

The Planning Board for the Town of Derry held a public meeting on Wednesday, March 21, 2018 at 7:00 p.m., at the Derry Municipal Center (3<sup>rd</sup> Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice-Chairman, Brian Chirichiello, Town Council Representative; Michael Fairbanks, Secretary; Frank Bartkiewicz, Jim MacEachern (7:05), Members; Mark Connors, Elizabeth Carver (7:41 p.m.), Alternates

Absent: Maya Levin, Lori Davison, Randy Chase

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

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. Granese then noted the emergency exits, the location of meeting materials, and introduced the Board members and staff.

*Mr. Connors was seated for Ms. Davison.*

## **Escrow**

### **#18-03**

**Project Name: Subdivision of 7 Sheldon Road**

**Developer: Timothy Swinerton**

**Escrow Account: Same**

**Escrow Type: Cash Escrow**

**Parcel ID/Location: 10073, 7 Sheldon Road**

The request is to approve a release of cash escrow in the amount of \$5,909.76 for the above noted project. The amount to retain is \$11,664.00.

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

### **#18-04**

**Project Name: BR-10 Subdivision, Steele Road**

**Developer: BR-10, LLC**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 04084, 1 Bartlett Road**

The request is to renew Letter of Credit #1278E, drawn on Bank of New England, in the amount of \$171,460.80 for the above noted project. The expiration date will be March 16, 2019.

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

## Minutes

The Board reviewed the minutes of the February 21, 2018, meeting.

Motion by Bartkiewicz, seconded by O'Connor to approve the minutes of the February 21, 2018, meeting as amended. The motion passed with all in favor.

## Correspondence

Mr. Fairbanks acknowledged receipt of the latest issue of *Town and City*.

## Other Business

### Mr. Fairbanks

Mr. Granese took a moment to thank Mr. Fairbanks for his service on both the Town Council and the Planning Board. This will be Mr. Fairbanks' last night to be seated as a member. Mr. Granese stated it has been a pleasure to work with Mr. Fairbanks. Mr. Fairbanks thanked the Board members and stated it has been a pleasure to work on the Board. Mr. Sioras echoed Mr. Granese's statements and thanked Mr. Fairbanks for his support of the Planning Department over the years; he has enjoyed working with him.

### Salvatore Lupoli, 2 Lenox Road, Relocation of Dumpster and Transformer Pad

Mr. Sioras advised Sal's Pizza would like to make some slight changes to the site plan. Staff has reviewed the proposed changes and supports the changes. They are minor.

*Mr. MacEachern entered the meeting and was seated.*

Phil McCabe of Lupoli Companies and Chris Raymond of TEC, Inc, presented. Mr. Raymond explained the project is located at 2 Lenox Road. The plan did receive conditional approval in July of 2016 and the project is moving forward. During the finalization of the building plans they found they would like to make some slight improvements. The building size is the same, and the use is the same. They would like to shift the building 1.5 feet to toward Crystal Avenue which will increase the side yard setback to the abutter. They will relocate the roof drain from the front (facing Lenox) to the rear of the building (facing the abutting parking lot) for aesthetic purposes. The other two changes involve the relocation of the dumpster and transformer pads. The original plan placed the two pads to the north of the site with landscaping around them. Given the proposed development occurring north of the site, they feel moving the pads would

open the site up and promote pedestrian connectivity between the sites. They want to remove any obstacles. The dumpster will remain in its current location (to the east) and the transformer will move northeast toward the corner of the lot where it will be landscaped. They want to enhance the streetscape.

Mr. O'Connor noted the walkway/sidewalk in the area of the handicapped parking which leads to the adjacent parking lot which is private property. Is there an agreement with the abutter to provide this access? Mr. Raymond explained the walkway ends at the property line and is intended to promote connectivity between the lots. Mr. O'Connor wondered if it promoted parking on private property. Has there been a conversation with the abutter on this? This is a concern for him. Mr. McCabe said to this point, he has not met with the abutter, but they can do so. This is more to integrate with the development that will be occurring on Crystal Ave to the north of 2 Lenox and to make it all look like one so that pedestrians can walk between the sites. He believed they were behind the parking lot owned by the Church. They can wait on adding that walkway. There is a door on that side near the handicap and other parking spaces. Mr. O'Connor concurred, but believed it was a good idea to meet with the abutter. Parking will be interesting in this area and will be good to have all parties speaking early on in the development stages.

Mr. Connors confirmed the roof drain will go underground and eventually out to the street, the parking along Lenox Road will still back out onto Lenox as it does now, and the total number of parking spaces has not changed from the last plan to this one.

Mr. Chirichiello confirmed the walkway between the lots is to encourage foot traffic between the lots and is not intended to be access to parking. Mr. McCabe noted the original entrance is on that side of the building and will remain on that side. There is also a service entrance to the rear.

