

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 16, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with all attending members of the Board present.

Members present: John O'Connor, Chairman; Jim MacEachern, Vice Chair; David Nelson, Secretary; Brian Chirichiello, Town Council Liaison; Randy Chase, Town Administrative Representative; James Hultgren, David Clapp, Members

Absent: Mark Connors, Dave Granese, Doug Danzey

\*Denotes virtual attendance.

Also present: George Sioras, Planning Director; 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 Emergency Order #12, as issued by Governor Sununu has expired, Board members are allowed to attend the meeting remotely, provided there is a quorum of members physically present in the meeting room. 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 June 02, 2021, meeting.

Motion by MacEachern, seconded by Nelson to approve the minutes of the June 02, 2021, meeting as written.

Chase, Clapp, Chirichiello, MacEachern, Nelson, and O'Connor voted in favor, Hultgren abstained, and the motion passed.

### **Correspondence**

Mr. Nelson advised the Board has received a copy of the most recent edition of the NH DES newsletter, *Supply Lines with the Source*.

## **Other Business**

### Destination India, PID 30055, 14 A East Broadway – TBOD Sign Review

Mr. Sioras advised this discussion is for informational purposes only. Under the new regulations in the Traditional Business Overlay District, any new sign in the TBOD is to be reviewed by the Planning Board, prior to the issuance of a sign permit. The Board provides comment and feedback on the sign.

Navi Avhad, of Destination India, was present to answer questions and was hoping the Board would approve the look of the signs. Mr. MacEachern stated the signs looked good. Mr. Chirichiello confirmed the proposal includes two signs. He recalled at one point in the past, the Planning Board had changed the regulations to not allow signs that jutted out from the façade so that the signs would not compete. Has that changed? He agreed the signs looked good and did not think there would be any issues. Mr. Sioras said the regulation has left that open, but the regulation limits the size of signs. Mr. Nelson asked that the Board be provided with the applicable section of the sign ordinance for any future review of signs so that the Board knows what it is supposed to look at.

Mr. O'Connor asked if the sign was going to be illuminated. Mr. Avhad explained the sign will be externally illuminated and will comply with the regulations for the district. They wanted a sign that people walking on the sidewalk would be able to see. He has had several conversations with Mr. Mackey. Mr. MacEachern asked Mr. Sioras if the sign complied with the regulations; Mr. Sioras indicated it did. The Board had no objection to the signs.

### Zoning Amendments

Mr. Sioras advised the Town Council approved the proposed changes to the sign regulations last evening, which is the culmination of months of work for the Board.

### New Hampshire Planners 2021 Plan of the Year

Mr. Sioras stated he was pleased to announce the NH Planners Association selected the Town of Derry 2020 Master Plan as the Plan of the Year. The award was announced at the NH Planners Annual Conference session today. He thanked the Board members, the community, and town staff who worked on the plan. A more formal presentation of the award will take place in July.

**Public Hearing****Tree Line Property Services, LLC****PID 05052, 92 Rockingham Road****Acceptance/Review****Minor Site Plan – Redevelopment of Site**

Mr. O'Connor requested Mr. Sioras provide a history of the site, where this project falls in relation to the creation of the West Running Brook District, and the Conservation Commission's input. He noted a member who was unable to attend this evening had a question and would like that addressed as well.

Mr. Sioras provided the following staff report. The property is the former Allen Coal site, located on the curve as one heads west on Rockingham Road from Clam Haven. The lot was formerly zoned General Commercial and there has always been a history of material storage on site, to include landscape supplies. The Allen family sold the business, and the lot was placed on the market. In 2017, staff met with various interested parties. In January of 2019, Mr. Saad purchased the property and met with staff. He completed a Change in Use application which was reviewed by the Fire, Code, DPW, Police and Planning Departments, and was informed if the business expanded on the site, he would be required to file an application for a site plan. Mr. Saad began plans to expand the site and had multiple discussions with staff over a two year period as he developed his site plan. The West Running Brook District was created in September of 2019. The Conservation Commission held several site walks on the property and is satisfied with the plan. They requested tree buffering for the abutters as well as stabilization of the slope. There is an area of fill to the rear of the property which was placed there by a town vendor when the town was working on a water expansion project. This occurred prior to Mr. Saad owning the property. The Zoning Ordinance has provisions to allow an expansion of a pre-existing, non-conforming use. Discussions came up relative to this project and compliance with the WRB regulations. It is the opinion of town Planning and Code staff that Mr. Saad was working in good faith on a site plan prior to the creation of the district and as such, was not required to comply with the regulations of the WRB. Town staff have reviewed the plan and signed off on it. Staff recommends approval of the application.

