

DERBY PLANNING COMMISSION *MINUTES*** December 7, 2009**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Richard Del Favero, Cynthia Adams.

OTHERS PRESENT: ZA Bob Kelley.

7:05 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Nov 23) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission worked on the Town Plan starting with the section on Derby Center Residential Districts and continued thru to the Flood Hazard Overlay District. Minor changes were approved, a section on the Shoreland District was added, the section on Public Lands was deleted, and Bob Kelley will rewrite the opening paragraph to the Town of Derby Overlay Districts for the Commission to review.

8:50 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION ***MINUTES*** November 23, 2009

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: Joseph Gresser, Bill Simendinger, Roland Roy, Perry Hunt, Myron Brainard, Clifton Cargill, Keith Beadle, Marlie Rouleau, Kevin Barrup, Jack Stouffer, Carolyn Stouffer, Robin Smith, Frank Davis, Gina Alberghini, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Nov 9) as written. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-142 by Kevin Barrup, PIN #RT111090H7T, for preliminary and final plat review to subdivide a 25 acre lot into 4 lots. It is proposed to have three 5-acre lots and one 10-acre lot. This property is located at 2888 Route 111 and is in a Rural Residential zoning district. Kevin Barrup was present to explain the request. 10 acres was recently subdivided off this lot. All lots have road frontage on Rte 111. Lot width was discussed in detail. Myron Brainard noted that there is a spring in the road just to the west of this subdivision. There is a 30-inch culvert crossing the road and drainage from the north side of Rte 111 flows thru the culvert and across lot #1. Lot #1 was subdivide off in an earlier permit and is not a part of this application. Mr. Barrup is not planning at this time to get wastewater permits from that State for lots 3 thru 5. There was no further testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-142 by Kevin Barrup. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission began review access and circulation for the Farmer's Market as per Planning Commission condition #5 on permit 09-029 by Real Desrochers, PIN #NDRT5059F4C. This property is located on US Route 5 and is in a Commercial zoning district. Jack Stouffer was present to answer the Commission's questions. No problems were noted with the access or circulation during this first year for the Farmer's Market. Because it is anticipated that more customers will be going to the Market in the future as the Market gets better established the Commission thought it would be wise to keep an eye on the access and circulation for at least another year. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on the review of access and circulation for permit 09-029 by Real Desrochers. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission began discussion on a proposed bylaw amend by the Derby Line Village Trustees that would require new Auto Service Stations/Mini Marts in the Village Commercial Derby Line zoning district to be located more than 500 ft from the property line of an existing Auto Service Station/Mini Mart. The Selectboard will be holding a hearing next Monday to decide if they should make this an interim bylaw. The Trustees explained why they were seeking this amendment. Discussion centered on the cons of having a mini mart immediately to the north of the US Customs and the main concerns were preserving the character of the commercial district and circulation into and out of the lot. They felt it would create a safety issue for both drivers and pedestrians. Bill Simendinger, agent for Main Street Place LLC (owner of the 2 properties north of the US Customs), felt that the amendment would amount to spot zoning. He stated that without competition people pay higher prices. Frank Davis expressed his concerns and did not feel it was appropriate for the ZA to have notified Mr.

Simendinger about the proposed interim bylaw. After all discussion was heard the Commission decided to move on with their agenda and come back to this later.

Dave LaBelle made a motion to reopen application 09-141 by Richard Giroux, PIN #NDRT5052F4C, to amend his existing permit for used car sales. The proposed amendments are to change the landscaping and to expand the auto display area. This property is located at 24 Joseph Street and is in a Commercial zoning district. This application was recess from their last meeting. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Gina Alberghini was present to explain the application. It was noted that Joe Profera and Cynthia Adams have both listened to the tape of last weeks hearing and reviewed all the application materials and therefore will be participating in this application. Landscaping and greenstrips were discussed. Abutting property owner Bill Simindinger stated he did not have a problem with display vehicles being parked 5 ft from his property line. Gina Alberghini mentioned the possibility of leasing some land to satisfy the greenstrip requirement. There was no further testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-141 by Richard Giroux. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission resumed discussion on the proposed bylaw amendment/interim bylaw. Joe Profera and Richard Del Favero are in favor of the Selectboard enacting the interim bylaw and Jim Bumps, Cynthia Adams and Dave LaBelle are opposed. The ZA was asked to notify the Selectboard of this. The Planning Commission decided that they would not be pursuing the proposed permanent bylaw amendment submitted by the Derby Line Village Trustees.

8:25 p.m.: Cynthia Adams made a motion to enter into deliberative session to discuss closed applications. Seconded by Dave LaBelle. **Approved by a unanimous decision.**

9:10 p.m.: Upon returning from deliberative session Cynthia Adams made a motion to grant final plat approval for application 09-142 by Kevin Barrup, PIN #RT111090H7T, to subdivide a 25 acre lot into 4 lots. Three 5 acre lots and one 10 acre lot with the condition that a mylar of the approved subdivision be filed with the Derby Town Clerk within 180 days of this decision (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision (note Richard Del Favero abstained from voting on this application because he is an abutting property owner).**

Dave LaBelle made a motion to require as a condition to permit 09-029 by Real Desrochers for a Farmer's Market that the applicant must come back before the Planning Commission for review of access and circulation prior to December 1, 2010 (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion grant site plan approval for application 09-141 by Richard Giroux to reduce the greenstrip requirement along Route 5 and Joseph Street from 25 ft to 10 ft and to eliminate the lilac trees and rose bushes along the westerly side of the property with the following conditions. 1) A 10 wide greenstrip along the westerly property line must be maintained. 2) A row of coniferous trees 10 ft on center must be planted in the greenstrip along the southern property line. 3) All landscaping must be maintained by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner. (see attached written decision) Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Commission decided that they will not have a meeting on December 21, 2009.

9:25 p.m.: Upon a motion by Dave LaBelle and seconded by Cynthia Adams, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** November 9, 2009**

MEMBERS PRESENT: Richard Del Favero, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Joe Profera, Cynthia Adams.

OTHERS PRESENT: Gina Alberghini, ZA Bob Kelley.

7:00 p.m.: Acting Chair Dave LaBelle called the meeting to order. Richard Del Favero made a motion to approve the minutes to the last meeting (Oct 26) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Acting Chair Dave LaBelle read the warning for application 09-141 by Richard Giroux, PIN #NDRT5052F4C, to amend his existing permit for used car sales. The proposed amendments are to change the landscaping and to expand the auto display area. This property is located at 24 Joseph Street and is in a Commercial zoning district. Gina Alberghini was present to explain the request. The proposed changes to the landscaping include deletion of the coniferous trees on the south side and deletion of the lilac trees and rose bushes on the west side. The proposed expansion of the display area would be to reduce the greenstrip along Rte 5 and Joseph Street from 25 ft to 10 ft and along the west side from 10 ft to 5 ft. Ms. Alberghini submitted 2 letters; one from Mark & Amy Giroux (abutting property owners to the south) stating they are very content to leave the property line as is, without the addition of any trees or fencing; the other letter is from WESTCO, Inc (abutting property owners to the west) giving Giroux Auto permission to park within five feet of their property line. The Commission had some concerns with the proposed greenstrip being reduced to 5 ft on the west side and would like to have the absent Commission members listen to the tape of tonight's meeting so that they can weigh in on the proposed landscaping changes. There was no testimony from interested parties. Richard Del Favero made a motion to recess the hearing on application 09-141 by Richard Giroux until November 23, 2009 at 7:00 pm here in the municipal building. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission might take further testimony at their next meeting.

