

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 15, 2022, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with all Board members physically present.

Members present: John O'Connor, Chairman; Jim MacEachern, Vice-Chair; David Nelson, Secretary; Randy Chase, Town Administrative Representative; David Granese, Andy Myers, Members; Chris Feinauer, Richard Malaby, John Morrison Jr., Alternates

Absent: Joe Tremper, Brian Chirichiello, Mark Connors

*Denotes virtual attendance.

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

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

Mr. Malaby was seated for Mr. Tremper and Mr. Morrison was seated for Mr. Connors.

Escrow

#22-11

Project Name: Starbucks

Developer: Derry Retail Management II, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 35018, 38 Crystal Avenue

The request is to establish Letter of Credit #100059047, drawn on Camden National Bank, in the amount of \$148,113.36, for the above noted project. The expiration date shall be May 16, 2023.

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

Minutes

The Board reviewed the minutes of the May 04, 2022, meeting.

Motion by MacEachern, seconded by Granese to approve the minutes of the May 04, 2022, meeting as written. The motion passed with O'Connor and Morrison abstained.

Correspondence

Mr. Nelson advised the Board is in receipt of a memorandum from the Department of Public Works; staff will explain the memo.

Mr. Sioras said this is an update and no action is required on behalf of the Board. This relates to the MS4 permit requirements. Mr. Fowler and Mr. Durette describe in the memoranda what has been done for compliance purposes by Public Works.

Mr. L'Heureux stated the memoranda are mainly the result of a comprehensive review of the requirements for road drainage, construction, and Low Impact Development the Town is required to do as part of the Municipal Separate Storm Sewer System (MS4) permit process as issued by the EPA. The packet summarizes the review and needed to be shared with the Board as one of the requirements. Most of the items are already in practice or have been an effective part of the development process for the Town of Derry.

Mr. O'Connor inquired if the Green Sno Pro requirement was included. Mr. L'Heureux explained that requirement is already incorporated into the Land Development Control Regulations as part of one of the last updates. Mr. O'Connor suggested the Board members reach out to Planning staff with any questions as they review the material, and Planning staff will address the questions and concerns.

Other Business

Architectural Design Review, TBOD, PID 29189, 29 West Broadway, Adam's Memorial Building – Derry Opera House

Mr. Sioras advised the Opera House intends to replace the sign and has provided a rendering of what has been proposed. Per the Zoning Ordinance, any sign in the Traditional Business Overlay District (TBOD) requires review by the Planning Board prior to a sign permit being issued. The sign shows the existing LED area with the proposed signage above it. Mr. Nelson noted the existing logo is black and white; the new one is blue and white.

Motion by MacEachern, seconded by Granese, pursuant to Section 165-101.5.A.1.q of the Town of Derry Zoning Ordinance, to accept the proposed sign as rendered for the Derry Opera House as presented for PID 29189, 29 West Broadway. Discussion followed.

Mr. MacEachern asked if the supporting poles would be blue as it appeared to be in the rendering provided. Mr. Nelson believed the posts would remain white. Mrs. Donovan, who sits on the Arts Council, advised there has been no discussion about changing the post color to blue. Mr. MacEachern stated he had no issue with the proposed sign, so long as the support for the sign remains white.

The motion passed with all in favor.

Architectural Design Review, TBOD, Proposed façade improvements, PID 30044, 5 West Broadway

Mr. Sioras explained an application was received as part of the Downtown Façade Improvement Program. The application is for changes to the façade of the building currently housing Iridessa Salon and The Grind Rail Trail Café. The building is located on the corner of West Broadway and Martin Street. Staff recommended approval of the proposed changes and the grant.

Mrs. Robidoux advised Ron Dupont, the owner, was available virtually to answer any questions the Board might have. The original request had been amended and a copy of the proposed changes was provided to the Board this evening for their review. The intent is to keep the upper siding, paint the windows and on the lower level under the windowsills, to add the stone looking siding. The DFIP review committee reviewed the proposed changes and had no issues, nor did the Town Administrator who approves the grants requests. The application has to come to the Board for review because the property is in the Traditional Business Overlay District. Mr. MacEachern inquired as to the color of the stone look siding. Is it going to be very dark? Mrs. Robidoux said based on the information received by staff it would not be and it would blend in very well with the yellow siding.

