

TOWN OF AMHERST
Planning Board

February 19, 2020

APPROVED Amended

In attendance: Michael Dell Orfano- Chair, Arnold Rosenblatt, John D'Angelo-Selectman Ex-Officio, Marilyn Peterman, Sally Wilkins, Brian Coogan (Alternate), and Lisa Eastland (Alternate).

Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute Taker.

Michael Dell Orfano called the meeting to order at 6:39 pm at the Souhegan High School Auditorium. He explained that the Carlson Manor application requested to be postponed until March.

**Sally Wilkins moved to postpone the application for Carlson Manor until March 18, 2020, at the Amherst Middle School Cafeteria at 7:30pm. Marilyn Peterman seconded.
All in favor.**

Brian Coogan sat for Cliff Harris (until he later arrived).

OTHER BUSINESS:

1. Minutes: January 15, 2020; January 22, 2020

Cliff Harris entered the meeting.

**Marilyn Peterman moved to approve the meeting minutes of January 15, 2020, as amended [Line 126: for it to read, "In response to a question from Chuck Siragua, 39 New Boston Road, about the previous discussion, Mike Dell Orfano..."; Line 297: to replace the word "tabled" with the word "postponed;" Line 445: To replace the word "one" with the word "once."]. John D'Angelo seconded.
5-0-1 (A. Rosenblatt abstained); motion carried.**

**Sally Wilkins moved to approve the meeting minutes of January 22, 2020, as amended [Line 14: for it to read, "Brian Coogan sat for Arnie Rosenblatt, with respect to this application because Arnie Rosenblatt recused himself with respect to this application;" Line 47: to replace "endorsing of" with the words "favorable to;" Line 320: to replace the word "apathy" with the word "antipathy;" Line 332: to replace the word "She" with the word "Sally."]. John D'Angelo seconded.
5-0-2 (A. Rosenblatt and C. Harris abstained); motion carried.**

DESIGN REVIEW:

2. CASE #: PZ11884-101419 – JEP Realty Trust & Robert H. Prew Revocable Trust (Owner) & Clearview Development Group (Applicant), 38 New Boston Road, PIN # 007-072-000 & Boston Post Road, PIN #: 005-159-001. Conditional Use Permit. Design Review of the potential Planned Residential Development of the two lots noted. Zoned Residential/Rural. Postponed from January 15, 2020.

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Sally Wilkins recused herself as an abutter to the property.

Brian Coogan sat for Sally Wilkins.

Mike Dell Orfano stated that the Board would like to try to limit each application to 1.5 hours. This needs to allow time for public comments, Board deliberation, and the applicant's presentation.

Ken Clinton, of Meridian Land Services, stated that he is the representative for Clearview Development on this design review. He explained that this process is non-binding for either party. The Prew property is two lots of land in the northwest corner of downtown, off Boston Post Road and New Boston Road. Map 5 Lot 159-1 is approximately 70 acres, and Map 7 Lot 72 is approximately 9.74 acres, totaling almost 80 acres. A proposal came before the Board in August 2019 for a 65 unit concept. These numbers came from preliminary data and approximate boundaries. At that time, this calculated to roughly 33 base units, and 32 bonus units were being sought. This previous design involved three villages/sections, with the smallest units located off New Boston Road. The project took a multi-generational approach. Over time this application has changed, as other applications have been reacted to and the ordinance has been debated. The applicant has considered layouts of 66 units, or 43 units, but has since settled on 49 units.

Ken Clinton stated that there are 79.58 gross acres on the property, with 63.2 net acres. This gives a base density of 31.6 units, based on precise on-site surveys, wetland mapping, etc. The land itself is separated into two lots, bisected by wetlands and two ridges that run north-to-south on the property. These items preclude a through road across the property from New Boston Road to Boston Post Road. The project works best developed in two sections.

He explained that the West Village, as its being called, is proposed to be 27 units now integrated into one area. This will be in a smaller footprint than the original plan and will reduce the amount of infrastructure. The proposed road off Boston Post Road will be private. The units will have individual leach fields and individual wells.

