

The Planning Board for the Town of Derry held a public meeting on Wednesday, September 21, 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; Randy Chase, Town Administrative Representative; Andy Myers, Member; Richard Malaby, Alternate

Absent: Joseph Tremper, John Morrison, Brian Chirichiello, Mark Connors, David Granese; 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. 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. Connors.

Escrow

#22-17

Project Name: Non-Residential Site Plan 45 South Main Street

Developer: The Siragusa Group

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 05047 and 05048, 45 and 49 South Main Street

The request is to approve a final release of Letter of Credit #1513, drawn on Primary Bank, in the amount of \$50,479.20 for the above noted project. The amount to retain is zero.

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

Minutes

The Board reviewed the minutes of the September 07, 2022, meeting.

Motion by MacEachern, seconded by Nelson to approve the minutes of the September 07, 2022, meeting as written. The motion passed with all in favor.

Correspondence

Mr. Nelson advised the Board has received text for a proposed zoning amendment. This matter will be deferred to a workshop to be scheduled in the near future. The Board is also in receipt of the September/October edition of *Town and City* magazine.

Other Business

Planning Director Updates – Chairman Updates

Mr. Sioras provided a reminder of the Exit 4A public information meeting to be held this Thursday, September 22, 2022, at the West Running Brook School. The discussion will focus on part B of the project. The project area extends from Madden Road to Pinkerton Street. The open house takes place from 6:00 – 7:00 p.m., with a formal presentation by Project Manager, Wendy Johnson to follow at 7:00 p.m. This meeting is open to all.

Mr. Sioras advised the Planning Board will not meet on October 19.

Chairman Updates

Mr. O'Connor commented the Board has received several notices of training opportunities from Mrs. Robidoux. Upcoming training includes the Law Lecture Series on October 15 and a two-day conference in November. If any Board member is interested in attending a session, they should reach out to Mrs. Robidoux so they can be registered. The town will cover the cost of the training.

Public Hearing

Hornes Pond Real Estate Group, LLC
PID 29151, 35 Maple Street
Acceptance/Review, Site Plan
12,705 SF Commercial Development
Vehicle storage warehouse and addition to existing building

Mr. Sioras provided the following staff report. The purpose of the plan is to redevelop the site to accommodate an 11,600 square foot vehicle storage warehouse and a 1,015 square foot building addition to the existing auto body shop. A variance was granted by the ZBA on April 07, 2022, to allow for the construction of a new commercial building which will be located less than 75 feet from a wetland greater than one acre in size and more than 8 feet from the front property line at 35 Maple Street. The property is located in the Central Business District. The new building replaces a previous building located on the site that had been destroyed by fire several years ago. All Town Departments have reviewed and signed the plan. There is a waiver request letter dated September 01, 2022, from KNA Associates requesting relief from the required number of trees

on site. No State permits are required. Staff would recommend approval of both the waiver request and the site plan application.

Motion by MacEachern, seconded by Nelson to accept jurisdiction of the site plan application before the Board for Hornes Pond Real Estate Group, LLC, PID 29151, 35 Maple Street.

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

Motion by MacEachern, seconded by Nelson, pursuant to RSA 36:56, to find the proposal as presented meets the definition of a development of regional impact.

Chase voted no, stating the proposal does not meet the standard for a development of regional impact; MacEachern and Malaby voted no for the same reason; Myers voted no stating given the scope of the plan is very localized, there is no impact; Nelson and O'Connor voted no, citing the reasons already noted. The motion failed.

Matt Peterson, of Keach Nordstrom Associates presented the application. Grant Benson III, the applicant was present, along with the Project Manager, Peter Madsen, of Keach Nordstrom Associates.

Mr. Peterson noted this is an existing site and Mr. Sioras provided a good overview of the project. Mr. Peterson felt it was important to understand the history of the site and provided pictures of the original building which had spanned the entire lot. Currently, Rollins Street runs north/south. An existing Benson's facility is across the street to the right. On the left side of the site is the auto body facility. Hornes Pond wraps around the north and west sides of the lot. Access to the site is through two driveways located on Maple Street. They intend to keep and utilize both access drives. The proposed building is 11,600 square feet. A variance was requested to allow the building to be further than 5 feet from Rollins Street. They are about 8 feet off the main road; it makes sense as there is a retaining wall there. They believe they have kept the intent of the ordinance but required the variance in order to place the building in the most appropriate location. They also requested a variance to allow buildings within the wetland buffer. The existing buildings are currently located in the wetland setback. The lot was walked and reviewed by the Conservation Commission prior to application to the ZBA. All the variances were granted.

The existing lot is 70,000 square feet in size, or 1.61 acres. The existing conditions plan shows how the lot is utilized. The lot needs to be revitalized. They will remove and demo as part of the project. This area is becoming very nice with the park improvements and the expansion of the rail trail. They believe the redevelopment of this lot will add to the area.

