

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 21, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with all members of the Board present.

Members present: John O'Connor, Chairman; Lori Davison, Vice Chair; Randy Chase, Administrative Representative; Jim MacEachern, Secretary, Mark Connors, David Nelson, Members; David Clapp, Alternate

Absent: Dave Granese, Brian Chiricheillo, Doug Danzey

Also present: Elizabeth Robidoux, Planning and 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. 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.

Mr. Clapp was seated for the vacant full member position for this meeting.

Escrow

#21-05

Project Name: Lawrence Road Sprinklers

Developer: Bella Vista Homes

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: 06001 and 06001-001, 16 & 18 Lawrence Road

The request is to approve Release #1 in the amount of \$10,000 for the above noted project. The amount to retain is zero. This escrow is non-interest bearing. Per the Affidavit of Plan Note Change recorded at the Rockingham County Registry of Deeds as Book 5820, Page 2015, the water line/hydrant was installed prior to November 30, 2017.

Motion by MacEachern, seconded by Connors to approve as presented.

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

#21-06**Project Name: Paul the Plumber****Developer: PKMD Properties****Escrow Account: Same****Escrow Type: Performance Bond****Parcel ID/Location: 35004, 111 Franklin Street Ext.**

The request is to renew a performance bond in the amount of \$109,719.36. Performance Bond #41K007725 – Liberty Mutual Surety.

Motion by MacEachern, seconded by Connors to approve as presented.

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

Minutes

The Board reviewed the minutes of the April 07, 2021, meeting. Mr. O'Connor asked if there were any modifications proposed.

Motion by MacEachern, seconded by Connors to approve the minutes of the April 07, 2021, meeting as amended.

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

Correspondence

Mr. MacEachern noted the Board has been invited to attend the historic marker dedication commemorating General Lafayette's visit, which will take place on May 04, 2021. Mr. Grabowski submitted his resignation from the Board; this was accepted last evening by Town Council and this evening by the Board. Mr. O'Connor commented the Board wishes Mr. Grabowski well in his future endeavors.

Tom Carrier, Deputy Director of Public Works is seeking comments and recommendations from the Planning Board, Town Departments, Conservation Commission and Heritage Commission with regard to the disposition of town owned parcels of land, specifically 5 Lester Lane and 23 Adams Pond Road. Comments are due back to Mr. Carrier by June 01, 2021. Mr. O'Connor noted 5 Lester Lane appeared to have a lot of wetlands surrounding it, abuts the NH Recreation Trail, and asked Mr. L'Heureux if he thought the lot was buildable. Mr. L'Heureux believed there was enough land for one house. There is an existing pump structure, tank, and leach field on the property which are no longer in service.

Mr. O'Connor noted 23 Adams Pond Road has three acres of land but is encumbered by an access easement. If that is sold as a house lot, would the access easement potentially become a common driveway? Mr. L'Heureux advised a deeded easement to Meadowbrook is on the large lot, Parcel 09068-025 (23 Adams Pond Road), which is adjacent to Parcel 09068-024. There is wet area on the lot and the easement is along the property line between 09068-024 and 09068-025. The Board questioned the best way to return comments to Mr. Carrier. Mrs. Robidoux suggested it would be more efficient to send any comments to the Planning Office for compilation and then one memo can be forwarded to Mr. Carrier. Mr. Connors did not see an issue if someone wanted to purchase the lots. Mr. O'Connor said his concern was the potential for a common driveway. Mr. L'Heureux commented just because there is an easement does not mean that area is usable.

Mr. Nelson believed the Board was being solicited for its opinion to see if there is public benefit in retaining the properties for public use. Mr. L'Heureux indicated the wells are still intact on both properties. The facilities on Meadowbrook have been removed, but they are still in place on Lester, although the facilities are non-operational. The Board questioned whether the land near the Recreation Trail could be used as an access point for the Trail, but it was noted the land does not immediately abut the Trail.

Other Business

Annual Review of Policy and Procedures – Second Reading

Mr. O'Connor advised suggested changes to the document included a requirement that Board members attend at least one land use planning training a year and provide a copy of the certificate or registration to the Clerk of Records. The second change involves electioneering. Since this is town code, it is being added to the Policy and Procedures.

Mr. Connors noted he questioned the “shall” versus “may” with regard to the training component at the last meeting and had been told other Boards were being required to attend training. Previously, attendance at training was on a voluntary basis. Would webinars and online trainings count for the Board members? Not all members can take time off from work during the day to attend training. Mr. O'Connor confirmed online training would count; there are also Office of Strategic Initiatives trainings available on YouTube. Mr. Connors said he leaned toward not making this mandatory. Mr. MacEachern had no issue with the requirement to attend a training as this Board has significant responsibilities and should be required to attend some training. He noted it was not always possible to obtain a certificate for online training. Mr. O'Connor advised if the Board wants to keep the wording at “may”, then a motion could be made to that affect. It was suggested the wording be amended in this section to state, “A copy of the completed certificate, and/or registration, and/or notification of participation shall be provided to the Clerk of Records.” The draft will be amended, and the Board will have the third reading at the next meeting.

