

**MINUTES
FREEPORT PROJECT REVIEW BOARD
FREEPORT TOWN HALL COUNCIL CHAMBERS
WEDNESDAY, JULY 19, 2023
6:00 PM**

At 5:15 p.m. the Board held a site walk of the proposed mixed-use structure for 30 Morse Street.

Attending: Chair Ford Reiche, Linda Berger, Lynn Hamlen, Fred Madeira, James Monteleone, Tod Yankee and Town Planner, Caroline Pelletier

On Zoom: Jason Donahue

Chair Reiche called the meeting to order and pointed out the Board has a quorum this evening but Mr. Donahue is on Zoom. Chair Reiche asked Board members to turn their microphones on.

ITEM I: Information Exchange

1) Update on Staff Approvals

Ms. Pelletier advised that she does not have any Staff Approvals to report on this evening.

2) Update on topics reviewed by the Planning Board

Ms. Pelletier reported that back in March this Board took action to approve a multi-family housing project at 22 Main Street, next door to Town Hall. That decision of the Board was appealed to the Board of Appeals and they overturned the Project Review Board's decision. They had to review the record and see if there was substantial evidence in the record and on many conditions, they determined there wasn't adequate evidence in the record. That decision has been overturned. She does not know what will happen next. That decision could now be appealed to court. If it goes to court, you don't know what will happen. It is possible that it could come back to you. As with any active project, she suggested the Board withhold comments on the project in case it comes back to you. Otherwise, if you have been having communications between now and then, you could need to recuse yourself. If she gets a status update, she will let the Board know but for now that was the decision.

Ms. Hamlen wanted to get clarification and asked if the appeal was overturned? Ms. Pelletier advised that no, it was the Board's decision that was overturned on multiple counts. She offered to provide the Board with a copy of the notice of decision from that action if the Board is interested. Ms. Hamlen noted she would be interested.

3) Update on the Downtown Vision Task Force Implementation Group

Ms. Pelletier advised that the Planning Board had a workshop with the Town Attorney on LD 2003 which is the new housing regulations out of the State. On August 2 Cecilia will be having a public workshop on LD 2003 and what it could potentially mean for Freeport such as things we will have to allow or not allow and things we will have to consider and some policy questions if anyone is interested in going to that. There were some fliers over on the table or you will get an e-mail. It is a public workshop in this room and you are more than welcome to attend. There will be opportunities for Q&A. She can't get property specific on the fly because every scenario is different but if people have general questions on LD 2003, the workshop will be a great opportunity for them to attend.

4) Update on the Town of Freeport Climate Action Plan

Ms. Pelletier mentioned that the Downtown Vision Task Force had a short recap of what got approved and what didn't in the budget process. They will have a meeting this month so she will have a report. They will continue to work on the Climate Action Plan. There is no real update. They are waiting to start getting some draft content from that plan from GPCOG. That is all she has for updates this evening.

Mr. Monteleone asked if the 22 Main Street project was remanded to us or reversed? Ms. Pelletier advised that it was reversed. It was not remanded.

ITEM II: Review of the minutes from the June 21, 2023 Project Review Board meeting.

MOVED AND SECONDED: To approve the minutes as submitted. (Hamlen & Berger)

ROLL CALL VOTE: (6 Yes) (1 Abstention: Donahue) (0 No)

ITEM III: Tabled Items

30 Morse Street – Design Review Certificate and Site Plan Review

The applicant is seeking approval of a Design Review Certificate and Site Plan Review for a new mixed-use development (residential and office) at 30 Morse Street. The lot is approximately 50 feet each in length and width. The structure will be two stories with approximately 1,330 square footage of space (plus garage). The Zoning Board of Appeals previously approved a reduction in setbacks to allow a replacement structure to be constructed on the property. There is already an existing foundation on the site. Zoning District: Village Commercial 1 (VC-1); Design Review District 1 - Class C. Tax Assessor Map 11, Lot 54 (30 Morse Street). Christian Stevens and Amanda Gale, owners and applicants.

Chair Reiche did not believe this application is up for any action tonight. The Board just had a site walk with the applicant and will discuss possibilities with the application.

Ms. Pelletier wanted to provide a recap for the public that was not here last time. This applicant has a lot that is the very last parcel in Design Review and in the Village Commercial I District. They are proposing a mixed-use development with one dwelling unit and office in a two-story structure. There was a lot of conversation at the last meeting about Design Review. The applicant is looking for a little more clarity to get some feedback. The Board did a site walk tonight and got to see the approximate location, the size of the lot and the existing foundation that is there. The applicants are here if you have questions or want to give them some feedback on the building design now that you have done the site walk.

Mr. Stevens asked if it is possible to leave this meeting with a formal plan going forward with suggestions for design revisions or next steps they could take if there are other concerns from the Board?

Chair Reiche asked if the Board has any thoughts to share with Mr. Stevens? Mr. Monteleone feels the changes that were made to the configuration of the front façade, the voids and symmetry certainly addressed some of the concerns he raised and he would be satisfied with that but he still has a bit of concern about the cross layering of horizontally directed siding on some facades or the vertical siding on the other facades but it is a secondary concern.

Ms. Hamlen mentioned she is the one that brought up a second door to the office and she can see it has been incorporated. Based on A-100, she asked if she is looking at the ground floor with the large open entry foyer to the office? Mr. Stevens noted that on the left she is seeing the basement and garage slab and on the right, she is seeing the garage and brick floor plan. Ms. Hamlen clarified that the entry foyer is just this open area and then you go upstairs to all your living area. Mr. Stevens noted that the new entry way is to the front left corner of the dwelling. Mr. Stevens added that there has been some discussion with Mr. Adams about incorporating a bathroom into that as well but it is all interior changes.

Ms. Berger added that she has some concerns that might be foolish but she feels they need to be mentioned

because of certain other rules and regulations the Board follows. We talked last month about making sure we read our Design Review Ordinance and based on past actions and talks that we have had in other situations, we refer to some of the changes and things that are allowed and not allowed and what you have to look at in these Design Review areas. As much as she must say, it is kind of foolish in this case, she can't see how the Board can get away with not discussing those things and how they are or are not compatible. She truly feels it is an unfortunate situation but she feels the Board has to be fair and show an un-bias to everybody and do things the same way all the time. She thinks we should at least talk about it and get people thinking about it.

Mr. Madeira added that he is relatively new to the process but understands we need to refer directly to the Design Review guidelines and that Mr. Stevens has a challenging opportunity there and it is very creative with what he has done. His concern is with Scale and how the building relates to the surrounding area. He has concerns with height of the building that is 27 feet and the adjacent building we estimated was 625 so it was significantly higher than the surrounding buildings and sort of that general proportion for a very challenging lot. Mr. Stevens added that with the restrictions the zone places on them with regard to roof slope and the way they have to construct that roof to put 8' ceilings on top of each other, they can't get away with much less than that. Mr. Madeira understood fully understood what he was saying but he is going by the guidelines and stepping back and seeing the visual impact of the building.

Mr. Donahue feels while looking at this, the thing that needs attention from his eyes is the roof line facing Morse Street. He feels that is hardest to come to grips with an approval relative to the Design Review Ordinance criteria with a sloping roof that looks like a warping plane the way it is configured. His thought is to what would make that better would be to bring the eave line of the roof all the way up to one uniform consistent height which may even allow for the roof to be a foot or two lower in the way it gets framed out at the second-floor occupied space and treat it as a normal flat roof. That would tie the lines of the whole building together in terms of its form and would improve the form and be more cohesive on the street side particularly in context with Morse Street School being a good-sized flat roof building and definitely part of the context. To him that would improve the design.

Chair Reiche pointed out that the Board is up against the Design Review Ordinance and everything about the Design Review Ordinance is about visual compatibility with the buildings around it in the Design Review District in continuity and that is in conflict with the situation Mr. Stevens is in because he is being driven to do all sorts of unusual things. He is building up against the lot line and building an unconventional structure simply because of the situation he is in. On top of that he has parking lots on two sides. Chair Reiche cannot make any of that work in his understanding of the Design Review Ordinance. The Board just got overturned on scale. The requirement of the Design Review Ordinance is only in two parts of town where it exists. You have to look at other buildings and you have to be in the rhythm of those and this building is not. He could not see himself voting for the project if Mr. Stevens wants feedback under the Design Review Ordinance. He just doesn't see how it would work with what we have to work with. He hopes Mr. Stevens can come up with a solution such as buying property from an abutter or something like that.

Mr. Monteleone added that there have been a couple of comments from the last meeting that our standard is to find consistency with surrounding buildings. He feels it is important to emphasize again that the surrounding buildings we are comparing it to are the A and B buildings not just whatever buildings are around. After having seen it, there are not any A or B buildings anywhere around. There is a school building on the opposite side of the street that looks rather modern. There are parking lots on both sides and there is a small home adjacent to it that is neither an A, B or C building that is outside of the zone. He thinks the Board has to be mindful that this property is unique and is an island. It can't be compared with anything else because there is literally nothing else within eyesight of it. As to continuity with the surrounding buildings, it

needs to be considered in that context. It is not a Main Street building and it doesn't have neighbors. Chair Reiche shared Mr. Monteleone's general concerns but he is also worried that if we approve this because it is such an unusual situation, someone else could come and say, what do you have a Design Review Ordinance for? He asked Ms. Pelletier if it is correct that when she was looking around the neighborhood for examples, she was only looking at A's and B's. Ms. Pelletier offered to pull up the ordinance and read it for the Board.

