

TOWN OF AMHERST  
Planning Board

March 1, 2023

**APPROVED**

In attendance at the Souhegan High School: Arnie Rosenblatt – Chair, Bill Stoughton – Board of Selectmen Ex-Officio, Tracie Adams, Tom Silvia, Cynthia Dokmo, Tim Kachmar (alternate) and Pam Coughlin (alternate)

Staff present: Nic Strong, Community Development Director

Arnie Rosenblatt called the meeting to order at 7:00pm.

**REQUEST FOR EXTENSION:**

1. **CASE #: PZ16895-013023 – Nelson Realty Trust (Owner & Applicant); 64 Route 101A, PIN #: 002-086-002 – Non-Residential Site Plan Amendment – Extension Request. To show a proposed 2-story, 46,800 SF manufacturing, office & storage facility with associated parking. Zoned Industrial.**

Arnie Rosenblatt read and opened the case.

*Tim Kachmar sat for Tom Quinn. Pam Coughlin sat for Chris Yates.*

Matt Routhier, TFMoran, explained that the request seeks an extension to the site plan approval for this lot. Site plan approval was originally granted in 2005, with a Conditional Use Permit (CUP) and waivers granted in 2014 which updated the 2005 plan. A five-year extension was granted in 2018, which expires in March 2023. The intention of this project is to allow Resin Systems to expand. The pandemic slowed the progress of this proposed development. A building design has been created to show the development of surrounding buildings and the owner's intent is to pursue development of this parcel based on the approved site plan.

Dan Prawdzik, Resin Systems, and trustee of the real estate trust which owns the property, addressed the Board. He explained that he purchased this parcel of land in 1994/1995, with the expectation of expanding the Resin Systems business, which has been located on this lot since this 1950s. He has owned the company since 1989. He purchased 15 acres next door, subdivided the lot, and built the large Resin Systems building as seen today along Route 101A. The intention was to preserve the rights to build on the back land if expansion was required. The original building was built three times larger than needed at the time but is now bursting at the seams. In addition to the existing building, a large storage building was built on site, the Town Line Motors lot was purchased and rebuilt, and an attempt was also made to purchase the JJ Party industrial building, but this sale was not completed. The only space left for expansion for this business now is in the back of the lot. Architectural building plans have been submitted to Scott Tenney, Building Inspector. These include a building that looks very similar to the existing Resin Systems building. Resin Systems makes high voltage insulators for the semiconductor equipment business, military companies, medical companies, and airport bomb scanning companies. It is a key supplier in those industries, particularly in the semiconductor business. The building is very full and busy, and he would like to expand it further. The request is for some relief on the timing of this construction.

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45  
46 Matt Routhier noted that some permits will need to be updated for this project, such as the DOT  
47 driveway permit which expired in 2019, the Alteration of Terrain (AoT) permit which needs to  
48 be updated, and the subsurface permit. The intent is to update those permits, thus the need for an  
49 extension. The applicant will also address the Town's new stormwater regulations. The changes  
50 in these permits will require someone to visit the site in the spring to verify and gather additional  
51 information required by the State. The request is for a four-year extension. The owner's intention  
52 is to move forward with the building and structural design.

53  
54 Tim Kachmar, Pam Coughlin, and Cynthia Dokmo had no questions at this time.

55  
56 Bill Stoughton stated that the applicant referred to a section of the ordinance in requesting this  
57 extension. The section referenced does not talk about extensions, but instead talks about  
58 expirations, stating that the site plan approval shall expire four years after it is granted. He stated  
59 that he reviewed the ordinance but could not find any authority for the Board to grant an  
60 extension.

61  
62 Matt Routhier stated that the only the condition called out in the Staff Report was the RSA. In  
63 terms of substantial completion, there is typically a time frame of two years. He stated that he  
64 believes it is in the purview of the Board to grant any extension it feels is just.

65  
66 Bill Stoughton stated that he believes the ordinance only gives wording regarding when the  
67 approval shall expire. He stated that he does not believe the Board has the authority to override  
68 that.