It was decided to not working on the Town Plan tonight.

8:10 p.m.: Upon a motion by Richard Del Favero and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION ***MINUTES*** October 26, 2009

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: John Bevins, Gina Alberghini, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Oct 12) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-132 by Kevin Barrup, PIN #NDRT5060F4C1, for a 30 ft by 45 ft addition to the rear of the existing carwash to be used for an express oil change and automotive use. This property is located at 3693 Route 5 and is in a Commercial zoning district. John Bevins was present to explain the request. There will be 4 bays for oil changes, 1 in the front and 3 in the rear. There will be 3 car wash bays, one will not be a drive thru. He would like to continue to sell used cars. Signage will be on the building. The Commission has concerns with traffic flow and the aesthetics of the existing white stones. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-132 by Kevin Barrup. Seconded by Cynthia Adams. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Gina Alberghini was present to informally discuss the Giroux application scheduled for their next meeting. She would like the application process to go smoothly and would like to know if there are any concerns about the application jumps out at the Commission that she may be able to address before their next meeting. One thing that jumped out at the Commission was the request to reduce the greenstrip on the west side to 5 ft.

The Commission decided not to work on the town plan tonight and went into deliberative session to discuss closed applications.

Upon returning from deliberative session Dave LaBelle made a motion to grant site plan approval for application 09-132 by Kevin Barrup, PIN #NDRT5060F4C1, for a 30 ft by 45 ft addition to the rear of the existing carwash to be used for an express oil change and automotive use with the following conditions:

1. The 4 trees proposed along the east side of the property shall be planted no further than 10 ft from the property line.
2. The 3 trees proposed along the street shall be relocated to be on the west side of the property between the front corner of the office and the back corner of the proposed building.
3. The white stones along the west side of the property shall be removed and the area grassed or mulched and landscaped with a minimum of 9 shrubs.
4. One group of 3 shrubs shall be planted to the west of the entrance.
5. Four groups of 3 shrubs shall be planted to the east of the entrance.
6. The display area for used car sales is reduced to one row of cars to the east of the entrance.

Seconded by Jim Bumps (see attached written decision). Ayes – Joe Profera, Dave LaBelle, Jim Bumps, Richard Del Favero. Nays - Cynthia Adams. **Approved by a majority decision.**

Cynthia Adams made a motion to grant final plat approval for application 09-114 by Ronald & Robin Taber, PIN #SSTER010A7L1, for a 2 lot subdivision, lot #1 - 0.68 ac and lot #2 - 0.34 ac with the following conditions:

1. A mylar of the approved subdivision plat must be filed with the Derby Town Clerk within 180 days of this decision.
2. ANY change to the existing contours of either lot must be approved by the Planning Commission.

Seconded by Jim Bumps (see attached written decision). **Approved by a unanimous decision with Joe Profera and Richard Del Favero abstaining.**

Dave LaBelle made a motion to grant site plan approval for application 09-111 by Todd & Cindy Willis, PIN #NDRT5055F4C, for modifications to the display area for used car sales with the following conditions:

1. A minimum of 3 ornamental trees shall be planted along the east side bordering the Elks property starting even with the front face of the existing office building.
2. A minimum of 1 group of 3 shrubs shall be planted on the east side of the eastern entrance.
3. A minimum of 4 groups of 3 shrubs shall be planted in the greenstrip between the 2 entrances.

Seconded by Jim Bumps (see attached written decision). **Approved by a unanimous decision with Cynthia Adams abstaining.**

9:25 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** October 12, 2009**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Joe Profera, Richard Del Favero.

OTHERS PRESENT: Robin Taber, Richard Giroux, Gina Alberghini, Cheryl Buckland, Ken Ruff, Marge Ovitt, Michael Ovitt, Randy Dutil, John Bevins, Rod Barrup, Kevin Barrup, Brent Hilliard, ZA Bob Kelley.

7:00 p.m.: Acting Chair Dave LaBelle called the meeting to order. Cynthia Adams made a motion to approve the minutes to the last meeting (Sept 28) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Cynthia Adams made a motion to reopen application 09-114 by Ronald & Robin Taber, PIN #SSTER010A7L1, for preliminary and final plat review for a 2 lot subdivision. Lot #1 is 0.68 ac and lot #2 is 0.34 ac. This property is located on Sunset Terrace and is in the Village Residential One Derby Line zoning District. Seconded by Jim Bumps. **Approved by a unanimous decision.**

It was noted that the Planning Commission did a site visit at 6:30 prior to tonight's meeting. Jim Bumps, Dave LaBelle and Cynthia Adams were present at the site visit along with various members of the public and the Zoning Administrator.

Robin Taber was present to explain the request. Mrs. Taber submitted a site plan with the existing contours of the lot. The Commission had concerns of how future development of the lots would affect the existing drainage patterns. Mrs. Taber stated that they do not have any plans to develop the lots themselves. Mike Ovitt, Marge Ovitt and Randy Dutil asked questions concerning drainage, snowmelt, bonding and blasting. Cynthia Adams made a motion to close the hearing on application 09-114 by Ronald & Robin Taber. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Acting Chair Dave LaBelle read the warning for application 09-107 by JLD Properties of Derby, PIN #NDRT5017G3T, to continue to park school buses on the lot. This property is located on Route 5 and is in a Commercial zoning district. Brent Hilliard was present to explain the request. NCUHS is hoping to have a permanent location for their buses soon. No changes are proposed to the existing lots. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-107 by JLD Properties of Derby. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Acting Chair Dave LaBelle read the warning for application 09-124 by Kevin Barrup, PIN #RT111090H7T, for preliminary and final plat review for a 2-lot subdivision. Lot #1 is 10.5 acres and lot #2 is 25 acres. This property is located at 2888 Route 111 and is in a Rural Residential zoning district. Kevin Barrup was present to explain the request. Mr. Barrup has plans to further subdivide the 25 ac lot, but will submit a future application to do so. This application is just for the 2 proposed lots. Under a prior subdivision permit Mr. Barrup stated that he has split a 2 ac lot off of this property. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-124 by Kevin Barrup. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed

that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Jim Bumps made a motion to reopen application 09-111 by Todd & Cindy Willis. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Members that were present during the initial hearing were not present, so Jim Bumps made a motion to recess application 09-111 by Todd & Cindy Willis until October 26, 2009 at 7:00 pm here in the municipal building. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Cynthia Adams made a motion to table working on the Town Plan. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Gina Alberghini and Richard Giroux were present and wanted to discuss changes to they would like to make to the existing permit for their used car lot on Joseph Street. They are currently in Court with the Town for alleged violations of their permit. They explained the changes they would like to make and the Commission appeared receptive to the changes. An amendment to their existing permit would have to be submitted.