The East Village, off New Boston Road, is proposed to be 22 units, on a smaller footprint than originally proposed, with less infrastructure, and a private road. These will be condominium style units, with two community wells for 18 of the units and four individual wells. The four single units will each have a leach field, and each of the duplexes will share a leach field. The benefits to this new design include smaller overall footprints, less infrastructure, fewer units grouped more tightly on the land, and increased open space. There is approximately 38.6% of this property that will remain open space; this is subject to change, more than likely to increase.

Ken Clinton explained that the property very closely connects to some already existing trails. There are trails proposed across the property that would lead out to New Boston Road.

Errol Duymazlar, of Clearview Development Group, stated that the most successful developments are neighborhoods created in response to the market. There is a shortage of housing in the area, especially in the mid-range and low price ranges. The sales cycle has

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shortened and inventory is currently very low. There are a number of demographic trends that drive demand. Millennials and baby boomers are both looking for smaller houses, footprints, and neighborhoods. This project hopes to provide those things and resemble what happens in Amherst's Village. The East Village will be smaller, with condo-type ownership. Some of these units will be rentals. Some will be single-detached units, and some will be duplex style. The West Village looks to integrate single-family homes into a neighborhood feel. The units will create a pattern language that resembles the historic properties in town, and will pick up details from these homes. The West Village will also plan for some units with ADU's (accessory dwelling units) included, in order to allow for multi-generational housing.

Errol Duymazlar stated that the project was scaled back out of respect to the community's comments and discussions with abutters. In response to the abutter's comments, the project now has an increased amount of open space on the north side in order to create a conservation corridor. There will be a variety of housing types in this development, such as attached housing, single floor housing, ADA compliant housing, 1-2 bedroom and 3-4 bedroom. These areas will be interconnected via footpaths through the open space. This project proposes that the open space be protected under a restrictive covenant, probably a conservation easement.

Ken Clinton explained that this application is currently seeking about 17 or so bonus units. This is a substantial, approximately 25%, reduction in the number of bonuses being sought. The application is looking to balance the ordinance and how it's administered, the market needs, the impact to the community, and the project viability. Originally, the project considered extending Pennichuck water to the site, but this is not cost effective.

In response to a question from Mike Dell Orfano, Ken Clinton stated that this project will be self-phased, due to the two Village approach.

Ken Clinton questioned the Board regarding how much the application should rely on the Master Plan and what sources of data are generally seen as appropriate to reference. He requested that, if the sources cited are determined to not be legitimate by the Board, that it be possible to table the case to further supplement the data and level of direction.

Rich Hart entered.

Mike Dell Orfano stated that Town Counsel has indicated that the Board should rely on the Master Plan, even though it's 10 years old. It will be updated soon.

Arnold Rosenblatt stated that the Master Plan is not invalid. The data and evidence presented will be evaluated on a case-by-case basis, to determine if the applicant has sustained their burden.

Ken Clinton asked for clarity on what is meant by the public health, safety, and general welfare, as mentioned in the Conditional Use Permit.

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Brian Coogan suggested that traffic concerns could relate to safety. Mike Dell Orfano stated that the depletion of the water table could be a health issue.

Arnold Rosenblatt stated that these determinations will be decided on an application-by-application basis. He does not want to be limited by making a judgement on these items at this time.

In response to a question from Ken Clinton, Brian Coogan stated that it would be inappropriate for the Board to make a determination in aggregate going forward regarding these concerns.

Ken Clinton stated that there seems to be a charge to go down a list of items and describe why each one meets the criteria in regards to the project at hand, but this is difficult if he is unsure as to what the criteria mean.

Brian Coogan stated that it is not appropriate for the Board to give a laundry list of items for the criteria. It is restrictive for the Board to box themselves into these criteria definitions. This is all highly subjective based on the application itself.

Marilyn Peterman stated that the amenities considered in the IIHO contribute to the general welfare of the town. While these items will be considered on a case-by-case basis, she believes Ken Clinton is on the right track.

Rich Hart questioned if it is possible for the Board to specify the length of staging time, in order to more appropriately react to any safety concerns that arise.

Cliff Harris requested a site walk of the area.

Public Comment:

Chuck Siragusa, 39 New Boston Road, asked for more information regarding the lighting on site that may shine into his house. Ken Clinton stated that this will be evaluated much more closely in the final steps of the application.

In response to a question from Chuck Siragusa, Ken Clinton explained that they have some data from well-drillers, but that not all of the 49 units will have wells. If this property were to have a conventional subdivision placed on it, there would be a higher number of wells on the lot.