69  
70 Matt Routhier stated that it appears the Board previously referenced the RSA in granting the  
71 five-year extension. Bill Stoughton stated that the approval gave the applicant five years from  
72 approval of the application to substantially complete the project and then be vested in the  
73 regulations. The Board has five years from the last extension to decide whether the project is  
74 substantially complete. It does not appear the project will be substantially complete by that date,  
75 March 23, 2023. Bill Stoughton stated that he does not believe the Board has the authority to  
76 grant an extension. He noted that one of the benefits of filing a new application with the Town is  
77 that the current ordinances will then be reviewed as to how they have changed since the original  
78 approval. The Planning Board will be able to assure that the project complies with current  
79 ordinances. This is a benefit to the Town. He stated that he wants this business to stay in Town  
80 but that the Board has to follow the rules.

81  
82 Dan Prawdzik asked how the approval was extended previously. He noted that he did not come  
83 to the hearing for the previous extension. TFMoran came to the hearing and the extension was  
84 granted. It was conveyed to him that additional extensions would not be difficult. He stated that  
85 if he cannot expand the building on this site, he will be forced to move. This would be tragic for  
86 the company and its 120 employees. He noted that he stockpiled crushed concrete from when the  
87 old Coca-Cola plant was torn down in order to use it as the base to build the building in the back  
88 of this site. He is now ready to use this.

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89  
90 Bill Stoughton stated that he wants the business to stay but that the Board must follow the rules.  
91 He is searching for the authority for the Board to grant the extension. The ordinance only states  
92 that the approval shall expire unless extended; not 'will' but 'shall'.  
93

94 Tracie Adams congratulated the business on its success. She stated that she would like to see this  
95 success continue. Her concerns are similar to Bill Stoughton's. Page two of the Staff Report  
96 references the zoning ordinance, which states that all site plans expire unless vested under the  
97 statute.  
98

99 Tom Silvia stated that it is important for the Board to follow the proper ordinances and laws. He  
100 agreed with the previous assessments made by Board members. There has been no construction  
101 on this lot in nine years for an 18-year-old plan. There does not appear to be any vesting in the  
102 plan. RSA 674:39 stipulates that the plan has thus expired. By not extending the current plan, the  
103 Board is not stating that the applicant could not submit a new plan. Given the plan being 18 years  
104 old, the applicant may want to submit a new plan, due to changes in technology and etc., in that  
105 time.  
106

107 Arnie Rosenblatt asked what the impact would be to the applicant between obtaining another  
108 extension, recognizing that new permits will be needed, and submitting a new plan, with the note  
109 that the Board seems to be sympathetic to the applicant's circumstances.  
110

111 Matt Routhier noted that TFMoran updated the drainage system on the site to comply with AoT  
112 requirements in 2014, so there should not be many changes to that aspect of the plan. The  
113 previously granted CUP allowed for impacts within, what is now, the 100' wetland buffer of the  
114 site. Changes to this would be impactful, creating a more difficult situation for his client in terms  
115 of the development previously proposed. The applicant also needs to deal with the Town's  
116 stormwater permit, as this was not required at the time of original approval. The wetland buffer  
117 item is important to the development of the project as it is shown on the current plans.  
118

119 Arnie Rosenblatt asked what the material difference would be to the applicant in seeking a new  
120 plan, instead of an extension, if the Board determines it does not have the authority to grant the  
121 extension. Dan Prawdzik stated that a new plan would likely feature the same layout, building  
122 footprint, etc. However, the driveway enters the property through an area of the site that is  
123 considered to be a wetland buffer. The setback to this used to be 50' but is now 100'. A new plan  
124 would need to go through the variance process again and could be denied.  
125

126 There was no public comment at this time.  
127

128 Tim Kachmar noted that it appears the RSA was previously misinterpreted by the Board for the  
129 past extension. The Board now has to do the right thing and interpret it the right way, though this  
130 is unfortunate for the applicant.  
131

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Arnie Rosenblatt asked if the applicant was prejudiced in any way by the previous extension. Dan Prawdzik stated that the intention is for the site to be the home for this company for the next generation or two. This plan has previously been extended twice and it was conveyed to him by TFMoran that obtaining another extension would not be difficult, if he came to the Board before it expired. He would then reapply for the AoT permits and the other items that had expired. Dan Prawdzik explained that he cannot receive the AoT, and other permits needed within the next two weeks. A request for a building permit has been submitted, including plans and structural drawings to Scott Tenney. Dan Prawdzik stated that he cannot start work on the project until the AoT permit comes back. He asked if Scott Tenney could issue him a building permit and hold it in advance until AoT and other documents are provided, as he did apply before the site plan expired.

