If the property is outside of the 100-year, a plan note indicating this fact, along with the citation of the map and panel used to make this determination should be provided. This could be a condition of approval.

Boscawen Site Plan Regulation Requirements:

7. Site Plan Regulation Section V.B – An 8' privacy wall is shown to the northerly property the whole length of the building and partially for the property to the south. Elevations were not provided for the retaining wall and, as such, if the elevation does not match the 8' wall to the south, the privacy wall should be extended the length of the building there as well. Landscaping may also be an effective buffer too.

8. Site Plan Regulation Section V.D.5 – Although snow storage areas were depicted, it is not clear what percentage of the parking area the storage represents. The Regulations require at least 25%. This could be a condition of approval.

9. Site Plan Regulation Section V.D.2 – Safe traffic flow, truck loading and unloading, and no truck maneuvers on the street are requirements. A turning movement plan should be provided to demonstrate compliance. Also, a plan note should indicate that all loading/unloading of trucks should be done on the site and not in the street. This should be required for completeness.

Waivers Requested from Site Plan Regulation Items:

The applicant has not requested any waivers as part of the submittal package.

Boscawen Zoning Ordinance Requirements:

10. Article 7.08.b – The business's sign needs to be setback at least ten feet from the front property line. As it did not appear to be on the plan compliance could not be determined. This could be a condition of approval.

11. Article III.A – All lighting shall be down-cast and dark sky compliant. A note on the lighting plan should indicate this. This could be a condition of approval.

DEVELOPMENT OF REGIONAL IMPACT

12. In accordance with RSA 36:56, the Board shall determine if the proposal is a development of regional impact:

"A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact." That said, the proposal does not appear to have a regional impact.

OTHER COMMENTS

The following are advisory comments based upon commonly held planning principles and the review of the plans received. These comments represent the opinion and professional discretion of the reviewer in considering the materials received in relation to this proposal.

13. Given the historic nature of the corridor and the architecture of some nearby properties it may be beneficial to consider either a building design that "fits" with the corridor's historic properties more or additional landscaping that "breaks up" the façade of the proposed building. This would also be consistent with Site Plan Regulation Section II.B which states that one of the purposes of Site Plan Review is aesthetically pleasing development.

14. Given the mix of uses in the area, adequate landscaping and screening of the residential property to the rear (west) of the site should be provided in the event that the current tree stand is inadequate, and/or too many existing trees are proposed to be cut down during development. Evergreen trees along the property line that directly screen the proposed building could accomplish this. This would also be consistent with Site Plan Regulation Section V.D.5. This could be a condition of approval.

15. The Town's engineer should review the drainage study for compliance with stormwater management provisions and overall engineering feasibility.

16. The Town's engineer should review the traffic memorandum for adequate traffic analysis, appropriate traffic count data, and whether or not traffic mitigation strategies are required.

17. Prior to acting on the application, the Board should receive and review Town Engineer comments on drainage and traffic. Any articulated issues should be addressed either prior to, or as a condition of approval.

18. A driveway permit from the NHDOT should be required as a condition of approval. Also, coordination with NHDOT regarding their design standard requirements would be beneficial to identify any potential off-site improvements that may be required.

19. Other town departments should review the plans and any recommendations should be a condition of approval.

20. Any conditions of approval and waivers granted should be listed on the final plan to be signed.

Given the nature of the proposal and the items submitted, the application could be considered substantially complete once the following are addressed:

- Determination Letter from Code Enforcement Officer is provided.
- Wetland delineation or letter from a certified wetland scientist saying none on site is provided.
- If internally light sign was not part of the lighting analysis an updated lighting plan should be provided.
- A turning movement plan that meets the requirements of Site Plan Regulation Section V.D.2 is provided.

Any item indicated in this memo as missing from the plan could be a condition of approval if the Board felt such item(s) are relevant and are not waived. If the Board chooses to invoke jurisdiction and accept this application as complete, the timelines set forth in RSA 676:4C shall apply. If the application is accepted as complete, the Planning Board can enter into a public hearing if such a hearing was properly noticed in accordance with 676:4D.