The Commission deliberated on the JLD application, there is essentially no landscaping on the lot, but the use is only temporary. Cynthia Adams made a motion to grant application 09-107 by JLD Properties of Derby, PIN #NDRT5017G3T, to continue to park school buses on the lot with the condition that the permit will expire 3 years from the date of this decision (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission deliberated on the Barrup application. Cynthia Adams made a motion to grant final plat approval for application 09-124 by Kevin Barrup, PIN #RT111090H7T, for a 2-lot subdivision. Lot #1 is 10.5 acres and lot #2 is 25 acres +- with the condition that a mylar of the approved subdivision be filed with the Derby Town Clerk within 180 days of this decision (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission deliberated on the Taber application. No decision was made. They plan on continuing deliberations at their next meeting.

8:42 p.m.: Upon a motion by Cynthia Adams and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** September 28, 2009**

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Richard Del Favero, Jim Bumps.

OTHERS PRESENT: Ronald Taber, Robin Taber, Cheryl Buckland, Tim Gustafson-Byrne, Marge Ovitt, Randy Dutil, George Hardy, Roger Sanville, Lawrence Brow, ZA Bob Kelley.

7:03 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Sept 14) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

It was noted that a site visit was held at 6:30 prior to this meeting at Right Wheels. Joe Profera, Dave LaBelle, Bob Kelley and Todd Willis were present.

Chair Joe Profera read the warning for application 09-114 by Ronald & Robin Taber, PIN #SSTER010A7L1, for preliminary and final plat review for a 2 lot subdivision. Lot #1 is 0.68 ac and lot #2 is 0.34 ac. This property is located on Sunset Terrace and is in the Village Residential One Derby Line zoning District. Ronald & Robin Taber were present to explain the request. Mr. Taber explained that he is proposing to subdivide the existing lot into 2 lots and he feels that the proposed lots meet all the dimensional requirements of the bylaw. The commission raised concerns about the drainage swale that crosses the property. Mr. Taber felt that the drainage concerns should be addressed when the lots are developed and he is not proposing any construction on these lots at this time. Marge Ovitt, George Hardy, Tim Byrne and Randy Dutil raised concerns ranging from watershed issues, to what type of house might be built, to the village blasting when installing the sewer line. The Commission felt that a site visit was warranted. Dave LaBelle made a motion to recess the hearing on application 09-114 by Ronald & Robin Taber until their 7:00 pm October 12, 2009 meeting here in the municipal building, with a site visit at 6:30 pm October 12, 2009 prior to the meeting. The public is welcome to attend the site visit. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-116 by Lawrence Brow & Roger Sanville, PIN #TRD04070D2T, for preliminary and final plat review for a 2 lot subdivision. Lot #1 is 2.0 ac and lot #2 is 3.3 ac. This property is located on Darling Hill Road and is in a Residential Two Acre zoning district. Mr. Brow and Mr. Sanville were present to explain the request. Lot #1 has a State wastewater permit and lot #2 does not. Location of driveways accessing the lots will depend on the future house designs. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-116 by Lawrence Brow & Roger Sanville. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission deliberated on the Brow/Sanville application. Cynthia Adams made a motion to grant application 09-116 by Lawrence Brow & Roger Sanville, PIN #TRD04070D2T, for final plat approval for a two lot subdivision as submitted with the condition that a mylar of the approved subdivision be filed with the Derby Town Clerk within 180 days of this decision (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-111 by Todd & Cindy Willis, PIN #NDRT5055F4C, for modifications to the display area for used car sales and for additional landscaping. This property is located at 3762 Route 5 and is in a Commercial zoning district.

This application was recessed from their Sept 14th meeting. Dave LaBelle made a motion to recess the hearing on application 09-111 by Todd & Cindy Willis until their 7:00 pm meeting on October 12, 2009 because 2 members that participated in the initial hearing are absent tonight. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Commission decided not to work on the Town Plan tonight.

8:38 p.m.: Upon a motion by Cynthia Adams and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** September 14, 2009**

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Todd Willis, Cindy Willis, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Aug 31) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-111 by Todd & Cindy Willis, PIN #NDRT5055F4C, for modifications to the display area for used car sales and for additional landscaping. This property is located at 3762 Route 5 and is in a Commercial zoning district. Todd Willis was present to explain the request. He explained the changes from what was previously approved. He would like to pave in front of the existing retaining wall for additional vehicle display and to assist in snow removal. Total vehicles to be displayed on the lot has increased to 130 vehicles. 2 trees and 12 shrubs are proposed in greenstrip in front of the building. Dave LaBelle made a motion to recess the hearing on application 09-111 by Todd & Cindy Willis. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission discussed the application and decided a site visit was warranted. They scheduled a site visit for 6:30 p.m. on Monday September 28, 2009.

It was decided not to work on the Town Plan tonight.

The ZA handed out application packets for their next meeting and the Commission reviewed their mail.

8:12 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** August 31, 2009**

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: Reginald Abbott, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Aug 17) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to reopen application 09-081 by Reginald Abbott. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-081 by Reginald Abbott, PIN #TRD41001G3T, to change the use of an existing building. It is proposed to use the 1st floor for retail, 2nd floor for office, and basement for light industrial. This property is located at 30 Crawford Road and is in a Commercial zoning District. Reginald Abbott was present to explain the request. A revised site plan with changes to the parking and landscaping was reviewed. Deliveries will be mainly UPS or FedEx. Handicap accessibility was discussed in detail. The basement and first floor levels will be handicap accessible. The realignment of Crawford Road and the parking on the north side of the building was discussed. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-081 by Reginald Abbott. Seconded by Cynthia Adams. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission deliberated on the Abbott application. Dave LaBelle made a motion to grant application 09-081 by Reginald Abbott, PIN #TRD41001G3T, to change the use of an existing building to 1st floor for retail, 2nd floor for office, and basement for light industrial with the following 5 conditions: 1) Parking and landscaping are approved as per site plan S-1 by All systems Septic Design with a revision date of 8/20/09; 2) Entrance into the south side parking lot must be paved to a depth of 25 ft from the edge of the Crawford Road; 3) The driveway and 2 parking spaces on the north side of the building shall not be install or used until the intersection of Crawford Road and Route 5 is realigned with Shattuck Hill Road; 4) The 2nd floor offices shall not be used until the 2 parking spaces on the north side of the building are installed and paved; and 5) All exterior lights shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the property and the perimeter of the area to be illuminated. (see attached written decision) Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Commission continued review of the Proposed Town Plan from where they left off. The Commercial and Village Commercial sections were reviewed and changes were made. While reviewing the zoning maps it was noted that the Willis property on Route 5 should all be in the Commercial district. It was also noted that the 5,000 and 10,000 sq ft commercial area limits in the village commercial zones should be clarified as to whether this includes outside display areas or not. The ZA made a note to add these items to his list of possible bylaw amendments.

8:50 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** August 17, 2009**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Richard Del Favero.

OTHERS PRESENT: ZA Bob Kelley.