Bill Stoughton noted that applying for an AoT permit is not a fast process. He asked if the applicant could file for the AoT permit in parallel with filing a new application. The Board is sympathetic but does not believe it has the authority to grant an extension. Dan Prawdzik stated that he would only do these things in parallel if the Zoning Board grants a variance. If not, he will have to move the business.

Bill Stoughton suggested tabling this item this evening and reconsidering it at the March 15, 2023, meeting, in hopes of exhausting other possibilities to properly grant an extension. Arnie Rosenblatt agreed with tabling this item in order to seek Town Counsel's opinion.

Marilyn Peterman stated that, from what she remembers of being on the Board, the Board granted exceptions all the time. She stated that the Board should not try to practice law in this case and should instead contact Town Counsel. She stated that she does not believe it beyond credulity for this applicant to expect that the Board might grant an exception again, given that this is an existing business with plans to expand. The business employs a lot of people, creates an additional tax base, and is a benefit to the Town. Arnie Rosenblatt stated that he had already stated that the Board would reach out to Town Counsel prior to the next meeting on this application.

**Bill Stoughton moved to continue this extension request to March 15, 2023, at 7pm, at Town Hall, with the understanding that Town Counsel will be consulted in the meantime. Seconded by Tracie Adams.  
Motion carried unanimously 6-0-0.**

**COMPLETENESS REVIEW OF APPLICATION AND PUBLIC HEARING IF  
APPLICATION IS ACCEPTED AS COMPLETE:**

***CONTINUANCE REQUESTED***

**2. CASE #: PZ16932-020723 – Kevin & Claudine Curran (Owners & Applicants);  
Pond Parish Road, Baboosic Lake Road & Grater Roads, PIN #s: 006-002-000, 006-  
007-000 & 006-009-000 – Subdivision Application – Final Approval. To depict the**

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**consolidation and conventional subdivision of Tax Map 6 Lots 2, 7 & 9. Zoned Residential Rural.**

Arnie Rosenblatt read and opened the case. He noted that the applicant is requesting a continuance both of the completeness review and the public hearing. The applicant has agreed, in writing, that no clock will begin on this application until it is heard.

Sam Foisie, Meridian Land Services, confirmed the statement made by the Chair.

**Bill Stoughton moved to continue this hearing to April 5, 2023, at 7pm, at Souhegan High School. Seconded by Tom Silvia.  
Motion carried unanimously 6-0-0.**

**DESIGN REVIEW:**

3. **CASE #: PZ12161-121319 – Robert H. Jacobson Revocable Trust, Laurie Stevens, Trustee (Owner) & TransFormations, Inc. (Applicant), 17 Christian Hill Road, PIN #s: Tax Map 005-148-000 & 005-100-000 – Conditional Use Permit – Design Review. To depict a 60-unit Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). Zoned Residential Rural**

Arnie Rosenblatt read and opened the review.

*Tracie Adams recused herself.*

Arnie Rosenblatt explained that this is a design review, meaning that the Planning Board is not being asked to make any decision this evening, and will not be making any decision this evening. Instead, this is a non-binding process whereby the applicant has an opportunity to present, and the Planning Board has an opportunity to make comments. Those comments by the Planning Board are not binding. This is not a public hearing, though if people want to make comments the Board will allow for some, only because there will be ample opportunity for everyone to make comments in the future for this item.