Motion by MacEachern, seconded by Granese pursuant to LDCR Section 170-84, Architectural Design Regulations, to accept the proposed façade improvements for PID 30044, 5 West Broadway, as the Board finds the proposed improvements meets the requirements for the Traditional Business Overlay District. The proposed improvements show a very high level of compliance with the regulations; the proposed improvements appear to fit within the architectural context of the neighborhood, there is an embellished horizontal base, natural appearing (faux stone siding) has been proposed, and the proposed colors are subtle.

The motion passed with all in favor.

Introduction to Form Based Code – Deputy City Manager, City of Dover, Christopher Parker

Mr. Sioras introduced Christopher Parker, Deputy City Manager for the City of Dover. He is here this evening to introduce the Board to Form Based Code and to describe the successes Dover has had with this type of zoning.

Mr. Parker advised he spent fifteen years as the Director of Planning for the City of Dover, New Hampshire. During 2007-2011, the City looked into and adopted form based code which Dover refers to as Context Sensitive Development. With this type of zoning, the form of the property matters more than the use. The Dover Master Plan recommended looking at the Central Business District, which at the time encompassed 100 acres and contained 10 different zoning districts. The uses ranged from industrial from Dover's mill history, to high density residential – relicts from the 1970s Housing Authority redevelopment. The Planning Department looked at the need to focus on downtown development and the need to assist property owners in re-

investing in the downtown. Staff asked the question how could they encourage the development Dover wanted to see? This was asked through the Master Plan process. Form not function was the answer. The use of the building today may not be what the building was originally designed. Staff asked the question, what uses should not be in the downtown? For example, chain variety buildings that can't easily be repurposed. Dover wanted a pedestrian, walkable community so removed drive-throughs and then looked at the process to embrace. The staff conducted surveys and an in depth review of uses and how they could be simplified. In 2009, there were 43 separate uses allowed in the downtown. Today, there are 7: Housing, Personal Service, Retail, Civic, Lodging, Office, and Other which includes things like gas stations. The City does not distinguish between mom and pop restaurants and chains (Retail); boutique and grand hotels (Lodging), or single family/multifamily development (Housing). The density calculation was removed with the goal being: what will the building look like? Staff did charrettes and hired a consultant. The consultant measured the properties and all the buildings within those properties. They took the tax map, and calculated frontage, minimum lot size, building on the entire lot, build out on the frontage, where the building was located on the site, and the height of the building. They found the vision people liked and the data supporting that showed the buildings in the downtown should be multistory, constructed of durable material and have windows on the building in the pedestrian realm (first 20 feet). The building should have no inactive space. The use was not important other than an applicant would need to account for loading areas and there should not be faux facades. The space should be utilized.

This created flexibility by removing barriers so that owners could be creative. 75% of the lot can be built up, parking needs to be behind the building or below, but not the predominant use on the lot. Any development would need to show how much frontage was taken up by the building; for example, 75% of the frontage was used by the building. In some scenarios, 100% of the frontage was taken up by the building.

The Planning Board added a conditional use process so that the Planning Board could grant waivers, rather than having the applicant go to the Zoning Board. The district has minimal signage to promote a pedestrian based environment. The goal for the district is height, mass, and context sensitivity. Use still comes up as a question. Parking has to be within 1000 feet of the use or within the district and can be private or leased. In 2015, the parking calculation was changed to a parking maximum. There is no parking requirement for commercial uses. The residential maximum is 1.65 spaces per dwelling unit; they have found the average is 1.35 spaces per dwelling unit, based on actual need. On street spaces are reserved for customers.

Initially, Dover required the first floor be a commercial use, but changed that to require 20% of the building square foot be commercial. This year, the Board is looking at changing the regulation to require 20% of the building be commercial use. That could be an office, or rooftop restaurant. Per the Building and Life Safety Codes, in some cases, ADA accessibility is required on the first floor. By allowing the 20% residential to be anywhere in the building, and not just on the upper floors, accessibility is more readily achieved. Mr. Parker paused for questions.