7:05 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Aug 3) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Commission began review of the Town Plan. Changes made at their July 20th meeting were reviewed and approved. In continuing their review the Commission worked their way thru and made changes to Protection of the Environment and Rare and Irreplaceable Areas and to the Land Use sections. Land Use was only reviewed thru the "Industrial and Commercial/Industrial" section and they will pick up at the "Commercial" section next time.

8:30 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** August 3, 2009**

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: Reginald Abbott, Laura Suchla, Lew Oovone, Michael Gosselin, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (July 20) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Mr. Gosselin had not arrived yet so the Commission skipped to the next application.

Chair Joe Profera read the warning for application 09-081 by Reginald Abbott, PIN #TRD41001G3T, to change the use of an existing building. It is proposed to use the 1st floor for retail, 2nd floor for office, and basement for light industrial. This property is located at 30 Crawford Road and is in a Commercial zoning District. Reginald Abbott and Lew Oovone were present to explain the request. Lew Oovone will be renting the basement level to rebuild printer cartridges. He explained that there will only be 2 employees and they will be catering mainly to business. He expects a relatively low volume of walk in customers. Mr. Abbott explained the other aspects of the project including lighting, parking, and landscaping. The walkway in front of the building will not be as depicted on the site plan, it will loop out away from the building. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-081 by Reginald Abbott. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 09-074 by Michael Gosselin, PIN #TRD22055E7T1, for conceptual and final plat approval for a two lot subdivision. Lot #1 6.6 ac and lot #2 3.6 ac. This property is located at 1999 Nelson Hill Road and is in a Residential 2-Acre zoning district. Michael Gosselin was present to explain the request. The State has approved the septic design. There was no testimony from interested parties. Richard Del Favero made a motion to close the hearing on application 09-074 by Michael Gosselin. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission deliberated on the Gosselin application. Cynthia Adams made a motion to grant application 09-074 by Michael Gosselin, PIN #TRD22055E7T1, for final plat approval for a two lot subdivision as submitted with the condition that a mylar of the approved subdivision be filed with the Derby Town Clerk within 180 days of this decision (see attached written decision). Seconded by Richard Del Favero. **Approved by a unanimous decision.**

The Commission deliberated on the Abbott application. It was decided that they needed more information. Dave LaBelle made a motion to reopen the hearing for application 09-081 by Reginald Abbott. Seconded by Cynthia Adams. **Approved by a unanimous decision.** It was decided to continue the hearing on August 31, 2009 and it was understood that the owner and abutters will have to be notified. It was also understood that the clock has started on their 45 days to make a decision. The Commission would like the following information from the

applicant: 1) Actual location of the walkway in front of the building, 2) proposed landscaping between the walkway and the building, 3) how the walkway will be accessed from to the parking lot, 4) design of the entrance into the building on the side facing the Community Bank, including how this affects parking, and 5) information on how deliveries will be made. The Commission would also like the Zoning Administrator to check on handicap parking requirements.

The Commission decided not to work on the Town Plan tonight.

8:45 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION ***MINUTES*** July 20, 2009

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: John Stevens, John Vining, Ann Vining, Dean Palin, ZA Bob Kelley.

7:05 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (July 6) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-069 by Ann Vining, PIN #TRD41007G3T, for conceptual and final plat review to split off a 4.42 acre lot from a 30+ acre parcel. This property is located off Crawford Road and has a 50 ft wide Right Of Way access to Route 5 and is in a Commercial zoning district. John Stevens was present to explain the request. The Vinings will retain a 50 ft wide R.O.W. across the 4.42 ac lot. Sole access to the 4.42 ac lot is via a 50 ft R.O.W. off of Route 5. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-069 by Ann Vining. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

After deliberating on the above application Cynthia Adams made a motion to grant site plan approval to application 09-069 by Ann Vining, PIN #TRD41007G3T, to split off a 4.42 acre lot from a 30+ acre parcel as submitted (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.** The Derby bylaw does require that a Mylar be filed with the Town Clerk within 180 days.

The Commission reviewed a draft of a possible bylaw amendment to allow the Commission to require bonding to ensure that all improvements for a project are completed. Their main concern was that paving, landscaping, lighting, etc gets completed. They agreed with the following wording, but would like to get more info on the whole bonding process prior to warning a public hearing for this amendment.

The Planning Commission may require the landowner to file with the Town a performance bond, letter of credit, or other approved means of security, in order to ensure the proper installation of all improvements. The amount, effective time period, the form, sufficiency, manner of execution, and surety of this security shall be to the Planning Commission's Satisfaction. The applicant shall pay within 30 day of billing for any costs incurred by the Town for outside expert review (legal council, engineer, etc) related to the required security.

The Commission discussed the upcoming Selectboard public hearings regarding road classification changes and road discontinuances. It was a consensus of the Commission that they do not support the discontinuance or down grading of any public right of way. There is no telling what the future will bring and it is easier to upgrade an existing right of way than it would be to recreate a new one. In addition, the changing of a portion of the Upper Quarry Road to a legal trail is in direct conflict with the Town Plan, which states, "as lands to the north develops, Quarry Road should be connected with Darling Hill Road to improve safety via alternative access and lessen usage of Route 5. With this connection, Quarry Road would perform a

sufficiently higher order function as to be designated a collector”. The Zoning Administrator was instructed to write a memo to the Selectboard outlining the Commission’s position on this.

The Commission begin what they hope is the final review of the Town Plan draft. Their goal is to start at the beginning and systematically work thru section by section until they get to the end. They value public input and have decided to schedule public input at the end of the meeting so that the public may make suggestions on the completed sections. The following sections were reviewed and minor changes were approved: History of the Town of Derby; Introduction to the Plan; Community Profile; and General Goals and Objectives. There was no public input on these sections. The next time they will start review with the Protection of Environment and Rare and Irreplaceable Areas section and continue their systematic review.

8:50 p.m.: Upon a motion by Cynthia Adams and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** July 6, 2009**

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Richard Del Favero, Jim Bumps.

OTHERS PRESENT: Rodney Barrup, Tim Gustafson-Byrne, ZA Bob Kelley.

7:15 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Jun 22) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Tim Gustafson-Byrne had not arrived at the meeting yet so the Commission skipped to the next application.

Chair Joe Profera read the warning for application 09-058 by Rodney & Marilyn Barrup, PIN #TDR28006E4T, for a 78 ft by 43 ft storage building. This property is located at 516 Lower Quarry Road and is in an Industrial zoning district. This application was tabled from the June 22, 2009 meeting. Rodney Barrup was present to explain the request. There will be no power to the building, no lights and no change to the existing access. There is a dedicated green strip in front of the building of at least 15 ft width. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-058 by Rodney & Marilyn Barrup. Seconded by Cynthia Adams. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 09-065 by Tim Gustafson-Byrne, PIN RT111004G5C, for site plan approval to add a second story to his existing commercial building for a 30 ft by 24 ft single bedroom apartment. This property is located at 78 VT Rte 111 and is in a Village Residential/Multi-Family Derby Center zoning district. Tim Gustafson-Byrne was present to explain the request. He will be tearing down the garage portion of the building and rebuilding it with the apartment on the second floor. There will be 2 exists for the apartment. The exterior light in the rear will be motion sensor with 2 spotlights. Six-foot tall cedar trees will be used for the proposed extension of the cedar hedge. There are 3 parking spaces in the rear. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-065 by Tim Gustafson-Byrne. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission deliberated on the closed applications.

