



Town of Danvers Zoning Board of Appeals

1 Sylvan Street, Danvers, Massachusetts 01923 | p: 978-777-0001

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Zoning Board of Appeals

Members:

John Boughner, Chair
Kenneth Scholes, Clerk
Jeffery Sauer
Kenneth Jarvinen
Corinne Doherty
Katie Hislop, Alternate

May 8, 2023 7:00 p.m. ZBA MEETING MINUTES

Board members present: John Boughner; Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, Corinne Doherty and Katie Hislop.

Staff present: Brian Szekely

John Boughner called the meeting to order at approximately 7:00 p.m.

CONTINUED ITEMS

154 WATER STREET (a/k/a 170 Water Street) (R-II) Request for a Special Permit in accordance with Table 1 and Section 30.2.F of the Danvers Zoning Bylaw to allow a new senior (55+ in age) affordable housing development consisting of 140 senior independent dwelling units (70 of which will be deed restricted affordable) with a preference for those residents who are deaf, deaf/blind, and near-deaf, and with an affordable income eligibility from 30% AMI to market rate. The subject applicant has been selected by the Danvers Housing Authority to be the project developer, in accordance with Zoning Bylaw Section 30.2.F.1 The applicant is requesting variances from Section 30.2.F.2 and Table 2 to allow the development building to be four stories in height where two stories is the maximum, to be 49' in height where 30' is the maximum, and to have more than 8 units in the development building. A variance from Section 30.2.F.3 is requested to allow the permanent parking spaces for the new development to be located within the dimensional side and rear setback of the property. Request made by New England Home for the Deaf, Inc. and WinnDevelopment Company, LP. (23-5012).

Ken Scholes read aloud application for 154 Water Street docket 23-5012.

Attorney Nancy McCann-presented on behalf of applicant. Also present Chuck Crush (NEHD); Steve Sacco (NEHD); Adam Stein (WinnDevelopment); Rami Schneider (WinnDevelopment); full development and consultant team. Reviewed project revisions based on feedback from the Town, the board members and neighbors. Unit count reduced from 140 units to 120 units. Reviewed all conditions for approval that applicant has agreed to which will be part of the final decision.

Mr. Boughner-applicant agreeing to all conditions?

Attorney McCann-correct-applicant agrees to all conditions. Reviewed revised elevations and reductions made to plan. Noted revised distance from lot lines and abutting properties. Provided summary of changes made based on feedback; reviewed the requests of the Special Permit. Parking variance no longer needed. Reduced number of units from 140 to 120. Seeking special permit for an affordable Senior Housing Development with preference to deaf, deafblind and near-deaf residence; secondary preference for Danvers residents age 55+. Requesting the height variance and a variance for the number of units per building.

Mr. Boughner-special permit to allow number of units? Variance for height? Do not need variance for parking?

Attorney McCann- Special permit to allow affordable housing for seniors in R-II. Variance for height. No longer need parking variance. Variance for number of units/building-bylaw allows 8 units/building and are requesting 120 units (reduced from 140). Density variance not needed.

Mr. Sauer-Thompson House has 24 apartments? 51 beds in rest home; 30 beds are skilled nursing facility?

Attorney McCann-yes.

Mr. Scholes-no questions.

Mr. Jarvinen-no questions.

Ms. Doherty-no questions.

Ms. Hislop-no questions.

Mr. Boughner-number of units currently on site? 216 units would be allowed at 16 acres based on density?

Attorney McCann-24 independent living units in Thompson House; 81 beds in nursing home-not independent living. Lot excluding Thompson House is 16.1 acres. Thompson House is separate lot. Density bylaw allows 16 units/acre which permits density of 256.

Mr. Boughner-landscaping buffers still in place? If approved-next steps?

Attorney McCann-landscaping has increased. Next step is Conservation Commission; Stormwater Permit process then state for funding rounds.

Mr. Boughner-Do you feel that allotted time under approval would take place without needing extension?

Attorney McCann-yes.

John Boughner opened to public.

Karen O'Malley (6 Jacobs Landing)-not in favor. Do not think people will travel to come live here and be away from their families. Proximity too close to abutters.

Mark Nolte (9 Spring Street, Beverly)-parents present at meeting and both are deaf. Currently live in New Hampshire and would live here if they could, as well as friends in their deaf community. This would be perfect for them and our family.

