

The Planning Board for the Town of Derry held a public meeting on Wednesday, March 03, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with some members of the Board present.

Members present: John O'Connor, Chairman; Lori Davison, Vice Chair; Mark Grabowski*, Secretary; Richard Tripp, Town Council Liaison; Randy Chase, Administrative Representative; Jim MacEachern, Mark Connors, Members

Absent: Doug Danzey, Dave Granese

*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux*, Planning and 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. Mr. O'Connor advised that although the Stay at Home order has expired, Emergency Order #12 as issued by Governor Sununu waives the requirement that all members be physically present. Members can attend the meeting electronically. He 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

None.

Minutes

The Board reviewed the minutes of the February 17, 2021, meeting.

Motion by MacEachern, seconded by Davison to approve the minutes of the February 17, 2021, meeting as written.

MacEachern, Davison, and O'Connor voted in favor; Grabowski, Connors, Chase and Tripp abstained, and the motion passed.

Correspondence

None.

Other BusinessAdministrative Review, PID 36017, 55 Crystal Avenue, Addition of Drive-Up ATM (JP Morgan/Chase Bank)

Mr. Sioras advised the Technical Review Committee met with representatives for JP Morgan/Chase Bank to discuss the addition of a drive up ATM at Hood Plaza. The proposed location is in the vacant parking lot located to the right of the main entrance. A sketch of the ATM has been provided and the packet includes well-defined engineered plan. It was the opinion of staff that no abutter or retailer would be directly impacted and that the Board could take a look at this under Administrative Review. The new ATM will take up 10 parking spaces that are not being utilized by the vendors at Hood Plaza and this change will not affect retail operations. Staff recommends approval.

Tom Riley and Chris Quinn of TKO Installations presented as the authorized representatives. Mr. Riley advised they had been retained by Chase Bank to work on a free standing drive up ATM at the Derry Hood Plaza. Chase Bank is undergoing a market expansion in the Greater Boston/Manchester area and they are working on a number of other similar installations at locations in the area.

Mr. MacEachern felt this was a fairly straight forward request. He wanted to confirm all of the appropriate documents are in place. He noted this is where the snow removal contractors store their equipment, and it is important to make sure that people can make their way around the ATM without conflicts. Is this a lease or purchase in this location? Mr. Riley advised Chase has entered into a five year lease agreement with the property owner. They understand they need to maintain a distance from the wetland for snow removal. Beyond that, there are no impacts to existing operations.

Mr. Connors asked if there is a Chase retail location in Derry or will there just be a drive through. Mr. Riley advised he is aware Chase is working on branch build outs, but TKO was hired exclusively to deal with the drive up operations. He is unaware of a branch build out in town.

Mr. L'Heureux advised DPW has asked that the trench patch be added to the plan to be consistent with the access way to make sure it will hold up over time, and that the source of the electricity should be identified and noted on the plan.

Motion by MacEachern, seconded by Connors to find that Site Plan review is not required by the Derry Planning Board for improvements proposed at PID 36017, 55 Crystal Avenue, specifically for the construction of a drive-up, free standing ATM with the JP Morgan/Chase brand, with the condition that the source of the electrical service and the trenching detail for same be added to the plan, and those details are reviewed and accepted by the Department of Public Works.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor and the motion passed.

Schedule a public hearing – proposed changes to add Solar Energy Systems requirements

Mr. Sioras advised the Board approved the draft at the last workshop. Tonight the Board is being asked to schedule the public hearing.

Mr. MacEachern noted the Board has discussed the wording at workshops and the Board had agreed to move this to public hearing.

Motion by MacEachern, seconded by Connors to schedule a public hearing for April 07, 2021, regarding proposed amendments to the following section of the Town of Derry Zoning Ordinance, Article III, General Provisions, to add a new Section 165-28.2, Solar Energy Systems.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor and the motion passed.

Public Hearing

To discuss proposed changes to the following sections of the Town of Derry Zoning Ordinance: Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to revise the previously accepted expansion of the Traditional Business Overlay District to include three properties, specifically identified as Parcel 27138, 2 Central Court Extension, Parcel 27136, 4 Central Court Extension, and Parcel 30012, 17 South Avenue.

Mr. Sioras stated the Board agreed at a previous workshop to include the three parcels in the expansion of the Traditional Business Overlay District. The suggestion had come from one of the abutters. The three parcels in question are 2 Central Court Extension, 4 Central Court Extension and 17 South Avenue. Tonight, the Board is being asked to reapprove the new boundary for the TBOD and to include the three parcels in the boundary expansion.

Motion by MacEachern, seconded by Connors to open the public hearing.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor, motion passed, and the floor was open to the public.

There was no public comment.