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environmental
engineering

UNDERWOOD
engineers

2157.00

April 3, 2017

Mr. Alan H. Hardy
Co-Administrator
Town of Boscawen
116 North Main Street
Boscawen, NH 03303

Re: ***Dollar General Site Plan***
Design Engineering Review Services
Boscawen, New Hampshire

2nd Review

Site Information:

Tax Map/Lot #:	Tax Map 81A Lot 42
Lot Area:	60,147 SF or 1.681 Ac (Control Point Associates, Inc.)
Proposed Use:	Retail Store
Water:	Public Utility Connection
Wastewater:	Private (subsurface disposal)
Zoning District:	Commercial (C)
Applicant:	Lisciotti Development Corp.

Information Reviewed:

- Site Development Plans for Dollar General (15 Sheets) prepared by Bohler Engineering of Southborough MA dated November 14, 2016 (***revised 3/28/17***)
- Drainage Report for Dollar General prepared by Bohler Engineering of Southborough MA dated November 14, 2016 (***revised 3/28/17***)
- Traffic Memorandum prepared by Bohler Engineering of Southborough MA dated March 28, 2017

Dear Mr. Hardy:

Per request of the Planning Board, we have completed a review of the above referenced project information specific to the Applicant's design review response comments dated 3/28/17. We offer the following:

1. **Site Drainage Design (Sheet 5 of 15)**
   a.) Utility Crossing: We note that crossing information has been added to the plan. The proposed sewer force main will have approximately 2' of cover at the drain crossing. The Applicant should confirm the pipe will support the anticipated traffic loads for any crossings with shallow depths of cover and provide any measures necessary for freeze protection. No Further Comment.
   b.) Catch Basin CB-3: No Exception Taken

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fx 603.431.4733
25 Vaughan Mall
Portsmouth, NH 03801
underwoodengineers.com

c.) ***Pipe Separation at Drain Structures:*** No Exception Taken
d.) ***Ridgeline at Drive Entrance:*** The Applicant has clarified the design intent. However, the proposed 310 contour is not shown to tie-in with the existing 310 contour. Final grading may need to be reviewed in the field by Town and/or NHDOT staff prior to pavement installation to confirm the pavement transition will be uniform and provide proper drainage at the gutter line.
e.) ***Proposed Driveway Culvert:*** No Exception Taken
f.) ***Drain Pipe Connections at Existing Structures:*** No Exception Taken
g.) ***Drain Manhole at ADA Curb Ramp:*** No Exception Taken
h.) ***NHDOT Approval:*** No Exception Taken
i.) ***Infiltration Basin #1:*** We note the check dam dimensions are shown on the typical detail provided on Sheet 14. No Exception Taken

2. **Soil Erosion and Sediment Control Plan (Sheet 7 of 15):**
   a.) ***Inlet Protection:*** No Exception Taken
   b.) ***Temporary Settling Basin:*** The Applicant has noted that the Contractor is responsible for maintaining the natural infiltration properties of the subbase soil. This should include field infiltration testing or other confirmatory testing if the native soils are impacted by the Contractor's operations. No Further Comment.

3. **Drainage Construction Details (Sheet 13):**
   a.) ***Flared End Section w. Rip Rap Apron:*** No Exception Taken
   b.) ***Infiltration Basin #1 Outlet:*** No Exception Taken
   c.) ***Typical Section through Infiltration Basin:*** We note the Applicant has provided additional information to clarify the typical sections. The section for Basin No.1 shows the basin floor elevation at 311 and the grading plan shows the floor elevation at 305. No Further Comment.