Gardner Trask (Chairman-Danvers AHT)-there are needs for this in the community which are the affordable component and the need for deaf, deaf/blind and near deaf backlog of available housing that this will address. In favor.

Sandy Lane (Town Meeting Member Precinct 3; spokesperson for residents of Jacobs Avenue and Jacobs Landing)-in favor. WinnDevelopment has worked closely with us and made the changes requested. Neighbors have infringed on property of NEHD and NEHD may have to take action to resolve this.

Chris Farrin (8 Jacobs Landing)-spokesperson for the neighborhood hasn't represented all the neighbors. My home is going to be to be impacted the most. Parking at the back of the property towards Jacobs Landing?

Attorney McCann-previously requested variance to allow parking within the 50' setback; no longer requesting that variance. Parking has been pulled back so it complies with the requirement under the bylaw-all parking more than 50' from side setback. Noted landscaping areas to screen parking.

Chris Farrin-not in favor. Too big, too tall.

Alan Fiorente (18 Jacobs Avenue)-co-spokesperson for the Jacob Avenue neighborhood. Met with NEHD and WinnDevelopment. All concessions and agreements are going to be put in writing and applicant has agreed to all. All the Jacobs Avenue residents are in favor.

Bernie Miezwa (27 North Shore Ave)-not in favor; too big; expressed frustrations with traffic.

Attorney McCann-traffic reports have been submitted to numerous boards.

Tony Le (10 Jacobs Landing)-not in favor. Project is too big.

Bill McKinnon Jr. (5 Jacobs Landing)-can building be moved more towards Water Street? Density and number of units-future construction? Would prefer 2 stories. Opposed to height.

Jesse Johnson (Westen & Sampson Engineers)-building has been brought forward as much as we can with the number of restrictions/site constraints and access points. Reduced height of structure; will be at elevation 62 – less than what is existing on site.

Mr. Boughner-no future construction without coming before board. Only addressing what has been presented to board.

Bill Bradstreet (Town Meeting Member Precinct 1)-did traffic study include the proposed Charter School?

Attorney McCann-yes.

Bill Bradstreet-not in favor.

Attorney McCann-provided summary of initially proposed building and modifications made based on feedback.

John Boughner closed the public comment and brought back to board for deliberation.

Mr. Sauer-not in favor. Noted positives of project but based on 1980s Town Meeting residential change to R-II, would like Town Meeting to vote on this.

Mr. Scholes-would be in favor. Good site for project; trust traffic reports that have been submitted; appreciate the community needs.

Mr. Jarvinen-would be in favor. Great project; value add for the Town.

Ms. Doherty-not in favor. Great project; concerned about height; would like 2 stories or 100 units.

Ms. Hislop-would be in favor.

Mr. Boughner-would be in favor. Appreciate scope of work thus far in development and in working with the neighbors. You don't have the votes (supermajority required) what would you like to do?

Attorney McCann-presented conceptual site plan that would be permitted by-right. Noted drawbacks to by-right layout for population to be served and the value add to the requested site plan.

Mr. Boughner-based on information provided, does this sway you? By-right slide is compelling and would not want that.

Ms. Doherty- not in favor.

Attorney McCann-cannot be brought to two stories.

Mr. Sauer-I will give you the vote.

Motion to grant special permit for 154 Water Street docket 23-5012 made by Kenneth Scholes. Seconded by Kenneth Jarvinen. In favor: 4. Opposed: 1. Motion carries.

Motion to Grant the waiver for 154 Water Street docket 23-5012 made by Kenneth Scholes. Seconded by Kenneth Jarvinen. In favor: 4. Opposed: 1. Motion carries.

Motion to grant variance for 154 Water Street docket 23-5012 made by Kenneth Scholes. Seconded by Kenneth Jarvinen. In favor: 4. Opposed: 1. Motion carries.

Motion to approve plan as submitted made by Kenneth Scholes. Seconded by Kenneth Jarvinen. In favor: 4. Opposed: 1. Motion carries.