Cynthia Adams made a motion to grant site plan approval for application 09-058 by Rodney & Marilyn Barrup, PIN #TDR28006E4T, for a 78 ft by 43 ft storage building as submitted (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant site plan approval for application 09-065 by Tim Gustafson-Byrne, PIN RT111004G5C, to add a second story to his existing commercial building for a 30 ft by 24 ft single bedroom apartment as submitted with the condition that the proposed continuation of the cedar hedge must be installed as per the site plan (see attached written decision). Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Commission decided not to work on the Town Plan tonight.

7:55 p.m.: Upon a motion by Dave LaBelle and seconded by Cynthia Adams, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** June 22, 2009**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Richard Del Favero.

OTHERS PRESENT: ZA Bob Kelley.

7:05 p.m.: Chair Joe Profera called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (Jun 8) as written. Seconded by Joe Profera. **Approved by a unanimous decision.**

The applicant was not present to explain application 09-058 by Rodney & Marilyn Barrup, PIN #TDR28006E4T, for a 78 ft by 43 ft storage building. This property is located at 516 Lower Quarry Road and is in an Industrial zoning district. The Commission tabled this application until later in the meeting to give the applicant time to show up.

The Commission resumed deliberations on application 09-048 by Nadeau Properties LLC, PIN #NDRT5021G3T, for site plan review to construct a 2,948 sq ft commercial building and to construct a 960 sq ft cold storage addition to an existing building.

Dave LaBelle has listened to the recording and reviewed all materials submitted with this application and is therefore qualified to participate in the decision. A site visit was conducted prior to tonight's meeting with Joe Profera, Jim Bumps, Dave LaBelle, and ZA Bob Kelley present. The Commission did not feel that parking spaces on abutting property could be used to satisfy parking requirements unless there is an agreement with the abutter for this use. Landscaping, access, circulation, and drainage were discussed. Dave LaBelle made a motion to grant site plan approval for application 09-048 by Nadeau Properties LLC for a 960 sq ft cold storage addition to an existing building only with the following conditions and specifically not approve the 2,948 sq ft commercial building.

1. The 10 ft wide greenstrip along the front property line as depicted on the revised site plan received 6/8/09 (submittal A-14) must be installed.
2. All driveway openings must be paved for the first 25 ft from the edge of Route 5.
3. Additional landscaping along the front greenstrip is required and must consist of a minimum of 4 red maple trees and 16 deciduous shrubs.

Seconded by Jim Bumps. **Approved by a unanimous decision with Cynthia Adams abstaining.** See attached written decision.

Because the applicant never showed up, Dave LaBelle made a motion to table application 09-058 by Rodney & Marilyn Barrup until 7:00 p.m. Monday, July 6, 2009 here in the municipal building. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Town Plan draft was discussed briefly. It is believed that the most recent version of the draft is dated 1/19/09. Bob will make sure all members have a copy of the most recent draft to work from.

The board asked Bob to research permits for the Farm Yard store to see if paving an apron was a requirement of their last permit.

8:25 p.m.: Upon a motion by Cynthia Adams and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION ***MINUTES*** June 8, 2009

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps.

MEMBERS ABSENT: Dave LaBelle, Cynthia Adams.

OTHERS PRESENT: Corey Marquis, Douglas Spates, Marc Nadeau, Linda Nadeau, Frank Davis, Robin Smith, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (May 11) as written. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Chair Joe Profera opened the hearing for application 09-042 by Douglas Spates, PIN #CASAV003A7L, for site plan review to tear down 20 ft by 36 ft back porches on a 4-unit apartment building and replace them with new porches/decks. The new porches/decks will not exceed the original dimensions. This property is located at 29 Caswell Ave and is in the Village Residential 2 – Derby Line zoning district. Douglas Spates and Corey Marquis were present to explain the request. The porches are in need of repair and are needed for emergency egress. Interior renovations are also being done. The decks will be wooden and will meet fire codes. There was no testimony from interested parties. Jim Bumps made a motion to close the hearing on application 09-042 by Douglas Spates. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera opened the hearing for application 09-048 by Nadeau Properties LLC, PIN #NDRT5021G3T, for site plan review to construct a 2,948 sq ft commercial building and to construct a 960 sq ft cold storage addition to an existing building. This property is located at 5086 Route 5 and is in a commercial zoning district. Marc and Linda Nadeau were present to explain the request. A revised site plan was submitted this morning along with a supplemental information narrative, sign photos, sign lighting specs, building lighting specs, and grading plan. This project will fall under ACT 250 jurisdiction. A state stormwater permit will not be required. Mr. Nadeau will be meeting Wednesday with AOT regarding the two access drives. The proposed building is for a gym/health club and the cold storage addition is for Mr. Nadeau's plumbing business. There is 10 ft between the two buildings and the wall closest to the adjacent building needs a two-hour fire rating. The building will be handicap accessible. The State does not want curbs within the road R.O.W. Landscaping was discussed and it was felt that some trees are needed along the 10 ft wide green strip in front. Parking was discussed and it was noted that there was only one handicap space on the site plan. There was no testimony from interested parties. Richard Del Favero made a motion to close the hearing on application 09-048 by Nadeau Properties LLC. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Town Plan was discussed. It was the Commission's policy to only work on the plan when a full board was present and they would like to change this policy because work on the plan is proceeding very slowly. It was the consensus of the Commission that in the future they will work on the plan without a full board present.

Other business: The Commission discussed adding bonding requirements to the bylaw to insure landscaping and public improvements are completed. They will get the Selectboard's opinion on this before proceeding.

The Selectboard will be having a public hearing on the pending bylaw amendments. The Selectboard made one minor change to the amendment concerning nonconforming structures. The Commission discussed this amendment in great detail and felt that the new wording may open up the door for commercial structures to expand the footprint of a building with the required setback. VLCT will be consulted on the meaning of §302.5 (A). Depending on VLCT's interpretation the Commission may want to suggest that the Selectboard add "*this only applies to one and two family structures*" to the end of 302.5(A).

9:00 p.m.: Jim Bumps made a motion to go into deliberative session to discuss the closed applications. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

9:30 p.m.: The Commission returned from deliberative session.

Richard Del Favero made a motion to grant site plan approval for application 09-042 by Douglas Spates as submitted (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

No decision was made on application 09-048 by Nadeau Properties LLC. The Commission decided to have a site visit at 6:30 p.m. on Monday, June 22, 2009.

9:35 p.m.: Upon a motion by Jim Bumps and seconded by Richard Del Favero, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** May 11, 2009**

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: Tim Gustafson-Byrne, Scott Warthin, Mike Gosselin, David Moore, Robin Smith.