In the meantime, Ms. Hamlen pointed out that Chair Reiche brought up something in a workshop about we have these guidelines but the Board has the right to challenge the guidelines in terms of applicability and that exactly is your point. The truth lies some place in between what is on the page and common sense. It is very difficult to hold that line when you have a flat-roof school building, two parking lots and a little cottage that is an Air B&B as the abutters. Some of it is subjective. She likes the idea of flattening the roof just for that neighbor so it is not such a high pitch and asked if that would help Chair Reiche? He explained that it would not. The Board just got overturned on the last decision we made. Mr. Monteleone added that we got overturned but we don't know all the details and that property was in the center of Main Street and we had A and B buildings all around. None of those things apply here so he wants to be cautious about saying we got bit once so, therefore, we are going to shift to being excessively conservative when the ordinance doesn't require that.

Ms. Pelletier displayed the ordinance and read it into the public record.

Ms. Berger reiterated what she said. She thinks this is a difficult problem and in her own feelings she feels it is ridiculous that we have to make this decision but we need to get to the end of the discussion. Ms. Pelletier explained that if the Board wanted to take action tonight, they would need to go through each of the standards and draft some findings. We haven't heard specific thoughts from Linda or Tod so she did not know if they had anything to share.

Mr. Stevens added that the feedback he is getting is some minor aesthetic changes but he doesn't think it will shift things based on what he is hearing. Chair Reiche thinks the Board could have a straw poll. Ms. Pelletier mentioned it would be helpful if the Board could take a straw poll making sure that Mr. Stevens gets any feedback tied to standards that you could personally offer.

Ms. Hamlen mentioned that the Board has been talking about scale but height and a sudden dramatic change in building height can have a jarring effect on the street scape, the way the whole street looks. She noted that people drive down there all the time going to the school. If it were just a dead end with one house beyond, it might be different. Again, the height being so much higher than the next building right next to it, could be a soft spot for her.

Chair Reiche asked if the Board wished to have a straw poll to give some guidance to Mr. Stevens? Board members agreed. No one was opposed to it. Chair Reiche did not know if Mr. Stevens has a complete application but stressed that the minutes should reflect that this is informal guidance, the Board is not approving anything and Mr. Stevens understood that. Ms. Pelletier suggested going down through and ask everyone for their casual opinion and comments.

Ms. Berger noted she does not know because she is stuck with fair and compatibility to other applications but she also feels it is ridiculous that we could not approve this. She would like to say yes but to be fair to anyone that comes to us, she does not see yet that she can say oh, it's okay in this situation. Ms. Pelletier noted that she thinks the Board needs to look at the standard and how it comments on visual compatibility to nearby A and B's. You don't need to make that decision on the fly but to look at it. This has always been a C. They took

down a structure many years ago and got approval for a new build. Someone else got approval for a new building the past which they never built so this would be considered a C. She advised that they could have a C. It is the least architecturally or historically significant structure but any new building is a C.

Ms. Berger noted that if it is a C, which she thinks it should be, some of the wording is so ambiguous to her. That is why she would feel the Board should have a legal consult on the ordinance and how this application applies to pieces of the ordinance before we have to make this decision because that is where she stands on it. Ms. Pelletier displayed the lot in question on a screen and pointed out where the closest B building is.

Mr. Yankee wanted to go back to the ordinance under Paragraph B. Buildings classified as C in the second paragraph on page 7 and read it into the public record. He feels that is what we are talking about and asked Ms. Berger if she agreed? Ms. Berger agreed because it is a C, that's the wording that is somewhat ambiguous. It doesn't say you can't and it doesn't say you can. It is up to the Board to look at the wording and look at the application and try to fit one with the other or neither. There are many others here who have a straw opinion.

Mr. Monteleone feels that Mr. Donahue's comments were astute. If the roof line was turned so it is straight at the street, the street facing view was a straight roof, the height to him seems consistent with the height of the school across the street, the window style, the shape appears consistent and those things, he would vote yes.

Ms. Hamlen noted Mr. Monteleone's mention of the roof, it says in Roof Shapes, No. 6 that a roof should be visually compatible with the architectural style of the building, which she believes it is, and with those of the neighboring buildings. Everybody else is a little peaked roof cottage but they are a parking lot away and the building across the street is flat roofed. She likes the idea of flattening the roof if Mr. Stevens can do it. Mr. Stevens asked Ms. Hamlen that as a design stance she would like to see it changed? She mentioned that it may not fly because of the roof. Her concern is the height of the vertical wall next to the neighbors. If that were to come down, it could be mitigated. The roof line would change and it would be possibly a bit more like the school across the street.

Mr. Yankee noted that it is not compatible with size and scale or consistent with the other dwellings across the street. The height is an issue and he agrees with Mr. Monteleone and Mr. Donahue in terms of architectural features as well as being consistent. He knows it is a challenging lot but it is not for the Board to try to resolve. The lot is what the lot is and there is only so much you can do within a box.

Mr. Stevens explained that he can only bring that roof height down so much. His hands are tied. Mr. Madeira pointed out that all of us are saying that we wish there was a way to vote yes. It is a very challenging location in Design Review but our obligation is to check yea or nay versus the details laid out in Design Review. He feels Mr. Stevens has been very creative in what he has come up with but objectively, his concerns are with the scale, the height and the proportion that are all key elements in Design Review. Subjectively, compatibility, harmony and those kinds of things and an argument could be made with the overall design Mr. Stevens has. It is very different but you could say, well like other buildings, it is not exactly the same but it has a fit. He is hung up on the first three objective points, scale, height and proportion.

Chair Reiche feels that Mr. Stevens is in a jam and the Board does not have the tools to help him. He does not believe he could vote for it under the Design Review Ordinance. Ms. Pelletier wants us to give some specificity. We have to look at the other buildings in the Design Review District. He thinks the As and Bs under the ordinance take precedence but he thinks the Board looks at all of them. All the buildings are not just story and a half. They are small bungalow cottages. Mr. Stevens added that he feels the school is irrelevant in that.

Chair Reiche advised that the Board has to come back to the ordinance and it doesn't apply to that side of the street. In looking up the street, all the buildings that we are allowed to look at for this which are As, Bs or Cs are small buildings so in his view the scale of Mr. Stevens' building is not consistent with those. The height of the building is 25' versus the building next to it which is so close and is almost half the size or perhaps a little better than that. Mr. Stevens guessed the ridge line on the abutter is 16' where he is 25'. Chair Reiche mentioned the roof shape and the ordinance says it can have a dramatic impact on the appearance of a building. The shape and proportion of the roof should be visually compatible with the architectural style of the building and those of the neighborhood buildings. That one is a problem for Chair Reiche so that is why he cannot support the application. He wished Mr. Stevens the best.

Mr. Donahue added with the suggestions he made earlier, he would be more comfortable with the design. Height is definitely a concern so if the roof line adjustment can be made that the roof line comes down and sort of trims the building off a better way, that would help with the adjacency. The building adjacent to it is a rather small structure and is at a low point in the grade and the earth is up against the siding of that structure. Mr. Stevens' structure is sitting prominently on a foundation which gives it more of an upward feel to it. It is not a big building so he is not at all concerned about the scale. In fact, he thinks it could be a helpful mediator between a small scale and a larger scale. In looking at the context of what it is right there, it is equally important as to what is three or four houses down the street. The fact that it is adjacent to a parking lot with open space around it, in his mind it has somewhat of a calming effect to its surroundings. With those suggestions, it is something he would vote yes for.

Ms. Berger pointed out that she doesn't think the Board got a good handle at the site walk. If this was changed out of this Design Review area and moved zoning-wise into the other side where the small B building is and what it would mean for Mr. Stevens for setbacks actually and what it would mean for the heights and everything else of the building if it removes all kinds of restrictions and Mr. Stevens could go up higher and as she understands it, it wouldn't have to be a residence and an office in the same building. It could be just a residence. Maybe that gives Mr. Stevens more flexibility if he would redesign it to fit in that versus what he has now. It is just a thought. Mr. Stevens appreciated it and added that it sounds like a reasonable action for him would be to make an effort to reduce the height and bring the slope of that roof down. He senses that it will not make a significant impact to the Board if he drops 2' off the ridge. Chair Reiche added that it would not in dealing with the ordinance they have to deal with. Mr. Stevens advised that he has significant resources poured into this so he would prefer to stay the course on the mixed use. He has done everything the Town has asked for with a stormwater plan and constructional engineering so he is hoping to go that route instead of going back to the drawing board and changing to a single family.

Ms. Hamlen pointed out that at the last meeting, Mr. Stevens proposed black but Mr. Stevens advised that it is a dark gray. Mr. Stevens thanked Board members. Ms. Pelletier offered to talk to him tomorrow. No action was taken this evening.