Decisions as noted below:

Special Permit, Plan Approval and Waiver Decision:

At the conclusion of a duly noticed public hearing held on March 13, 2023, April 10, 2023 and May 8, 2023, the Danvers Zoning Board of Appeals voted (4 in favor, 1 opposed) to grant a Special Permit, Plan Approval and a waiver requested by New England Home for the Deaf, Inc, and WinnDevelopment Company, LP for property at 154 and 170 Water Street (Assessors Map 067, Lot 001 and 001A) in accordance with Section 30.2.F.2 and Section 30.2.F.4 of the Danvers Zoning Bylaw, specifically:

- to allow the construction of a senior affordable independent housing project consisting of 120 independent dwelling units for Seniors over 55 years of age with a first preference for deaf, deaf/blind, or near deaf residents;

- to permit a waiver from providing an evergreen screen along property lines to a 50' setback from the front setback due to the pre-existing condition along Water Street and Jacobs Ave frontages that make screening impractical;

-to approve the project Site Plan entitled “ New England Home for the Deaf (NEHD) #154 Water Street, Danvers, MA 01923” dated 2/6/2023 and revised through 05/01/23, and architectural plans prepared by Cube 3 entitled “ NEHD Danvers ZBA submission, 01 May, 2023”, collectively the Site Plan submitted on May 2, 2023.

Based upon the evidence presented in the Applicant’s application, and as presented during the hearing, in its determination the Board found that all of the criteria for the issuance of a Special Permit under Section 30.2.F.2 and Section 30.4 of the Danvers Zoning Bylaw and M.G.L. ch. 40A Section 10 have been met by this application and the Board finds:

1. The Applicant New England Home for the Deaf/Winn Development LP is a Developer selected by the Danvers Housing Authority under Section 30.2.F.1
2. The municipal water and sewer systems shall not become overloaded by the proposed Use.
3. The public streets shall not become overloaded by the proposed Use.
4. The value of other land and buildings will not be depreciated by the proposed Use.
5. The specific site is an appropriate location for the Use or structures.
6. The Use developed will not adversely affect the neighborhood.
7. There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities will be provided to ensure the proper operation of the proposed Use, structure and condition.
8. The proposed Use or structure will be in harmony with the general purpose of this bylaw.

The Board finds at the waiver requested is appropriate. The Board finds that the Site Plan is acceptable.

The following conditions are placed on the Special Permit:

1. The Project shall not exceed 120 Units for Seniors consisting of studio, 1 bedroom and 2-bedroom units
2. As senior, elderly 55+ independent housing, one member of the household must be 55+ years of age, in perpetuity
3. All units, common areas and amenity spaces will be designed for occupancy by deaf, deaf/blind or new-deaf residents
4. First Preference shall be given to deaf, deaf/blind and near-deaf residents, in perpetuity
5. Second Preference shall be given to Danvers Residents, in perpetuity
6. 50% of the total number of units constructed shall be “affordable”, defined under the Zoning Bylaw housing for which an individual or household whose annual income is below eighty percent of the area median income would be eligible, with not less than 13% for those with an income level of 30% or less of the Area Median Income
 - o 25% of the total number of units constructed shall be affordable in perpetuity
 - o 25% of the total number of units constructed shall be affordable for a period of 40 years
7. 100% of the units constructed shall be approved by DHCD for inclusion on the Danvers SHI
8. An Emergency Response Plan shall be prepared in coordination with the Danvers Fire Department and Emergency Responders prior to the issuance of the first occupancy permit.
9. The project engineer and design team will address all enumerated comments in the Danvers DPW Memorandum dated March 28, 2023 with the Town Engineer during the normal course of

- permitting and construction.
10. Danvers Historical Society shall be given a right of first offering on any archeological items found on site and not retained by the state during its site review process.
 11. All lighting fixtures shall be cut-off fixtures, dark sky compliant.
 12. No outdoor audio system shall be permitted.
 13. No vehicular access over Jacobs Ave. or Jacobs Landing frontage shall be permitted.
 14. No parking on Jacobs Ave and no short cuts through private yards shall be permitted.
 15. No construction vehicles on Jacobs Ave or Jacobs Landing.
 16. Following the widening of the Water Street stonewall curb cut, the stonewall along the Water Street will be maintained as shown on the project plans
 17. Parking lot as shown on the plan will not be expanded, except minor modifications that may be required by the Conservation Commission or Department of Public Works, but in no event shall the parking lot expand further south or east under the power lines.
 18. HVAC will be on the flat portion of the roof and be screened visually and for sound by the mansard roof.
 19. All lighting will be shielded and deflected away from neighbors.
 20. Construction of the new curb cuts will be done first, and all construction vehicles will use the new curb cuts for access to the site.
 21. Applicant shall maximize marketing efforts targeting deaf, deaf/blind and near deaf residents with target goal of 80%.
 22. Applicant shall provide quarterly meeting updates to a neighborhood representative when requested and newsletter to neighbors who request it.