Arnie Rosenblatt explained that this project was originally submitted under the Integrated Innovative Housing Ordinance (IIHO) that has since been repealed. The application was submitted, and there was a hearing before the Planning Board as to whether or not a CUP under the IIHO would be granted. After multiple hearings, the Planning Board at the time denied that application, as was its right. The applicant then appealed that decision to the New Hampshire Superior Court. While that appeal was pending, the applicant submitted another application with respect to the same land, but which was somewhat different from the previous application. At another hearing the Planning Board made a determination as to whether or not the second application was sufficiently different from the first application based on certain merits. The Planning Board at that time made the determination that there was not a sufficient difference and, accordingly, informed the applicant that they could not move forward with the application. The

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applicant, as was its right, appealed that decision as well to the New Hampshire Superior Court. The New Hampshire Superior Court, after a hearing on the merits with respect to both of those appeals, denied the applicant's appeal and affirmed the Planning Board's decisions with respect to both of those appeals. The applicant then, as was its right, appealed the decision of the New Hampshire Superior Court to the New Hampshire Supreme Court. The New Hampshire Supreme Court examined the record and reversed the trial court's, that is the Superior Court's, decision with respect to the second decision, whether or not the second application was materially different. The Supreme Court then remanded that matter back through the Superior Court and then to the Planning Board. Currently, there is an order from the Superior Court, directed by the Supreme Court, for the Planning Board to consider that application. The application is to be considered based on the IIHO and the regulations in effect at the time. This effectively grandfathered in the application. He stated that he explained the history, not to invite a discussion on the merits of the decisions of the court, because the decisions have already been made but because he thought it was helpful to recap. The Planning Board will now deal with the court's decisions and fulfill its obligations to consider the application under the IIHO.

Arnie Rosenblatt explained that the applicant will make a presentation, the Planning Board will have an opportunity to make comments and ask questions, and there will be time for limited comments by the public. Another hearing will be scheduled at a later date for this item.

John Ratigan, attorney for the applicant, agreed with Arnie Rosenblatt's review of the history of this project. He noted that one of the things in the court's order on the remand was that the applicant may thereafter revise its proposed residential development application in any manner that is consistent with the Town's zoning ordinances, planning, and site plan regulations that were in effect during the time of the original submittal, December 23, 2019. A design review is a good start, but he believes that once the applicant has heard the Board's thoughts, a new application may be submitted.

Sam Foisie, Meridian Land Services, stated that the applicant plans to submit two CUP permits by the deadline of March 6<sup>th</sup>. One CUP will be familiar to the Board, as it was denied by nonacceptance in 2020, and the second CUP contains modifications to that plan based on comments heard from the Board approximately 2.5 years ago.

Carter Scott, TransFarmations, stated that both CUP submissions will be focused on a farm, agricultural development and both will incorporate solar energy, with enough solar to produce more energy than needed for occupants of the houses. He noted that he previously completed a renovation in Lexington very similar to the Christian Hill Road farmhouse. The first CUP will include a workforce housing plan with 26 units of workforce housing. This would result in \$260,000 of income to the Town, with the \$10,000 per unit incentive from the State. This plan includes 43% workforce housing. The changes incorporated into CUP2 come from comments by the Planning Board, Conservation Commission, Fire Chief, Department of Public Works, abutters, other Town residents, and the New Hampshire Housing Needs Assessment completed in January 2020. The 2020 study found that, if the Town permitted 100% of workforce houses for 10 years at its going rate, the town would still be deficient in their fair share of workforce

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housing units. CUP2 tries to maximize the workforce housing aspect. He noted that he built a unit in Lexington in 1995 that had a 1,000 s.f. accessory dwelling apartment in the basement. This would meet the current Town accessory dwelling unit (ADU) regulations, as an inventive way to obtain affordable housing.

Sam Foisie explained that the traffic analysis by Stephen Pernaw has been updated for CUP2. An update was completed as recently as January 2023, which is provided as an addendum dated February 21, 2023, and submitted with the CUP2 application. That updated traffic study focused on the Boston Post Road, Foundry Street, and Church Street intersection, which was the intersection that had demonstrated the most impact from the original CUP. CUP2 was amended to reduce the impact to that intersection. The study shows that there is approximately a 7%-9% increase in utilization of that intersection, which would be viewed as a minor impact in comparison to normal variations in traffic flows of between 20%-26% on a given day. The subject intersection currently operates under a stop sign control. During both the morning and afternoon school peak hours, a traffic control officer was present from 7:15 AM to 8:00 AM and 2:15 PM to 2:45 PM, during the weekdays. This falls in line with school arrivals and dismissals. The control officer assisted with pedestrian crossings, school bus operations, and in reducing the delay for all eastbound departures from Foundry Street. The Highway Capacity Manual (HCM) methodology for evaluating traffic operations at a conventional two way stop controlled intersection does not have the capability to reflect the use of a traffic officer. HCM does provide reasonable results in terms of the magnitude of the net change due to the additional site traffic from the TransFormations development. Site traffic will increase the overall intersection delay by approximately 1-3 seconds, depending on the peak hour period. Site traffic will increase the delay of the Foundry Street eastbound approach by approximately seven seconds during the AM peak hour period, and less than one second during the school and PM peak hour periods. Site traffic will increase vehicle queuing at the Foundry Street eastbound approach by approximately two vehicles during the AM peak hour and less than one vehicle during the school and PM peak hours. A one to three second delay is a minor impact on the intersection, and a seven second delay is also considered a minor impact on the intersection. The Traffic Engineer found that there are a variety of different routes to avoid this intersection.