James Herrick, PE, represented Tree Line Property Services. Thomas Saad was also present. Mr. Herrick advised the plan includes site improvements. The existing single family structure will be demolished and replaced with a 60 x 100 foot garage which will be used to store equipment currently stored on site and subject to the weather. There will also be a small office and bathroom. They met with the Conservation Commission early in the site plan process. There is an exposed slope in what they are identifying as Area A. The Conservation Commission requested the area be regraded, jute mat placed down, and once the area has been stabilized, planted with evergreens. The Commission also requested that the existing six inch wood chip berm at the top of the steep slope along the West Running Brook be removed and recreated with soil and jute mat. A guardrail will be installed along the top of the slope leading to the West Running Brook so that trucks cannot drive off; and the silt fence along the Brook will be re-established. The Commission did not want any land clearing other than what has already been cleared and Mr. Saad will try to keep operations within those areas. The

Conservation Commission also requested there not be long term storage of wood chips and those are periodically removed from the site.

Currently, there is no stormwater management on site. A stormwater analysis has been performed and they have planned to construct an infiltration system behind the building to handle the runoff from the roof and parking lot. Mr. Herrick will need to request a waiver to allow overhead electric service and communications to the site.

Motion by MacEachern, seconded by Chirichiello to accept jurisdiction of the site plan application before the Board for Tree Line Property Services, PID 05052, 92 Rockingham Road.

The Board voted in favor and the motion passed.

Motion by MacEachern, seconded by Chiricheillo to open the public hearing. The motion passed and the floor was opened to the public.

Peggy MacLeod, 32 South Main Street, asked where the project was located in relationship to her property. She had no further questions.

Gary Hamm\*, 90 and 88 Rockingham Road, advised he owns the adjacent property. He spoke with Mr. Saad yesterday about his concerns with weekend hours of operation. He would request that the business not process wood on Sunday as he has two rental properties right next door. Mr. Saad told him he would not process product on Sundays. Mr. Hamm inquired if there was anything the Board would address with regard to that. He also spoke with Mr. Saad about the slope to the back, and he is sure they will be able to work that out between the properties. He just did not want his tenants burdened on Sundays by noise.

There was no further public comment.

Motion by MacEachern, seconded by Chirichiello to close the public hearing. The motion passed and review of the plan returned to the board.

Mr. O'Connor inquired as to the hours of operation. Has Mr. Saad been operating the business since he purchased it? He has been. Mr. Herrick noted the business has been on site for two years.

Mr. Chirichiello believed the concern was operations on Sunday. Mr. Saad explained he lives at 182 Island Pond Road. He does not typically work on Sunday, and occasionally will work on a Saturday. On Sundays however, some of his employees load the mulch into the trucks so it is ready to go on Monday. That has been an ongoing process since he moved to the site. They use a small loader to do this and typically arrive on site around 9:00 a.m. There are times when they will be on site on the weekend to clean up the site, but they do not cut wood.

Mr. Chirichiello advised he was very familiar with the lot. He inquired about the evergreens; those were new. Mr. Herrick explained the Conservation Commission wanted to put a buffer at

the top of the slope and the Conservation Commission recommended planting once the slope had stabilized. Work on the site cannot proceed beyond the line of evergreens. There are wetlands and the West Running Brook in that area; the Conservation Commission wanted as large a buffer as possible. They agreed to that. The area is not very accessible. The applicant was also requested to remove any invasive species if possible.

Mr. Chiricheillo noted the proposed entrance. With trucks coming into the lot, he had a concern with the proximity of the entrance to the split in the road. Mr. Saad explained they are not changing their operations as far as traffic. They typically leave the site at 7:00 a.m., Monday through Friday, before peak traffic hits and are back on site by 1:00 p.m. They do not encounter a lot of heavy traffic. Mr. Chirichiello recalled there being two curb cuts for this lot. Would it be better to move the driveway? Mr. L'Heureux said that would be up to the applicant and would depend on the site circulation. They have parking near the shed and moving the driveway could impact that. That area of Rockingham Road is under town jurisdiction. One of the curb cuts will be eliminated because of the water and sewer connection. Mr. Chirichiello noted the use seems in line with the surrounding uses which are a car lot, gas station, and other commercial uses.

