

The Planning Board for the Town of Derry held a public meeting on Wednesday, November 15, 2023, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

Members present: John O'Connor, Chair, David Nelson, Vice Chair, Andy Myers, Secretary, Randy Chase, Town Administrator's Representative, Dave Granese, Town Council Liaison, Richard Malaby, Dan Healey, Members.

Absent: Mark Connors, Member, Jim MacEachern, Town Council Liaison (Alternate), John Morrison, Town Council Liaison (Alternate), Chris Feinauer, Member.

Also present: George Sioras, Planning Director; Mark L'Heureux, Town Engineering Coordinator

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

Escrow

#23-17

Project Name: Bridgeway Church - Release

Developer: Same

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 03117-025, 148 Rockingham Road

The request is to approve Release #1 in the amount of \$27,838.08 for the above noted project. The amount to retain is \$31,453.92. This escrow is non-interest bearing.

Motion by Granese, seconded by Nelson to approve as presented.

All in Favor: Chase, Granese, Healey, Malaby, Myers, Nelson, O'Connor vote Yes. The motion passed.

Mr. Sioras stated that the request from Dennis Brasher/Paisanos Pizza will be put on hold temporarily. He recognized Mr. L'Heureux.

Mr. L'Heureux stated that he realized today that the amount was supposed to be \$34,764.50 and was presented as \$34,000.00. Often financing companies round up or down. The Planning Board needs the amount to the penny. No amendment is needed this evening. Mr. L'Heureux stated that they should be allowed to return the request with the correct figures for future and final release.

#23-19**Project Name: Site Plan 35 Maple Street****Developer: Hornes Pond Real Estate Group****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 29151, 35 Maple Street**

The request is to renew Letter of Credit #24284, drawn on Enterprise Bank, in the amount of \$136,915.92 for the above noted project. The expiration date shall be December 1, 2024,

Motion by Granese, seconded by Nelson to approve as presented.

All in Favor: Chase, Granese, Healey, Malaby, Myers, Nelson, O'Connor vote Yes. The motion passed.

#23-20**Project Name: Bridgeway Christian Church****Developer: Same****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 03117-025, 148 Rockingham Road**

The request is to renew Letter of Credit #49719-2, drawn on Enterprise Bank, in the amount of \$31,453.92 for the above note project. The expiration date shall be November 12, 2024,

Motion by Granese, seconded by Nelson to approve as presented.

All in Favor: Chase, Granese, Healey, Malaby, Myers, Nelson, O'Connor vote Yes. The motion passed.

Minutes

The Board reviewed the minutes of the October 18, 2023, meeting.

Motion by Nelson, seconded by Nelson to approve the minutes of the October 18, 2023, meeting.

All in Favor: Chase, Healey, Malaby, Myers, Nelson, vote Yes. Granese and O'Connor abstained. The motion passed.

Correspondence

There was no correspondence.

Other Business

Second request to extend approval for Dennis Brasher, PID 37074 & 37082, 4 & 6 Chester Road. (Piasanos Pizza.)

Mr. Sioras stated the applicant has asked for an additional six months. The Board has extended a second time, due to high interest rates and the extreme inflation, we have experienced over the last few years, the project has proven to be cost prohibitive at this time. Staff recommends approval of an additional six months until June of 2024.

Mr. Healey asked how many extensions are usually given and if there have been exceptions.

Mr. O'Connor replied that two extensions have been granted. Three extensions have been granted in serious circumstances.

Mr. Sioras added that when we had the recession the Board gave the Hannaford Plaza a two-and a half year extension. The Board could approve a third request, but there is no limitation.

Motion by Granese, seconded by Nelson, to approve the second request to extend the conditional approval granted on December 7, 2022, for an additional six months for Dennis Brasher, PID 37074 & 37082, 4 & 6 Chester Road. The new expiration date will be June 7, 2024.
All in Favor: Chase, Granese, Healey, Malaby, Nelson, O'Connor vote Yes. Myers abstained.
The motion passed.

Planning Director/Chairman Updates

Mr. O'Connor stated that there will not be a Planning Board meeting on December 20, 2023. The Board will reconvene on January 6, 2024.

Mr. Sioras added that there will be a meeting on December 6, 2023, and a reminder will be sent regarding the cancellation of the December 20, 2023, meeting. The schedule will go back to two meetings per month in January after the holidays.

Public Hearing

A public hearing to discuss 71 Birch Street, LLC, Brandon and Ileana Hernandez-Clegg, PID 28001, 28002, 69 & 71 Birch Street, and 25014-001, 3 Kendall Pond Road. Acceptance and review of the lot merger, lot line adjustment and two lot subdivision.

Mr. O'Connor yielded to Mr. Sioras, stating that this would be done in two parts.

Mr. Sioras stated that for Phase 1, the applicant is Brandon and Ileana Hernandez-Clegg, LLC, and is located at the corner of Kendall Pond and Birch Street. The purpose of this site plan is for a lot merger, lot-line adjustment, and 2-lot subdivision located in the Office/Medical Business District between the above referenced properties. A future site plan will be submitted for a new

building for Derry Plumbing and Heating, probably later in the upcoming winter. A single-family home will be built on PID 28001 with driveway access off Eden Street. All Town departments have reviewed and signed the plan. There are no waiver requests. The New Hampshire State subdivision approval is pending. There is a copy of the application on file. Staff would recommend approval of a lot merger, the lot-line adjustment, and 2-lot subdivision plan. Mr. Sioras recognized Nick Loring, the project engineer, representing the owner.

