

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 06, 2022, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with the Board members physically present.

Members present: John O'Connor, Chairman; Jim MacEachern, Vice Chair; David Nelson, Secretary; Brian Chirichiello, Town Council Liaison; David Granese, Mark Connors, Andy Myers, Joe Tremper, Members; John Morrison Jr., Alternate

Absent: Randy Chase, Chris Feinauer

*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning & Economic Development Assistant; Mark L'Heureux, Engineering Coordinator

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

Election of Officers

Motion by MacEachern, seconded by Nelson, to nominate John O'Connor as Chairman.

Motion by Connors to nominate David Nelson as Chairman. Mr. Nelson declined the nomination.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor of Mr. O'Connor as Chairman; motion passed.

Motion by O'Connor, seconded by Granese to nominate Jim MacEachern as Vice Chairman.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor; motion passed.

Motion by O'Connor, seconded by Granese, to nominate David Nelson as Secretary.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor; motion passed.

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.

Escrow

Project Name: Denali Estates-Daniel Road
Developer: JAL, LLC
Escrow Account: Same
Escrow Type: Performance Bond
Parcel ID/Location: 11059, 15 Forest Street

The request is to approve a release in the amount of \$498,555.65 on Performance Bond #837077982, issued by Ohio Casualty Insurance Company for the above noted project and request a replacement issued in the amount of \$188,814.24.

Motion by MacEachern, seconded by Granese to approve as presented. The motion passed with all in favor.

Project Name: Annual Review of Cash Escrow Accounts

#11-12	T-Mobile Northeast	\$17,394.63
#14-16	Samuel Kershaw	\$44,918.42
#19-39	11 Tsienneto Rd.	\$22,777.20
#20-15	MPV Development	\$14,029.20
#20-16	High Meadows, LLC	\$71,597.52
#20-20	Prime Storage Derry, LLC	\$79,554.96

The request is to approve the list of open cash escrows and acknowledge they are held in amounts which provide adequate security for the length of the project. The amounts listed are ending principal and interest as of February 2022.

Motion by MacEachern, seconded by Granese to approve as presented. Discussion followed.

Mr. Nelson inquired if any of the accounts dated back more than a few years, and if so, why the amounts were outstanding? Mr. Sioras explained the projects are under construction or in process; other than the one for the cell tower. Mr. L'Heureux added the funds are kept as placeholders for the approvals; many of the projects are approved but are waiting to get started. Some take years. An example would be the Brook Street project. That was approved in 2015 and was just constructed. There is no time limit at which the escrow expires. Mr. Sioras further explained when the Board places conditions on a plan, the developer has to meet them to validate the plan. Escrow is one of the requirements. Typically, a developer has about a year to meet the conditions. If the conditions of approval are met and escrow is in place, the plan can remain on hold indefinitely.

The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the March 16, 2022, meeting.

Motion by MacEachern, seconded by Chirichiello to approve the minutes of the March 16, 2022, meeting as amended.

Tremper, Chirichiello, MacEachern, Connors, and O'Connor voted in favor; Granese, Nelson and Myers abstained, and the motion passed.

Correspondence

Mr. Nelson advised the Board is in receipt of the updated term expirations for the Board members.

Other Business

Review of Policy & Procedures

Mr. O'Connor noted staff has collected the suggested changes to the Policy and Procedures. These include incorporating an amendment to discuss electronic participation by the Board (reference RSA 91-A:2, III); verifying that the procedures allow posting of hearing notices on the Town website in addition to the postings to the newspaper and two public places; adding protocol for the Board member comment period; adding provisions that meetings end by 10 PM, to include two, ten minutes extension periods. Mr. Chirichiello asked to add a provision to allow a Town Council Ex Officio Alternate as the Council has appointed one. A regular alternate cannot be seated for the Ex Officio member. This should be added under Section 1.B. Mr. Sioras noted that late in the evening, it can be difficult to make a good decision. Mr. Granese had suggested ending by 9:30 p.m., with the two extensions provided. The suggested changes will be drafted and placed in the document as revisions for the Board to review at its next meeting.

Mr. Connors confirmed the Town Administrative Representative does not have an alternate. Mr. Chirichiello advised Town Council has appointed Mr. Foote to be the Liaison Alternate in the event Mr. Chirichiello cannot attend a meeting. Mr. Foote will receive all of the meeting materials so that he is up to speed on the activities of the Board.

Review of Sign Proposal, Westbrook, PID 05048, 49 South Main Street

Mr. Sioras advised there is a proposal for a new sign in the West Running Brook District to be located at 49 South Main Street. The Board reviews these as an administrative item. Staff recommends approval of the sign.