Dimensional Variance Decision:

At the conclusion of a duly noticed public hearing held on March 13, 2023, April 10, 2023, and May 8, 2023, the Danvers Zoning Board of Appeals voted (4 in favor, 1 opposed) to grant dimensional Variances requested by New England Home for the Deaf, Inc, and WinnDevelopment Company, LP for property at 154 and 170 Water Street (Assessors Map 067, Lot 001 and 001A) in accordance with Section 30.2.F.2 and Section 2.12.B of the Danvers Zoning Bylaw to allow:

- The construction of a senior independent dwelling unit building to be 3 stories instead of 2 stories; and
- The construction of one building for senior independent dwelling units with greater than 8 units/building

Based on the evidence presented in the Applicants’ application, and as presented during the public hearing, and following a site walk conducted by the Board, the Board found that hardships and unique circumstances affect this lot and not generally lots within the R-II Zoning District, specifically:

- Soil conditions resulting in wetlands located in the interior of the site, and Riverfront impacts limiting available area for construction
- Topography resulting in a steep slope affecting the lot
- Unique shape of the lot resulting from a 200’ public utility easement
- Location of existing structures on the lot

Further the Board found that this project meets the intent, and is in harmony with the purpose, of the Zoning Bylaw by providing needed housing for persons with a range of income levels and encourages the

most appropriate use of the land within the New England Home for the Deaf campus, and protects and promotes public health, safety and welfare.

Further the Board determined that the requested Variances may be granted without substantial detriment to the public good.

Further, the Board determined that granting the Variances will not nullify or derogate from the intent and purpose of the Zoning Bylaw

The following conditions are placed on the grant of the Variances, which conditions are acceptable to the Applicant:

1. The project shall not exceed 120 Units for Seniors consisting of studio, 1 bedroom and 2-bedroom unit.
2. As senior, elderly 55+ independent housing, one member of the household must be 55+ years of age, in perpetuity
3. All units, common areas and amenity spaces will be designed for occupancy by deaf, deaf/blind or new-deaf residents
4. First Preference shall be given to deaf, deaf/blind and near-deaf residents, in perpetuity
5. Second Preference shall be given to Danvers Residents, in perpetuity
6. 50% of the total number of units constructed shall be “affordable”, defined under the Zoning Bylaw housing for which an individual or household whose annual income is below eighty percent of the area median income would be eligible, with not less than 13% for those with an income level of 30% or less of the Area Median Income
 - o 25% of the total number of units constructed shall be affordable in perpetuity
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7. 100% of the units constructed shall be approved by DHCD for inclusion on the Danvers SHI
8. An Emergency Response Plan shall be prepared in coordination with the Danvers Fire Department and Emergency Responders prior to the issuance of the first occupancy permit.
9. The project engineer and design team will address all enumerated comments in the Danvers DPW Memorandum dated March 28, 2023 with the Town Engineer during the normal course of permitting and construction.
10. Danvers Historical Society shall be given a right of first offering on any archeological items found on site and not retained by the state during its site review process.
11. All lighting fixtures shall be cut-off fixtures, dark sky compliant.
12. No outdoor audio system shall be permitted.
13. No vehicular access over Jacobs Ave. or Jacobs Landing frontage shall be permitted.
14. No parking on Jacobs Ave and no short cuts through private yards shall be permitted.
15. No construction vehicles on Jacobs Ave or Jacobs Landing.
16. Following the widening of the Water Street stonewall curb cut, the stonewall along the Water Street will be maintained as shown on the project plans
17. Parking lot as shown on the plan will not be expanded, , except minor modifications that may be required by the Conservation Commission or Department of Public Works, but in no event shall the parking lot expand further south or east under the power lines.
18. HVAC will be on the flat portion of the roof and be screened visually and for sound by the mansard roof.
19. All lighting will be shielded and deflected away from neighbors.
20. Construction of the new curb cuts will be done first, and all construction vehicles will use the new curb cuts for access to the site.
21. Applicant shall maximize marketing efforts targeting deaf, deaf/blind and near deaf residents with target goal of 80%.