4. **Drainage Report:**
   a.) ***Basis of Design Infiltration Rate:*** No Further Comment
   b.) ***Recharge Volume:*** No Exception Taken
   c.) ***Watershed Maps:*** No Exception Taken
   d.) ***HydroCAD Model Conditions:*** No Exception Taken
   e.) ***Operation and Maintenance Plan:*** The Town should consider the merits of requesting carbon copies of the Owner's maintenance reports for each inspection or on an annual submission basis. No Further Comment

5. **WB-67 Turning Exhibit:**
   a.) ***Range of Turning Movements:***
      - We note that special site plan notes are provided on the Site Plan that will restrict loading and unloading on NH Rte 3.
      - Although deliveries may be limited to off peak hours, there is still potential that a delivery could occur when a vehicle is parked in a location that will obstruct the proposed turning movement depicted on the templates provided by the Applicant.

For example it is unclear what would happen if a delivery was attempted with a vehicle parked in any of the spaces in the front of the building. This condition should be explained further by the Applicant in a discussion with the Town. The Town should consider approval conditions that restrict deliveries or require smaller delivery vehicles during business hours.

6. **Traffic Memorandum:**
   a.) Trip Generation Report: We take no exception to the Applicant's statement that a traffic impact study is not warranted since the trip generation will be under 100 trips per hour.

We have no further comments based on the information provided and therefore no further review is necessary at this time. Please contact us if you have any questions.

Very truly yours,

UNDERWOOD ENGINEERS, INC.

Benjamin T. Dreyer, P.E.
Project Manager

BTD/btd

cc: Matthew Bombaci P.E., Bohler Engineering

civil &
environmental
engineering

UNDERWOOD
engineers

2157.00

March 6, 2017

Mr. Alan H. Hardy
Co-Administrator
Town of Boscawen
116 North Main Street
Boscawen, NH 03303

Re: ***Dollar General Site Plan***
Design Engineering Review Services
Boscawen, New Hampshire

1st Review

Site Information:

Tax Map/Lot #:	Tax Map 81A Lot 42
Lot Area:	60,147 SF or 1.681 Ac (Control Point Associates, Inc.)
Proposed Use:	Retail Store
Water:	Public Utility Connection
Wastewater:	Private (subsurface disposal)
Zoning District:	Commercial (C)
Applicant:	Lisciotti Development Corp.

Information Reviewed:

- Site Development Plans for Dollar General (15 Sheets) prepared by Bohler Engineering of Southborough MA dated November 14, 2016
- Drainage Report for Dollar General prepared by Bohler Engineering of Southborough MA dated November 14, 2016
- Turning Exhibit for WB-67 Design Vehicle (Departure to North) prepared by Bohler Engineering of Southborough MA dated November 15, 2016

Dear Mr. Hardy:

Per request of the Planning Board, we have completed a limited review of the above referenced project with specific focus on site drainage design, stormwater drainage report and turning movements for the specified delivery vehicle (WB-67). Review comments for the Applicant's Traffic Memo will be provided under separate cover. We offer the following comments:

1. **Site Drainage Design (Sheet 5 of 15)**
   a.) Utility Crossing: The proposed 12" HDPE drain line run from CB-1 to Infiltration Basin #1 will cross proposed water and sewer utility lines. Details for potential conflicts including provisions for minimum separations and insulation (when necessary) should be provided. The design elevations for the sewer lines are not provided in the site plan and it is not clear if there will be a conflict with the proposed drain line.

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25 Vaughan Mall
Portsmouth, NH 03801
underwoodengineers.com

b.) ***Catch Basin CB-3:*** The shallow elevations for this catch basin may not be possible for local manufacturers and should be reviewed closely. The maximum flange height for the frame and grate assembly should be specified in the corresponding detail (Sheet 14).

c.) ***Pipe Separation at Drain Structures:*** The proposed drain lines are in close proximity and/or in conflict with the proposed drainage structures at the driveway entrance area:

- CB-3 is proposed within a foot (or less) of the driveway cross culvert.
- DMH-2 is shown as 2' diameter but will actually be 5' outside diameter which conflicts with the alignment for the drain pipe outlet for CB-3. This condition needs to be resolved.
- Special construction details including compaction, minimum separation and freeze protection are appropriate if drain lines will be within 2' of structures.
- The Applicant should consider options for consolidating piping and structures.

d.) ***Ridgeline at Drive Entrance:*** A ridgeline is called out at the driveway entrance but the orientation and intent is unclear.