7:00 p.m.: Chair Joe Profera called the Public Hearing to order for public input on proposed bylaw amendments to:

1. Change the zoning district for 10.2 acres, Parcel ID# TRD22055E7.T1, from Rural Residential to Residential 2 Acre. This parcel is owned by Michael Gosselin and located at 1999 Nelson Hill Road.
2. Change §302.5 of the bylaw to read:
302.5 Compliant non-conforming structures may be enlarged, altered, extended, reconstructed, or replaced after a public hearing, review, and conditional use approval of the Zoning Board of Adjustment provided that such enlargement, alteration, extension, reconstruction or replacement:
 - A. Does not increase the extent of the existing compliant non-conformity regarding setbacks or other Bylaw requirements;
 - B. Does not create any other non-compliance with Bylaw requirements;
 - C. The height of an existing compliant non-conforming dwelling may be extended provided that such an extension does not increase the footprint of the non-conformity and does not exceed the maximum building height for the district in which it is located.

Discussion on amendment #1. Joe Profera explained the history of the zoning for the Gosselin lot. The road was the dividing line for the 2 districts and the Moore property was included in the R2 zone because of the existing small size of the lot. The intent was to have larger lots the further out from the core of the town. Michael Gosselin explained that he wants to subdivide his property into 2 lots, 3.6 ac and 6.6ac. The parcel is abuts the R2 zone on one side and on 2 sides across the street is R2. David Moore stated his property abuts the Gosselin property and he does not have a problem. Richard Del Favero stated he will recuse himself for this amendment because he own property across the street.

Discussion on amendment #2. Structure vs dwelling was discussed. Tim Gustafson-Byrne explained his proposal to raise the height of his building and add an apartment.

7:45 The Public Hearing was closed.

7:45 p.m.: Chair Joe Profera called the regular meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Apr 27) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to approve amendment #1 to change the zoning district for 10.2 acres, Parcel ID# TRD22055E7.T1, from Rural Residential to Residential 2 Acre. This parcel is owned by Michael Gosselin and located at 1999 Nelson Hill Road. Seconded by Cynthia Adams. Ayes - Dave LaBelle, Jim Bumps, Cynthia Adams. Abstain – Joe Profera, Richard Del Favero. **Approved by a majority decision.** The amendment will be passed along to the

Selectboard with the recommendation that it is approved.

Dave LaBelle made a motion to approve amendment #2 to change §302.5 of the bylaw to read:

302.5 Compliant non-conforming structures may be enlarged, altered, extended, reconstructed, or replaced after a public hearing, review, and conditional use approval of the Zoning Board of Adjustment provided that such enlargement, alteration, extension, reconstruction or replacement:

A. Does not increase the extent of the existing compliant non-conformity regarding setbacks or other Bylaw requirements;

B. Does not create any other non-compliance with Bylaw requirements;

C. The height of an existing compliant non-conforming dwelling may be extended provided that such an extension does not increase the footprint of the non-conformity and does not exceed the maximum building height for the district in which it is located.

Seconded by Jim Bumps. Ayes – Jim Bumps, Dave LaBelle, Richard Del Favero. Abstain - Cynthia Adams, Joe Profera. **Approved by a majority decision.** The amendment will be passed along to the Selectboard with the recommendation that it is approved.

It was decided not to work on the Town Plan tonight.

8:05 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Cynthia Adams.

DERBY PLANNING COMMISSION *MINUTES*** April 27, 2009**

MEMBERS PRESENT: Richard Del Favero, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Joe Profera, Cynthia Adams.

OTHERS PRESENT: Scott Warthin, Carl Szyil, Jack Stouffer, Liun Stouffer, William Hawkens, Real Desrochers, ZA Bob Kelley.

7:00 p.m.: Acting Chair Dave LaBelle called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (Apr 13) as written. Seconded by Dave LaBelle. **Approved by a unanimous decision.**

Acting Chair Dave LaBelle read the warning for application 09-029 by Real Desrochers, PIN# NDRT5059F4C, for site plan approval for a farmers market. This property is located on Route 5 and is in a Commercial zoning district. Jack Stouffer was present to explain the request. The market will be open 2 days a week, Tuesday and Saturday. They may possibly switch to Fridays. All vendors' stands are temporary and will be removed each evening. They will be arranged in a horseshoe shape between the small knoll and the road. Parking will be to the west of the knoll. Mr. Desrochers' equipment will remain on the site. The existing entrance on the southwest side of the lot will be used and stakes with florescent tape will be utilized to guide traffic to the parking area near the rear of the lot. There were concerns that the entrance could be a mud hole and has not been officially approved by the State. Traffic entering along the width of the lot is a concern. They hope to open on Memorial Day and close on Columbus Day. There will be a 4 ft by 8 ft sign that will be removed at the end of the season. There will be a port-a-potty near the parking area that will be locked on days the market is closed. William Hawkens had concerns with the site being kept clean and the layout of the market and parking. It was estimated that the parking would be 20 to 25 feet from the rear lot line due to a row of trees. There was no other testimony from interested parties. Jim Bumps made a motion to close the hearing on application 09-029 by Real Desrochers. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Work on the Town Plan was tabled until their next meeting.

Their next meeting will include a public hearing on proposed bylaw amendments.

Jim Bumps made a motion to go into deliberative session to discuss the closed applications. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

8:06 p.m.: The Commission returned from deliberative session.

Richard Del Favero made a motion to approve application 09-029 by Real Desrochers for a farmers market with the following conditions 1) The farmers market is approved for 2 days a week from May thru October, 2) The proposed sign must be at least 35 ft from the centerline of the road Right-Of-Way, 3) The front of the lot must be roped off and have a minimum of 3 no parking signs to prevent vehicles from parking along the front of the lot. The rope and no parking signs must be removed at the end of the season, 4) Directional signage for the parking area must be utilized, and 5) The applicant must come back before the Planning Commission for review of access and circulation prior to December 1, 2009 (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

8:07 p.m.: Upon a motion by Jim Bumps and seconded by Richard Del Favero, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** April 13, 2009**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Richard Del Favero, Cynthia Adams.

OTHERS PRESENT: Patrick Ushmann, Oscar Thayer, Frank Davis, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Mar 30) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-019 by SCI Holdings Inc, PIN# TRD44010I2T, for conceptual and final plat review to subdivide a 12.3 acre lot from an 80 acres lot. This property is located at 373 Citizens Road and is in the Commercial/Industrial zoning district. Patrick Ushmann and Oscar Thayer were present to explain the request. There is a 50 wide shared R.O.W. to access the 12.3 acre lot and two R.O.W.'s to access the remainder of the land. This is to split off the land for the new Border Patrol Station. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-019 by SCI Holdings Inc. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission skipped to other business.

