

The Planning Board for the Town of Derry held a public meeting on Wednesday, March 01, 2023, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room.

Members present: John O'Connor, Chairman, Jim MacEachern, Vice Chairman; David Nelson, Secretary; Randy Chase, Town Administrative Representative; Brian Chirichiello, Town Council Representative; Dave Granese, Mark Connors, Members; Chris Feinauer, Richard Malaby, Alternates

Absent: Joe Tremper, John Morrison, Andy Myers

*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux*, Planning and Economic Development Assistant

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag. Mr. O'Connor provided the appropriate links for members of the public to join the meeting virtually via a MAC, PC, or by phone. He then introduced the staff and Board members.

Mr. Malaby was seated for Mr. Tremper and Mr. Feinauer was seated for Mr. Myers.

Escrow

None.

Minutes

The Board reviewed the minutes of the February 15, 2023, meeting.

Motion by Granese, seconded by MacEachern to approve the minutes of the February 15, 2023, meeting as amended.

Chase, Granese, MacEachern, Malaby, Nelson, and O'Connor voted in favor, Feinauer, Connors, and Chirichiello abstained, and the motion passed.

Correspondence

None.

Other Business2nd Extension Request, Site Plan, Appolo Vineyards, PID 06046-004, 49 Lawrence Road

Mr. Sioras stated staff would recommend approval of the extension request. The applicant is still completing the conditions of approval to include the addition of a lighting plan and establishment of escrow.

Motion by Granese, seconded by MacEachern to grant a second, six month extension to the approval granted on March 16, 2022, for a site plan for Appolo Vineyards, PID 06046-004, 49 Lawrence Road. The new expiration date will be September 16, 2023.

Chase, Granese, MacEachern, Malaby, Feinauer, Connors, Nelson, and O'Connor voted in favor and the motion passed.

1st Extension Request, Site Plan, Hyla Brook Land Holdings, LLC, PID 03110, 140 Rockingham Road

Mr. Sioras stated staff would recommend approval of the extension request. The applicant is getting close to fulfilling the conditions of approval.

Motion by Granese, seconded by MacEachern to grant a six month extension of the approval granted on September 07, 2022, for a site plan for Hyla Brook Holdings, LLC., PID 03110, 140 Rockingham Road. The new expiration date will be September 07, 2023.

Chase, Granese, MacEachern, Malaby, Feinauer, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Chairman and Planning Director UpdatesPlanning Director

None.

Planning Board Chairman

Mr. O'Connor reported HB44, a bill that would have allowed 4 dwelling units on any single family lot serviced by water and sewer by right, was voted Inexpedient to Legislate.

Several members' terms expire at the end of March: Mr. MacEachern, Mr. Chase (Administrative Representative), Mr. Nelson, and Mr. Chirichiello and his alternate Mr. Foote (Town Council Representative).

The next meeting of the Board will be on March 15 and the Board will discuss tree trimming on scenic roads by Eversource and the proposed solar installation at the Town's old landfill off

Kendall Pond Road. Mr. Sioras advised Mr. Fowler will present the Town's application. The Board members will receive copies of the proposed plan prior to the next meeting.

Workshop

Workshop #5 – to continue discussion regarding proposed changes to the Town of Derry Zoning Ordinance, Article VI, District Provisions, Section 165-49, Traditional Business Overlay District, specifically the dimensional requirements in the district, and to initiate discussion with regard to amendments to Article V, Zoning Map and Boundaries, Section 165-30, Zoning Map, to redraw the boundary for the Traditional Business Overlay District.

Mr. Sioras provided the following update. The Board held a site walk of the downtown several weeks ago and walked the side streets on either side of Broadway. The purpose was to review the character of the area and to see where there is potential for future development. The two sides of Broadway are very different. The Board looked at the boundary of the district and the setbacks. Staff found it is hard to apply the existing setbacks to potential redevelopment projects; the current setbacks don't work.

Mr. Nelson stated at the last meeting, the Board discussed ways to solve the hardship for parcels in the TBOD. The Board also discussed the setbacks and uses. This zone requires a zero front setback so the building has to be right on the sidewalk. On the streets viewed during the site walk, it was noted there are sporadic sidewalks in these areas. The Board discussed two possibilities. The Board can add a conditional use permit in the TBOD to help obtain relief on a parcel specific basis which is noted in the text changes in red in the draft before the Board. The other alternative is the Board can revert the uses that are currently and likely to remain residential back to the Central Business District (CBD). The Board has a map before it this evening which notes potential lots to be moved back into the CBD as light blue in color. The other colors were retained from the map shown at the last workshop and show residential uses in yellow, commercial uses in red, retail uses in light green, and governmental/charitable uses in dark green.

Mr. Nelson would suggest moving the proposed lots back into the CBD. This removes the potential for unintended consequences and solves the issue with the uses; residential use is not allowed on the first floor in the TBOD. A conditional use permit only relieves dimensional requirements and is not a waiver from a permitted use. He suggested adopting the proposed zoning revision map and move the light blue colored lots back to CBD.