The site plan sheet shows the proposed parking for the auto body use, as well as the curb cuts and width of those curb cuts. The new facility is intended to store trucks which typically are loaded in the evening for the next day's deliveries. In the winter, this causes a problem when the weather is inclement. Time has to be taken to clear the vehicles. If the vehicles are stored

indoors, they will be secure and also be able to avoid the vandalism and theft that has been occurring.

The grading plan shows the addition of an infiltration pond to the front and two bioretention ponds. One will be near Maple Street and one will be near Hornes Pond to the rear. The site will be cleaned up near the pond. Sewer utilities will come from Maple Street. Water and electricity also come from Maple Street. An erosion control plan has been provided to keep any silt from reaching the pond and wetlands. An Alteration of Terrain permit is not required.

With regard to landscaping, there are trees along the site and plantings along the building. They are short the required number of trees and are asking the Board for a waiver to allow flexibility in the number and where the trees are planted. The lighting will be dark sky compliant, downward facing, LED wall packs. There will be 6 on the building.

On the Rollins Street side of the new building a bump out is shown. This area of the building will be used for records storage. Access from Rollins Street is via a walkway leading from Rollins Street to the storage area which is shown on the rendering. This pedestrian entrance allows access to and from the business located across the street which is under common ownership. This will provide a nice feature along Rollins Street. With regard to the garage, they are still working on the renderings for that building; they are still deciding with regard to windows, etc.

Mr. Peterson reviewed the waiver request letter. They are asking for a waiver from LDCR Section 170-64 (B) (2) to allow a reduction in the number of required trees. The regulation requires 25 deciduous or ornamental trees be planted on site based on a total building perimeter of 760 linear feet, which includes both the proposed building and the building addition. The landscape plan calls for 16 of these 25 trees to be planted on site. Based on concerns with sight distance at the intersection of Maple Street and Rollins Street and several areas of steep slopes along Rollins Street, the applicant believes all suitable locations to plant the required trees are being utilized. As such, planting the required additional nine trees in the only available, yet unsuitable locations near the entrance would be a hardship to motor vehicles at the intersection and along Rollins Street. There is area to the rear, but it is a very steep slope down to the pond and it does not make sense to plant trees there. Furthermore, granting this waiver would not be contrary to the spirit and intent of the regulation as the site will still provide an appropriate number of trees while simultaneously maintaining public safety. They have worked with staff for the last three months to address their concerns and would now welcome comments and questions from the Board.

Motion by MacEachern, seconded by Nelson to open the public hearing. The motion passed with all in favor and the floor was open to the public.
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Susan Mallette, 18 Maple Street, inquired if the Brook behind her property would be affected by this plan.

Heather Delanoy, 27 Maple Street, was concerned as to the hours of operation for the business.

There was no further 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. Peterson addressed the questions from the abutters. The Brook is located to the left of the development. They will clean up anything that might go into the Brook and will grass the area. The plan proposed improves the current condition. They would request hours of operation of 5:30 a.m. to 6:30 p.m. The trucks are typically out on the road by 6:00 a.m. and back by 4:00 p.m. Mr. Benson advised currently the drivers begin their pre-trip inspections at 5:00-5:30 a.m. Once the trucks are started and warmed up, they leave and don't come back until the end of the day. Some of the pre-trip inspection will begin indoors, but the trucks will be started outside.

Mr. MacEachern stated new building looks fine, but he did not see a rendering for the auto body shop. Mr. Benson advised the plans are not finalized for that building. They need to dig out the area and see what they are dealing with before they can remodel the building. The new buildings will look more like Derry Iron Works which is across the street. He provided pictures to staff today of what that building looked like before it was renovated to today's condition. Mr. Sioras advised it would be permissible for the Board to grant conditional approval this evening and add a condition that the architectural renderings for the buildings come back to the Board for administrative review once they are finalized. This would not necessitate a new public hearing. It would be an administrative approval and allow the applicant to move forward. Mr. Benson explained they would like to be able to tear down and perform the site work. The building has gone through several fires; it was a five-story building when it was first constructed. They are not sure what they will have to contend with on the site. They need to know what they are working with before they can finalize any rendering. Would they be able to begin work on the site, or would they have to have the renderings approved first? Mr. Sioras explained once the drawings are complete, they can be provided to the Board. Mr. MacEachern stated the Board will only want to see the drawing for the auto body building. They can see what the new building will look like based on the submittal this evening. He stated he had no issue with the waiver request. The lot slopes downward and it does not make sense to put trees where they would block the line of sight.

Mr. O'Connor asked who controlled the flow of the dam. Mr. L'Heureux stated the Department of Public Works controls the weir. Mr. O'Connor had a concern about headlights from the trucks shining into the windows of the neighbor across the street. Is there any way to move the entrance over a bit to avoid that? Can the two entrances be made one way in and one way out? Mr. Peterson stated they pushed the left entrance over as far as they could. Lights flashing into windows will depend on which way the truck travels as it exits the lot. Mr. Benson explained the corner is very tight and it is the narrowest part of the road, and it would be difficult for trucks to make the turn if they restricted the entrance to one way in and out. He did not believe his trucks would use the left-hand side entrance as much; that would be more utilized by the owner of Sportswagon and his customers. That entrance keeps the auto use away from the flow of the business on the right-hand side.