Discussion began on a proposed bylaw amendment submitted by Tim Gustafson-Byrne. The proposed amendment would allow procedures to increase the height of nonconforming structures. This would allow him to proceed with a project that would be an improvement to the neighborhood. It is proposed to changed §302.5 to read:

Compliant non-conforming structures may be enlarged, altered, extended, reconstructed, or replaced after a public hearing, review, and conditional use approval of the Zoning Board of Adjustment provided that such enlargement, alteration, extension, reconstruction or replacement:

- A. Does not increase the extent of the existing compliant non-conformity regarding setbacks or other Bylaw requirements;
- B. Does not create any other non-compliance with Bylaw requirements;
- C. The height of an existing compliant non-conforming dwelling may be extended provided that such an extension does not increase the footprint of the non-conformity and does not exceed the maximum building height for the district in which it is located.

The Commission felt that this was a reasonable request that would be a benefit to the whole town. Dave LaBelle made a motion to proceed with the proposed amendment. Seconded by Jim Bumps. **Approved by a unanimous decision.**

A draft report on the above amendment was reviewed. Dave LaBelle made a motion to approve the report. Seconded by Jim Bumps. **Approved by a unanimous decision.**

A draft report for the Gosselin amendment discussed at the last meeting was review. A minor change was made. Dave LaBelle made a motion to approve the Gosselin amendment report. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission deliberated on application 09-019 by SCI Holdings Inc. Dave LaBelle made a motion to grant site plan approval for application 09-019 by SCI Holdings Inc with the conditions that 1) A mylar of the proposed subdivision must be filed with the Derby Clerk within 180 days of this decision, and 2) The proposed R.O.W. to the 12.3 acre lot must be paved for the first 25 ft from the edge of Citizens Road (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

8:50 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** March 30, 2009**

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Mike Gosselin, Teresa Nelson, Scott Warthin, Frank Davis, Roger Gosselin, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Mar 16) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Discussion began on a propose bylaw amendment by Michael Gosselin to change the zoning of 10.2 acres he owns at 1999 Nelson Hill Road from Rural Residential to Residential 2 Acre. This same amendment was considered 2 years ago, but due to miscommunication it did not go thru the Selectboard approval process. The discussion tonight is to decide if the Commission wishes to proceed with the proposal and start the process for a bylaw amendment. The pros and cons of the request were discussed. Dave LaBelle made a motion to proceed with the proposal and to start the bylaw amendment process. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

The Commission decided to hold the required public hearing on the proposed bylaw amendment on April 27, 2009. Mr. Gosselin will be notified any further requirements.

Discussion began on proposed Rules of Procedure. Richard Del Favero made a motion to approve the Rules of Procedure as amend on 11/24/08. Seconded by Dave LaBelle. **Approved by a unanimous decision.**

The Commission began review of the 2010 town plan. The education section was discussed and suggestions from the public and the Zoning Administrator considered. It was decided to add many of the suggestions. The ZA will update their working draft for their next meeting.

9:10 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** March 16, 2009**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Joe Profera, Richard Del Favero.

OTHERS PRESENT: Bob Smith, Janet Smith, Winston Bartley, Scott Warthin, ZA Bob Kelley.

7:05 p.m.: Acting Chair Dave LaBelle called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (Feb 16) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Acting Chair Dave LaBelle read the warning for application 09-013 by Robert & Janet Smith, PINLAKPK023B1T, for conceptual and final plat review for a 2-lot subdivision. Lot #1 is 0.8 ac and lot #2 is 2.5 ac. This property is located at 955 Eagle Point Road and is in the Shoreland zoning district. Bob & Janet Smith were present to explain the request. Minimum setbacks to the proposed lot line are met, lots meet the minimum area requirement, 30 R.O.W. proposed to access lot #1 which does not have road frontage, and septic design has been approved by the State. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-013 by Robert & Janet Smith. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Acting Chair Dave LaBelle read the warning for application 09-014 by Winston Bartley Jr., PIN NDRT5075F5C, for site plan review for a 16 ft by 62 ft covered porch and to add a 4th apartment unit. This property is located at 3300 Route 5 and is in the Village Commercial Derby Center zoning district. Winston Bartley present to explain the request. Landscaping and parking were reviewed. Access to the proposed apartment was discussed. It was thought that for safety reasons 2 exits from the apartment may be needed. There was no testimony from interested parties. Cynthia Adams made a motion to close the hearing on application 09-014 by Winston Bartley Jr. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Other business: Next agenda to include review of Town Plan and review of Rules of Procedure.

Cynthia Adams made a motion to go into deliberative session to discuss the closed applications. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission returned from deliberative session.

Jim Bumps made a motion to grant site plan approval for application 09-013 by Robert & Janet Smith with the condition that a mylar of the proposed subdivision must be filed with the Derby Clerk within 180 days of this decision (see attached written decision). Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Jim Bumps made a motion to grant site plan approval for application 09-014 by Winston Bartley Jr. with the conditions that 1) The east side entrance must be paved for a minimum of 25 ft from the edge of the road to help prevent gravel from being tracked onto the road, and 2) The Town Fire Chief must approve the adequacy of the exits from the proposed apartment in writing (see attached written decision). Seconded by Cynthia Adams. **Approved by a unanimous decision.**

8:00 p.m.: Upon a motion by Cynthia Adams and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** February 16, 2009**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Richard Del Favero, Cynthia Adams.

OTHERS PRESENT: Patrick Uhsman, Carole Pouliot, Grant Spates, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Feb 2) with the correction that the minutes approved were the Jan 19th minutes. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to reopen application 09-004 by SCI Holdings Inc, PIN TRD44010I2T, for site plan review for a 13,325 sq ft Border Patrol Station, a 14,833 sq ft adjoining parking garage, a 144 sq ft accessory structure, a 60 ft tall radio tower, an 8 ft tall security fence, and a helipad. This property is located at 373 Citizens Road and is in a Commercial/Industrial zoning district. Grant Spates, Patrick Uhsman, and Carole Pouliot were present to explain the request. Helipad lighting will be pilot controlled, there will be no light on the radio tower, parking lighting for the rear parking lot was designed for 2 ft candles and the front parking for 0.5 ft candles, there is an existing pond for fire protection, and the location of the dry hydrant will be coordinated with the fire department. Lighting information, an electrical site plan and a revised site plan were submitted. There was no additional testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-004 by SCI Holdings Inc. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission tabled discussion on the Town Plan because 2 members were absent.

Dave LaBelle made a motion to go into deliberative session to discuss the closed applications. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission returned from deliberative session.

Dave LaBelle made a motion to grant site plan approval for application 09-004 by SCI Holdings Inc as submitted (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant site plan and final plat approval for application 09-005 by Lake Salem Holdings LLC for a 5 lot subdivision with the following conditions: 1) Approved lots are #1, #2, #3, #4 and #5. Lot #1 includes lots depicted as 6, 7, 8, 9, 10, 11, and 12; 2) The R.O.W. of East Salem Drive must be increased to a minimum of 30 ft wide from the intersection of Hayward Road to the northern lot line of lot #5; 3) A mylar of the approved subdivision including a 30 ft wide R.O.W. along East Salem Drive from Hayward Road to the northern lot line of lot #5 must be filed with the Derby Clerk within 180 days of this decision (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Next meeting will be 4 weeks from tonight.

7:56 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** February 2,2009 as amended**

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: None.