Mr. Chirichiello liked the design and confirmed this sign would replace the Circle of Friends sign. Mr. O'Connor noted the flower on the sign is the flower of the white potato. It has been confirmed the first white potato in North America was planted on this property. Mr. Connors asked if the sign would be illuminated. There will be external illumination that shines down on the sign. Mr. Myers had questions about the color of the sign. Jerry Siragusa and Marc Siragusa, 49 South Main Street advised the sign replicates the old style of sign. They wanted something to compliment the historic nature of the property and the district. This will be a Smaltz background (black with speckles), raised border in gold, with raised text and logo.

Motion by MacEachern, seconded by Connors to approve the proposed sign for Westbrook, located at 45 and 49 South Main Street.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson, and O'Connor voted in favor, and the motion passed.

Planning Director Updates

Mr. Sioras stated there will be no meetings held on April 20, 2022, and May 18, 2022. There are several plans in the pipeline, and he anticipates a steady summer schedule.

Chairman Updates

Mr. O'Connor wanted to remind the Board of their responsibility to attend at least one training session per year and to report that training to staff. The State of New Hampshire offers annual training sessions. Mr. Connors asked if Mrs. Robidoux kept track of the trainings and if everyone was compliant from the previous year. She advised she did keep track when she was informed of them.

Mr. O'Connor also announced the Derry Cooperative School District is holding a Community Forum tomorrow evening to discuss construction or reconstruction projects.

Public Hearing

Cheryl & Douglas Kimball
PID 07048, 288 Island Pond Road
Russell A. Parolisi, Jr.
PID 07048-003, 292 Island Pond
Acceptance/Review, Lot Line Adjustment

Mr. Sioras presented the following staff report. The purpose of the plan is for a lot line adjustment between 288 and 292 Island Pond Road. The parcels are located in the Low Density Residential District. No town signatures are required for this project. There are several waiver requests outlined in a letter from Promised Land Survey. These regulatory items are not required for a lot line adjustment. With regard to Regional Impact, staff recommends the Board find there is no impact. Staff recommends approval of the waivers and the lot line adjustment plan.

Neal McCarthy of Promised Land Survey presented. The ZBA granted a variance as these are two preexisting, non-conforming lots. The lot line adjustment is an amicable arrangement between the two parties and is intended to clean up the uses on the lots. There was an additional variance to allow the garage to be closer to the rear boundary line than required.

Motion by MacEachern, seconded by Granese to accept jurisdiction of the lot line adjustment plan before the Board for Cheryl & Douglas Kimball, PID 07048, 288 Island Pond Road and Russell A. Parolisi, Jr., PID 07048-003, 292 Island Pond Road.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor, and the motion passed.

Motion by MacEachern, seconded by Granese to find pursuant to RSA 36:56 that the proposal as presented at this time meets the definition of regional impact.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted against, and the motion failed, there is no regional impact.

Motion by MacEachern, seconded by Granese to open the public hearing. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by MacEachern, seconded by Nelson to close the public hearing. The motion passed with all in favor and review of the plan returned to the Board.

Mr. Connors inquired why the lot line jogged? Normally the lines are parallel. Mr. McCarthy said it was so that the applicant could access the garage and still maintain the minimum setback without giving up a large portion of land. The Kimball's are giving up the land to allow the garage use to continue; the garage was constructed on the Kimball's lot.

Motion by MacEachern, seconded by Chirichiello to grant a waiver to the following sections of the LDCR as after review, the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

LDCR Section 170-24.A.11, Topography
LDCR Section 170-24.A.13, Wetland Mapping
LDCR Section 170-25.B, Lot Size Calculations
LDCR Section 170-25.C, HISS Mapping

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor, and the motion passed.

Mr. Granese confirmed DPW had no issues with the plan.

Motion by MacEachern, seconded by Granese to approve, pursuant to RSA 676:4,III, Expedited Review with the following conditions:

1. Subject to owner's signature
2. Subject to onsite inspection by the Town's Engineer
3. Establish escrow for the setting of bounds or certify the bounds have been set.
4. Note approved waivers on the plan.
5. Obtain written approval from the Planning Director/designee that the GIS disk is received, is operable, and complies with LDCR Section 170-24.C.
6. Subject to receipt of State or local permits relating to the project.
7. Conditions precedent shall be met within 6 months.
8. Submission of the appropriate recording fees, payable to the Rockingham County Registry of Deeds, to include the \$25.00 LCHIP fee.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor, and the motion passed.