Motion by MacEachern, seconded by Connors to close the public hearing.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor, motion passed, and review of the amendment returned to the Board.

Mr. Connors confirmed the location of the auto supply store at 20 South Avenue and that the lot on which that resides will not be included in this expansion. Mr. Sioras advised it had been the decision of the Board to utilize the streets as boundaries, so that lot would not be included.

Motion by MacEachern, seconded by Davison to accept the proposed amendment and forward same to Town Council for review and recommended approval.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor and the motion passed.

JAL, LLC
PID 11059, 15 Forest Street
Acceptance/Review
12 Lot Subdivision

Mr. Sioras provided the following staff report. The purpose of the plan is for a twelve lot, single family subdivision located in the Low Medium Density Residential District, which has a 2 acre minimum lot size. There is also frontage on Daniel Road. All town departments have reviewed and signed the plan, including the Conservation Commission. The applicant has requested a waiver from the High Intensity Soil Survey as the lots will be serviced by municipal water. The Alteration of Terrain (AoT) permit is pending. Staff recommends approval of the plan and waiver but also recommends scheduling a site walk and continuing the hearing to March 17, 2021.

Tim Peloquin, Promised Land Survey; Jeff Merritt, and Brenton Cole of Granite Engineering Group were present, as were two representatives of JAL, LLC.

Mr. Peloquin presented. The lot encompasses 54.25 acres and is located at the end of Forest Road, Daniel Road, and Dattilo Road. There is a potential access point through Hilda Road but that has not been contemplated for this plan. The intent of this plan is to access the new lots through an extension of Daniel Road because this has the best topography and is the most environmentally friendly option to develop the site with regard to blasting. The site is hilly and has wetlands. Before they engineered the site, they met with staff to look at the best layout. They have visited with TRC and met three times with the Conservation Commission. The Commission seemed favorable to the project, as well as the layout of the road. They were very careful to have the least amount of wetland disturbance possible. They have applied to the NH Department of Environmental Services for an Alteration of Terrain permit. There is a wetland crossing for the road (see Sheets C1 and C2); they have applied for that permit. State subdivision approval is required because the lots will have septic systems; however, they will be

serviced by municipal water. That is why they are requesting the waiver from the HISS mapping requirement. Municipal water decreases the lot size requirement, and the test pits were good on those lots. HISS mapping mostly proves out the septic systems and they feel this is not needed for this application. With regard to blasting, the AoT permit has some strong regulations in place and requirements about how it should be done. That is all part of the AoT permit process. The NH DES won't approve an AoT permit without that sequence in place.

Mr. O'Connor commented sometimes, NH DES does not require the same elements as outlined in the State RSAs or Administrative Rules. He would like to see compliance with Saf-C 1600 Explosives, Saf-C 1607 Record Keeping, and Saf-C 1607.05 Pre Blast Inspection.

Mr. Peloquin discussed the continuation of Daniel Road. When the town approves cul de sacs it is usually with the assumption the cul de sac is temporary, and the road will eventually be continued if there is a large parcel of land behind it. In the platted plan, Daniel Road is shown as a temporary cul de sac so that road can be continued. The 'ears' of the cul de sac (Sheet C1) will be removed. The road will be continued, and the existing driveways on the cul de sac will be extended by the developer to meet the new pavement. The plan does not extend Forest or Dattilo at this time.

Mr. O'Connor asked if they had met with the affected abutters. Mr. Peloquin said they had not to date, but the abutters have been notified of the public hearing. There have been site walks. The road is planned to be extended to the north. The lots on the north will also have a temporary cul de sac for any potential future extension of the road onto the next lot.

Motion by MacEachern, seconded by Connors to accept jurisdiction of the 12 lot subdivision before the Board for JAL, LLC, PID 11059, 15 Forest Street.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Connors to open the public hearing.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor, motion passed, and the floor was open to the public.

Tyson and Melissa Sukeforth, 18 Daniel Road, advised they live at the end of the Daniel Road cul de sac on the left. They have been in contact with their neighbors to discuss this project. They have a vested interest in the proposed development. This public hearing was the first notice they received about being able to offer any feedback. They were not notified of any of the previous site walks. There are wetlands that drain onto their property. The back side of the hill drains to the forest and drainage crosses their property during the spring and winter snow melt from the south, traveling north, which makes a stream. The stream is helpful in keeping water away from their foundation. They want to make sure that no water goes into their basement. Currently the stream is directed away from their foundation. The street flow goes into the wetland shown on Sheet C2, toward proposed lot 11059-002 (as shown on the sheet; this is

actually PID 11059-011). The water ponds four months out of the year. The water draining from their property should continue to do so and not cause damage to their foundation. Mr. Sukeforth said they can see where the proposed homes are going to be built back from the road and the plan says the development won't impact the wetland. He is not sure how they can create a driveway that does not cross the wetland on that lot. That is a concern. Mrs. Sukeforth said she had not been aware there was a Conservation Commission meeting but has since read the minutes. For the proposed home adjacent to them, how can the septic and driveway not interfere with the wetland near the front lot line? The 25 foot buffer against the wetland was mentioned at the Conservation Commission, but she does not see that here. She assumes the tree frogs and salamanders mentioned at those meetings are also along that whole wetland area. She is concerned the construction of a new road will affect the wetland. She is also concerned about blasting. There are a lot of boulders on the adjacent land.