Mr. Nick Loring of Benchmark, the engineer on the project and on behalf of Brandon and Ileana Hernandez-Clegg, the owners of 3 Kendall Pond Road, introduced Dave Benedict, the owner of two of the parcels and representing 71 Birch Street, LLC. There are 3 parcels involved in this project – Tax Map 28, Lots 1 & 2, the original lots that are at the Kendall Pond and Birch Street intersection. Originally a single-family residence and a convenience store, both were demolished in 2019. There are existing curb cuts and driveways. The third lot has frontage of an existing residence at 3 Kendall Pond Road. The parcel area is 4.6 acres. Map 28, Lot 1 is a .25 acre site facing the main entrance to the Speedway Gas Station across the street. The first part of the plan is to merge lot 1 & 2 and then create Map 28, Lot 1 with frontage on Eden Street. In April of 2023 we met with the Zoning Board of Adjustment and were granted a variance for reduced frontage. There is 55 feet on Eden Street, where the legal frontage would come out.

During the surveying process we identified an encroachment for the 3 Kendall Pond Road lot. There are some backyard improvements for that house that are over the lot line. Mr. Benedict has been working with those owners on the lot line adjustment. It is a land swap so they can keep the fence and improvements to their backyard. On the colored plan, this is in reference to the two small pieces of land in yellow that will be swapped.

In October of 2023 we did a site walk with the Conservation Commission and gained their approval on the proposed plan. The TRC process has been completed. There is a water connection for the new lot. There will be onsite septic and Municipal water.

The driveway is over 150 feet long. We have a fire apparatus turn-around to meet the NFPA and Derry Site Plan Regulations.

As Mr. Sioras stated, there will be a future site plan presented to the Board in a couple of months, that will be the building for Derry Plumbing and Heating. But right now, is the subdivision to clean up these lot lines and create a new lot on Eden Street. The NHDES Subdivision permit has been submitted and we expect to hear back from them in the next week.

Mr. O'Connor asked if we have authorization for Mr. Loring to speak on behalf of owners of the other parcel in question.

Mr. Sioras reported that that authorization has been obtained.

Accept Jurisdiction

Motion by Granese, seconded by Nelson to accept jurisdiction of the lot line adjustment plan, lot merger, and two-lot subdivision plan before the Board for 71 Birch Street, LLC and Brandon &
--

Ileana Hernandez-Clegg, PID 28011, 28002, 25014-001, 69 & 71 Birch Street and 3 Kendall Pond Road.

Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes. The motion passed.

Determination of Regional Impact

Motion by Granese, seconded by Nelson, pursuant to RSA 36:56, the Board finds the proposal as presented at this time meets the definition of a development of regional impact.

Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, Nelson, O'Connor vote No, no regional impact. This is a small scale plan, and it DOES NOT meet the definition of a development of regional impact.

Motion to open the public hearing by Granese, seconded by Nelson.

All in Favor: Chase, Granese, Healey, Malaby, Myers, Nelson, O'Connor vote Yes. The motion passed.

The **Public Hearing** is now open.

No one was recognized and there were no online requests.

Motion to close the public hearing by Granese, seconded by Nelson. Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes. The motion passed.

The **Public Hearing** is now closed.

Grant Waivers

None Requested.

Mr. Nelson was recognized. Regarding sheet #3, noting the Legend, there are dotted lines that are apparently boundary lines that are to be extinguished. There are solid lines representing new lines to be added to eliminate confusion. He asked if the Legend would be updated with notes to this effect. He also noted that the same dotted line is used between the drainage easement and the new Map 28 Lot 1 as is used for the building set-back line. Should the easement line be more separate from the set-back line?

Mr. Loring replied that 3 unique lines could be used as requested. He will make certain that the lines and the Legend will be updated on the plan.

Finding of Facts

The Board finds the proposed plan does not alter the existing conditions which would affect access to the lots, ensuring the health, safety, and welfare of the neighborhood remains unchanged as a result of the lot line, lot merger, and the two-lot subdivision plan.

The Board finds that the proposal will provide for the future expansion of a local community service establishment business on the parcel, as well as provide for an additional housing opportunity for a single-family home.

Motion to agree with the above noted findings of fact by Granese, seconded by Nelson.
Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes. The motion passed. The motion passed.

Approve pursuant to

Motion by Granese, seconded by Myers, to approve pursuant to RSA 676:4 III – Expedited Review, with the following conditions:

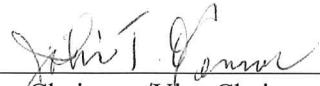
1. Subject to owner's signature.
2. Subject to on-site inspection by the Town Engineer.
3. Establish escrow for the setting of bounds or certify the bounds have been set.
4. Establish appropriate escrow as required to complete the project.
5. Submit an 11x17 plot plan, showing the new lots and addresses as assigned by the Fire Department and the new parcel ID numbers as assigned by the Assessing Department.
6. Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-24-14.C
7. Conditions precedent shall be met within six months.
8. Submission for the appropriate recording fees, payable to the Rockingham County Registry of Deeds. (This includes the \$25.00 LCHIP fee, recording fees for the mylar and the Notice of Decision)
9. Clarify the line styles as discussed in the presentation.


Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes. The motion passed. The motion passed.

Mr. Granese wished all a Happy Thanksgiving.

Motion by Granese, seconded by Nelson, to adjourn.
All in favor: Chase, Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes. The motion passed. The motion passed and the meeting was adjourned at 7:27 p.m.

Approved by:

 11/06/23
Chairman/Vice Chairman


Secretary

Approval date:

12/6/23