Mr. Fairbanks recalled the Board had approved a waiver to allow the dumpster to be less than 25 feet from the lot lines. With the dumpster moving location do they still need the waiver and if so, does the waiver already granted remain in place. Mr. L'Heureux stated there still needs to be a waiver from the dumpster as it's current location does not meet the setback. The waiver will remain in place. Mr. L'Heureux stated he hoped the applicant could get out on site within the next few weeks to do the test pit to confirm the drainage extension.

Mr. Granese said he liked the walkway for the pedestrian foot traffic and had no issues with the proposed changes. The town is trying to promote foot traffic.

Motion by MacEachern, seconded by Bartkiewicz to allow the following changes to the site plan approved on July 06, 2016 for Salvatore N. Lupoli, PID 32032. 2 Lenox Road: A shift in the proposed building 2 feet southwest toward Crystal Avenue; the dumpster will be relocated to the corner of the building, which is the current location of the dumpster; the transformer will be relocated to the northern corner of the site (as shown), and roof drains will be relocated to the north side of the building.

Connors, Chirichiello, O'Connor, MacEachern, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Schedule Public Hearing – Amend the definition of Warehouse and add a definition for Self-Storage

Motion by MacEachern, seconded by Bartkiewicz to schedule a public hearing on April 04, 2018 to amend Article II, Word Usage and Definitions, Section 165-5, Definitions, to amend the definition of “Warehouse” and to add a definition for “Self-Storage Facilities”.

Connors, Chirichiello, O’Connor, MacEachern, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Mr. Granese noted there will be no abutter notification for this public hearing.

**Public Hearing**

**SMV Management Company, LLC**  
**PID 36065, 8 Peabody Road**  
**Acceptance/Review, 2 lot subdivision**  
**Continued from February 21, 2018**

Mr. Sioras provided the following staff report. The purpose of the plan is for a two lot subdivision of 8 Peabody Road. The existing nursing home facility on the property is subdividing the lot. No new building is occurring at this time. Town department signatures are not required and there is a waiver request to not map the wetlands. The lot is serviced by town water and sewer. Staff recommends approval of the waiver and the subdivision plan.

Mark Ringer of Millman National Land Services presented for the applicant. This is a minor subdivision plan. They are creating a new lot that conforms to all of the minimum lot requirements. There is no proposed use yet of the property and it conforms to the zoning regulations. The proposed lot is 2.5 acres; the remaining lot will be 4.5 acres. This is a fairly straightforward application and meets all of the requirements. A waiver has been requested to not map the wetlands. None of the property is within the Flood zone.

Mr. MacEachern agreed this is a very straightforward application.

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

Counsel for the applicant declined to comment.

Motion by MacEachern to close the public hearing, seconded by O’Connor. The motion passed and review of the plan came back to the Board.

Mr. L’Heureux advised Public Works had no comments.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the two lot subdivision application before the Board for SMV Management Company, PID 36065, 8 Peabody Road.

Connors, Chirichiello, O'Connor, MacEachern, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Fairbanks to grant a waiver from LDCR Section 170-24.A.13, Wetland Mapping, as after review of the waiver request the Board finds strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mr. Chirichiello confirmed the lot was served by town water and sewer.

Connors, Chirichiello, O'Connor, MacEachern, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to approve, pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to owner's signature, subject to onsite 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 17-24; addition of NH licensed professional stamps to the mylar/plan; note approved waiver on the plan; subject to receipt of state or federal permits relating to the project; conditions precedent shall be met within 6 months; a \$25.00 check, payable to the Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement; submission of the appropriate recording fees, payable to the Town of Derry.

Connors, Chirichiello, O'Connor, MacEachern, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

### **Workshop #1 - To discuss moving seven (7) lots from the MHDR II to CBD**

Mr. Sioras explained the selected properties. The town owns 19 Elm Street; just south of this lot is 15 Elm Street which has the townhomes on it. 35 Maple Street is the lot where the garage caught fire; there is a white house across from it, and then a vacant lot across the street on Maple. To the left of 35 Maple is the Eversource lot. Many of these lots were recently moved from Medium High Density Residential (MHDR) to MHDR II. The question is, does the Board want these seven lots included in the Central Business District (CBD)? All of the business uses would become conforming and the town can then better decide what it would like to do with 19 Elm Street. Townhomes are allowed in the CBD. The only restriction is that multifamily is only allowed with retail on the first floor, office on the second, and residential on the third floor and

above. Multifamily needs to have the mixed use component. This is different from the MHDR requirements. Mr. MacEachern asked if there is a reason the lots in the Office Business District (OBD) were not being included in the change. Mr. Sioras explained the uses in the OBD are more limited than those in the CBD. The zone allows conversion of the existing homes to retail. This was done on purpose so that there would not be large scale commercial uses on Broadway.