Mr. Sukeforth noted the tree line starts at the edge of their property along the property line. The proposed home will be near their backyard and blasting will occur close to their home. Mrs. Sukeforth asked if the new lots will be clear cut. This is a beautiful, quiet area and she is afraid that is going to change with the increased traffic. They moved here two years ago. There will no longer be a forest as they know it. How will all of these changes affect the property tax due for their property?

The Board questioned the proposed Parcel ID numbers as they did not appear to match. Mrs. Robidoux confirmed that the lot adjacent to the Sukeforth's is to be known at 22 Daniel Road, Parcel 11059-011. The Sukeforth's asked for a copy of the full plan set. Mrs. Robidoux said she could provide a link to one if they would send her an email request.

Mr. Peloquin said it was correct that this was the first notice of public hearing the abutters were receiving. The agendas for the Conservation Commission are posted, but individual notice to abutters is not provided. The Planning Board uses a different notice process. With regard to some of the wetlands, two vernal pool areas have been identified by the Conservation Commission which requested a 25 foot no cut buffer around the pools. To the east is a large wetland which is the major feed to Rainbow Lake. That will also have a 25 foot no cut buffer; this is shown on Sheets S6 and S7. The delineation of the no cut buffer is clearly noted on the plan. One vernal pool is to the north and there is another vernal pool to the south at the end of Dattilo Road. The Sukeforth's have referenced a forested wetland. The Conservation Commission viewed it and it has been certified as such. The driveway for Parcel 11059-011 is shown on Sheet 2. The wetland is 29,400 square feet and begins near the Sukeforth's property. The driveway can be placed to the north of the wetland area where there is a 50 foot wide section of land. The dwelling and the septic system will not be at the front of the property. Sheet S2 notes an encroachment of a fire pit onto the proposed Lot 11059-011 and a shed right on the property line. He is sure the Sukeforth's were unaware of the encroachment and it is hoped that can be handled at a future date by a lot line adjustment with the new owner of 11059-011. The current owner has no concerns about the encroachment at this time. With regard to the reduction in tax question, that is not part of this discussion but generally new construction in the neighborhood will increase the property values. He does not believe this development will hurt their resale value.

Mr. O'Connor noted the Board has no purview over the location of the septic system. Mr. Peloquin explained the septic and home will sit in the middle of the lot. The septic is in an area that meets the setback to the wetland and lot lines. Sheet S2 has a hatched line that shows a potential 4000 square foot area where the septic can go that meets the setbacks. That 4000 square foot area is ten times the area one actually needs for a septic system.

Richard and Cathleen Brothers, 36 Hilda Avenue, also had concerns. They live close to Parcel 11070. If the proposed 25 Daniel Road is further subdivided, what will be the disposition of rest the lot? There is a lot of wetland on the property. Mr. Peloquin advised that the proposed 25 Daniel Road will have 24 acres of land and there are wetlands on it. The proposed building area for the lot is substantial. The developer would reserve the right to decide what he wants to do with that parcel prior to selling the lot. It is likely the development of the home will take place to the front of the lot, closer to Daniel Road at this time. Mr. Brothers asked if there are any plans to extend Dattilo Road up into the 24 acres. Mr. Peloquin felt anything was possible and with 24 acres there are many options. Mr. O'Connor noted that is not part of the application before the Board this evening, but if there were to be subdivision of that lot, the Brothers' would be notified of the public hearing.

Motion by MacEachern, seconded by Connors to close the public hearing.

Chase, Tripp, MacEachern, Connors, Davison, Grabowski, and O'Connor voted in favor, motion passed, and review of the plan returned to the Board.

Mr. Connors discussed the 'ears' on the temporary cul de sac at the end of Daniel Road. With this becoming a single lane road, the addition of the land will benefit the abutters. Mr. Peloquin pointed out the land disposition on Sheet C3. The driveways for each of the lots on the end will be reconstructed. The Sukeforth's will gain a larger front yard. The developer is willing to work with the two affected abutters to place the driveways in an amicable position and repave the driveway to the existing pavement, regrade and loam what is now pavement.