OTHERS PRESENT: Ralph Paradis, Nathan Paradis, Scott Warthin, Trevor Evans, Grant Spates, Andy Major, Lois Major, Ryan Moore, Todd Willis, Cindy Willis, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Richard Del Favero made a motion to approve the minutes to the last meeting (~~Feb 2~~ **Jan 19**) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-001 by Ralph Paradis, PIN TRD18023A7T, for conceptual and final plat review to subdivide a 5.56-acre lot, with a house and barn, off from a 200+ acre lot. This property is located at 758 Herrick Road and is in a Rural Residential zoning district. Ralph & Nathan Paradis were present to explain the request. This subdivision had been approved before but the applicant did not file the mylar within 180 days so the permit was voided. They are back with the same request and have a mylar already to file. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-001 by Ralph Paradis. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 09-003 by Anne Moore, PIN TRD22055E7T, for conceptual and final plat review to subdivide a 5-acre lot, with a barn, off from a 112.4-acre lot. This property is located off Nelson Hill Road and is in a Rural Residential zoning district. Ryan Moore was present to explain the request. There is a sugarhouse near the road and the barn is on the 5-acre lot. The width of the R.O.W. is not specified on the site plan. The bylaw requires a 30 ft wide R.O.W. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 09-003 by Anne Moore. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 09-004 by SCI Holdings Inc, PIN TRD44010I2T, for site plan review for a 13,325 sq ft Border Patrol Station, a 14,833 sq ft adjoining parking garage, a 144 sq ft accessory structure, a 60 ft tall radio tower, an 8 ft tall security fence, and a helipad. This property is located at 373 Citizens Road and is in a Commercial/Industrial zoning district. Grant Spates was present to explain the request. The proposed building is a few hundred yards from the exiting Border Patrol office. The offices will utilize geothermal heat and the garage will use oil-fired heat. There will be a strobe light on the radio tower, wall mounted lights on the building, poles lights in the parking lot, and lights shining up on the helipad. The fence is 8 ft tall with 3 strand of barbwire on top. Trevor Evans asked questions about the radio tower, helipad, drainage, and septic. The type of lighting for the helipad was not known and the Planning Commission would like to know. There was no additional testimony from interested parties. Dave LaBelle made a motion to table the hearing on application 09-004 by SCI Holdings Inc until 7:00 p.m. Monday February 16, 2009 here in the municipal building. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 09-005 by Lake Salem Holdings LLC, PIN TRD50001J7T, for conceptual and final plat review for a 12-lot subdivision. Lots vary in size

from 0.2 acres to 132.5 ac. This property is located at 347 Hayward Road and is in both the Shoreland District and Rural Residential zoning districts. Todd & Cindy Willis were present to explain the request. The ZA passed out a letter submitted by abutting property owner William Slaiby expressing concerns with the access point for lot #2 and would like a sign installed stating "Blind Driveways". The ZA reported that has talked to the Road Commissioner, Stephen Gendreau, who received a copy of Mr. Slaiby's letter and Mr. Gendreau plans on looking at the site with the road foreman. If he feels a warning sign is warranted a sign will be put up in the spring. Lot #1 is the campground, #2, #3, #4, and #5 are proposed building lots and lots #6 thru #12 are anticipated to be sold to abutting property owners and have not been designed for any onsite wastewater treatment. The width of the East Salem Drive R.O.W. was discussed. Wetlands and flood hazard areas were discussed. Andy Major was present with questions regarding protection of the lake. There was no additional testimony from interested parties. Richard Del Favero made a motion to close the hearing on application 09-005 by Lake Salem Holdings LLC. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Other Business: A proposal before the Public Service Board for VEC to replace an existing transmission line was reviewed. Richard Del Favero made a motion to have the Chair sign a letter of support for the project and to waive the 45-day advance notice requirement. Seconded by Dave LaBelle. **Approved by a unanimous decision.**

8:08 p.m.: Cynthia Adams made a motion to go into deliberative session to discuss the closed applications. Seconded by Jim Bumps. **Approved by a unanimous decision.**

9:06 p.m.: The Commission returned from deliberative session.

Dave LaBelle made a motion to grant site plan and final plat approval for application 09-001 by Ralph Paradis with the condition that a mylar of the proposed 5.56-acre lot must be filed with the Derby Clerk within 180 days of this decision (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Richard Del Favero made a motion to grant site plan and final plat approval for application 09-003 by Anne Moore Revocable Trust with the condition that a mylar of the proposed 5 acre lot including a 30 ft wide R.O.W. from Nelson Hill Road to the proposed lot must be filed with the Derby Clerk within 180 day of this decision (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.**

Jim Bumps made a motion to grant site plan and final plat approval for application 09-005 by Lake Salem Holdings LLC with the following conditions; 1 Lots #6, 7, 8, & 9 shall only be transferred to an abutting property owner directly across the East Salem Drive R.O.W. and must be combined by deed with the abutting property into one lot; 2 Lots #10, 11 and 12 shall only be transferred to an abutting property owner and must be combined by deed with the abutting property into one lot; 3 The R.O.W. of East Salem Drive must be a minimum of 30 ft wide from the intersection of Hayward Road to the northern lot line of lot #5; 4 A mylar of the proposed subdivision must be filed with the Derby Clerk within 180 days of this decision.

Seconded by Cynthia Adams. After discussion Cynthia Adams withdrew her second and Jim Bumps withdrew his motion. The Commission would like the ZA to check with VLCT on whether limiting who lots #6 thru 9 can be sold to is legal. No decision was made on this application tonight and it was tabled until their next meeting.

9:25 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION ***MINUTES*** January 19, 2009

MEMBERS PRESENT: Joe Profera, Richard Del Favero, Jim Bumps.

MEMBERS ABSENT: Cynthia Adams, Dave LaBelle.

OTHERS PRESENT: Lois Major, Andy Major, Frank Davis, Scott Warthin, ZA Bob Kelley.

7:05 p.m.: Chair Joe Profera called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (Dec 8) with a correction that the expiration date for the Gosselin Enterprises application is 2014 not 2008. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

The Commission tabled discussion on their Rules of Procedure until more members are present.

The Commission began discussion on the 2010 Municipal Plan. ZA Bob Kelley submitted a draft of the plan with changes that he feels should be made. Members of the public that were present participated in the discussion. The Telecommunications section was addressed first and several changes were made to the working draft. The Commission asked the ZA to get them a copy of VLCT's model bylaw for telecommunications.

Wind towers were discussed. The plan and the bylaw do not currently address large scale wind towers. The ZA will consult with VLCT on how to properly address wind towers and report back to the Commission.

The Education section was discussed. Scott Warthin submitted a list of goals for this section that a group collaborated on. It was suggested that alternative education sources such as UCA, Stanstead College, home schooling, etc... be addressed in this section. Changes proposed by the ZA were reviewed. No changes were made to the working draft at this time. The Commission is waiting for Cynthia Adams to complete a draft of this section.

A few minor grammatical errors in various sections of the draft were pointed out and corrected.

Municipal Education Grants were discussed and it was decided to apply for a grant for onsite training for Capital Budgeting.

9:08 p.m.: Upon a motion by Richard Del Favero and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