Mr. Connors inquired about the former zoning of the seven lots. Mr. Sioras advised the uses on many of the lots predate zoning. Some of the uses have been in existence since the 1930s and were industrial in nature; they predate zoning. Mr. Connors noted these lots are now MHDR II. What will the use be if the zone changes? Mr. Sioras said the uses would remain the same, but they would now become conforming uses. Mr. Connors asked if there is a specific reason to keep lots in the OBD or should the Board consider making them all CBD? Mr. Sioras explained Storer Court is the line. When they created the limited area (OBD), the Board at the time did not want Broadway to become commercialized like Crystal Avenue. Mr. Chirichiello noted the location of the new townhomes on Elm Street. Why would these not remain in the MHDR II zone? Mr. Sioras said they would then be non-conforming. The use was allowed when they were constructed and the Board since changed the zoning on those lots. CBD does allow townhomes. Mr. Chirichiello said he could see why the seven lots were selected; they create connectivity in the zones. Mr. MacEachern had no issues with the proposed changes.

Mr. Sioras noted there will not be construction behind the townhomes on Elm Street; the back of the lot drops down significantly to the Brook. Mr. Chirichiello confirmed the CBD allows single family and townhomes. Multifamily is allowed as a mixed use, so there could not be an all residential, three story, garden style apartment. Mr. Sioras agreed any multifamily would need to have retail on the first floor, office on the second and then residential on the third floor and above. Mr. Chirichiello did not believe the residential restriction was working for the town. It might be time to consider changing this. Mr. Sioras agreed it was time to start the discussion. Town Council had asked staff to look at the parcels; the Board also needs to look at the uses in the CBD at some point.

Mr. MacEachern said he would like to understand the game plan. He is also not sure the third floor residential restriction is working. If the plan is to look at that as well, he has no issues with these changes. It is past time to review the definitions in the zone. Maybe that should be the next step. Mr. Sioras said this is the first time the Board is discussing these changes in any detail. He has heard the third floor restriction is not working; no one will go in this area and put office on the second floor. They might on Broadway, but not here. He agrees the next workshop should look at the permitted uses in the zone. Mr. Chirichiello said there are more options if these lots move to the CBD. He believed everyone was on the same page that this would be the first step and then the Board can move on to step 2. Mr. Connors asked who selected the lots.

Mr. Sioras said when the area was changed to MHDR, this area became a hybrid. There are powerlines, garages that have been in place since the 1930's, the old mill is gone and now the lots are vacant and there are townhomes. These seven lots don't really fit in either zone. These were industrial uses in a multifamily zone which did not make sense. He felt it was important to get this on the table for discussion.

Mr. Connors asked if the first two lots were being considered for the sake of continuity. The two large properties don't fit in MHDR. Mr. Sioras suggested the Board could go either way; MHDR II only allows single family. Mr. MacEachern said having the lots as legal non-conforming is a problem; it would be better to move them in to CBD and make them more conforming. Mr. Sioras said three family is legally conforming in the CBD. Mr. MacEachern thought this was a good start. He would want to look at the different uses in the CBD and think about those uses on Broadway and the lots behind.

*Ms. Carver entered the meeting.*

Mr. MacEachern suggested creating a CBD I and CBD II where there are different uses; the CBD I could be business on the first floor, office on the second on Broadway. He did not believe there would be much office use behind Broadway. The current zone might be too wide. Mr. Connors noted the existing buildings do not and cannot meet ADA standards with office on the second floor; there are no elevators. He recalled the Board saying they would look at the residential issue again.

Mr. Fairbanks recalled when the Board was making the change to put office on the second floor, representatives from Red Oak Properties and other developers attended the meeting and told the Board it would not work. He agreed the Board might want to rethink the uses on the second floor. It is hard to do anything with the large parcels. Mr. O'Connor agreed the Board should remove that restriction and look at the parcels. It would be beneficial to have the wetlands noted as well as the topography when the Board is looking at the area.

Mr. Sioras suggested placing the changes to the seven properties on the next agenda for a workshop to continue discussion about the uses and to hold a site walk this spring. At some point, they will have to hold a public hearing.

Mrs. Robidoux asked if the change to the seven properties could move forward to public hearing and at the next meeting hold the workshop on the uses. The Town Council wants to market 19 Elm Street and can't do that as it is currently zoned. Mr. Chirichiello added it may bring a different perspective to the marketing if the lots were zoned differently. Mr. MacEachern said he could agree to moving forward with the understanding the Board will be making other changes in the future in this area and will look at the definitions and the area as a whole.

The Board members discussed the pros and cons of moving forward with scheduling public hearing for the seven properties and the potential effects of that on development at 3 Maple Street.

Mr. Sioras said if the Board was okay with it, he would place the change for the seven parcels on the next agenda to schedule a public hearing and would also schedule the workshop. Mr. Granese had no issues with moving forward with the change to the lots. He agreed they should all be moved to the Central Business District. He is against having residential on the second floor downtown because it may lead to 100 additional units in an apartment building. This can be placed on the next agenda for discussion.

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 adjourned at 7:49 p.m.
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Approved by: \_\_\_\_\_

Chairman/Vice Chairman

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Secretary

Approval date: \_\_\_\_\_