In response to a question from Chuck Siragusa, John D'Angelo explained that the Board of Selectmen has submitted a warrant article to make it easier to levy impact fees. A new study, which will suggest rates to charge for different things regarding impact fees, will be complete in about 4-6 weeks. If the Board then adopts those items, the Planning Board will have a way to levy impact fees.

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In response to a question from Marcella Dube, 48 New Boston Road, Ken Clinton explained that the project has not yet done a well study, but that there is well data available from nearby properties. He also stated that any project would increase traffic in this area, but that this project will probably not necessitate offsite improvements. The applicant has started a traffic study, and the data from it will be in hand at the Conditional Use Permit hearing.

Mike Dell Orfano stated that this meeting is only to present the concept of this project to the public. This is non-binding and no studies are required of the applicant at this time. In regards to this, Town Counsel stated that it would be defensible for the Board to ask for certain studies ahead of the CUP in order to best react to the process.

Stephen Bennett, of Wadleigh, Starr, & Peters, stated that one aspect of the design review is binding; that is that the developer will be grandfathered from the zoning ordinance amendments if the application for design review was submitted prior to the notice of the amendment. He believes that this application has been a moving target on its plans. He believes the Board has the ability to set the submission requirements at the design review stage. He also does not believe this application should be grandfathered in.

Mike Dell Orfano suggested that Stephen Bennett put his recommendations in writing to Town Counsel. Stephen Bennett stated that he voiced these concerns in a letter to the Community Development Office a month ago. He stated that he also has concerns regarding the local wells, and traffic impacts.

Mike Dell Orfano suggested that Stephen Bennett reach out to the Bicycle & Pedestrian Advisory Committee to discuss safe travel down these roads. He also explained that water is a civil matter. He suggested that abutters have their water tested prior to development in order to get a baseline reading.

Kris Pierce, 40 Boston Post Road, expressed concerns regarding the aquifer and potential loss of power along the road. She also has concerns regarding traffic, potential blasting on site, ledge, and the loss of animal habitat. She is a direct abutter and was not contacted by the developer about the project.

Tom Quinn, 30 Christian Hill Road, asked why the development is planning to separate the large single-family houses from the duplex units. If all of these different types of housing units are considered to be the same, why are they being separated on site?

Ken Clinton explained that the separation is due to the market and the wants of homebuyers. It is no different to the developer if these units are together, but the market doesn't seem to want that. The idea is to follow the intent of the ordinance with diversity, in a way that is ultimately marketable and resalable.

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Martin Rowley, 8 Old Mont Vernon Road, stated that the housing assessment from NRPC does not attempt to assess the needs or wants of the town's citizens. NRPC doesn't define this, the citizens do.

Mike Dell Orfano stated that the town makes a lot of these decisions as part of the Master Plan process. He hopes many citizens will join the process. The assessment completed by NRPC gives a sense of the workforce housing required under state law and where Amherst sits regionally in relation to this.

Martin Rowley stated that the housing assessment shows a deficiency in town for workforce housing, but the IIHO allows for any developer to build under the workforce housing ordinance. He thus believes the town will be in compliance if the IIHO was removed. Sally Wilkins pointed out that this application did not propose any workforce housing.

In response to a question from Bryan Galante, 32 Boston Post Road, Errol Duymazlar stated that he has spoken directly to abutters who have reached out to him and he is happy to meet with anyone else who wishes to. Bryan Galante stated his concerns regarding power to the area and the local wells.

Barbara Williams, 9 Foundry Street, stated that there is a handbook from the state regarding best practices that should instruct Planning Board meeting business. The handbook states that, if a member recuses his/herself, that member should not be in the room while deliberations are ongoing. She stated that Sally Wilkins recused herself but is still sitting in the room and talking with one applicant. This is not best protocol and reflects badly on how the Board governs.

Mike Dell Orfano stated that the Board's policies do not require recused members to leave the room.

Kelly Mullin, 48 Christian Hill Road, stated that the Board likes to discuss the town's workforce housing needs but that, under the IIHO, not a single unit has come in under the workforce housing section. It is much more lucrative to take density bonuses under the IIHO.