Harraseeket Ridge - Subdivision Application

The applicant is returning to the Board to request an extension of the timing between the Preliminary Subdivision Approval and returning for final approval. This is just an extension request, and no changes to the Plan will be discussed at this meeting. *Note: The proposed subdivision is for an 80-unit residential open space subdivision on a vacant parcel (approximately 90 acres) on US Route One North. Forty duplex structures and two new road entrances off US Route One are proposed. Approximately 43 acres of open space will be required. The Board granted preliminary subdivision approval, with conditions, in August 2022. Zoning District: Medium Density A (MD-A). Tax Assessor Map 18, Lot 16 (0 US Route One). Beta Zeta Properties, LLC, applicant and owner; Thomas Perkins, representative.*

Ms. Pelletier explained that this item is before the Board tonight only for an extension of the timeline to return to the Board for final approval. The Board provided preliminary approval back in August, 2022 with a bunch of conditions. The Subdivision Ordinance has a whole series of conditions of things you need to do before you can come back. In this case, those would include getting site locations, approval from the Maine DEP, getting approval from the Drinking Water Program for the Community Wells and they would have to submit legal documents. One of the conditions the Board added was that a peer review be done for their wells and septic systems. It took us a little bit to get that peer review underway and to get all the materials the peer reviewer needed. The peer reviewer, on behalf of the Town, Drumland Environmental, did start the peer review. He reached out to the Drinking Water Program for some input which also added some delays to the timeline. Tom Perkins is here and Ms. Pelletier understands that DEP also wanted to see the peer review before they would take action so it's taken a while to achieve all these items. She did report to the Board a few months ago under Info Exchange so the Board was aware that this item was not going to be back to you within the six months. Since Mr. Perkins is still in a holding pattern and is still working through the peer review process since additional items were requested and he still does not have the input from the state agencies, he is back asking for an extension before he returns for final approval. The Board does have the ability after that six months to have the applicant go back to the conceptual phase. In this case, most of the Board was here and the worse site walk took place on the hottest day ever in 2022 through the woods. She feels the Board had a lot of discussion and in this case, Staff's feeling is that they want that peer review finished before the Board takes action since you required it. She feels it seems like a reasonable request. The only one concern she has is that the ordinance doesn't address this but she thinks the Board has the ability to do it. It doesn't say how long the Board is extending it for. We know because of LD 2003 we have some ordinance changes on the horizon to zoning and possibly subdivision. We are expecting those should be in place by January 1 so she thinks if the Board is willing to consider extending it so he could get the required approvals and round up the peer review, she would make a recommendation that they submit for final approval before the end of December, 2023. Essentially it would give them another six months but much longer than when they were originally approved.

Ms. Pelletier pointed out that Tom Perkins is here and might be able to comment on the state timelines and the timelines for getting other legal documents in and the legal peer review. He can give an update on the drinking water and the DEP site location timing.

Mr. Perkins thanked the Board for making time for him tonight. He advised that the peer review process is underway. He was here in August for preliminary approval and he received comments back from the DEP and Army Corps on their environmental permits so he called the Project Manager for DEP and Army Corps and informed them that the Board asked for a peer review and explained what it potentially affects. In full transparency, he just wanted to make sure that if anything comes out of the peer review that could affect their permit information in front of the Board, he feels we really need to let that peer review process play out so that when we get the peer review back, we respond to it and include it in our Site Law application response and that way everybody is privy to everything that has been explored on this project. That is exactly what they did. They responded back to the peer reviewer back in April and a couple of weeks later they repackaged their Site Law Permit and Army Corps General Permit responses back together. They also included all of the Town Engineer responses in the same package so those eight folks could see what the Town's concerns were and how we addressed them. Now we are in a holding pattern. He checked in with the Project Manager and learned they are still reviewing. They submitted on the 8th so really it is imminent that they would get that. The Army Corps Project Manager said her permit will follow simultaneously because those two agencies work together. He is not sure what happened to the Drinking Water Program Application but suddenly there is a new contact there and they have a site walk scheduled for next week with our own

hydrogeologist. He feels this project will be moving along here. As soon as they get all these things, he will be packaging all of them up. On the legal side, he thinks he saw Revision 7 to the Condo Documents and they are nearly ready to submit for that review. They have also been working through a Memorandum of Understanding with the Freeport Conservation Trust who would like to take their open space land requirement and physically created a draft plan and now they are working through the easements. Chair Reiche asked Mr. Perkins if the Board extends to the end of the year, will it give him enough time? Mr. Perkins advised that it does. Chair Reiche noted that there will probably be a snowstorm on the third Wednesday in December so he should be on in November. We all have unanswered questions if we go beyond this year because of LD 2003 so if the Board extends to 12-31-2024, does it work for you? Mr. Perkins advised that it does. Ms. Pelletier added that the peer reviewer is still waiting for response to their memo. Mr. Perkins explained that they called it a rebuttal response to their response on June 14 from Drumland that wanted to touch on a few more items. He had a conversation with their hydrogeologist the day after they got this and they walked through it. He was promised a written response before he went on vacation last week. Chair Reiche suggested that he start bugging people.

Ms. Berger asked what would happen to the application if they needed to make adjustments to where the wells and septic are in relation to each other and to the whole project based on this peer review that we see here? What happens to everything we have reviewed already? Ms. Pelletier explained that conceptually you are always going to see some tweaks from where you grant conceptual because they haven't done all the engineering and due diligence. If the layout stays generally the same, if they shift a lot here or there or move a well or septic, they would be fine. If they have to rearrange the entire layout, they would be starting from scratch. Ms. Pelletier explained that when they submit, 21 days later they are put on an agenda. If Mr. Perkins has to have a significant layout change, he will call her. Chair Reiche added that it is not unusual to make changes.

MOVED AND SECONDED: that the Freeport Project Review Board grant an extension until 12-31-2023 to Beta Zeta Properties, LLC., for the proposed Harraseeket Ridge Subdivision (Tax Assessor Map 18, Lot 16) for an 80-unit residential open-space subdivision, to allow for additional time for the applicant to file for final subdivision plan review, in that the applicant continues to work toward satisfying the conditions of the preliminary approval and the submission requirements of the Freeport Subdivision Ordinance and no municipal Ordinances that may impact this proposed development have been amended. (Madeira & Yankee) **ROLL CALL VOTE:** (7 Yes) (0 No)

ITEM IV: Reviews

8 Independence Drive – Design Review Certificate

The applicant is seeking approval of a Design Review Certificate for exterior building alterations at 8 Independence Drive. Changes include but are not limited to: new vinyl clapboard style siding, new metal wrapped trim, new roof shingles, removal/replacement of front doors, gutters, removal of a deck, installation of two new sets of concrete steps with aluminum railings, and new exterior lighting. The building will also be painted; approval is required since the proposed colors are not from a historic color palette. Zoning District: Village Commercial 3 (VC-3); Design Review District 1 - Class C. Tax Assessor Map 9, Lot 2A (8 Independence Drive). Melinda Sanderson, applicant and owner.

Ms. Pelletier explained that the applicant is here tonight for a Design Review Certificate for a multi-family dwelling on Independence Drive. Years ago, the property was used as a Bed & Breakfast but most recently it has been approved for multiple units. The applicant has had some water issues so they are proposing some changes to the building. She will let them give the Board the details but they are proposing new siding, roofing, windows, removing a big porch on front of the building, installing granite steps with railings and

seating. They are removing the French doors on the front of the building and will replace with another standard door. There was one typo in the Staff Report that the Board would need to change in the findings. There is a bay window that is going to be removed. It was noted in there that it would be replaced with a double hung window. That is incorrect. It will be a three-section window that will go in place of that bay window. The applicant is here tonight and she can walk the Board through all the changes to the exterior of the building. One thing to note is that they are proposing to use some colors that are not on a historic palette. They feel that they are close but because they are not on a historic palette, they would need approval from the Board to use those colors. Conditions should be added to the proposed motion if the Board is okay with that. It was also noted that they are proposing to remove some shrubs along the rear property line. It would be a Site Plan feature and could come under Staff Approval but since they were coming to the Board, they just noted it in the submission. The applicant is here tonight if the Board has questions.

Melinda Sanderson mentioned that she owns and lives at 8 Independence Drive with her family. It is a three-unit apartment building but it is primarily occupied by her and her children and a couple of her daughter's roommates so she is an owner-occupied property. When she purchased the property, there was an awning over the French door that was causing some water issues. She received permission to remove that to solve the water issues. After the rainy season we just had, she discovered damage that makes the door not repairable so she is proposing to replace that door with a standard door and matching that door design where the other existing standard door is. She included a photo of the door style she is proposing. Right now, she has an oversized deck that she discovered is not very well constructed and since she is making the changes to the door, she is seeking approval to install two prefab concrete steps that have the look of granite steps and have black railings. She included photos of them as well. They are unable to determine how many steps they will need so it could be three or four steps. The reason is because right now they have a very oversized deck and they did the best they could to measure to make sure the number of steps is correct. Since they will be removing the French door with the Board's approval, it takes away some light into that unit so she is requesting to be able to install a double hung window to the left of the new standard French door. She did not know until shortly before her submission that she was in a color-restricted area so she did the best she could taking vinyl samples down and trying to stay within a family of historical colors. She found a gray that is within that family of colors. As far as the shrubs right now, they have this overgrown shrub area and some trees that were knocked down during some of the storms. On her property there is a right-of-way to the left of those trees that she feels is a bit of hindrance for her abutters for viewing when coming in and out. That is one of the reasons she thinks it would be beneficial to remove those shrubs and protect some privacy between us and them to the rear of us. She is requesting permission to plant some shrubbery along the rear line to maintain that privacy between the two lots.

