

The Planning Board for the Town of Derry held a public meeting on Wednesday, May 03, 2017, 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; Michael Fairbanks, Secretary; Brian Chirichiello, Town Council Liaison; Randy Chase, Town Administrative Representative; Frank Bartkiewicz, Mirjam Ijtsma, Members

Absent: Lori Davison, Mark Connors, Jim MacEachern, Elizabeth Carver

Also present: George Sioras, Planning Director. Elizabeth Robidoux, Planning Assistant

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.

### **Escrow**

#### **#17-14**

**Project Name: DAR Builders, LLC**

**Developer: Same**

**Escrow Account: Same**

**Escrow Type: Cash Escrow**

**Parcel ID/Location: 03162, 149 Island Pond Road**

The request is to establish cash escrow in the amount of \$24,105.60 for the above noted project.

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

#### **#17-15**

**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 approve Release #1 in the amount of \$133,351.92 and request a replacement Letter of Credit in the amount of \$796,677.12 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 \$930,029.04.

Mr. O'Connor asked if this is the lot that is next to the proposed storage units. Mr. Sioras stated Mr. L'Heureux had advised that Steele Road, which is located off Bartlett Road, is under

construction and the contractor is performing work according to the plans using accepted construction standards.

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

#### **#17-16**

**Project Name: Kendall Pond Apartments**

**Developer: DJ Development, LLC**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 24037, 19 Kendall Pond Road**

The request is to renew Letter of Credit #2505311601 in the amount of \$166,775.76, drawn on Merrimack Valley Federal Credit Union for the above noted project. The expiration date will be May 31, 2018.

Motion by Bartkiewicz, seconded by O'Connor to approve as presented. Discussion followed.

Mrs. Robidoux advised the amount should be corrected to \$99,435.60; the Board recently approved a reduction of this escrow.

The amended motion passed in favor with Chase abstained.

#### **Minutes**

The Board reviewed the minutes of the April 19, 2017, meeting.

Motion by O'Connor, seconded by Bartkiewicz to approve the minutes of the April 19, 2017 meeting as written. The motion passed with Chase abstained.

#### **Correspondence**

Mr. Fairbanks stated the Board is in receipt of a memo from Mrs. Robidoux listing training opportunities for the Planning Board; a copy of the recent Land Use Law in Review training from the OEP conference, and the most recent edition of *Town and City*.

#### **Other Business**

##### Upcoming Workshop

Mr. Granese advised the Board will hold a workshop at the next meeting to discuss potential amendments to the Zoning Ordinance. Specifically, the Board will look at uses and density

requirements contained in Section 165-45, Medium High Density Residential, Section 165-45.1, Medium High Density Residential II, and Section 165-46, Medium Density Residential. The Board will also take a look at the proposed Exit 4A area and route. He had sent an email to Anne Struthers, the Economic Development Coordinator and asked her to attend. She responded she will attend the workshop and would like to be informed of future workshops. He also reached out to Terri Pastori, the Chair of the Economic Development Advisory Committee to invite them to attend as well. Ms. Pastori said she will check with her committee to determine availability of the members.

#### Zoning Amendments – Signs

Mr. Sioras reported the Town Council approved the proposed changes to the sign ordinance last evening. Those changes will become effective in 30 days. Mr. Granese asked Mr. Chirichiello to send the Board's thanks to the Town Council.

#### Review of Policy and Procedures – Third Reading

Mr. Granese noted the Board has before it a revised copy of the Board's Policies and Procedures. The changes proposed at the last meeting have been incorporated. If the members have no further changes to discuss, this can be placed on the next agenda for a vote to approve it. There were no further changes.

#### **Public Hearing**

**Stephen & Tracy Lannan  
Bernard N. & Janet L. Colby  
PIDs 39041 and 39042  
4 & 6 Old Chester Road  
Acceptance/Review, Lot Line Adjustment**

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment between the two parcels. There is a waiver request letter dated April 7, 2017 from Promised Land Survey. They are requesting waivers from the contour, HISS mapping and wetland mapping requirements. Department signatures are not required for this proposals. This is a straightforward request. Staff recommends approval of both the waiver requests and the lot line adjustment plan.

Tim Peloquin, Promised Land Survey, presented for the applicants. The purpose of the plan is to transfer 7507 square feet from the Colby lot (the lot to the right) to the Lannan lot (the lot on the left). The land has been occupied for over 20 years. When the land was recently surveyed, they were surprised at the actual location of the property line. Both landowners have agreed to the lot line adjustment. Both lots, after the transfer, meet the current zoning requirements.

Mr. O'Connor asked if the owners are in agreement with the setbacks as they related to structures noted on the plan, such as sheds. Mr. Peloquin acknowledged they were with respect to this particular lot line.

Mr. Fairbanks asked with regard to the left side of the Lannan property. It appears as if there is an issue with that lot line as well. Mr. Peloquin said an issue was identified with the left lot line when they conducted the survey. It has always been thought the stone wall was the property line, but upon survey, it was found the lot line was actually further into the Markie property. They will bring forward another lot line adjustment proposal to the Board to adjust that line later this spring.