22. Applicant shall provide quarterly meeting updates to a neighborhood representative when requested and newsletter to neighbors who request it.

43-45 DAYTON STREET (HCZ): Request a Finding under Section 3.10.C.1. of the Danvers Zoning Bylaw to substitute the current non-conforming residential Use of 2-single family homes on two lots, to a single lot with a 4-story thirty-two (32) unit multifamily building. **Request made by Jill Elmstrom Mann (23-5018)**

Kenneth Scholes read aloud application for 43-45 Dayton Street docket 23-5018.

Jill Elmstrom Mann-presented on behalf of applicant. PowerPoint shown noting revisions that have been made to plan based on feedback from Board and abutters at prior meeting. Reviewed what is allowed by-right and permitted use in the HCZ district. Noted that building cannot be reduced in size and still be financially viable. Reviewed traffic impact study. Do not anticipate children at site. Stormwater control proposed and will be compliant. MassDOT will be involved.

Ms. Hislop-impact of this project and Town's ability to provide utilities and resources?

Attorney Mann-will be within guidelines and will work with DPW to be in compliance. Will not have impact on ability to service community.

Ms. Doherty-combined square footage of both lots? Do revisions impact footprint of building?
Eliminated 1-two bedroom and 1 studio – impact on parking space count?

Attorney Mann-36,009 square feet. Revisions do not impact footprint. Parking space count went from 64 to 60. Plan shows 54 with ability to go to 60.

Mr. Jarvinen-traffic-9.5 trips per household resident? Each unit-4.5 trips? How are unit trips less than household trips? What number is image of house view from?

Attorney Mann-multi family is 4.5/unit daily. Difference is no children in multi-family versus single family home. Numbers based on a set formula. The house view is from 43 Dayton.

Mr. Scholes-no questions. Proposal seems same.

Mr. Sauer-dimensional requirements in HCZ-minimum is 1 acre. How could storage facility be allowed?

Attorney Mann-outlined bylaw which would allow a storage facility at this site.

Mr. Sauer-staff to clarify. To Attorney Mann-density requirements in residential-could you address the density?

Attorney Mann-abutters at neighborhood meeting preferred residential to industrial. Alternative is something applicant is allowed to do as this is not residential district. We do not comply with residential density but are willing to build residential. Noted what is being requested from the Board for this proposal. Law referenced.

Mr. Boughner-clarification on if applicant can come back before board with commercial or industrial use. If lots are combined, yes?

Staff-presented bylaw regarding non-conforming lots.

Attorney Mann-noted what bylaw does not allow and that if proposal can reduce nonconformity, cannot go back to nonconformity. Noted relief that will not be needed if reducing nonconformity. Reviewed status of two legally existing nonconforming lots as these properties currently are. Applicant cannot be forced to combine.

Mr. Boughner-combining reduces nonconformity?

Attorney Mann-yes.

Staff-becoming more conforming, by-right use allowed. Protection based on lot size. Would still apply for other relief as needed.

Mr. Boughner-unit breakdown? Anticipate no children in studio and 1-bedroom units? Who would manage building? Contractor yard image that property has-please address. Building height?

Attorney Mann-11 two-bedroom units; 16 one-bedroom units; 3 studio units. 12.5% will be affordable (4 units). Meeting with AHT this week. Correct-no children. Procopio's (applicants) would manage; once fully leased, will have management company. Trailers have been moved-one still on site. Height is 48' 2".

Mr. Boughner-upper end of Dayton Street as entrance-further off highway as rationale?

Chris Sparages (Williams and Sparages-Civil Engineer)-that is correct. Further away from offramp is safer access point.

Mr. Boughner-reminder to public to not repeat comments about traffic, water, schools-already addressed. By-right use of industrial is permitted on this site.

Joyce Combe (73 Dayton Street)-in favor. Would like height to be lower. Prefer residential. Do not want construction.

Attorney Mann-could make approximately 10' lower. Possibility to reduce.

Maria Davis (105 Dayton Street)-any way lower the unit count/scale project to be smaller?