Ms. Hamlen asked Ms. Pelletier if the historical colors are iron clad? Ms. Pelletier noted it is pretty broad and can come from any paint manufacturer's historic color palette and it can be any historic color. It doesn't even have to be New England's so there is a wide variety and we do have a lot of cases where people will come and try to color match to see if it is close. Chair Reiche added that if a color was on an existing color palette which Ms. Sanderson couldn't find, it is automatically approved. Our wording is a color in a Color Overlay District which is what Ms. Sanderson is, it has to be compatible with historic buildings and should not dominate the architectural features. Ms. Sanderson advised that she spent a couple of hours at Maine Paint trying to at least get as close as she could to historical colors. She advised that she dropped off a vinyl siding sample and a swatch from Maine Paint that was from the historical family of colors.

Ms. Berger asked if there was a reason Ms. Sanderson couldn't use a historical color? Ms. Sanderson noted it is just for the door but she went and got a bunch of color samples for a door and picked a color that would match the siding since they were also trying to find a siding color that was as close to a historical color that

they could without it looking poorly with a color contrast. That was the only reason. Ms. Pelletier arrived with siding samples and showed the color of the door. She also had samples from a historic color palette and noted that the Smokey Gray is the color Ms. Sanderson would like to use. Mr. Monteleone pointed out that there is a reference in the submission that there are other homes on the block that have vinyl siding. Ms. Sanderson noted she was able to locate two and explained where they are located. Mr. Monteleone advised that he has a concern with the combination of vinyl siding, prefab concrete materials, the railings and the fiberglass door. All those things together is a significant concern and present issues with the relationship to façade materials standard. He thinks the very fact that we are dealing with vinyl siding shows that it is non-traditional with the use of that kind of material in the zone because it can't be painted with a historic color.

Ms. Sanderson pointed out that her windows are already vinyl windows and her other existing door is of the same material. Mr. Monteleone explained that the ordinance we are applying based on recent conversations, we are applying it on a much more conservative basis than we have, looks at the relationship with materials so the relationship between a cedar shake siding and vinyl windows is different than vinyl windows with vinyl siding with a fiberglass door.

Ms. Hamlen wanted to look at a photo of the way it is today and could not find it. Mr. Yankee advised that it is on page 11. Ms. Hamlen wanted to say that the proposed design is a wonderful improvement with the doors with the small lights is a great improvement. She would be hard pressed to find a conflict between the window trim, siding and the door. Mr. Yankee asked if the front windows would have mullions? Ms. Sanderson advised that they would and the mullions are between the glass. The small windows above the kitchen in that unit are also 6 over 6 so her plan was to keep everything consistent. Ms. Hamlen noted the new design and feels the whole thing is more balanced and the materials are not of great concern to her. She is disappointed that the light fixture has been changed but Ms. Pelletier noted that you have to have full cut-off lights so it had to be shielded unless the applicant could find something that was LED so the bulb is flush off the fixture.

Mr. Donahue agreed with Ms. Hamlen that it is an improvement of the horizontal siding and agrees with Mr. Monteleone about the concrete stairs and railings and feels the aesthetic could be done better. The doors and windows look good and it improves the appearance of the building. Chair Reiche asked Ms. Sanderson if she looked at using wood siding? Ms. Sanderson replied that since it is owner occupied, she tried to find something she could manage and pointed out that a brand-new house behind her was approved two years ago with vinyl siding as well as the other ones along Independence Drive. Since they were a higher view from Main Street, she should have the same opportunity to have vinyl siding. Chair Reiche noted he shares the same concerns that Mr. Monteleone and Mr. Donahue have but maybe not to the same extent. He would love to see Ms. Sanderson use wood siding but with the vegetation she has and the distance from the road he feels it will be hard in her situation for him to tell the difference between the textured vinyl she has and the real deal. Maybe if we get as far as approving the project, we could put a provision in there that she is also approved to use wood siding. Ms. Sanderson advised that she would be open to that.

Ms. Pelletier pointed out that she said there was an error in the findings so the Board would need to make that change if you wanted to adopt them. There was reference under No. 4. saying an existing bay window will be replaced with one frame with three double-hung windows. That would be under No. 4. Rhythm to Solids to Voids. You need to make the correction under No. 7 as well and whoever makes the motion, add a condition that you approve the use of the colors of Sherwin Williams' Red Bay and Smokey Gray siding. Ms. Sanderson is also approved to use wood siding.

Design Review Ordinance: Chapter 22 Section VII.C.

1. **Scale of the Building.** The scale of a building depends on its overall size, the mass of it in relationship to the open space around it, and the sizes of its doors, windows, porches and balconies. The scale gives a building "presence"; that is, it makes it seem big or small, awkward or graceful, overpowering or unimportant. The scale of a building should be visually compatible with its site and with its neighborhood.

The building is existing and based upon the drawings and information included in the submission to describe the proposed changes, no changes to the scale of the building are proposed. Based upon this information, the Board finds that this standard has been met.

2. **Height.** A sudden dramatic change in building height can have a jarring effect on the streetscape, i.e., the way the whole street looks. A tall building can shade its neighbors and/or the street. The height of buildings should be visually compatible with the heights of the buildings in the neighborhood.

The building is existing and no changes to the height of the building are proposed. Based upon this information, the Board finds that this standard has been met.

3. **Proportion of Building's Front Facade.** The "first impression" a building gives is that of its front facade, the side of the building, which faces the most frequently used public way. The relationship of the width to the height of the front facade should be visually compatible with that of its neighbors.

The building is existing and based upon the drawings and information included in the submission to describe the proposed changes, the proportions of the building's front façade will not be altered. Based upon this information, the Board finds that this standard has been met.

4. **Rhythm of Solids to Voids in Front Facades.** When you look at any facade of a building, you see openings such as doors or windows (voids) in the wall surface (solid). Usually the voids appear as dark areas, almost holes, in the solid and they are quite noticeable, setting up a pattern or rhythm. The pattern of solids and voids in the front facade of a new or altered building should be visually compatible with that of its neighbors.

The existing decks on the front of the building will be removed. Two new sets of steps will be installed. An existing damaged French door will be removed and replaced. The French door will be replaced with a single Fiberglass craftsman style exterior door with two panels on bottom and a six-lite glass on the top. Next to the single door the applicant is proposing to install a double hung window which will be white vinyl with a 6/6 mullion pattern (panes between the glass). A second existing door on the front façade will also be replaced with door to match the other new door. An existing bay window will be replaced one frame with three double-hung windows, as shown. The location of the new doors and windows will remain in the same/similar location to the existing thereby maintaining the rhythm of solids to voids in the front façade. Based upon this information, the Board finds that this standard has been met.

5. **Proportions of Opening within the Facility.** Windows and doors come in a variety of shapes and sizes; even rectangular window and door openings can appear quite different depending on their dimensions. The relationship of the height of windows and doors to their width should be visually compatible with the architectural style of the building and with that of its neighbors.

Based upon the drawings and material details included in the submission, the proposed doors and windows will be of standard shapes and sizes. The new doors and windows will be similar in size and location thereby

maintaining the existing proportions of opening within the facility. No new buildings are proposed. Based upon this information, the Board finds that this standard has been met.

6. **Roof Shapes.** A roof can have a dramatic impact on the appearance of a building. The shape and proportion of the roof should be visually compatible with the architectural style of the building and with those of neighboring buildings.

No changes to the roof shape are proposed. Based upon this information, the Board finds that this standard has been met.

7. **Relationship of Facade Materials.** The facades of a building are what give it character, and the character varies depending on the materials of which the facades are made and their texture. In Freeport, many different materials are used on facades - clapboards, shingles, patterned shingles, brick - depending on the architectural style of the building. The facades of a building, particularly the front facade, should be visually compatible with those of other buildings around it.

The applicant is proposing to replace the existing siding on the building; to remove the existing cedar shakes and replace it with vinyl clapboard style siding with a 4" reveal. The existing decks on the front of the building will also be removed and two new sets of concrete steps with aluminum railings will be installed. An existing French door will be replaced with a single Fiberglass craftsman style exterior door with two panels on bottom and a six-lite glass on the top. Next to the single door the applicant is proposing to install a double hung window which will be white vinyl with a 6/6 mullion pattern (panes between the glass). A second existing door on the front facade will also be replaced with a door to match the other new one. An existing bay window will be replaced with one frame with three double-hung windows, as shown. The existing trim will be wrapped in white metal. New full cut-off lighting fixtures will be installed next to the new doors. The applicant is also proposing new roof shingles, changing from green asphalt to black. Gutters will also be installed along the front of the building. The applicant has requested approval to paint both doors the Sherwin William color Red Bay (SW6321) and to use the color Smokey Gray for the new siding. Details on the doors, windows, lighting features and color have all been included in the submission. Based upon this information, the Board finds that this standard has been met.

8. **Rhythm of Spaces to Building on Streets.** The building itself is not the only thing you see when you look at it; you are also aware of the space where the building is not, i.e., the open space which is around the building. Looking along a street, the buildings and open spaces set up a rhythm. The rhythm of spaces to buildings should be considered when determining visual compatibility, whether it is between buildings or between buildings and the street (setback).