Sam Foisie explained that CUP3 differs from CUP2 by reducing the density of the project, reducing the traffic, and thus the traffic impacts of the project. CUP3 plans to reduce the density from 60 units to 33 single family lots, with one 4-unit barn. Four solar farm lots are also proposed on CUP3. The single-family houses proposed are larger in square footage than the units proposed in CUP2 and are closer to representing the current styles of houses in other Amherst neighborhoods. These houses will tend to pull up property values in the neighborhood, as average new homes will be selling for substantially more money than the Town assessed value for the abutting properties.

Carter Scott stated that CUP3 envisions six units of workforce housing, four units in the barn and two two-bedroom units directly behind the barn. This would reflect a \$60,000 incentive for the Town. Other diversity in housing proposed includes mid-sized units clustered on Lots 8-11, with optional ADUs available in certain models. Two one-floor designs geared toward empty nesters

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are also proposed. One other feature of CUP3 is 40% open space to meet the Town regulations, with additional land having characteristics similar to the required open space areas.

Sam Foisie explained that the changes from CUP2 to CUP3 were based on input from the Town residents and Planning Board. One is geared towards workforce housing, which the Town does lack in obligations to the State, and the other is geared towards reducing traffic and density.

Tom Silvia explained that there is a lot of history in this project. While many people may know this history, he was not on the Planning Board during the original submission and feels that he needs to treat this as a new application with new information. He stated that he does not want it to be assumed that he knows the background of this project. He asked if the applicant has had a chance to review the comments from different organizations in Town. Sam Foisie stated that he has not reviewed these in great depth but recognizes that there will be comments from the Conservation Commission related to preservation of as many buffers as possible and preserving open space. There will likely be comments from the Fire Department regarding appropriate access and fire ponds.

Tom Silvia stated that he will be interested in the ultimate design of the site, the proposed increase in population for the Town and the overall impact of this project. He is interested in what types of units are proposed and the impact on the schools.

In response to a question from Bill Stoughton regarding the breakdown of units in CUP2, Carter Scott explained that CUP2 proposes 60 units, with 43% workforce housing, or 26 units. The rest of the units will be a mixture of types. CUP3 proposes 33 single family homes. In New Hampshire, a single-family home is allowed an ADU, so some models were designed with that as an option. 33 single family homes are proposed with a certain number of ADUs available, depending on the lot and how many bedrooms are approved on each lot. The four-unit barn is proposed for one- or two-bedroom workforce housing units. Altogether this leads to 37 units, plus a few optional ADUs.

In response to a question from Bill Stoughton, Carter Scott explained that both CUP proposals contain private wells. Pennichuck Water supply was only proposed for the original CUP.

Bill Stoughton stated that, in regard to which proposal people will prefer, the applicant will likely hear different opinions. Sam Foisie stated that the intention is to submit both applications concurrently and in parallel. Whichever application gets to approval first is the one which the applicant feels the Board would prefer.

In response to a question from Bill Stoughton, Carter Scott explained that the traffic study presented this evening is based on the CUP2 scenario. The study will be run again based on the reduced traffic vehicle trips proposed for CUP3.



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In response to a question from Bill Stoughton regarding which other studies will be submitted as part of the CUP process, Carter Scott stated that he will resubmit the previously completed groundwater study.