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

There was no public comment.

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

Motion by O'Connor, seconded by Bartkiewicz to accept jurisdiction of the Lot Line Adjustment plan before the Board for Stephen & Tracy Lannan, PID 39041, 4 Old Chester Road and Bernard & Janet Colby, PID 39042, 6 Old Chester Road.

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

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-61.A.11, Two Foot Contours, Section 170-61.A.12, HISS mapping and Section 170-61.A.13, Jurisdictional Wetland Delineation mapping, as after review of the waiver request the Board finds that 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.

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

Motion by O'Connor, seconded by Bartkiewicz to approve, pursuant to RSA 676:4,III, Expedited Review, with the following conditions: Subject to owner's signature on the mylar; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds, or certify the bounds are set; add building setback lines to the plan sheet; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-24/170-61; note approved waivers on the plan; 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 requirement; and submission of the appropriate recording fees, payable to the Town of Derry.

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

**Maurice Gosselin & Karen F. Frink  
David R. & Deanne J. Armstrong  
PIDs 09046-005 and 09046-006  
64 & 66 Old Chester Road  
Acceptance/Review, Lot Line Adjustment**

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment between the two parcels. This is also a straightforward application. There are waiver requests from the contour, HISS mapping and wetland mapping requirements. Department signatures are not required for this application. Staff recommends approval of both the waiver requests and the lot line adjustment plan.

Tim Peloquin, Promised Land Survey, presented for the applicants. This is an equal land area swap. Note 5 identifies this adjustment is per a settlement agreement. There was a disputed line between the properties. The Court settled on this arrangement for the lot lines and they are putting the new line on the ground for the land owners. There will be a transfer of 3042 square feet from the middle of the lot, to the back. The frontage does not change. All structures on the properties meet the setbacks. Mr. Peloquin noted the dwelling for 64 Old Chester Road is in the building setback, but that was approved by a variance granted in 1987. This lot line adjustment does not alter that approval.

Mr. O'Connor asked if the LP tanks had to be in the setbacks. Mr. Peloquin stated his understanding is that the tanks are not considered structures but do have to be on the property.

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

There was no public comment.

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

Motion by O'Connor, seconded by Bartkiewicz to accept jurisdiction of the Lot Line Adjustment plan before the Board for Maurice Gosselin & Karen Frink, PID 09046-005, 64 Old Chester Road and David & Deanne Armstrong, PID 09046-006, 66 Old Chester Road.

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

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-61.A.11, Two Foot Contours, Section 170-61.A.12, HISS mapping and Section 170-61.A.13, Jurisdictional Wetland Delineation mapping, as after review of the waiver request the Board finds that 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.

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

Motion by O'Connor, seconded by Bartkiewicz to approve, pursuant to RSA 676:4,III, Expedited Review, with the following conditions: Subject to owner's signature on the mylar; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds, or certify the bounds are set; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-24/170-61; note approved waivers on the plan; 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 requirement; and submission of the appropriate recording fees, payable to the Town of Derry.

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

Mr. Peloquin noted that when lot lines are created during subdivision at a severe angle to the road, it can create problems. Derry does a good job of keeping the angle to 90°.

**Paul & Adele Mangum  
David T. & Michelle M. Dalton  
PIDs 03012 and 03012-004  
29 & 27 Windham Depot Road  
Acceptance/Review, Lot Line Adjustment**

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment between the two parcels. There is a request to waive contours, HISS mapping and wetland mapping in the file. Department signatures are not required and staff would recommend approval of the waivers and the lot line adjustment before the Board.

Tim Peloquin, Promised Land Survey, presented for the applicants. Mr. Peloquin explained this is also an equal land area transfer but it will create unusual lot lines. The relocation of the lot line protects the historic property and the old barn walls. 29 Windham Depot Road, currently owned by the Magnum family, is on the New Hampshire Register of Historic Places and is known as the Moore-Scott House. The intent is to protect the property. As a result of this lot line adjustment, the stone wall to the front, which is the foundation for the old barn, and the property will be protected. A variance was granted to allow less than sufficient frontage and lot width.

Mr. O'Connor asked if the existing stone wall/foundation interfered with sight distance for the driveway at 27 Windham Depot Road. Mr. Peloquin said it did not. The lot line has nowhere to move given the location of the edge of the driveway and the stone wall.

Mr. Peloquin explained originally, the lot line went around the tent shed, but that is not considered a structure and they did not have to meet setbacks for the tent shed in that location. He confirmed for Mr. Fairbanks that the tent shed resides on 27 Windham Depot Road.

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

There was no public comment.

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

Motion by O'Connor, seconded by Bartkiewicz to accept jurisdiction of the Lot Line Adjustment plan before the Board for Paul & Adele Magnum, PID 03012, 29 Windham Depot Road and David T. & Michelle M. Dalton, PID 03012-004, 27 Windham Depot Road.

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

Motion by O'Connor, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-61.A.11, Two Foot Contours, Section 170-61.A.12, HISS mapping and Section 170-61.A.13, Jurisdictional Wetland Delineation mapping, as after review of the waiver request the Board finds that 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.