The building is existing. The only change to the existing footprint will be the removal of the decks on the front. Two new sets of concrete steps will be installed, and the remainder of the area will be loamed and seeded. Due to the style of the existing deck and the proposed changes, the rhythm of spaces to buildings on the street will remain relatively unchanged from the previous approvals. Based upon this information, the Board finds that this standard has been met.

9. **Site Features.** The size, placement and materials of walks, walls, fences, signs, driveways and parking areas may have a visual impact on a building. These features should be visually compatible with the building and neighboring buildings.

The existing decks on the front of the building will also be removed. Two new sets of concrete steps with

aluminum railings will be installed and any exposed areas will be loamed and seeded. The applicant will be removing some existing shrubs along the rear property line and installing Thuja Occidentalis to provide a visual buffer along the rear property line and between this property and the abutting property. Based upon this information, the Board finds that this standard has been met.

10. In addition to the requirements of the Freeport Sign Ordinance, signs in the Freeport Design Review District shall be reviewed for the following: materials, illumination, colors, lettering style, location on site or building, size and scale. Minor changes that do not alter the dimensions or lettering style of an existing sign need not be reviewed, i.e. personal name changes for professional offices, or changes in hours of operation. See Special Publication: "Sign Application Requirements".

No new signage is proposed. Based upon this information, the Board finds that this standard has been met.

Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Design Review Ordinance.

MOVED AND SECONDED: that the Freeport Project Review Board approve the printed Findings of Fact and Design Review Certificate for Melinda Sanderson, for exterior building alterations at their property at 8 Independence Drive (Tax Assessor Map 9, Lot 2A), to be built substantially as proposed, application dated 06/25/23, finding that it meets the standards of Freeport Design Review Ordinance and Freeport Village Overlay District, with the following Conditions of Approval:

1. Reference to Item 4 and 7 of the Findings of Fact be changed to one frame with three double-hung windows.
2. This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
3. The use of colors is approved for Sherwin Williams' color Red Clay for the doors and Smokey Gray for the vinyl siding or similar colored wood siding.
4. The applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Yankee & Hamlen)

Mr. Monteleone explained that he will be voting against the motion because he feels the Board does not satisfy the façade materials and there has been an adequate showing of consistency to the neighboring buildings that do have that and it is a concern that he is unable to resolve here.

ROLL CALL VOTE: (6 Yes) (1 No: Monteleone) (Chair Reiche hopes she gets wood)

48 Bow Street – Design Review Certificate

The applicant is seeking approval of a Design Review Certificate for exterior building alterations at 48 Bow Street. Changes include but are not limited replacing a 20'x20' structure with a 20'x24' structure. Zoning District: Village Commercial 3 (VC-3); Design Review District 1 - Class C. Tax Assessor Map 13, Lot 88 (48 Bow Street). Bruce Macomber, applicant. Bruce Macomber Jr. and Shelbee Macomber, owners.

Ms. Pelletier pointed out that Mr. Donahue will be excusing himself so he will turn off his camera but will hang on for the last item. Mr. Donahue explained that he is a neighbor with Bruce Macomber, the applicant.

Bruce Macomber introduced himself and noted that he and his wife would like to take down the existing

glorified shed at 48 Bow Street with 2 x 4 construction that has been there for quite some time. It is not really functional and is starting to fall apart. They would like to replace it with a 20 x 24 2 x 6 construction studio with a loft. Mrs. Macomber is an artist and would like to use it as a studio with storage space in the loft. On the side facing the house they have added a Transcom dormer more for passive sunlight for their work as well as passive energy from that side getting three-quarters of the day sunlight. Other than that, he will let the Board take them where they need to go. He has never done this before but here they are.

Ms. Pelletier explained that Mr. Macomber pretty much summed up the project. There are detailed drawings and she thinks it will be in a similar location and explained where it will be placed. It is on the right and the house is set back. They provided detailed building materials for the structure and updated elevations. One thing the Board has to consider is that this is a Class B structure in Design Review so Class B structures when you are doing a demolition, have a four-month notice period before you can grant approval for the structure to be demolished. Part of that notice period could be putting ads in the paper to see if anyone wants to salvage or take the building. When you do that notice, if someone wants to take the building to salvage it, it has happened in Freeport, you could come back to the Board if the building gets saved during that time. Otherwise, at the end of four months, you would come back and the Board would take action on the demolition certificate. There is a provision that is a little bit different in the case of replacements. The Board has viewed it a couple of times but it has been for replacing a structure that was identical. In this case, he is changing the structure's facade facing the house to go to a studio and it is a little bit bigger. That is something the Board needs to weigh in on. The ads were not run before this meeting because she was not sure which way the Board was going to go. She thinks getting the Board's opinion as to whether or not they feel it is demolition and the applicant needs to put ads in the paper and wait four months before the Board can grant approval is needed. Also, regardless either way, she thinks giving some feedback on the design would be helpful to them as well.

Chair Reiche asked if the Board gets into the four months, it has to hold a public hearing? Ms. Pelletier advised that if the Board gets into the four months, you would need to have a public hearing. The applicant would have to run ads 15 days before it comes to the Board so they could come back next month or anytime. They would run ads in the paper and give the opportunity for public comment and then the Board would essentially table it for four months unless they come back because the building was saved or they found a new home for it. Otherwise, they have to wait four months and run a couple more ads before coming back for final approval.

Chair Reiche asked the applicant if that timeline works for them? Mr. Macomber indicated that he felt he did not have a choice but that will put them into November. Ms. Pelletier advised that if they ran ads, we could have them come back in August, it would push it off until December. Mr. Macomber fears the next windstorm could take it down. Ms. Pelletier added that if the structure is deemed structurally unsound, there is a provision that could allow for removal but it is not something that we talked about. Mr. Macomber noted he is not an engineer but knows when he gets up inside the loft that has a pull-down stair, it is not very stable. When they moved in, he started cleaning it and the next summer he wanted to use some of the barn boards up there but as soon as he took a couple off the floor of the second story, it started to sway so he has not been up there since. Ms. Pelletier advised that there have been cases where the applicants have run ads and the salvage people wanted to take the building. Some people offered to take it for the wood or offered to move it. Sometimes it would give the opportunity if it was built in the 1800s and Mr. Macomber advised that the original dwelling was built in 1789 but he has not seen that particular building show up in any of the deeds.

Ms. Pelletier suggested that the Board consider giving him replacement or demolition and a path forward and

provide feedback on the design of the other structure because that takes time too.

Mr. Yankee asked if any of the existing building will be reused such as the foundation, the footings? Mr. Macomber advised that there is no foundation and the footings will be replaced with a frost wall. It will be completely levelled and cleaned out. Some of the wood may be used by his wife for aesthetics since she is an artist or some could be used for flooring.

Ms. Hamlen asked if Barnyard does kits? Mr. Macomber advised that they will be providing the kit and there is a local builder who will do put it up and do the basic interior work. Ms. Hamlen asked him if he would be able to personalize the kit? Mr. Macomber added that they will try to maintain the Design Review integrity of the area and not be super contemporary but make it look like a traditional Maine barn. He pointed out that he will work with the Board's time frame. They moved in there in 2019 and they are just getting around to do what they wanted to do.

Ms. Berger advised that there is no doubt in her mind that this is a demolition and not a reconstruction. Mr. Yankee asked what the dimensions are. Mr. Macomber advised that right now it is a shade over 20 x 20 and they are proposing a 20 x 24. If they go the extra 4', they are getting closer to the setback requirements. They are envisioning going counter clockwise a couple of feet, and make it a little squarer to Bow Street. Right now, it is at a bit of an angle to Bow Street. If it is approved, they would like it counter clockwise and moved a hair closer to their home for aesthetics but they will do what needs to be done.

Chair Reiche recalled when the Board waived the four-month demo because of replacement on outer Main Street where there was a Victorian porch and came off because it was rotten. Ms. Pelletier added that they had to meet code but it was the same footprint. Chair Reiche feels that is what the ordinance is in his opinion. If the Board decides this is a demo and there is a four-month delay, can we have the public meeting at our next meeting and approve the Design Review Certificate subject to them getting through the four months so they can book their work. Ms. Pelletier advised that the Board has not done it that way but as long as they come back at the end for the Board to grant the Demolition Certificate, and they are clear on where it is going to go, we possibly could do that but she would want to get some legal guidance because it is different from how we have done it. She thinks we can work with the applicant and he can put ads in the paper and have them come back to have the public hearing and see if this is something we can do or if there is a way you could do it. At the end of the four months, she feels they would have to come back. Again, we would have to be careful because if someone does want to come and take it, we want to make sure he has the opportunity to come back. It could be fast tracked if someone wants to take the building. She feels it is hard to get building materials, designs and all that so it would be beneficial to the applicant.

Mr. Yankee asked if the Board feels it is a replacement? Ms. Berger advised that she feels it is a reconstruction. It is not on the same foundation and does not see how it could be a replacement.

Mr. Macomber asked if there was an opportunity for him to donate it to the Fire Department for a training exercise? Ms. Pelletier noted that we are burning less buildings now because of all the regulations. The intent is not to have it burned. It is to find a future home. She offered to help Mr. Macomber with the ad. Chair Reiche is hoping that Ms. Pelletier can clarify exactly how open ended this will be at the end of the four months. He is hoping the Board can get all its business done in 30 days and then the applicant will have to wait it out and then be able to make commitments. The Board likes that idea.