Mr. Nelson had a question about the boundary line agreement memo dated August 23, 2022. The letter discusses the need to have a voluntary boundary agreement with the town with regard to the location of the property boundary and the creation of a right of way plan. However, this is not noted as a potential condition of approval; it was also not mentioned in the VHB report. He believed there should be a condition that there is resolution with regard to the question of bounds and rights of way as described in the boundary agreement memo. Mr. Peterson explained when they were performing the boundary survey research, they knew Rollins Street was still under control of the Benson entity. Many of the old deeds referenced the former building as the property line at Rollins Street. The building no longer exists, so that line can't be exactly determined. They are proposing setting the Rollins Street right of way so that the Town can have that as a right of way and then clean up the back piece. This lot was originally three lots. It was very difficult to determine each property line. This would clean it up as they are all owned by the same entity.

Mr. Nelson suggested adding as a condition "compliance with the land boundary agreement clarifications as described in the August 23, 2022, KNA memo signed by Christopher J. Hickey, LLS."

Mr. Myers asked for further clarification of the relief obtained from the ZBA. Was the relief required because the building was proposed to be too far away from the property line or too close? Mr. Peterson stated they needed a variance because the building was going to be too far away at ten feet. The zone has a maximum setback. The back corner meets the 8-foot setback. The whole building should have been within 8 feet of the property line, but only a small portion meets it. The requirement is a little weird for this area and is really meant for the downtown area. Mr. Myers asked for the width of Maple Street, it seems narrow. Will increasing truck traffic on that road impact traffic on that street? Mr. Benson advised they currently use Maple Street all the time from their current yard. That activity will continue. The only difference is that the trucks will now come out of the garage in the morning and turn left onto Maple Street.

Mr. Myers believed the uses were presented as industrial in nature with garage storage. Will there be any customers coming and going from the site to access any stored stock? Mr. Benson said they may keep some back stock in the warehouse, but there will not be any customers on site. Mr. Myers believed he agreed with Mr. MacEachern with regard to the trees. The rail trail and park are behind the lot. Was there any thought to placing the more landscaping in that area to be more in keeping with the look of the park? Mr. Peterson said there is a slope on the lot and a treed buffer already exists.

Mr. L'Heureux stated the applicant has addressed all of the DPW comments and concerns.

Mr. O'Connor noted TRC signatures have been obtained for this submittal.

Motion by MacEachern, seconded by Nelson, to approve a waiver from LDCR Section 170-64 (B)(2) to allow a reduced number of deciduous or ornamental trees to be planted within the site as planting the additional nine trees would cause concerns with sight distance at the intersection of Maple Street and Rollins Street and a hardship to motor vehicles if the trees are planted in several areas of steep slopes. After review of the waiver request the Board finds that specific

circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

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

Motion by MacEachern, seconded by Nelson, to find that pursuant to LDCR 170-85, that the application as presented demonstrates substantial compliance with the Architectural Design Regulations. This property is located in the Central Business district and meets a Very High level of compliance as outlined in Section 170-84 where traditionally buildings in the core of the district area taller, closer to the sidewalk and built of more substantive materials, with elaborate design and detailing. The intent is to maintain a pleasing pedestrian environment.

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

Mr. MacEachern noted the following findings of fact.

The Board finds the proposed plan provides safe and efficient vehicular and pedestrian access, and the design and construction of the driveways and walkways are adequate to accommodate the anticipated volume of traffic proposed by the development.

The Board finds the proposed parking plan is adequate for the site and meets the parking density requirements for the use.

The Board finds the landscape plan meets the intent of the regulations and a residential landscape buffer along the driveway has been provided for the abutting residential uses.

The Board finds the stormwater management as proposed is designed to control the post development runoff so that it does not exceed predevelopment runoff.

The Board finds the utility construction standards are met, the applicant is proposing to connect to municipal water and the property has a sufficient number of hydrants for the proposed use.

The Board finds exterior lighting, solid waste storage and snow storage provisions, and erosion and sediment control provisions are adequate.

Motion by MacEachern, seconded by Nelson to agree with the above noted findings of fact.

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

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

1. Comply with the Vanasse Hangen Brustlin report dated September 15, 2022, or later
2. Subject to owner's signature
3. Subject to on-site inspection by the Town's engineer
4. Establish appropriate escrow as required to complete the project
5. Note approved waiver (s) on the plan
6. Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-61.C
7. Subject to receipt of applicable state or local permits relating to the project
8. Conditions precedent shall be met within 6 months.
9. Planning Board administrative review of the architectural building plans for the auto shop when those renderings are available.
10. Compliance with the land boundary line agreement clarifications as described in the August 23, 2022, KNA memo signed by Christopher J. Hickey, LLS

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

Mr. O'Connor noted the redevelopment will be an improvement and complement the area.

There was no further business before the Board.

Motion by MacEachern, seconded by Nelson to adjourn.

All members voted in favor and the meeting stood adjourned at 7:45 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____