Workshop

Workshop #8 - To discuss potential changes to Article II, Word Usage and Definitions, Section 165-5, Definitions, to add definitions relating to types of signs; Article XII, Signs, Section 165-101.5, Signs in the TBOD; Section 165-101.8, Off Premise Signs; create a new Section 165-101.12, Signs in the West Running Brook District

Mrs. Robidoux pointed out the existing definition of “Off Premise Sign”. She and Mr. Sioras had discussion with the attorney concerning the proposed changes to Section 165-101.8, Off Premise Signs. The proposed wording in subsection B is contradictory to the definition and may also be in conflict with freedom of speech. It was recommended that section be stricken from the amendment. The other proposed changes had been discussed several times at the previous workshops and there were no amendments to those sections. Board members discussed whether there should be permissions in place to allow advertising of other businesses on off premise signs. Mrs. Robidoux noted the definition for Off Premise Sign indicates an easement is required for an off premise sign. Based on the conversation during the discussion, it is still not clear if an easement is required to advertise on an off premise sign. It was noted billboards are not permitted by right in Derry. Mr. Nelson felt as proposed, the language left the town open to potential litigation. Mr. Connors expressed concern the wording might take away a property owner’s right to sell advertising on a sign. Mrs. Robidoux believed the town was protected with the language as written. Mr. O’Connor noted this discussion began 8 workshops ago at the request of Town Council. There are further opportunities for discussion at the Planning Board public hearing. Mr. MacEachern commented Planning staff had been directed to speak with the attorney and make the appropriate changes. They have done that. He noted the Board has the ability to make amendments in the future if necessary. Mrs. Davison added she agreed it was time to move this to a public hearing; the document can be amended based on public input. A date will be provided at the next meeting to schedule the public hearing.

Workshop #1 To discuss proposed changes to the Land Development Control Regulations, Article V, Design and Construction Standards, Section 170-26, Streets; Section 170-29, Storm Drains; Article XI, Design and Construction Standards, Section 170-65, Storm Water Management Requirements

Mr. O’Connor asked if the proposed changes brought the town in line with NH DOT, NH DES and EPA requirements. Mr. L’Heureux advised the proposed changes are related to NH DES and EPA requirements. They do not really relate to NH DOT as the amendments are related to stormwater and stem from compliance with the MS4 permit of 2019. The proposed changes shore up the holes in the storm drainage regulations related to treatment of storm water. Progress was made on retaining stormwater, now the focus is on how the stormwater is treated. Those elements have been added to the regulations and the language has been amended to the current standards for stormwater.

Mr. L’Heureux advised there is a proposed change on page 3 that addresses an issue that is frequently raised during subdivision review. The change decreases the minimum cover over the

culvert pipe and requires a pipe length of 30 feet. This will alleviate the frequent waiver requests and will allow a better blending of the grade with the roadway.

Section 170-29 strengthens the language and highlights the source to be used so that everyone is using the same source. Section C addresses treatment of the stormwater. The source Volumes are located online at NH DES and are easily accessible. Mr. MacEachern suggested referencing the most recent Volumes rather than specifying 2008 so that the language did not need to be amended every time there was a change. This could be addressed by adding the words “or subsequent revisions” after “as amended”. Mr. Connors inquired about the culvert cover. Mr. L’Heureux explained it will ensure the proper swale work occurs. Mr. Nelson asked if this regulation would apply to driveways that don’t have swales and have sheet flow instead. Mr. L’Heureux agreed there are some instances where the water will sheet flow across the driveway and be directed on to the lawn area. The proposed amendment is for areas where there is a treatment swale proposed. These are the parameters a developer will work with if they need to use a driveway culvert. The other items in the proposed amendment are related to salt storage areas in accordance with NH DES requirements; especially in areas where there is surface water nearby. Wording requiring the use of a Green Sno Pro certified contractor has also been added. The Town Council, last evening, approved an Ordinance that requires any parking area of 10 or more spaces is required to utilize a Green Sno Pro certified contractor for snow removal.

Mr. L’Heureux indicated Section 170-65 mirrors the language previously discussed. Mr. Connors confirmed a private landscape company would be required to have a structure over any salt piles and the regulation is moving forward and will not be applied retroactively.

The Board had no issues with the proposed changes and asked that a public hearing date be made available 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 7:45 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____