Mike Dell Orfano stated that some units, even after they are transferred, are deed-restricted, so saying "not a single unit" is untrue.

Liz Boskee, 37 New Boston Road, expressed her concerns regarding traffic and noise from the project.

In response to a question from Liz Boskee, Ken Clinton explained that the proposed trailhead on New Boston Road will be a typical, small gravel turnout, capable of holding approximately three cars. This will not be an additional generator of traffic.

Jack Child, 65 Christian Hill Road, stated that there is a crisis of confidence in the Board. He asked that the Board members pay better attention during the meetings.

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Board Discussion:

Arnold Rosenblatt stated that he was concerned to hear the applicant state that the previous iteration of this application was well-received by the Board. It was not well-received by him. It was neither well nor poorly received; he gave no substantive comments, which is common at this stage. Any application will be considered by him to see if the applicant has sustained his/her burden. He also will not help to define any of the terms in the ordinance more specifically. Each application will be looked at and considered on a case-by-case basis. He does not want to be locked into any specific definitions going forward.

Cliff Harris stated that he will be impartial until all of the information can be heard. He also would like to schedule a site walk.

Brian Coogan stated that he was happy to hear that a traffic study is in process. He has concerns regarding the proximity of this project to the schools. He suggested the applicant look into water studies, as there were many abutter concerns regarding wells.

In response to a question from Lisa Eastland, Ken Clinton stated that the potential number of ADU's is hard to predict ahead of time; it is usually driven by the buyer.

Rich Hart stated that he has no opinion until the CUP phase.

John D'Angelo stated that he will also think on this and wait for the CUP. He thinks that traffic and hydrology studies will be givens.

In response to a question from Marilyn Peterman, Ken Clinton stated that the layouts for each unit (attached, single-floor, etc.) have not yet been determined. He also stated that the full application will address the need in town for smaller housing units and the need for more cost effective units.

Lisa Eastland suggested that the applicant also look into electrical/power studies, as that was also mentioned by many abutters.

Mike Dell Orfano questioned how the rental units will be owned/managed, and what the retention policy will be on those units. He stated that the Board would like to hear how housing units can be affordable to the median range and be retained at that level over time.

Arnold Rosenblatt explained that the statement that the "Board would like" does not mean that the Chair was speaking for every individual on the Board. He stated that the Chair was an individual with individual views. Mike Dell Orfano clarified that he would like to see affordability and retention and price range information.

3. CASE #: PZ12161-121319 – Robert H. Jacobson Revocable Trust, Laurie Stevens Trustee (Owner) & TransFormations, Inc. (Applicant), 17 Christian Hill Road, PIN

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#’s Tax Map 005-148-000 & 005-100-00. Conditional Use Permit. Design Review. To depict a 60-unit Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). Zoned Residential/Rural. Postponed from January 15, 2020.

Mike Dell Orfano stated that the motion for rehearing regarding the previous CUP application for this property has been withdrawn. The Superior Court complaint against the town regarding the previous application for this property is still active.

Carter Scott, President of TransFarmations, Inc., explained that this project is to develop Jacobson Farm. This property is about 120 acres of land and the project looks to create a diverse neighborhood of houses. “Agrihoods” incorporate homes and existing farmland, with a focus on green spaces and community gardens. If the petition warrant article to limit density bonuses passes, this project could have a base density of 41 units. He then showed a possible plan involving 41 four-bedroom units. Using the NRPC Housing Needs Assessment, he explained that the average home has 0.99 children per home (page 17), thus this possible 41 unit project would include approximately 41 children. He entered the Housing Needs Assessment for the Nashua Region by NRPC into the record.

Carter Scott explained that the project includes a farm that wraps around the neighborhood. In this plan, there are 55+ units, 1-bedroom, 2-bedroom, single-floor, first-floor masters, all included in the neighborhood. 43% of the units in this project are workforce housing. Using the same Housing Needs Assessment, this plan projects approximately 19 children. This is a positive income to expense ratio for the town, described as desired in the Master Plan.

Carter Scott explained that over 82% of the land in this project will be open space; only 40% is required. The Master Plan states that the town is looking for open space, which this project provides for in abundance. This new application looks to donate the land adjacent to the existing farm to the town at no cost, and to create a 20’ vegetation buffer enhanced with plants that help uptake nitrogen. The prior application included five road waivers; this one includes zero. The proposed road will be 800 linear feet in length (reduced from 1200 linear feet), and will include a 2% negative grade at the entrance, and no more than an 8% grade going up. There will be seven private drives and the water supply has been changed from public to private.