Mr. MacEachern agreed with the suggestion and believed there had been general concurrence by the Board that would be the simplest thing to do and the proposal will alleviate some pitfalls. He would support this proposal.

Mr. Connors inquired about the map. He asked why residential lots on the south side of Broadway had not been suggested to be moved back into the CBD. Those landowners would require a variance if they wanted to change the existing buildings. Is there any reason the Municipal Center lot is not being moved back into the CBD? Mr. Nelson stated previous maps

utilized the streets as zoning district boundaries, mainly because it creates a clean boundary. That would not work here. To make the boundary relatively neat, the Municipal Center and parking lot are retained in the TBOD. These are governmental uses and since the town is exempt from its regulations, it does not matter which zone it is in. Mr. MacEachern added the uses on those two lots are not likely to ever change. Mr. Connors confirmed the lots that look pink on the map are parking lots or religious uses.

Mr. Chase stated he has no issue with the map as presented but has a concern with two existing commercial lots on Franklin Street that are proposed to go back to the CBD (13 Franklin and 11 Franklin). They would be restricted for future redevelopment if they were placed back in the CBD. They already conform to the zero foot setback. Mrs. Robidoux said the uses are allowed in the CBD. Mr. Nelson stated he believed Mr. Chase was more concerned about the 10 foot setback requirement, and added any use on the lots would be grandfathered. Mr. Chase said if the landowners wanted to change the buildings, they would be restricted by the setbacks and need a variance.

Mr. Nelson said there are several options; the lots can be moved to the CBD and landowners can request a variance for setback relief or ask to have their parcel moved back to the TBOD. If the lots are placed in the CBD, the Board could add a conditional use permit to allow those parcels that want to be TBOD-like to have that option. Mr. Chase suggested leaving the two commercial lots in the TBOD because they both already have zero front setbacks let the rest revert back to CBD.

Mr. Chirichieillo asked if the Board had received any feedback from the affected landowners on Pillsbury. Mr. MacEachern stated several landowners in the district spoke at the last workshop. Mr. Nelson commented the TBOD district had originally been expanded as the town had hoped for some redevelopment, but the economy and landowners will dictate how lots get developed, not necessarily how the Town zones a lot. The Board can always consider a request to move those lots into a different district in the future. Mr. Connors noted the existing lots of record have grandfathered uses – why does the Board need to do this? The Board noted that it is not always possible to be granted a variance in order to best redevelop the lot.

Mr. MacEachern felt what was suggested made sense, especially since the Board was able to receive input from landowners. Mr. Connors asked why the lot behind Abbott Court was coded white. Mr. Nelson explained that lot is in a different district; since the Town owns the Abbott Court lots, it made sense to keep them in the TBOD.

Motion by MacEachern, seconded by Connors to move forward with the proposed amendment to the TBOD boundary, as shown on the map provided this evening.

Chase, Granese, Chirichiello, MacEachern, Feinauer, Malaby, Connors, Nelson and O'Connor voted in favor and the motion passed.

The proposed amendment to the TBOD boundary will be brought forward at the next meeting to schedule a public hearing.

The Board then moved on to discuss proposed changes to the text of the ordinance.

Mr. Chirichiello felt it would be better to use the word “shall” than “must”, under Section 165-49.A (3). Board members agreed it was more typical wording.

Mr. Nelson questioned the remainder of the proposed changes in the text. He thought the Board was going to change the map or change the wording, not both. Mrs. Robidoux stated she may have misunderstood the intent of the Board from the last meeting. She had been under the impression that the changes proposed at the last meeting were to contract the TBOD on the north side and to leave the south side alone as those were the lots that had the most potential for redevelopment. But to make that more flexible, she thought the Board was going to leave in the conditional use provision. The lots will be constrained by the 5 foot maximum side setback and the zero foot front setback. Mr. Chase recalled the discussion and agreed the text amendments should be retained to allow for flexibility for the other lots in the TBOD.

Mr. MacEachern inquired if there had been any other changes made to the proposed text from the last meeting. Mrs. Robidoux stated the only change had been to the first page, to reword the subsection #3 under Purpose, as per the direction at the last meeting. Mr. Nelson stated he did not like the wording “discretion of the Planning Board” and would prefer “dimensional requirements shall be set by conditional use permit, granted by the Planning Board”, on page 6 under Section 165-49.C (6). Board members agreed to the changes.

Mr. Connors inquired about the proposed wording under the new section 3 under Purpose. Mr. Nelson stated the Board would not grant relief unless there was a demonstrated hardship, and the applicant could prove there was proper sight distance and access to and from the lots. Mr. Connors questioned the elevation restriction noted on page 5. It was explained this is specific to the downtown so that no building is taller than the Adams Memorial Building. The Board agreed the elevation varied throughout the town.

Motion by MacEachern, seconded by Chirichiello to move the proposed amendments to the text forward to the next meeting, to schedule a public hearing.

Chase, Granese, Chirichiello, MacEachern, Feinauer, Malaby, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Board Member Comments

None.

Motion by Connors, seconded by MacEachern to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:34 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____