Mr. O'Connor asked if Dover had public transit? It does. Dover's transportation options include the Downeaster, COAST, WildCat, and others. Mr. O'Connor felt this type of zoning worked well when there is public transportation, but without it, it would be hard to find places for people

to park if Derry used a similar parking calculation. Mr. Parker encouraged the Board to look at options and as regulations are created, to talk to people, thus creating regulations that work for Derry. Mr. O'Connor asked if Dover had a height restriction in the Central Business District. Mr. Parker said there is one. Originally, the restriction was 5 stories in height and then they removed the restriction in 2010. They ended up with some 5-6 story buildings which gave them pause, and the Board agreed in 2015 to reinstate the 5 story limit. The caveat is that for every story above 5 stories, there has to be a level of subgrade parking and the developer has to agree to make the units HUD restricted. For example, if the additional floor or floors would add 12 units, then 12 units in the building (can be anywhere in the building) would need to be HUD restricted housing. There is a two story minimum in the district; they did not want single story buildings.

Mr. Nelson asked for the population count for the City of Dover and for the CBD specifically. Mr. Parker stated the population in Dover is just shy of 33,000 persons. He will provide the downtown number to Mr. Sioras as he is not certain of the exact number. He is aware that area had the greatest growth between the 2010 and 2020 census. [Note: 2020 Census states 3,500 persons]

Mr. Myers asked what the response had been from the commercial business owners and developers who utilized the new code. Did they feel this was more obtrusive or less obtrusive? Mr. Parker said less obtrusive. The true Form Based theory is that the Planning Board creates guidelines, and everything is administered by the Planning Board. But that is not allowed in New Hampshire per the statute, so Dover created a system with a lot of check boxes. During the TRC process, that is clear, and developers know what to expect. In 2010, Dover set up a process such that if the developer met X number of code items, they could have expedited review of the application. All of the developers did it, so it was clear they understood time meant money. Dover staff looked at ways to streamline the process to get the projects moving. There were a few instances where people were not as familiar with Dover's process, and it created some delays. That is just an education piece. For the most part it works well.

Mr. Myers asked if this change involved just a tweak of the existing ordinance or an entire re-write. How much effort did this take? Mr. Parker said the change could be done both ways depending on the scope. Dover wanted to make sure this type of zoning was only applicable for the downtown and went from there. It took about 9-10 months to write the zoning. They applied for a \$25,000 grant, and then added \$15,000 for consulting fees. They found the consultant, and then staff worked on it for the majority of the time to save expenses. Much of the time was spent with charettes and obtaining public feedback. Mr. Parker participated in 15-18 public meetings for this zoning. The approval process took 3 public hearings. Planning staff provided work sessions in between the public hearings to meet with property owners to help educate them about the zoning. This resulted in a reduced amount of opposition from one public hearing to the next. What they found was that if the developers believe rules will be applied equally, they are okay with the rules.

Mr. Parker said there is one thing they did that he would encourage doing. They walked the entire 100 acre downtown with the goal to look at the existing buildings in situ to see what would need to be included if there was redevelopment. This helped created the boundary of the zone so

that all redevelopment could be viable. Two years ago, \$50,000 million in reinvestment in the downtown was occurring at the same time.

Mr. O'Connor asked why other communities have not adopted zoning regulations of this type? Mr. Parker believed it is a matter of priorities and a question of how much development does a community want. Some communities are happy as they are; some communities do not have enough staff or the funds to hire a consultant. Mr. O'Connor asked if Dover implements impact fees. Dover does.

Marc Siragusa inquired from the audience if they could ask questions. Mr. O'Connor explained this was not a public hearing and was just an informational discussion for the Board. He encouraged Mr. Siragusa to meet with Mr. Parker after the meeting to ask questions, but was grateful for the interest expressed in the topic.

Mr. Parker stated development of a code of this type should not be made harder than it needed to be. Their district regulations are 9 pages long; Portsmouth has 120 pages devoted to the same concept. This is an invitation for the private sector to be creative. Communities should not want to micromanage that. Therefore, they created a zone that was thought and vision driven rather than "you shall do" and they added illustrations and visuals to the code. They have a one page handout for each of the zones which outlines the lot dimensions, signs, conditional uses, etc. The property owner can take that one sheet with them and understand and use the regulations in the zone in which their property is located. By distilling what was most important to them, such as height, massing, and context in the environment, Dover created a vision that is easy for the property owner to understand. Property owners should be able to understand and use the regulations that affect their property.