Bill Stoughton stated that, due to this being a relatively large development, he expects the Board will approach it as it does with similar large developments. The Board overall has wanted all of the studies listed in the regulations in the past, including hydrogeological, environmental, traffic, and fiscal. Sam Foisie noted that past studies presented to the Board have overall shown no impact to the Town. For example, a fiscal impact study for the Prew project showed no fiscal impact to the Town. He asked if there would be any relief from providing some of those studies. Bill Stoughton stated that there will likely be differing opinions on the Board for this. He stated that he is not likely to find the fiscal impact study helpful, given what has been presented in the past.

Carter Scott noted that he believes at the CUP level only the traffic study is being dealt with. Bill Stoughton agreed that the fiscal study was through the subdivision plan. Bill Stoughton stated that he would like to see the hydrogeological, environmental, and traffic study information at the time the Board sets the density for the project.

Cynthia Dokmo stated that she is pleased that the applicant listened to the citizens of the Town and reduced the number of units proposed from the original submission. She stated that she believes the Town needs workforce housing and a mix of housing. Both of these plans seem to provide those.

Tim Kachmar stated that he wants to see a total minimization of waiver requests from the applicant. He stated that he believes the applicant can fit houses on the lots without encroaching on wetlands. A lot of waivers will not be well received by the Board. He echoed the comments on the studies requested. He also noted that he is happy the applicant listened to the Town and cut back on the proposed number of units. He asked how the applicant plans to calculate the workforce housing numbers, as the State calculations based on Town income may not help the Town bring in new residents from other areas.

Pam Coughlin stated that her concerns will revolve around Fire Department access. She asked how the applicant plans to protect water on site if hooking into Pennichuck. Sam Foisie noted that neither proposal includes hookups to Pennichuck. Pam Coughlin stated that there does not seem to be enough water flow underneath this area to build 60 units. Whether through Pennichuck or private wells, she asked how the water will be protected from environmental issues.

Arnie Rosenblatt stated that he will likely want all of the studies for the CUP. One of the issues with the IIHO was that it was not clear as to what was needed for a CUP determination. That means the Board has the discretion to ask for certain items. It makes it easier for everyone, including the applicant, if the studies are submitted up front, so the Board has that information. The applicant should review what it already has in case any updates are needed. While fiscal

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impact analyses are always suspect to him, he would not dismiss this information, unless the Board decides to eliminate fiscal impact studies entirely on the theory that they do not provide value.

Arnie Rosenblatt asked if there were any comments from the public.

William Emerson, 3 Lyndeborough Road, asked if the plans shown tonight are different from the plans on the Town's website. Sam Foisie explained that both CUP applications and materials will be submitted by March 6<sup>th</sup>. The PDF documents will then likely be uploaded to the Town website. Nic Strong noted that abutters will be notified when hearings for the CUP applications are scheduled.

Richard Little stated that he is worried about the water supply in this area. He asked about what recourse there may be for abutters if there are issues in the future. Arnie Rosenblatt explained that there are issues that both the applicant and the Board will need to address carefully.

Wendy Rannenberg, 51 Christian Hill Road, stated that there were some 55+ housing units shown on the original plan. She asked if the new plans would include any 55+ housing units. Carter Scott explained that 55+ housing units have to be separated from the rest of the development. The new plans do not take credit for any 55+ housing, but some units are intended for empty nesters. 55+ housing will not be proposed unless it can be separated in an appropriate way.

**OTHER BUSINESS:**

**1 . Minutes: January 18, 2023; and February 1, 2023**

**Tracie Adams moved to approve the meeting minutes of January 18, 2023, as amended, [Line 254: to refer to Dan LeClerc as the State Representative for Amherst District 34]. Seconded by Bill Stoughton.  
Motion carried unanimously 6-0-0.**

**Tom Silvia moved to approve the meeting minutes of February 1, 2023, as presented. Seconded by Bill Stoughton.  
Motion carried unanimously 5-0-1 [T. Adams abstaining].**

**2. Any other business that may come before the Board**

The Board rescheduled site walks for 6 North End of Lake and 16 Clark Avenue to March 10, 2023, at 2pm and 3pm.

**Tim Kachmar moved to adjourn at 8:25pm. Seconded by Tracie Adams.  
Motion carried unanimously 6-0-0.**

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437 Respectfully submitted,  
438 Kristan Patenaude  
439  
440 Minutes approved: March 15, 2023