

The Planning Board for the Town of Derry held a public meeting on Wednesday, October 19, 2016, at 7:00 p.m., at the Derry Municipal Center (3rd Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: John O'Connor, Vice Chairman; Michael Fairbanks, Secretary; Randy Chase, Administrative Representative; Charles Foote, Town Council Liaison; Frank Bartkiewicz, Jim MacEachern (7:03 p.m.), Lori Davison (7:02 p.m.), Members, Elizabeth Carver, Alternate

Absent: David Granese, Mirjam Ijtsma, Mark Connors, Marc Flattes

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

Mr. O'Connor, Chair Pro-Temp, called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. O'Connor noted the emergency exits, the location of meeting materials, and introduced the Board members and staff.

Ms. Carver was seated for Mr. Granese

Escrow

#16-31

Project Name: Mutual Sales Warehouse Expansion

Developer: Mutual Sales, Inc.

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 31005-007, 2 Corporate Park Drive

The request is to approve the final release of Letter of Credit #16-01, drawn on Jeanne D'Arc Credit Union in the amount of \$6,220.80 for the above noted project. The amount to retain is zero.

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

Ms. Davison was seated.

#16-32**Project Name: Subdivision of Map 03, Lot 147 Kilrea Road****Developer: Primecap, LLC****Escrow Account: Same****Escrow Type: Cash Escrow****Parcel ID/Location: 03147, 38 Kilrea Road**

The request is to approve a final release of cash escrow in the amount of \$3,880.00 for the above noted project. The amount to retain is zero.

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

Mr. MacEachern was seated.

#16-33**Project Name: Granite Clover Self Storage****Developer: Crom, LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 01023-001, 125 Windham Road**

The request is to release \$53,907.12 on Letter of Credit 6211, drawn on Eastern Bank and request a replacement Letter of Credit in the amount of \$145,800.00 for the above noted project. Upon receipt of the replacement Letter of Credit, the board will release the Letter of Credit in the amount of \$199,707.12.

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

#16-34**Project Name: Mixed Use Development Site Plan****Developer: American Excavating****Escrow Account: Route 28 Custom LLC****Escrow Type: Letter of Credit****Parcel ID/Location: 03035-001, 230 Rockingham Road**

The request is to approve a final release of Letter of Credit #22413-A in the amount of \$245,160.43 for the above noted project. The amount to retain is zero.

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

Minutes

The Board reviewed the minutes of the September 21, 2016 meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the September 21, 2016 as written. The motion passed with Chase, O'Connor, and Carver abstained.

Correspondence

Mr. Fairbanks advised the Board has received a copy of *Supply Lines with The Source* and the most recent edition of *Town and City*.

Other Business

None.

Public Hearing

Mary E. Morgan
7 Sheldon Road, PID 10073
Acceptance/Review
3 Lot Subdivision

Mr. Sioras provided the following staff report. The purpose of this plan is for a three lot subdivision of a property located in the Low Density Residential District where a three acre minimum is required. This parcel is on the distressed property list created by the Property Maintenance Committee. The dilapidated house on the property will be removed as part of this subdivision plan. All town departments have reviewed and signed the plan. There are no waiver requests. New Hampshire Department of Environmental Services subdivision approval has been obtained. Staff would recommend approval of the subdivision plan.

Tim Peloquin, of Promised Land Survey, presented for the applicant, Mary Morgan, who was also present. Ms. Morgan intends to subdivide the property into three house lots as shown on the plan. These are all frontage lots. The road frontage is substantial. They did request a variance to create a slightly undersized lot. This was a unique circumstance. Many of the homes in the neighborhood are grandfathered lots with less than three acres created when the zone allowed a one acre minimum. Across the street, the homes are on three acres. The property has been under litigation for 60 years over a boundary dispute. The Morgan family paid taxes on the entire

property during that time. The proposed lots meet all of the requirements and are substantial in size.

Mr. O'Connor asked with regard to Note 12 on Sheet 3. The note indicates the existing buildings will be razed at the start of construction. There is no timeline associated with construction. The Board may add a condition that the house will be removed within 12 months of approval. Ms. Morgan confirmed she did not have an issue with that condition.