Mr. L'Heureux said the cul de sac is temporary, and that will be extinguished.

Mr. O'Connor suggested the area to be extinguished be viewed during a site walk. Mr. Connors felt it was best to point out that anyone has the right to subdivide their property, especially if they have a large lot. It is not noted on the current plan set so it can't be discussed, but that is always a possibility.

Mr. Peloquin advised the developer is working with the Conservation Commission as well and the developer is very cognizant of doing something special; they have been in town for a long time.

Mr. L'Heureux commented the plan is very clean. TRC discussed the plan. VHB has reviewed the plan and had housekeeping comments such as the correction of the lot numbers. It was anticipated this plan would have an impact on the abutters, especially those at the end of Daniel. This is why a site walk is being suggested so that the abutters can look at the plans as well and discuss options out in the field, as well as how they might like to have those 'ears' filled in. It is

better to do this ahead of time, making sure the driveways are in good locations, and to get all of the details on the approved plan so there are no questions later.

Mr. Connors confirmed water will be extended up Daniel Road. Mr. O'Connor said he wanted to view the drainage in that area. If there is a site walk, which he recommends, can the surveyor mark one or two places where the lot line is so that the Board can see the location of the shed in relation to the lot line - perhaps near Test Pit #11 on Sheet S2; the proposed driveway locations should also be marked and he would like to discuss how the drainage will work in this area.

Motion by MacEachern, seconded by Connors, to grant a waiver from LDCR Section 170-24.A.12, HISS Mapping, as after review of the request, the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations.

Chase, Tripp, Davison, MacEachern, Grabowski, Connors, and O'Connor voted in favor and the motion passed.

The Board discussed potential dates and times for a site walk. If any member of the Board cannot make the site walk, it was noted they could view the area on their own, after the Board has held the site walk. Abutters are invited to attend and plans of the project will be available.

Motion by MacEachern, seconded by Connors to hold a site walk on Saturday, March 13, 2021, beginning at 9:00 a.m.

Chase, Tripp, Davison, MacEachern, Grabowski, Connors, and O'Connor voted in favor and the motion passed.

Mr. O'Connor noted the site walk will not be individually noticed to the abutters, but there will be a notice placed on the Town website.

Motion by MacEachern, seconded by Connors to continue the public hearing to March 17, 2021.

Chase, Tripp, Davison, MacEachern, Grabowski, Connors, and O'Connor voted in favor and the motion passed.

The Board recessed for five minutes.

Workshop

Workshop #6 – Planning Board discussion of potential changes to the Traditional Business Overlay District, specifically relating to housing, density, and parking. Zoning Ordinance - Article VI, District Provisions, Section 165-49, Traditional Business Overlay District; Land Development Control Regulations - Article XI, Design and Construction Standards, Section 170-63, Parking Requirements.

Mr. O'Connor noted Mrs. Robidoux has amended the draft per the changes the Board suggested at the last workshop.

Mr. Sioras reviewed the changes. For multi-unit residential, the minimum unit shall be 750 square feet, limited to one or two bedrooms and studios shall be 400 square feet. The number of studio units may not exceed 5% of the allowable number of units for a single project. Minimum lot areas will be 20,000 square feet and density shall not exceed 40 units per acre. A requirement has also been added that the developers shall meet with the Planning Board on a conceptual basis prior to TRC, similar to the regulations in the West Running Brook district. In the LDCR, a provision has been added that any multifamily development shall present a parking plan as part of the conceptual discussion with the Board. Parking requirements are 1 space per bedroom with a minimum of 1 space per dwelling unit.

Mr. O'Connor believed that with the proposed provisions in the Zoning Ordinance and LDCR, a developer cannot just come in and build. The conceptual review allows the opportunity to work with the developer and make sure parking is not an issue. The next step in this amendment process would be to move this to the public hearing.

It was confirmed the draft would be reviewed by legal counsel and then staff would provide a date to schedule the public hearing. Mr. O'Connor commented some of the changes were made based on review of the regulations found in Rochester, Dover, and Manchester. Mr. MacEachern noted Derry is not like those communities.

Mr. Connors felt something needed to happen in the downtown. His hope is that there are no unintended consequences, but at least the town is moving in a direction.

Mr. Sioras said when staff researched the older downtowns that are experiencing redevelopment, especially Dover, it was evident that change took time and would not happen overnight. In Dover, the City built a garage and in a few years, it began to generate income from developers who purchased permits for their residents to park in the garage. Staff will suggest a date for public hearing at the next meeting.

There was no further business before the Board.

Motion by MacEachern, seconded by Connors to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:22 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____