- Proposed grading contours indicate a consistent centerline slope toward Route 3 and a slightly super elevated pavement section pitched toward the curb line at the southern limit of the driveway.
- The proposed 310 contour is not shown to tie-in with the existing 310 contour and may result in a pavement transition that is not uniform.
- Additional detail including spot elevations, a cross section and/or notes is needed for clarification.

e.) ***Proposed Driveway Culvert:*** The existing conditions spot elevations are not clearly legible and the existing contour defining the depression at the driveway culvert inlet is not labeled.

- Based on the proposed invert elevation, the existing contour appears to be 308. In this case the 310 and 309 contours are missing up-gradient and the ground slope approaching this area may be steep enough to require slope stabilization.
- A headwall may be needed at the driveway culvert inlet.
- A suitable barrier for pedestrian safety may need to be considered depending on the headwall location or embankment slope
- The Applicant should confirm the capacity of the 12" HDPE drive culvert meets or exceeds the existing 15" RCP culvert it will replace. The Town regulations specify a minimum 15" diameter for driveway culverts.

f.) ***Drain Pipe Connections at Existing Structures:*** The proposed method for connecting new pipes to existing structures should be specified on the plans (e.g. the existing structure which is now DMH-2 will have two new inlet pipe penetrations).

g.) ***Drain Manhole at ADA Curb Ramp:*** The grate and cover assembly for the existing DMH to the south of the driveway entrance may need to be adjusted to match required grades for the proposed ADA curb ramp that will need to be constructed integral to the structure.

h.) ***NHDOT Approval:*** NHDOT District 2/5 should review the driveway culvert replacement, connection to their drainage system (particularly a stormwater detention facility) and any changes in stormwater runoff flow. NHDOT approval/concurrence should be referenced on the plans.

i.) Infiltration Basin #1:

- The inlet location for the drain pipe run from DMH-1 is at the downstream end of the forebay and may allow short circuit conditions. Locating the inlet at the beginning (upstream) of the forebay would be appropriate to meet stormwater design standards. This could be coordinated with any changes for consolidating drainage piping noted in Comment 1.c above.
- Elevations and dimensions for the stone dam separating the forebay and infiltration area should be shown on the plan.
- Minimum dimensions for the outlet stabilization pads (three locations) should be specified on the plans. Alternatively a schedule could be provided with the detail (Sheet 13). This comment should also be applied to Infiltration Basin #2.

2. **Soil Erosion and Sediment Control Plan (Sheet 7 of 15):**

a.) Inlet Protection: Inlet protection should be provided for the 12" HDPE culvert at the north side of the driveway.

b.) Temporary Settling Basin: Infiltration Basin #1 is proposed to be used as a temporary settling basin and notes are provided for removing sediment prior to infiltration basin construction (note "dry water quality swale" is referenced on the plan instead of infiltration basin). More detail is needed so that the native soil's natural infiltration properties will be preserved. For example, if heavy equipment is used to remove sediment, the basin floor will need to be scarified.

3. **Drainage Construction Details (Sheet 13):**

a.) Flared End Section w. Rip Rap Apron: A plunge pool outlet is shown in Section A-A.

- This arrangement is not reflected on the grading plan and should be coordinated
- The minimum side slope for the plunge pool should be specified.
- An 8' length is shown but the plans show only a 5' length.

b.) Infiltration Basin #1 Outlet:

- The 12" HDPE storm drain outlet invert elevation is specified at 255.0 (53' below the rim invert elevation of 308.0). This is apparently a type-o and should be revised.
- The bottom of the structure is specified with an elevation of 306.0. If the structure is constructed to meet this elevation, the outlet pipe will be exposed above grade. This arrangement may not work with the existing outlet elevation of 305.5 at DMH -2 (at S = 0.005 min. the top of pipe would be 306.7). 1' minimum cover over drain pipes is recommended (2' in paved areas).
- The flow path shown in the top view (flow from bottom of page) does not match plan view (flow would be from left of the page).
- A section view showing the embankment profile would clarify the design issues noted above.