Mr. Sioras reported the Property Maintenance Committee met yesterday, and the Committee requested the Board consider placing a condition that the structures be removed within 60 to 90 days. They would like to keep moving this forward. Mr. Peloquin advised Ms. Morgan has placed a chain link fence around the dilapidated home for safety reasons. She agrees the house does need to be razed. She was hopeful that could be done incidental to construction. A twelve month time frame is reasonable, but a three month time frame would place an additional expense she has not planned for.

Mr. O'Connor asked if Mr. Peloquin could explain why they went to the Zoning Board of Adjustment. Mr. Peloquin said two of the lots meet the 200 foot frontage and the three acre requirement. The last lot has greater than 200 acres of frontage, but does not have the required lot size. It is undersized in that it only has 2.39 acres where 3 acres is required. It does meet all other requirements such as soils, septic loading and frontage. Mr. Fairbanks asked what was presented as the hardship argument as to why the minimum acreage could not be met. The argument is not noted in the ZBA minutes. Mr. Peloquin advised Attorney Germaine presented to the Zoning Board and he was not certain of the exact working wording for that factor. Ms. Morgan advised others had claimed ownership of a portion of the lot (denoted by the 'old parcel line' on the plan). The Morgan's paid taxes on the full property for 60 years. Mr. O'Connor noted years ago, this area had one acre zoning. Mr. Peloquin said the usable area in the 8+acre lot was 4 acres during that time because of the property dispute. Mr. O'Connor recalled Attorney Germaine used the one acre zoning as part of the hardship argument. Mr. Peloquin added there are other lots in the area with less than three acres.

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

Eunice Giles, 19 Sheldon Road, advised she owns 10 acres of land that is used as a hobby farm. When they moved to Derry, they looked for a rural area. There are small lots in this area, but there are also larger tracts of undeveloped land. She is distressed that this lot will be broken into smaller lots. Mr. Peloquin advised the lot abutting Ms. Giles' property has a stonewall, a fence and a wetland. She was familiar with the area and had been down in that area today with her cows. Mr. Peloquin advised all development on the new lots will take place to the front. Ms. Giles explained her concern is that she gets along with her neighbors and she hoped new neighbors would not have any issues with her livestock

There was no further comment.

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

Mr. O'Connor asked if any construction taking place will affect the soils to the rear of the property as the property slopes to the back. Mr. Peloquin said it should not. There is a floodplain associated with the property. It is part of the swampy wetland located off Hampstead Road. All development will be to the front end of the property. Any sheet flow between the front and the back will be negligible.

Mr. L'Heureux advised all additional information and requests have been placed on the plan and it meets regulations.

Motion by Davison, seconded by Bartkiewicz to accept jurisdiction of the three lot subdivision plan before the Board for Mary E. Morgan, PID 10073, 7 Sheldon Road.

Chase, Davison, Foote, MacEachern, Carver, Bartkiewicz, Fairbanks and O'Connor voted in favor and the motion passed.

Motion by Fairbanks, seconded by Bartkiewicz to approve pursuant to RSA 676:4,I, Completed Application with the following conditions: subject to owner's signature; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds or certify the bounds have been set; establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-24; Amend Note 11: driveways shall be constructed in compliance with LDCR Section 170-26.16, along with all off site improvements prior to issuance of occupancy permit; demolition of existing structures shall occur within 12 months of the Planning Board approval; conditions precedent shall be met within 6 months; a \$25.00 check, payable to Rockingham County Registry of Deeds shall be submitted with the mylar in accordance with the LCHIP requirements; and, submission of the appropriate recording fees, payable to the Town of Derry. Discussion followed.

Mr. Sioras advised the Property Maintenance Committee felt there needed to be a time frame associated with the razing of the house. Mr. O'Connor noted there is a secure fence around it. Ms. Davison questioned whether the removal of the house would be a condition precedent. Mrs. Robidoux stated that it would be subsequent as the motion states "within 12 months of Planning Board approval". The 'approval' would be the final approval which takes place when the plan is signed by the Board.

Chase, Davison, Foote, Bartkiewicz and O'Connor voted yes. Fairbanks voted yes, but stated he did not believe a hardship had been presented to the ZBA. Carver voted no, stating she disagreed with the 12 month time frame to demolish the structures. MacEachern voted no stating he agreed with Mr. Fairbanks there was no hardship before the ZBA, he does not have the actual ZBA record to review, and he does not feel this meets the three acre zoning. The motion passed by a vote of 6-2.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:27 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____