Mr. Nelson asked if the Conservation Commission is requiring the removal of invasive species. Mr. Herrick stated they agreed to remove any invasive species they could readily access but will not go into the wetland to do it. Mr. Nelson advised he was not aware of any land use statute that allowed the Conservation Commission to require this. Board members felt it was a generous gesture on the part of the applicant. Mr. Herrick advised Mr. Saad is a resident of Derry and wants to keep and grow his business here. He is willing to do what is asked of him by the various Boards and Commissions to make that happen. The goal is to improve the site. Mr. MacEachern thought the plan looked good; an older building is being removed and replaced with a nice building.

Mr. L'Heureux clarified the reason why fill was placed on the site. This was not town sponsored. There was a private arrangement between the then property owner and the vendor who was working on the Brady Ave water and sewer project. The private contractor stockpiled on the site and may have left some behind. With regard to the Wright-Pierce review, he wanted to point out that there were some items he did not pick up on during previous reviews of the project. The plan must reference a boundary survey and be stamped by a Licensed Land Surveyor. The plan also needs the error of closure. The current Note 1 does not meet the requirement of the regulation. Mr. Herrick said he would work with Promised Land Survey, who has completed a survey of the property. Mr. L'Heureux advised there are several comments to be addressed in the Wright-Pierce report. Mr. Herrick will work with them to get those addressed; he is working to finalize that. Mr. L'Heureux noted when Wright-Pierce reviewed the plan, they referenced Section 170-29.M which states there can be no underground stormwater storage in a roadway; the correct section of the regulation is Section 170-65 which does allow it. Wright-Pierce will modify the next review to reflect that. He reminded Mr. Herrick of the need to request the waiver to allow overhead electric.

It was noted that members of the public who joined the meeting virtually, were indicating they wished to speak. Mr. O'Connor reminded the public the public hearing portion of the meeting has been closed.

Mr. Chase asked if the shed to the front of the property is where the retail occurs. Where will it be moved? Mr. Herrick advised the shed is used for retail and on the revised plan the existing location and proposed location will be clearly noted. It will move 15 feet closer to the road. Mr. Saad explained the shed doors face the Brook. They need to move the structure to make it easier for the trucks to make the swing into the new building. He confirmed the windows on the proposed structure are real windows. In the right hand corner of the building, they will site the office, small break room, and bathroom.

Mr. Chirichiello asked if the Board imposed operating restrictions on Sunday, would it negatively impact the business. Mr. Saad advised the loader does not make a lot of noise. Mr. Chirichiello suggested that there be no cutting of wood on Sunday. Mr. Clapp asked if the loader made the same level of noise as a lawn mower? Mr. Saad thought the loader made less noise; it is a small 4 cylinder diesel.

Motion by MacEachern, seconded by Nelson, to find after review of the proposal pursuant to the Town of Derry Zoning Ordinance, Section 165-32.4.E, the proposed project is appropriate for the West Running Brook District as the changes to the existing site are in keeping with the uses surrounding the lot and will not negatively impact surrounding uses; the project will not have a detrimental impact on the environment and will in fact improve the existing condition, the project is consistent with the Town of Derry Master Plan (2020) in that it increases opportunities for economic development; and, the plan is consistent with the Architectural Design Regulations as the exterior of the proposed building meets the goals of the regulations.

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

Motion by MacEachern, seconded by Nelson to grant a waiver from LDCR Section 170-66, Utility Construction Requirements, to allow overhead utilities, as the Board finds that specific circumstances relative to the plan, or the land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations.

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

Motion by MacEachern, seconded by Nelson to approve, pursuant to RSA 676:4, I, Completed Application, with the following conditions: Comply with the Wright-Pierce review dated June 09, 2021 or later; subject to owner's signature; subject to on-site inspection by the Town's Engineer; 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 170-61.C; subject to receipt of applicable state or local permits relating to the project; snow and ice removal shall be performed by a Green Sno Pro Certified contractor following Best Management Practices for the application of de-icing materials; conditions

precedent shall be met within six months; no wood shall be cut on site prior to 10:00 a.m. on Sundays.

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

There was no further business before the Board.

Motion by MacEachern, seconded by Chiricheillo to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:41 p.m.

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

\_\_\_\_\_  
Secretary

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