Carter Scott stated that the town’s housing assessment from NRPC showed that the town has a need for more workforce housing. The town is currently deficient of 379 units of affordable housing. He entered the NRPC housing assessment for the town into the record. He explained that, even if the town were to build approximately 38 units per year and required each one to be workforce housing, even after ten years the town could still be deficient. He stated that workforce housing doesn’t need to look substandard and not fit into the neighborhood. The workforce units on Christian Hill would be designed to look like single-family homes, in a New England vernacular.

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Carter Scott explained that this new application has moved all of the homes on Map 5 Lot 100 out of the wetland buffers. The intention is to deed-restrict the entire development to prohibit the use of chemical fertilizers and pesticides. The plan will also commit to an ecologically sustainable approach to obtain the nitrogen needed to enrich the farmland.

Carter Scott stated that Meridian Land Services has contracted with Stephen Pernaw & Company, Inc., to complete a traffic study for both Jacobson and Clearview. It has been determined that the additional volume to this development will not be significant enough to change the future/current level of service of adjacent road intersections. This report will be presented once available. The Department of Public Works has been consulted, and the public roadway on the property will have a 25mph speed limit. The grade and turning radius have also been confirmed. The number of units accessed by this new road has been reduced from 37 to 29.

Carter Scott stated that Beth Bradshaw, an engineer for Eversource, has stated that there is an electrical line at 17 Christian Hill Road that is high voltage (19.9 thousand volts); this will not require additional phases for 60 homes. He explained that she said there will be very little current for the number of proposed homes and solar.

Carter Scott stated that a paper water study has been conducted by Weston & Sampson. It found that the plan will not adversely impact ground water resources.

In regards to comments made by the Heritage Commission, this application recognizes the existing farmhouse as a meaningful landmark and will see it restored. This will allow for four additional IIHO units elsewhere in the development. The Heritage Commission will document the existing foundation, if any of it is removed. The project will also continue to protect existing stone walls on site.

Carter Scott stated that this project will phase the cutting of trees. The project will also choose one of the less severe cuts and recut it in about 20-30 years, in order to sustain a harvest. Most of the “wolf” trees on the property will be preserved and left to mature (large individual trees left standing from prior tree harvesting).

Public Comment:

Tom Quinn, 30 Christian Hill Road, questioned why it’s appropriate for the Board to hear this case when a similar application/case is currently still in litigation. He doesn’t believe it’s a normal practice for a town to hear a similar application if still being challenged in court.

Mike Dell Orfano stated that the Board can hear it because this is an entirely different application.

Jeanne Ludt, 3 School Street, expressed her concern regarding trucking through the Village in order to work on the development if it took many years to phase the construction.

Mike Dell Orfano stated that trucks pay road taxes and are entitled to use public ways.

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In response to a question from Marc Vallincourt, 34 New Boston Road, Carter Scott explained that an orchardist involved with the project has tens of thousands of permaculture plants that can be used on site. They are currently also interviewing an animal farmer. There will be no cows on the property, but probably some small specialty pigs, goats, and chickens. The vegetable farmer will be the main organizer of the farm. The new barn will include 1/3 space for CSA (community supported agriculture) pick-up, 1/3 for workshop space and possibly a café, and 1/3 space for office areas. There will also be space for cold storage, and equipment. All of these items will be further detailed in the CUP.

In response to a question from Marc Vallincourt, Carter Scott explained that a soil analysis of the site showed a lot of past corn farming, with high levels of phosphorus.

In response to a question from Marc Vallincourt, Carter Scott stated that, while not currently fully vetted, the plan would be to gather volunteers from the neighborhood and town as a source of labor to pick the fruits and vegetables.

In response to a question from Marc Vallincourt, Carter Scott explained that there will be a 99 year lease to the farming entity to own the farmland. The open space has to be owned by the people in the neighborhood. The farm lease is subject to change as the plans evolve.

Jim Hendrix, 44 Christian Hill Road, stated that the traffic currently at Foundry Street and Boston Post Road at 10am and 3pm is untenable. He believes it is unacceptable to say that there will be no traffic impact from this development.