Ms. Berger pointed out that they still need a public hearing and needs between tonight and the next month. Will there be time to set that public hearing? Ms. Pelletier advised that there would be time to do that before

it comes back. She thinks they need to do the ad before the Board takes final action. She offered to work with the applicant on that.

Mr. Macomber introduced Matt Amos, his local builder. He mentioned that the age of the building is probably from the 30s or 40s. It is not from the 1800s by any stretch and because it is not original to the house. Mr. Monteleone added that the demolition restrictions come about by simply being a B Building and the fact that it has that designation triggers this whole procedure. It is not a function of age. Ms. Pelletier agreed and added that we have two Design Review Districts. He is in Design Review District II which was the early 2,000s and the documentation noted it is a Class B property. Chair Reiche pointed out that we hired professionals to go through town and identify the buildings. Ms. Pelletier added there are different age ranges but it is not just age. It could be other architectural and historical significance too.

Chair Reiche offered to provide feedback on the new building. Mr. Yankee asked what color it will be? Mr. Macomber advised that right now it is red but his wife would like it to be white but he invited the Board to tell them what color it needs to be and they will make sure it fits in. He didn't realize until he married an artist that there is more than one shade of white. Chair Reiche noted that if the Board proceeds as he hopes they can and the Board agrees, Mr. Macomber can fill in some of the blanks over the next month and added that he thinks the building will look nice on their property. Mr. Monteleone mentioned that he observed the horizontal clapboards on the original can have that classic look but it is hard to see in the drawings. Mr. Amos wanted to be clear that this is not really a kit. It is custom made so he showed a vertical shiplap and advised that it is very similar to the dormer. He offered to leave it. Chair Reiche thanked him.

Chair Reiche asked if the Board has any other questions or comments for the applicant? None were provided. Chair Reiche asked how the Board feels about if Ms. Pelletier can do it mechanically, getting this applicant back in here next month with the hope of getting their approvals so they can get these four months completed starting with tonight? Ms. Pelletier advised that they would have to do their legal notices to get their four months so it would start next month. She will work with them to finetune the timing and get the ad. Chair Reiche asked how the Board feels about setting this up next month instead of waiting for the completion of four months to try to get them a quick approval subject to completion of the four-month process? Board members agreed. Ms. Pelletier wanted to make sure no one has feedback on any of the building materials or building designs on the doors because she would not like to have them have to come back. Ms. Berger pointed out that the pictures are showing the current location of the barn that is very close to very large trees. In Design Review II that the applicant is in, are there any restrictions or approvals to remove some of these big trees? Ms. Pelletier read the ordinance and advised that this is a single-family so it is not triggering any Site Plan. Mr. Macomber added that they would have to trim some of the branches away from the pine tree, the fir trees and cedars that line Bow Street on the yard side, not the street side to accommodate the crane and get the building in. He took down the one tree that was leaning towards the Dennison side yesterday so if he had to put it back up, it could be a challenge.

Ms. Hamlen mentioned she is looking at the page that has the drawing with the covered track and two barn doors on either side of the French doors and all she can think of is a horse barn. She asked if that is a structural thing to keep the door sound? Are those not usually on the inside? She was informed that it is strictly aesthetic and it is not structural. Aesthetically, Ms. Hamlen likes the look of the solid door that is on the barn today. She thinks it is busy but that is a personal opinion and not in the code. It was so noted.

MOVED AND SECONDED: To table action on the application for a Design Review Certificate for 48 Bow Street until such time the applicant returns to the Board to begin the four-month notice period for demolition of a Class B Building. (Reiche & Yankee) **ROLL CALL VOTE:** (6 Yes)

(1 Abstention: Donahue) (0 No)

Whitetail Drive Subdivision – 1495 US Route One (North)

The applicant is presenting conceptual subdivision plans for the Whitetail Drive Subdivision, a four-lot (8 units in four duplexes) open space subdivision. There is an existing driveway on the property which will be expanded and upgraded to a subdivision road. Approximately 73,091 square feet of open space is proposed. Zoning District: Medium Density A (MD-A). Tax Assessor Map 18, Lot 17 (1495 US Route One). William Davenport and Todd Harrison, applicants and owners; Adrienne Fine, Terradyn Consultants, representative.

Ms. Pelletier explained that what was handed out to the Board tonight was a letter from an abutter, Steven Taylor regarding the whitetail Drive Subdivision. He could not be here tonight but the Board has his letter noting some of his concerns. This is an existing property on U.S Route One. She noted that the address on the application is not actually 1495. It used to be part of 1495 and it is shown on the Tax Map today as Map 18, Lot 17 but she believes it has since been split. There is an existing duplex on the property and they want to add additional units thereby triggering the subdivision requirement of three or more lots with units within a five-year period. They are returning to the Board and this will be an introduction for you. This will be a major subdivision so it will be a three-step review process. You will have a conceptual review and then a preliminary. They will then come back for final. The parcel is in the Medium Density A Zoning District. There are no public utilities so it will be served by wells and septs. There is an existing driveway on the property which they would have to upgrade to meet subdivision road standards. The ordinance does require that it be paved. They have asked if you can waive it and allow it to be gravel. The Board got some input from the Town Engineer noting he does not support this request. Furthermore, the ordinance specifically only allows that in a couple of specific zoning districts of which this parcel is not in. When they put in the initial driveway and house, there were some wetland impacts and there was an impact to a vernal pool. They have been working with DEP now that they are coming in for a subdivision to remedy those situations with permits and revegetation which they can get into. They are requesting a waiver for utilities. Subdivisions require utilities to be underground. If they can demonstrate that requiring underground utilities will drive up the cost to a certain level, the ordinance would allow the Board to consider a waiver. They may also need a waiver on culvert design but they are not sure they need to move forward with stormwater designs and that will impact. Our Town Engineer included some comments on traffic. This is an existing driveway but they are changing the use from a two-family duplex to a subdivision so eventually they will need to get a change of use permit for the road entrance. The only question she has for the Board tonight is if you want to schedule a site walk? The applicant is here tonight and can walk the Board through the application.

Griffin Wood advised that he is a Civil Engineer with Terradyn Consultants. This four-lot subdivision is 8.2 acres in size previously developed in 2021, including the driveway shown on the left hand side and one duplex on the site. Much of the site is forested with some cleared areas. There are 1.75 acres of wetlands on the site. There are two vernal pools and one is significant so it has a 250' setback. He pointed out where it exists. To the south is the significant vernal pool. The vernal pool on the more northern side is not considered significant. Lots are generally going to be situated on the western upland portion of the parcel and the open space will be on the lower section of the parcel. As far as the development history, the existing parcel received a building permit from the Town of Freeport and a driveway entrance from the Maine DOT in 2021. At that point no wetland investigations were completed for the construction of the residential property but it was known that some wetlands existed on the site so the driveway and duplex were situated to avoid to avoid them as much as possible. The driveway resulted in less than 2,400 sq. ft. of wetland impacts so no permitting was required with Maine DEP because it was below the threshold. There is a 12" culvert under the driveway that was installed with a zero slope to maintain hydraulic conductivity between the two sections of wetlands on either side. Once the applicant decided to subdivide, that is when they delineated vernal pools

and wetlands designating the bottom left as being significant and the bottom right as not. Since that time, they have received a permit from the DEP for an after-the fact wetland for the impact and for the 25% significant vernal pool setback which is the maximum amount of clearing within the 250' radius offset of that vernal pool. As a result, no additional wetland impacts are expected to be proposed or impacts to the significant vernal pool covered area. The existing driveway access onto Route One is going to remain and be widened to an 18' wide graveled travel way with 2' shoulders to meet the private road standard for the Subdivision Ordinance. The road will be extended to 160' past its current length for a 656' long dead-end road terminating in a hammerhead. The lots size will be a minimum of 20,000 sq. ft. with 75' of frontage. Most of these lots are over this. The driveways will come off the private road for access and receive frontage off of there. The open-space required is 2.18 acres for the site. They are providing 3.16 acres. The lots will be located in the upland area but the open-space will be along the western side of the site in the lower portion.

The open-space calculations show that they can support nine units but they are proposing eight. They will have septic systems and wells for drinking water on the site. Overhead electric comes from Route One. There are currently poles that service the duplex and that is one of the waivers they are requesting to extend that overhead electric that is currently in place. The site will be designed with stormwater management to meet Freeport and DEP requirements and they will submit it to the town once they have more information during Preliminary.

In their conversations with DEP and Army Corps, they expressed a desire for a 12" pipe under the driveway to remain rather than be replaced to mitigate potential further impacts to the vernal pool and wetlands on site. At this point, they do not have full design of the stormwater. A Homeowners Association will be set up to maintain the open space, stormwater management, BMPs, and road maintenance and traffic. These legal documents will be provided later on.

To reiterate, they are requesting waivers for utilities and the existing duplex on site is served by overhead utilities with poles along the driveway. Extending this would add approximately two poles along there and would be simpler to the overall project. They are also requesting that the roadway be graveled and not paved. The Subdivision Ordinance private ways in RR I and RR II Districts and the RP-II District are less than 700 feet may have a gravel surface provided the road is less than 4% and does not cross any streams. They are not in these districts but the road is less than 700 feet and has less than 4% slope and does not cross any streams and this is an expansion of an existing road as opposed to a completely new road.