c.) Typical Section Through Infiltration Basin: The typical section is generic and not coordinated with the plan information on Sheet 5. A to scale or representative section for each of the two infiltration basins would be appropriate to illustrate the following:

- Width/Length dimensions
- Floor Elevation
- Berm Elevation
- Estimated Seasonal High Water Table (ESHWT)
- Emergency over flow (this is identified on the typical section but not on Sheet 5)
- Minimum width for top of berm
- Forebay dimensions and elevation

4. **Drainage Report:**

*a.) **Basis of Design Infiltration Rate:*** The report states the design infiltration rate is based on USGS web soil survey data for the proposed site with a safety factor applied to the lower range of the published rate. The report also suggests boring log results correlate with the USGS soil data. The Applicant should verify this information is representative of the depths that infiltration is modeled. For example the floor of Infiltration Basin #2 is set approximately 7' below existing grade and boring logs suggest medium dense alluvium with silt content at these depths.

*b.) **Recharge Volume:*** The report should summarize the pre and post conditions recharge volume in a table compared to the recharge volume goal for the site.

*c.) **Watershed Maps:***

- The pre and post conditions watershed maps should be to scale and include a legend.
- The site watershed boundaries appear to be determined primarily by the property and ROW lines. Offsite runoff sources from adjacent properties should be considered (i.e. the parcel abutting to the north and off site drainage flow from Route 3 entering the driveway culvert to the north of the driveway).

*d.) **HydroCAD Model Conditions:***

- The basis for using "Direct Entry" for time of concentration should be stated
- The outlet device for Infiltration Basin #1 is modeled as a 10" round culvert but the Site Plan (Sheet 5) shows a 12" culvert.
- The outlet device for Infiltration Basin #2 is modeled as a 24" x 24" orifice/grate but the Site Plan (Sheet 5) specifies a circular area drain (12" diameter).

*e.) **Operation and Maintenance Plan:***

- The description for Infiltration Basin and Sediment Forebay maintenance specifies inspections to be conducted by a qualified personnel. Definition of a qualified professional should be provided and should include an industry recognized certification (e.g. CPESC, PE, etc.).
- A log for construction maintenance activities is provided. Sample logs for the Owner's maintenance activities should be provided also.
- The Town should consider the merits of requesting carbon copies of the Owner's maintenance reports for each inspection or on an annual submission basis.

5. **WB-67 Turning Exhibit:**
   a.) Range of Turning Movements:
   - Since the turn movements for the design vehicle will require the majority of the driveway and parking area, deliveries may need to be restricted to non-business hours or non-peak hours to limit potential conflicts with public motorists.
   - Delivery may not be possible if certain parking spaces are occupied
   - The pavement limits may need to be extended to the south at the front parking area. As show, the edge of pavement surface is likely to be damaged over time from wheel friction during turn movements.
   - If the ADA curb ramps are to be concrete, the depth should be increased to a minimum of 6" (or more) to withstand WB-67 vehicle loading.
   - The turn movement exhibits should be submitted to NHDOT District 2/5 for review and comment.

We recommend that the Applicant provide a written response to the above comments to facilitate future reviews. Please contact us if you have any questions.

Very truly yours,

UNDERWOOD ENGINEERS, Inc.