Attorney Mann-removed 2 units. Reviewed rationale behind why more units could not be removed based on finances.

Mary Ellen Simpson (147 Dayton Street)-traffic and safety concerns. Not a safe development for the site. Open to commercial.

Ted Blake (11 Anna Drive)-I am on the town finance committee. Highest density residential would not be in harmony with neighborhood. Attorney Mann willfully misrepresented that SOFI is in conformance with HCZ. That was a poor zoning decision.

Mr. Boughner-SOFI was not poor zoning decision. Town was not in compliance with affordable housing-allowed developer to avoid zoning.

Ted Blake (11 Anna Drive)-do not use hostile 40B as rationale for other high-density properties. Residential is not part of HCZ permitted use. Sets precedent for other projects. Suggest Town use Counsel for this. Prefer trailers.

Mr. Boughner-all applications reviewed on merits presented. Does not set precedent for other projects.

Charlene Potter (56 Dayton Street)-pine tree-is that on property at 45? Sidewalk layout on plan-include area to connect to driveway to other areas across grass? Would like units below 30. Do not want commercial or industrial use. Prefer residential.

Mr. Boughner-tree is not on their lot. Not here to debate SOFI or other projects that have been constructed and are part of the neighborhood. Here to discuss merits of 43-45 Dayton Street.

Chris Sparages-trees highlighted on plan presented. Noted trees that are not on the property. Proposing new sidewalk from driveway to driveway. Need MassDOT approval if on their property.

Sally Kerans (208 Centre Street)-has applicant spoken to MassDOT about the on and off ramp? Board to please ask MassDOT for accident data at off ramps. State to give permission for curb cuts.

Attorney Mann-have not had any discussion with MassDOT. If approved, MassDOT will open file.

Staff-MassDOT generally will not be involved until approved.

Attorney Mann-If a Finding granted, will go to MassDOT with plan for response.

Chris Sparages-reviewed traffic study report. MassDOT contacted and provided collision and crash data which is included in plan submitted. Data factors in timeline pre-COVID. Just notes reported accidents.

Kathy Arno (75 Dayton Street)-parking at proposed lot-issues with fire trucks around property? Policy on using Dayton Street as access road if property becomes commercial. Opposed to residential.

Mr. Boughner-fire truck can go around lot as it's laid out.

Staff-Selectboard would have to set truck restriction; may not meet merits of street restriction if commercial.

Mitch Abbatessa (4 Putnam Lane)-how many parking spots under building? How tall would building be if under building parking spots removed? Other designs/styles?

Attorney Mann-21 spots.

Mr. Boughner-spots cannot be eliminated-would need space outside for spots. Making project smaller has already been addressed.

Attorney Mann-would have to find 21 spaces outside which would create more pavement. Not feasible.

Tom Maniscalco (21 Anna Drive)-against the project as proposed. Prefer commercial.

Bill Bradstreet (Town Meeting Member Precinct 1)-if cost of project is not profitable for developer, don't do it.

Marisol Mema (54 Dayton Street)-will be impacted. Not in favor of the project.

Charlene Potter (56 Dayton Street)-what is the height of the building from street level?

Attorney Mann-42' at street. Buildings in district permitted by right can be 55' tall. Lower profile than what is allowed.

Mr. Boughner closed to public comment.

Mr. Jarvinen-height would be to be 39 feet from street if total height dropped to 45'.

Ms. Hislop-in favor of additional housing but this is a bad location. Not in favor.

Ms. Doherty-not in favor as presented.

Mr. Jarvinen-would approve with a condition of taking 3 feet off.

Mr. Scholes-not in favor.

Mr. Sauer-not in favor.

Mr. Boughner-not in favor. Too large and dense for location.

Mr. Boughner-Attorney Mann what you would like to do? You do not have the votes.

Attorney Mann-withdraw without prejudice.

Motioned to withdraw without prejudice application for 43-45 Dayton Street docket 23-5018 made by Jeff Sauer. Seconded by Kenneth Scholes. and was seconded by Kenneth Scholes. In favor: 4. Opposed: 1. Motion to withdraw without prejudice carries.

Motion to adjourn made by Kenneth Scholes. Seconded by Jeffery Sauer. Meeting adjourned at 10:00PM.