Carter Scott stated that that intersection currently has a level D for service. It is slated to fail within 10 years. The addition of homes from this proposed development will not change the level of service of this intersection. He explained that a traffic engineer and Jay Minkarah, Director of NRPC, both agree that these units will have no adverse traffic impact to this area.

Jason Osborn, 14 Bloody Brook Road, stated that he sees major improvements in this new application. He believes that there are some plans here that really attempt to blend this development into the fabric of the community. While he likes the farm concept, he believes it may have limited practicality. The town is in need of recreation fields and some of the flat land on this parcel would be an ideal location. He also has concerns regarding traffic and site distance.

Sally Wilkins, 28 Green Road, cautioned against using certain plants that may actually be illegal in New Hampshire, such as currants. She also agreed with Carter Scott regarding climate change affecting what may be grown here in the future, noting that the Forest Society has said that New Hampshire will lose its maple syrup industry in 15 years due to climate change, and there is thus a need to look into other possible species.

Tom Quinn, questioned what other unit layouts there will be than the drawings shown this evening. Carter Scott explained that there will be 1, 2, 3, and 4 bedroom units. The town is in

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dire need of workforce housing and so that will be focused on, with 43% of the units being classified as that. There are not drawings yet completed for all of the different unit styles.

In response to a question from Tom Quinn, Mike Dell Orfano stated that he's not sure what the basis is to determine if an application is "materially" different from a previously submitted application. He deferred to Town Counsel on the matter.

Board Comment:

In response to a question from Rich Hart, Carter Scott stated that all of the homes in the development are located within 30 degrees of true south. He plans to put solar on all of the roofs. He will commit to this for the 2020 and 2021 years, and then go year-by-year to see what incentives are available and if it's still cost-effective.

John D'Angelo commented that this application appears to have tried to incorporate much of the previous feedback and looks to be substantially different. He explained that the town's housing assessment by NRPC shows that there are about 4,100 homes in town, and that, if the town wants to fulfill its Fair Share, it is deficient by about 390 workforce units. The IIHO provides the opportunity to create these units, but the current petition warrant article is out to repeal the IIHO. The Board of Selectmen has commissioned NRPC to study what the effect will be if the IIHO is repealed and the town is still not carrying their Fair Share.

Marilyn Peterman thanked the applicant for a lot of information that wasn't previously presented. She is glad to see that workforce housing has been included in the project. She also believes the NRPC housing assessment for the town should be read and given due credit.

In response to a question from Lisa Eastland, Carter Scott explained roads are graded with A, B, C, D, and F. The intersection previously discussed is currently graded a D level of service. It is already projected to fail. The proposed development will add traffic to the area, but not enough to change the level of service.

Brian Coogan stated that the sustainability of farming seems to be declining. He would like to see data that shows similar farming that is sustainable and succeeding. Carter Scott stated that a farmland consultant will be hired to help with the business plan for the farm and ensure its sustainability over the long term. The plan will be looked at very hard. He understands that Brian Coogan would like to see empirical evidence as to how the plan can succeed.

Mike Dell Orfano stated that there is an existing ordinance in town that allows for a right to farm. This is enforced by state law. It is hard to separate the farming from the housing on this project, but they are two separate things.

Cliff Harris stated that he looks forward to hearing more about this at a CUP hearing.

Arnold Rosenblatt stated that he will wait for the formal application to determine if the applicant's burden is sustained.

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482 Mike Dell Orfano stated that the applicant should at some point address his ability to finance the
483 project successfully in order to appease any concerns. Carter Scott stated that he already has a
484 bond quote in hand.

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486 Mike Dell Orfano stated that the Board will meet on March 4, 2020, at Town Hall in order to
487 discuss possible modifications to the IIHO ordinances. The Board usually discusses possible
488 changes to the IIHO in the fall, but were unable to due to volume of applications. This Board
489 discussion, will not be open to public comment, and the meeting notice will state as much.

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491 **Arnold Rosenblatt moved to adjourn the meeting at 9:52pm. Cliff Harris seconded.**
492 **All in favor.**

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498 Respectfully submitted,
499 Kristan Patenaude

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501 Minutes approved as amended: April 30, 2020