Benjamin T. Dreyer, P.E.
Project Manager

BTD/btd

SITE DEVELOPMENT PLANS

FOR:

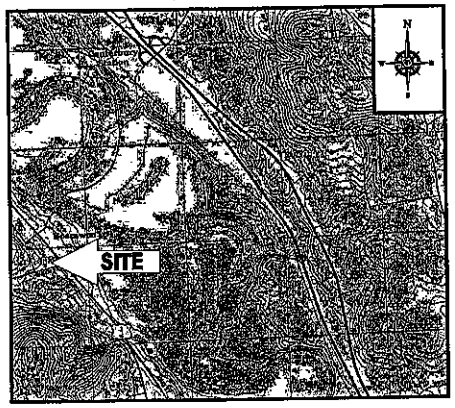
DOLLAR GENERAL

LISCIOTTI DEVELOPMENT

LOCATION OF SITE:

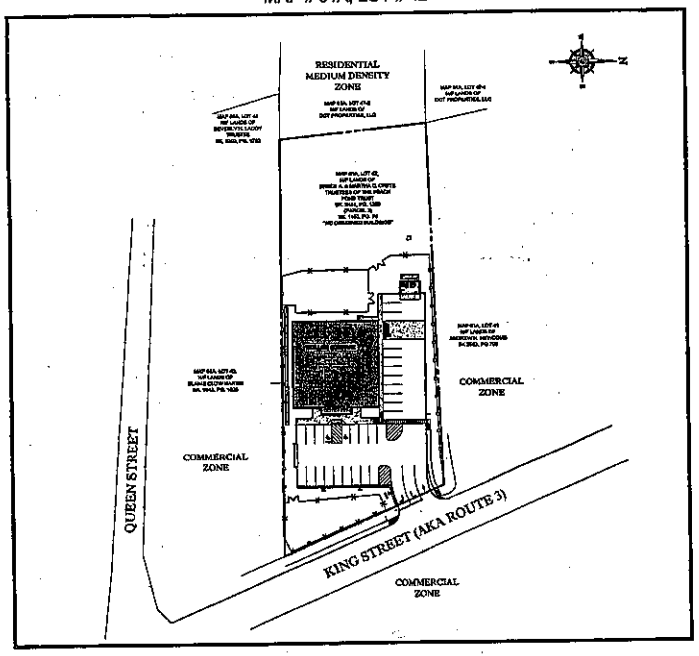
169 KING STREET (ROUTE 3), TOWN OF BOSCAWEN
MERRIMACK COUNTY, NEW HAMPSHIRE

MAP # 81A, LOT # 42



LOCATION MAP

SCALE: 1"=2000'
PLAN REFERENCE: PENACOOK USGS QUADRANGLE



AREA PLAN

SCALE: 1"=40'

SHEET TITLE	SHEET NUMBER
COVER SHEET	1 OF 15
GENERAL NOTES SHEET	2 OF 15
DEMOLITION PLAN	3 OF 15
SITE PLAN	4 OF 15
GRADING & DRAINAGE PLAN	5 OF 15
UTILITY PLAN	6 OF 15
SOIL EROSION & SEDIMENT CONTROL PLAN	7 OF 15
SOIL EROSION CONTROL NOTES & DETAILS SHEET	8 OF 15
LANDSCAPE PLAN	9 OF 15
LANDSCAPE NOTES & DETAILS SHEET	10 OF 15
LIGHTING PLAN	11 OF 15
CONSTRUCTION DETAIL SHEET	12 OF 15
CONSTRUCTION DETAIL SHEET	13 OF 15
CONSTRUCTION DETAIL SHEET	14 OF 15
CONSTRUCTION DETAIL SHEET	15 OF 15
ALTA/NSPS LAND TITLE SURVEY (BY OTHERS)	1 OF 1

SHEET INDEX

PREPARED BY

BOHLER ENGINEERING

811 Know what's below. Call before you dig.

BOHLER ENGINEERING

REVISIONS

REV	DATE	COMMENT	BY
1	12/16/16	PER CMHPC COMMENTS	MMA
2	3/28/17	PER NHDOT & PER REVIEW COMMENTS	MMA
3	5/1/17	PER PB & DOLLAR GENERAL COMMENTS	MKB
4	5/12/17	PER NHDOT COMMENTS	MKB
5			
6			
7			
8			
9			

PERMIT SET

PROJECT No.: W16973
DRAWN BY: MMA
CHECKED BY: APY
DATE: 11/14/16
SCALE: AS NOTED
CAD FILE: W16973_SDD (METRIC) - 1) REV 4