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

Motion by O'Connor, seconded by Bartkiewicz to approve, pursuant to RSA 676:4,III, Expedited Review, with the following conditions: Subject to owner's signature on the mylar; subject to on-site inspection by the Town's Engineer; establish escrow for the setting of bounds, or certify the bounds are set; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-24/170-61; note approved waivers on the plan; 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 requirement; and submission of the appropriate recording fees, payable to the Town of Derry.

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

**Public Hearing to review proposed amendments to the Town of Derry Zoning Ordinance, relating to Definitions. To amend Article II, Section 165-5, Definitions, to add definitions for the following: Abandoned, Abattoir, Agritourism, Animal Hospital, Aquifer, Artist, Attached, Bottling Facility, Brewer, Brewery, Brewpub, Buffer, Accessory Building, Building Area, Building Material Storage Yard, Bulk Fuel Storage & Distribution, Change in Use, Commercial, Community Center, Community Oriented Recreational Facility, Community Water System, Contractors Yard, Cultural Facilities, Density, Development, District, Dye Stuff Manufacturing, Equestrian Facilities, Equipment Upfit Repair, Expansion of Use, Excavation and Soil Removal, Commercial Excavation, Farm, Farm Roadside Stand, Farmer's Market, Floodway, Forestry, Foundry, Freight Terminal, Fuel & Storage Tanks, Groundwater, Groundwater Recharge Areas, Impact Fee, Industrial, Industrial Repair Garage, Industrial Supply, Kennel, Laboratory, Landscaping Services, Research Laboratory, Lot Coverage, Rear Lot Line, Side Lot Line, Mail Order Storage Yard, Microbrewery, Mixed Use, Modular Housing, Multi-Unit Commercial Establishment, Non-Conforming Lot, Non-Profit, Nursery, Nursing Home, Pharmacy, Primary Building or Use, Product Assembly, Public Education Facility, Public Utility, Recycling Facility, Repair, Repairman, Riding School, Rooming House, Sand/Gravel Pit, Self-Storage Unit, Semi Public Agency, Setback, Sewage, Site, Small Wind Energy System, Social Facility, Stockyard, Television Broadcasting, Public or Private Utility, Utility Substation, Wetlands, Wood/Metal Craft, Workforce Housing,**

**And to amend definitions for the following terms: Commercial Service Establishment, Library.**

Mr. Granese noted the Board has held several workshops to develop the definitions. There was no Board discussion.

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

There was no public comment.

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

Mr. O'Connor noted the proposed changes have been on the website and there was no public in attendance this evening.



Motion by O'Connor to accept the proposed changes to the following sections of the Town of Derry Zoning Ordinance and forward the changes to Town Council for review and approval.

To amend Article II, Section 165-5, Definitions, to add definitions for the following: Abandoned, Abattoir, Agritourism, Animal Hospital, Aquifer, Artist, Attached, Bottling Facility, Brewer, Brewery, Brewpub, Buffer, Accessory Building, Building Area, Building Material Storage Yard, Bulk Fuel Storage & Distribution, Change in Use, Commercial, Community Center, Community Oriented Recreational Facility, Community Water System, Contractors Yard, Cultural Facilities, Density, Development, District, Dye Stuff Manufacturing, Equestrian Facilities, Equipment Upfit Repair, Expansion of Use, Excavation and Soil Removal, Commercial Excavation, Farm, Farm Roadside Stand, Farmer's Market, Floodway, Forestry, Foundry, Freight Terminal, Fuel & Storage Tanks, Groundwater, Groundwater Recharge Areas, Impact Fee, Industrial, Industrial Repair Garage, Industrial Supply, Kennel, Laboratory, Landscaping Services, Research Laboratory, Lot Coverage, Rear Lot Line, Side Lot Line, Mail Order Storage Yard, Microbrewery, Mixed Use, Modular Housing, Multi-Unit Commercial Establishment, Non-Conforming Lot, Non-Profit, Nursery, Nursing Home, Pharmacy, Primary Building or Use, Product Assembly, Public Education Facility, Public Utility, Recycling Facility, Repair, Repairman, Riding School, Rooming House, Sand/Gravel Pit, Self-Storage Unit, Semi Public Agency, Setback, Sewage, Site, Small Wind Energy System, Social Facility, Stockyard, Television Broadcasting, Public or Private Utility, Utility Substation, Wetlands, Wood/Metal Craft, Workforce Housing,

And to amend definitions for the following terms: Commercial Service Establishment, Library.

The purpose of the changes is to define uses that are currently undefined in the ordinance and to clarify existing definitions or classes of uses.

Chase, Ijtsma, O'Connor, Bartkiewicz, Fairbanks and Granese voted in favor; Chirichiello abstained as the information was new to him. The motion passed.

Mr. Granese advised this will now move forward to Town Council for review and approval. Mr. Chirichiello confirmed this was not a time sensitive amendment. Mr. Granese thanked the Board and staff for their work on the amendments.

There was no further business before the Board.

Motion by Chirichiello, seconded by Bartkiewicz to adjourn. The motion passed and the meeting stood adjourned at 7:38 p.m.

Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

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