At this time, they are not formally requesting to keep the 12" culvert. Army Corps and DEP expressed that that is a preference but they will understand that as they dive into stormwater a little bit more. He offered to take any comments.

Chair Reiche asked if there are any questions for the applicant. Ms. Hamlen noted she sees Allen Range Road here right across from this driveway. As she recalled, the Harraseeket Ridge is developed, and Allen Range heading east so we will have two developments right across from each other. Ms. Pelletier asked Mr. Wood if they received their opening permit from the state? The answer was yes, she noted they would have to go back to the state. The state would have to issue it but they would still have to meet Subdivision standards. She offered to pull it up on the tax map so the Board could see.

Ms. Hamlen recalled discussions about how many cars would be coming out and right now it is just a runway with nobody coming out of those areas. She mentioned that Harraseeket Ridge will have more traffic than this one would. Ms. Pelletier pointed out that the parcel is across the road but you can see that the entrance will be staggered. She displayed Map 16 showing where Harraseeket Ridge is located and where their entrance is

located. She pointed out the subject parcel, Lot 17 and where their entrance is located. They are in close proximity but not right across from each other. Ms. Berger clarified that Harraseeket Ridge's driveway is north of the Allen Range Road and it seems like their driveway will be at one end and pretty far from this one. Ms. Hamlen pointed out where the Harraseeket Ridge is located. Ms. Pelletier advised that Lot 16 is the Harraseeket and Lot 17 is this one. Again, they would both have to meet municipal standards for subdivision and for sight distance but they would also have to get permits from the State of Maine DOT.

Mr. Monteleone pointed out that most importantly, we have not approved Harraseeket Ridge and based on their peer review, they may be fundamentally changing their design. He would be concerned about imposing restrictions on an applicant before us based on what we don't know about an applicant that is not approved. Ms. Pelletier added that the Board can only look at the application before you. People come in all the time and they build things, they don't build things so we will have to leave it up to the state and whether or not they consider that in their issuing of a change of permit.

Ms. Berger referred to Page 3 of the applicant's documents, under Water, she asked if there will be an individual well for each of the apartment units or for each duplex? Mr. Wood advised that there will be a well for each duplex or one well per lot and there are four lots. Ms. Berger mentioned the test pits were done in 2006 for the existing unit that is there and asked if they are taking that data of those test pits now to indicate that the three new lots are using that same data. She noted that obviously water doesn't change too much but she is wondering based on life today with the rain and everything else if they have done any new test pits? Mr. Wood advised that they will come later on when they do test pits for the additional subsurface disposal. It is usually a good indicator if you have one well that functions, the others will as well. That analysis will be done further on.

Ms. Berger advised that she feels the Board should consider a site walk and the Board should get out there with their boots on. Ms. Hamlen asked for clarification. Mr. Wood referred to the project as for four duplexes. She asked if that includes the existing one? Mr. Wood advised that it does. Ms. Hamlen clarified that basically they are only adding three to what is there and Mr. Wood agreed.

Mr. Monteleone advised that Mr. Wood characterized earlier that the existing road is currently only a driveway. Mr. Wood agreed it is considered a driveway. Mr. Monteleone mentioned that he has concerns about the request for a waiver of the paving requirement after having had an opportunity to see the way associations litigate paving obligations after the fact. He feels there is a good reason for that ordinance and he would oppose that waiver. Similarly, he generally is opposed to the waiver on the underground utilities. The economic showing might be satisfied with a lesser standard than for the paving. He feels it is important and would really look for very specific documentation about why underground is not feasible because the ordinance contemplated these issues and required them as part of the Subdivision process.

Mr. Yankee asked where would the above ground lines be run? Mr. Wood advised that currently the above ground lines go to the existing duplex along the driveway. Mr. Yankee advised that he would concur with what Mr. Monteleone just said. Ms. Pelletier added that there is a threshold in the ordinance that they would clearly need to demonstrate for the Board to even consider that utility waiver. Chair Reiche noted the burden is on the applicant to do that.

Ms. Hamlen mentioned that when the backhoe is in there widening what is now a driveway, it seems to her that that is the time to do it. Ms. Pelletier advised that this is something the Board would want to look at on the site walk.

Mr. Wood mentioned an option of keeping the above ground where it is and then from there, putting it underground to serve the new duplexes.

Mr. Donahue added that he agrees with Mr. Monteleone on the paving and utilities. Chair Reiche advised that he doesn't think we have the authority to waive anything in this Zoning District. Ms. Pelletier advised that it is not explicitly called out that way as other zones. If it is something the Board felt passionately about, we could go through with a fine-tooth comb and see if there is anything else that would allow you to waive it. Chair Reiche pointed out that it may not be possible but he would agree with other Board members who have spoken with their initial impression that this should be paved. The other waiver is the underground and the applicant would have to come to us to establish that this is driving you over market in the area and we would consider it then.

Chair Reiche knows how precious the DEP thinks vernal pools are and asked if there is an enforcement action or any problem with the driveway being so close to that? Mr. Wood advised that generally, because it was a small area, but it is hard to tell the history of the vernal pool and when it was created. Sometimes they are created because there is a culvert there. That is a determination they cannot make. They have a plan with clearing limitations and replanting along the road to limit the 25% clearing of the area. For water supply, Chair Reiche asked if they plan to put the wells in before selling the lots? Mr. Wood advised that yes, they plan to. Chair Reiche asked if they know what they are going to do for fire prevention such as hydrants or fire ponds? Mr. Wood did not have any info at this time. Ms. Pelletier advised that the Board would want the Fire Chief to weigh in on that and also on the road to make sure they can get a truck back there. Chair Reiche agreed that a site walk would be appropriate.

Ms. Pelletier asked if the four shared wells will trigger any kind of public water supplier setback? Mr. Wood advised that it is not to his knowledge. Ms. Pelletier asked about the big clearing in the middle where there is no house shown? Mr. Wood was not sure what it is. It appears to be a cleared area of some kind. Ms. Berger felt it was rock outcroppings.

Mr. Yankee pointed out that if the aerial is accurate, it would seem to indicate that there is an encroachment on the property line. Mr. Wood could not speak to that but pointed out that aerials are not always perfectly aligned with the property lines. Mr. Yankee requested that the property lines be clearly marked out for the Board's site walk. Ms. Pelletier added that the Board would want to see the location of the duplexes and the extent of the road with the extension at the end. Ms. Hamlen asked if there is enough space to widen the driveway on the left of the vernal pools? Mr. Wood advised that yes there is. Ms. Berger asked if there is a 250' buffer around this type of vernal pool? Mr. Wood replied yes, and they included it in their calculations and permit from DEP. He noted they already have a permit with the approximations of the road and its expansion and it doesn't go beyond the 25% clearing limitation.

Chair Reiche noted this is not a public hearing but if anyone would like to ask questions or make comments of the applicant, please come to the podium.

Jen Blanchette mentioned she is an abutter and pointed out where her land is. She feels there was an encroachment of the large clearing which was several acres of clear cutting in the middle of the pandemic. It was a surprise. When she saw the renderings, she feels it looks like there was an encroachment but she is not a surveyor and would like to know how that was done and how it could be remediated potentially with hedging or something that would provide a buffer because that is her backyard. She would appreciate it if there could be some replanting or rehedge. She does not know about utilities but has concerns that there is a big white light on that pole, especially in the winter that is causing light pollution. She does not know if there

will be more lights there and if it will be more light pollution she will see from her property. And her neighbors' back yard. She mentioned that the power grid is not very good. They lost power during Christmas for three days. If you are putting on a strain on the power network that is not being addressed, they will continue to have problems in North Freeport losing power frequently. She is fortunate to have a generator but her neighbor in a Habitat home did not have one and came to her house on Christmas Eve. She asked the Board to think about that when considering North Freeport.

Chair Reiche mentioned the buffering issue. The Board gets into buffering but it is easier for us if the abutter and applicant can come and say this is what we are doing for buffering on an issue like Ms. Blanchette's. Ms. Blanchette noted she e-mailed the developer but did not hear back. Chair Reiche mentioned the applicant is here and suggested that she speak to him. It would be helpful if she could have that discussion. Otherwise, the Board will do it from here.

On zoom, Susan Chandler explained that she has talked to the Board several times about the Harraseeket development. She has some of the same concerns that Ms. Blanchette has about the power grid. She feels they lost power three or four times in the winter and within the last 3 ½ weeks they lost power twice. She has called CMP and was told that they have some bad lines that would not be addressed any time soon. They are not on the list. She is also very concerned about traffic they will be seeing with 80 units on Harraseeket Ridge and potentially 160 cars that could be dumped on the road. Adding Whitetail will be another number of cars. Her major concern is also fire capacity. They don't have any fire hydrants there. We haven't had a dry summer this year but normally there could be a wildfire there when it gets quite dry and they are usually in a drought situation. If someone accidentally lit a fire, it could wipe out the whole area. These two projects are pretty close to all the neighbors. She hopes the Board is considering all this and addressing these issues with the builders and they will be kept safe.