William Chakarian
PID 06023, 114 Island Pond Road
Jason Lee Campbell
PID 06023-002, 128 Island Pond
Acceptance/Review, Lot Line Adjustment

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment between the two parcels which are located in the Low Density Residential District. Town department signatures are not required. There are multiple waiver requests noted in the letter dated March 15, 2022, provided by Promised Land Survey. These requirements are not necessary for a lot line adjustment. Staff recommends approval of the waivers and the lot line adjustment plan. There is a separate issue raised by one of the abutters that he would like to discuss in relation to the properties, but that can be discussed a bit later.

Neal McCarthy, Promised Land Survey, stated this is a basic lot line adjustment plan. Land from the larger lot owned by Mr. Chakarian will be transferred to the smaller lot owned by Mr. Campbell. Mr. Campbell's lot is currently about 3 acres; Mr. Chakarian's lot is about 24 acres in size.

Motion by MacEachern, seconded by Granese to accept jurisdiction of the lot line adjustment plan before the Board for William Chakarian, PID 06023, 114 Island Pond Road and Jason Lee Campbell, PID 06023-002, 128 Island Pond Road.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Granese to find pursuant to RSA 36:56 the proposal as presented meets the definition of a development of Regional Impact.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted against, and the motion failed; there is no regional impact.

Motion by MacEachern, seconded by Granese to open the public hearing. The motion passed with all in favor and the floor was open to the public.

Dennis Wiley, 122 Island Pond Road, stated he does not have an objection to the lot line adjustment; however, he does have a concern for what the additional land will be used for. This land is very close to their home; it is right outside their window. He believes the area may become an extension of Mr. Campbell's commercial tree removal operation. There is potential for vehicles to be parked outside the Wiley's window. He would not want to see trucks, chippers, cranes, or log storage in this area as it will have a negative impact on their lifestyle and property. He is not sure of the intent but those are his concerns. There has been trouble in the past in this area with commercial firewood operations; the noise is incredible.

Mr. Nelson inquired why Mr. Wiley would believe this area will be a parking lot for a commercial business. Mr. Wiley understood the owner owns a tree service operation in Massachusetts. He has his trucks and chippers come in and out of the property frequently. It is not bad now, but he is concerned if Mr. Campbell goes into this side of the property. He does process some firewood now, but Mr. Wiley thought that was for Mr. Campbell's own use. He does not want to see the commercial operation expand on this property. Mr. Connors asked about the proximity of the Wiley home to the abutting lot. Mr. Wiley said it was not such a problem in the past, but the land has now all been cleared. His home is near the lot line.

There was no further public comment.

Motion by MacEachern, seconded by Granese to close the public hearing. The motion passed with all in favor and review of the plan returned to the Board.

Mr. Sioras advised this property is in the Low Density Residential district. Currently, there is Code Enforcement action against Mr. Campbell. This is separate from the lot line adjustment. It was brought to Code Enforcement's attention late last week that there may be a business operating from 128 Island Pond Road. Mr. Campbell has two options. The first is to cease and desist. The second is to seek a variance for the use. Mr. Campbell is aware of his options. Mr. Mackey is aware of the situation and is following up on it. This is not a legal business and constitutes a commercial operation in a residential zone. The Board can move forward with the lot line adjustment as they are two separate issues; the Board can't discuss a potential ZBA case. The Board has jurisdiction over the lot line adjustment only and the applicants have a right to proceed with the lot line adjustment.

Mr. L'Heureux stated DPW had no comments on the plan.

Motion by MacEachern, seconded by Granese to grant the following waivers as after review of the waiver requests, the Board finds strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waivers would not be contrary to the spirit and intent of the regulations:

LDCR Section 170-24.A.6, to not show setback lines on the plan
LDCR Section 170-24.A.11, Topography
LDCR Section 170-24.A.13, Wetland Mapping
LDCR Section 170-25.A, to not require a driveway through its own frontage
LDCR Section 170-25.B, Lot Size Calculations by soil type
LDCR Section 170-25.C, HISS Mapping
LDCR Section 170-25.F, test pits/percolation tests

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Chirichiello to approve, pursuant to RSA 676:4, III, Expedited Application with the following conditions:

1. Subject to owner's signature
2. Subject to onsite inspection by the Town's Engineer
3. Establish escrow for the setting of bounds or certify the bounds have been set.
4. Note approved waivers on the plan.
5. Obtain written approval from the Planning Director/designee that the GIS disk is received, is operable, and complies with LDCR Section 170-24.C.
6. Subject to receipt of State or local permits relating to the project.
7. Conditions precedent shall be met within 6 months.
8. Submission of the appropriate recording fees, payable to the Rockingham County Registry of Deeds, to include the \$25.00 LCHIP fee.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed.