Mr. O'Connor thanked Mr. Parker for the information provided to the Board this evening.

Request to extend approval – 1st Request

PID 06086 and 06086-015, 6 & 5 Eastview, Cooper Rev. Trust of 1993

Motion by MacEachern, seconded by Granese to approve a six month extension of the conditional approval granted on January 05, 2022, for a lot line adjustment and 5 lot subdivision of Parcels 06086 and 06086-015, 6 East View and 5 East View, owned by the Cooper Rev. Trust of 1993. The new expiration date will be January 05, 2023.

The motion passed with all in favor.

Request to extend approval – 1st Request
PID 11058, 19 Forest Street, JAL, LLC

Motion by MacEachern, seconded by Granese to approve a six month extension of the conditional approval granted on January 05, 2022, for a 12 lot subdivision of Parcel 11058, 19 Forest Street, owned by JAL, LLC. The new expiration date will be January 05, 2023.

The motion passed with all in favor.

Request to extend approval – 2nd Request
PID 35011-001, 14 Folsom Road, Stinson Hills, LLC

Motion by MacEachern, seconded by Granese to approve a two year extension of the conditional approval granted on February 19, 2020, for a 8,800 square foot office park to be located on Parcel 35011-001 14 Folsom Road, owned by Stinson Hills, LLC. The new expiration date will be July 15, 2024. Discussion followed.

Mr. Nelson inquired why this request was for two years, when normally the request is to extend for an additional six months. Mr. Sioras explained this is the second extension request to extend the approval for an additional two years. This project is on the Exit 4A construction corridor. The Board had approved a site plan for a medical office use on this lot. Normally the extensions are for six months at a time, but in this case, because of the Exit 4A construction schedule and the fact that the landowner is in discussion with the Town and NH DOT to see what will happen with takings on portions of the property, staff would recommend approval of the extension request. Mr. MacEachern agreed it was unusual to do a two year extension, but because the project is tied to Exit 4A, it seems appropriate.

The motion passed with all in favor.

Review of Policy & Procedures – First Reading

It was noted all of the changes suggested by the Board at the last meeting have been included in the draft before the Board. The Board was happy with the changes. It had been noted in the draft that the Town of Newmarket adds wording similar to the following on their agenda. “Meetings of the Board begin at 7:00 PM and are scheduled to end at 10:00 PM. At 9:30 PM, the Board will assess the agenda items remaining to be discussed. The Board reserves the right to reschedule items to the next schedule meeting.” The Board members felt it would be appropriate to add that to the Planning Board agenda once the changes in the Policy and Procedures had been approved.

The proposed changes will be provided at the next meeting for a vote by the Board to accept.

Planning Director Updates

None.

Chairman Updates

None.

Summer Schedule

The board will meet on July 20 and August 17. In September, the Board will return to two meetings a month.

Board Member Comments

Mr. MacEachern asked that the list of businesses approved by staff be provided to the Board at the next meeting.

Mr. Sioras provided status on the following projects: Starbucks and Aspen Dental are moving forward. The former Blue Seal has been razed. Staff believes The Grindhouse project is moving forward; the AoT permit has been issued. There is no anticipated start date for construction, and it should be noted construction costs are very high right now and are affecting construction schedules. Mr. L'Heureux added it is very hard to obtain building materials and there are many supply issues. Some pipe required for construction is unavailable for the next 9 months. Mr. MacEachern noted the Board has approved a lot over the last few months and he would not want to lose focus on what the Board did approve. It would be nice to have a list of the approvals and the status of those projects.

Mr. L'Heureux noted there are a few large projects slated for the West Running Brook district that are on the cusp of coming to the Board for public hearing. Mr. MacEachern would like to have a list of projects outlining approval and status, any internal change of use approvals, and any pending conceptual projects that can be discussed publicly.

Mr. Sioras advised Hannaford will be undergoing a major internal renovation; this is nothing the Board needs to review.

Mr. Nelson commented he was intrigued by Mr. Parker's presentation and thought it was interesting that many of those ideas and concepts are already included in the Architectural Design Regulations for the TBOD.

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 7:54 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____