Chair Reiche noted he feels it is helpful to have public comments but normally the Board does not respond but he knows the traffic is an issue that is part of the Board's review process. Fire protection is part of the Board's review process. He doesn't think the irregularities of CMP is part of our review. As we get close to the end of discussion on this conceptual plan, he asked Ms. Pelletier if it is set up for action? Ms. Pelletier advised that she did not set it up for action but if the Board knows the appropriate areas that are determined for development and open space, the Board could take action on it. Chair Reiche advised that he personally would like to have a site walk first. He polled the Board to see if they agree to have a site walk. It was clearly voted unanimously to schedule a site walk. Chair Reiche added that with everyone's summer schedule, he felt going right before the meeting works well. Ms. Berger advised that she will not be here for the next meeting. She will be away. Mr. Donahue feels having the site walk before the next meeting will be good timing. Mr. Monteleone noted the next meeting is scheduled for August 16. Ms. Pelletier asked Mr. Wood if that would give them enough time to mark out the extent of the road and the buildings and property lines and how long will it take the Board to look at the site and can they park on site? Mr. Wood did not disagree and Ms. Blanchette estimated the Board would need an hour. Mr. Monteleone added that he is in a proceeding that day and there is a good chance he won't be able to get there by five or even six. Ms. Pelletier added that it is beneficial to have the most Board members but we would have to have at least a quorum. If anyone is iffy, we might want to do another day. Ms. Berger advised that she would be happier if it were scheduled on another day even though she is not fond of weekend mornings. Chair Reiche added he is not here on lots of weekends. Chair Reiche asked Ms. Pelletier to coordinate the site walk by e-mail. She mentioned that if the Board gives her a directive, she can find some dates and other days of the week that work better.

Mr. Monteleone pointed out that the concept approval is a pretty low standard but it gives the Board a lot of flexibility going forward. It sounds like getting the site walk before next month's meeting is not going to be

possible. He proposed instead taking an action on the concept level stage to kind of keep it on track and set it for a follow-up view in September and we can look at either the end of August or beginning of September for a site walk. Ms. Berger pointed out that she has always had a hard time with the concept approval thing because to her, it means we are looking at their suggested areas for things. If we have not seen those areas, when we went out to Harraseeket Ridge, we had an opportunity to look at different sites and when some of them looked pretty wet and questioned how could they put a house over there? That is the kind of thing she would like to see on a site walk so when they conceptually present these plans, that we are not so far off. Once we do the conceptual plan, it is not fair to them to say a month later that it is totally ridiculous because of the site walk, we can't do that. That is why she would like a site walk first.

Ms. Hamlen asked Ms. Pelletier if she could come back to the Board with a couple of dates because she does not have her calendar. Ms. Pelletier asked Mr. Yankee if he is available on the 16th before the meeting? Mr. Yankee advised that he will be available. Ms. Pelletier noted it appears we might be able to get a quorum on the 16th. She offered to talk to the applicant to determine when they can get it surveyed. Chair Reiche added that it looks like we can get five out of the seven on the 16th. Ms. Pelletier asked Board members to e-mail her after checking their schedules. The site walk will begin at 5 o'clock. Ms. Hamlen noted she would let her know.

MOVED AND SECONDED: To table the review of the proposed Whitetail Subdivision until such time the Board can have a site walk tentatively on August 16. (Yankee & Hamlen) **ROLL CALL VOTE:** (7 Yes) (0 Nays)

ITEM V: New Business

Mr. Yankee mentioned that a couple of months ago the Board approved a roadway sign at Gritty's and his observation seems to be that we were correct in changing the background color from white to green but we also put some limits on the brightness of that sign. At night driving by, it is really bright and it is much brighter than what it was before with a white background being indirectly lit. He asked how the Board can learn from that and what can be done in the meantime? He does not think it was in our intention that it be so bright in our approval.

Ms. Pelletier did not know that the Board addressed the lumens. If they have light overspill, they could have a violation like a nuisance lighting violation. She could go back and look at it. Mr. Monteleone added that he thinks there was a provision about the lighting being equivalent to some neighboring standard. Mr. Yankee advised that his question is how do we follow up on things we approved if we see things or hear about things? Ms. Pelletier pointed out that if the Board feels something got installed and it was not something you clearly approved, we can follow up as a violation. Subdivision is easier because the town Engineer is out there inspecting all the time. With Design Review, the Codes Officer always reviews your approval, the notice of decision that is noted on the permits. If you feel there is a violation or in some cases, you might have to take it as a learning opportunity. Mr. Yankee added that if he had seen what he sees now, he would not have approved it. He suggested going back and checking the language because he thought the Board was very specific about that concern. Ms. Hamlen recalled there was a big discussion on where else in town there was this kind of lighting such as the Public Safety Building. Mr. Monteleone recalled that the brightness could not exceed the brightness on the Public Safety Building. Mr. Yankee suggested discussing it again at the next meeting if we have more information. He requested that Ms. Pelletier talk to the Codes Enforcement Officer to get his take on what he thought we passed and what he sees. Ms. Pelletier read the restrictions that were imposed into the public record.

Ms. Hamlen noted she does not know what the procedure is but having spent many months working on Main

Street, does this Board not get some sort of public accounting on what the Board of Appeals decided and why they decided it? She does not know if that is an executive session thing and what the next steps are and if it is legal or otherwise? She is unfamiliar with what happens when the Board of Appeals rejects something and she would love to have an open discussion on where this Board stands and where the developer stands. Ms. Pelletier noted that the Board could get some legal guidance from the Town Attorney. We don't know, they have 45 days to decide if they want to do anything with the Board of Appeals' action. Our Town Attorney is away but she can send the Board the Notice of Decision to read it but asked that nobody respond or talk about it. She can get some guidance on what the Board can talk about or if there is a discussion you can have or if it is a conversation you generally have in a legal workshop.

Ms. Hamlen asked if it is just now in the hands of whoever does the next step and it has nothing to do with us? Ms. Pelletier added "potentially" but pointed out that the Board's job is done so the Board is out of it for right now unless it goes to court and for some reason it comes back to you. It is beyond this Board and she will say that any experience we go through, we can use as a learning opportunity, she feels it is important that we do clarify things, acknowledging and going through them. She thinks it is also important that if something comes in and the Board knows because you do it all the time but something is compatible or the neighbors just did it and so you don't always have discussion but she thinks slowing down and kind of on the record, giving them your thoughts like oh, we unanimously want to vote for this because of whatever. You know there are many things you don't discuss like true divided light windows. It is not something you would get into if it came forward because it is a luxury and you don't see it but you know it is historically accurate.

When something goes through an appeal and they are reviewing the record, they don't know that. She thinks that is something that is good going through the findings. Another important thing is making sure the Board is sticking with what is in their purview not talking about other things that could be related but are beyond the purview of the Board.

Ms. Hamlen noted she could change her mind once she sees their rationale or findings but it is a learning thing. If we did something wrong, we should have the ability to talk about it with each other and with Counsel. For now, not knowing the status and knowing that it is a potentially legal matter that could come back to the Board. Right now, we need to not talk about it until we get some guidance on what is appropriate or if it is just a general discussion for future applications that could get appealed. Mr. Yankee suggested that we press our legal counsel to set up a workshop when the time is right to talk about what happened, why and what we could learn from it. He thinks it would be helpful to do. Mr. Monteleone added that one of his concerns is that the Board of Appeals like us is acting on their discretion and it can sometimes be detached from the law which is why there is a secondary thing that gets appealed to court. Then it gets appealed to the state's Supreme Court and it can be a very long time before it ever comes back here. It could be several years before it comes back here potentially. He feels it might be more productive to have a meeting with the Board of Appeals to understand what they are looking for and find defective or necessary in order to meet these standards because that is the level of review that said what we did was in error right now. Ms. Pelletier feels that is a bigger conversation and she would prefer to get some legal guidance on it and put it on an agenda. Ms. Berger feels there is a step in between or maybe it should have been already. Her understanding is that we were all supposed to read these procedures and things and had to sign off that we have done this training thing. One of the things it talks about is that Boards, Town bodies, government bodies have to have minutes and when their agendas and minutes are available. She is wondering because the Board of Appeals has quasi-governmental rights because they can choose things. Are they required to put their minutes out like we do and every other board. If they do, we should have access to be able to read it. Ms. Hamlen added that we did get their minutes from the first meeting but it came a month after. Ms. Pelletier pointed out that this Board does not approve minutes for a month. She offered to get some legal guidance but asked everyone to hang

tight. In terms of addressing Ms. Hamlen's question, what is available to the public about the Board of Appeals' review of our work? Ms. Pelletier advised that typically there are minutes on line after they are approved but maybe they are just putting them in a paper binder. There are no videos of their meetings so the Board cannot watch their meetings. Chair Reiche suspects that the Town Attorney wants to review the minutes before they get launched.

Ms. Pelletier wanted to alert the Board that they may need to do a training on line for the Freedom of Information Act. It is important to do and the Board should have done it prior but they are just catching up and having all boards and committees where it is relevant, do it. It is a good lesson and we get FOIA stuff all the time and as a Board member, you have certain obligations. Right now, it is Ms. Pelletier who might get a request and she would send the request for whatever information you have to turn over on your personal device, your cell phone or your e-mail that is stuff you send to anyone or each other so there is retention. She suggested that the Board take some time and go through it because it comes up quite a bit now.

Chair Reiche asked if there is anything else? Mr. Yankee suggested adjourning.

ITEM VI: Adjournment

MOVED AND SECONDED: To adjourn at 8:33 p.m. (Yankee & Hamlen) **ROLL CALL VOTE:**
(7 Yes) (0 No)

Recorded by Sharon Coffin