PROJECT:
SITE DEVELOPMENT PLANS
FOR
DOLLAR GENERAL
LISCIOTTI DEVELOPMENT

LOCATION OF SITE
169 KING STREET (ROUTE 3)
TOWN OF BOSCAWEN
MERRIMACK COUNTY
NEW HAMPSHIRE

BOHLER ENGINEERING
352 TURNPIKE ROAD
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M.D. SMITH
PROFESSIONAL ENGINEER

SHEET TITLE:
COVER SHEET

SHEET NUMBER: 1 OF 15

REV 4 - 05/12/2017

TARBELL & BRODICH, PA
ATTORNEYS AT LAW

July 14, 2017

James F. Raymond, Esq.
Upton & Hatfield, LLP
10 Centre Street
P.O. Box 1090
Concord, NH 03302-1090

RE: Lisciotti Development Application for Site Plan Approval
169 King Street (Routes 3 & 4), Boscawen, NH
Tax Map 81A, Lot 42

Dear Jim:

I have been able to meet with my clients to discuss potential dates for the Planning Board's meetings on this application. I appreciate you reaching out to me to coordinate same, recognizing everyone's scheduling logistics and summer vacation plans. I do apologize for any delay in getting back to you. I understand that the first Tuesdays of the month are reserved for the Planning Board's regular meetings, and therefore, unavailable. I would propose September 12, 2017 for the first meeting, October 10, 2017 for the continued meeting, and if a third or more meetings are necessary, that they be scheduled in the ordinary course as the parties' calendars permit. My thinking on scheduling is as follows.

Per our agreement on remand, I believe the first order of business will be Planning Board review and acceptance (assuming completeness) of the application. Given the prior proceedings, I think it would make sense for the applicant to submit what it believes to be the most current and complete version of the application for acceptance. I also think that makes a lot of sense from a practical perspective such that the members of the Planning Board and the public don't have to sift through the record of the prior proceedings and everyone is, both figuratively and literally, on the "same page." Per RSA § 676:4 I (b), that must be submitted at least 21 days before the meeting at which the application will be accepted.

Eaton W. Tarbell, Jr.
Nicholas Brodich
Shane R. Stewart
Eaton W. Tarbell, III
*Friedrich K. Moeckel**
*James F. Pross***
David E. LeFevre

All Attorneys admitted in New Hampshire or as otherwise designated.

**Also admitted in Massachusetts*
***Admitted in Maine only*

Reply to:
Concord, NH Office
45 Centre Street
Concord, NH 03301

1-877-898-1135
603-226-3900 Tel
603-225-5398 Fax

Auburn, ME Office
86 Main Street, Suite 203
Auburn, ME 04210

207-333-6005 Tel
207-333-6006 Fax

To the extent the application has changed, it should be re-submitted to the Central Regional Planning Commission. We assume that the CRPC could provide its responses in time for a meeting on September 12th. In addition, I am aware that the Planning Board has adopted a new rule of procedure which requires that all submission to the Planning Board be made at least ten (10) days prior to the scheduled hearing, to avoid last minute submissions, and to provide ample time for review prior to the meeting.

My clients would like, and please accept this letter as a formal request, that the Planning Board require that a representative of Dollar General be in attendance at the meeting to attest to the veracity of the applicant's factual representations regarding the proposed use, and to answer any questions of the public. We assume that Dollar General can make its representative available by September 12th.

Lastly, as I indicated to you in an earlier e-mail, I have a long scheduled and much anticipated vacation from August 12-19, 2017, my clients also have scheduled vacations, and realistically our first availability is September 12th.

If these dates are agreeable, please let me know. Please call with any questions.

Sincerely,

TARBELL & BRODICH, P.A.

By: David E. LeFevre, Esq.
e-mail: dlefevre@tarbellpa.com

Enclosure(s)

cc: Clients (via e-mail only)
Paul J. Bauer, Esq. (via e-mail only)