ALRIG, USA

(Owner: Panagiota Arfanakis, Rev. Trust)

PID 08002. 38 Manchester Road

Acceptance/Review, Site Plan

Redevelopment of lot to 3,500 SF dental office (Aspen Dental)

Mr. Sioras provided the following staff report. The purpose of the plan is for a 3,500 square foot dental office and redevelopment of the parcel located in the Industrial IV district. The existing building will be torn down. The property is located adjacent to Ocean State Job Lots, to the right of the entrance. All town departments have reviewed and signed the plan. There is one waiver request outlined in the March 22, 2022, letter from Jones & Beach. The NH DOT driveway

permit is pending. Staff recommends approval of the waiver request and the site plan application.

Paige Libbey, Jones and Beach, presented for the applicant. The property is located on Manchester Road adjacent to the Ocean State Job Lots and Aldi entrance. The property used to have a used car lot on it but now has a landscaping business. The intent is to tear down the existing buildings and build a new 3,500 square foot Aspen Dental office, with parking to the front, side and rear of the building. There will be an entrance from Ocean State Job Lots, and an entrance from Manchester Road. The site has a large grade change. They will regrade the site to accommodate the parking and to situate the building as shown. For utilities, they will put in new services off Manchester Road for water and gas. They have planned for an on site septic, for which they have the State approval. They did look at the option to run sewer to the site, but because of the length of the sewer main, timelines, and cost, it was not feasible. The NH DOT driveway permit is pending. They will shift the entrance on Manchester Road to the west away from the light. Landscaping is being provided and meets all of the town standards. There will be street trees along Manchester Road. There will be a buffer along the entrance from Ocean State Job Lots; they intend to utilize a lot of the existing vegetation.

Motion by MacEachern, seconded by Connors to accept jurisdiction of the site plan before the Board for ALRIG, USA, PID 08002, 38 Manchester Road.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed

Motion by MacEachern, seconded by Granese to find pursuant to RSA 36:56 the proposal as presented meets the definition of a development of Regional Impact.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted against, and the motion failed; there is no regional impact.

Motion by MacEachern, seconded by Granese to open the public hearing. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by MacEachern, seconded by Granese to close the public hearing. The motion passed with all in favor and review of the plan came back to the Board.

Mr. MacEachern felt this would be a welcome change to the area. It appeared this was to be a standard Aspen Dental design, which looked nice. He agreed it was safer to move the entrance away from the intersection. He would like to know more about the façade. Ms. Libbey explained it would be a combination of stone, brick and EFIS. There will be granite steps to the rear.

With regard to the traffic calculations, the traffic engineer determined the traffic would be limited to about 4 trips per hour, so there is not a large impact. NH DOT did not require a traffic

study for this use. Mr. MacEachern inquired as to the location of the nearest sewer line. Ms. Libbey stated there is a sewer line diagonal to the site, but it was not feasible to cross Manchester Road; they would have to go into Ocean State Job Lots property; it ends just east of the lot. Mr. Connors asked if the driveway access easement went into perpetuity. It does. Ms. Libbey noted a draft easement document was provided with the application and the finalization of that document is in process.

Mr. L'Heureux advised Jones and Beach addressed the TRC comments and the plan works well. The traffic study did recommend the relocation of the driveway on Manchester Road. The Town is awaiting the VHB peer review comments, but the Town does not anticipate anything overwhelming. The discussion with regard to sewer may be revitalized as there is renewed interest in discussing an extension of municipal service to the applicant's lot based on discussions that occurred this week.

Motion by MacEachern, seconded by Chirichiello to grant a waiver from LDCR Section 170-65(j) to not provide topographical survey data as after review of the waiver request, the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Chirichiello to find that pursuant to LDCR Section 170-85, the application as submitted demonstrates substantial compliance with the Architectural Design Regulations. This property is located in the Industrial IV district and meets a medium-high level of compliance as outlined in Section 170-84.

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Granese to approve pursuant to RSA 676:4, I, Completed Application with the following conditions:

1. Comply with the forthcoming VHB report
2. Subject to owner's signature
3. Subject to onsite inspection by the Town's Engineer
4. Establish escrow for the setting of proposed bounds, or certify the bounds have been set
5. Confirm all comments from the Town's Engineer have been addressed
6. Establish appropriate escrow as required to complete the project
7. Note approved waiver on the plan
8. Obtain written approval from the Planning Director/designee that the GIS disk is received, is operable, and complies with LDCR Section 170-61.C
9. Subject to receipt of applicable State or local permits relating to the project
10. Conditions precedent shall be met within 6 months

Tremper, Granese, Chirichiello, MacEachern, Connors, Myers, Nelson and O'Connor voted in favor and the motion passed.

Board Member Comments

None.

There was no further business before the Board.

Motion by MacEachern, seconded by Granese to adjourn.

All members voted in favor and the meeting stood adjourned at 7:57 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____