

The Planning Board for the Town of Derry held a public meeting on Wednesday, December 04, 2019, at 7:00 p.m., at the Derry Municipal Center (Third Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: John O'Connor, Chairman; Lori Davison, Vice Chair; Randy Chase, Town Administrative Representative; David McPherson, Mark Grabowski (Secretary Pro-Temp), Mark Connors, Frank Bartkiewicz; Members; Jim MacEachern (7:02 PM), Alternate

Absent: Maya Levin, Dave Granese, Brian Chirichiello,

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

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

Mr. MacEachern was seated for Ms. Levin.

Escrow

#19-37

Project: Medical Office Building

Developer: 11 Tsienneto Road, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 08073, 11 Tsienneto Road

The request is to approve a release in the amount of \$380,900.88 for Letter of Credit #43374-1, drawn on Enterprise Bank and request a replacement Letter of Credit in the amount of \$22,777.20. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit in the amount of \$403,678.08.

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

#19-36**Project: Subdivision of 7 Sheldon Road****Developer: Timothy Swinerton****Escrow Account: Same****Escrow Type: Cash****Parcel ID/Location: 10073, 7 Sheldon Road**

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

Motion by Bartkiewicz seconded by MacEachern as presented. The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the November 20, 2019, meeting.

Motion by Bartkiewicz, seconded by McPherson to approve the minutes of the November 20, 2019, meeting as written. The motion passed with Davison abstained.

Correspondence

Mr. O'Connor advised the City of Nashua has provided a notice of a public hearing to review plans relative to the reconstruction of the State Liquor store located on Silver Drive.

Other Business

First request to extend approval, PID 29046, 46 High Street

Mr. Sioras advised the original approval was granted in June of this year. This is the first request to extend the approval. Staff recommends approval of the request which extends the approval to June of 2020.

Motion by MacEachern, seconded by Bartkiewicz to grant a six-month extension of the conditional approval granted to High Meadows, LLC, for the three-lot subdivision approved on June 5, 2019, for 46 High Street, PID 29046. The new expiration date will be June 05, 2020.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

First request to extend approval, PID 0828-004, 23 Ashleigh Drive

Mr. Sioras explained this request is for the storage warehouse on Ashleigh Drive, where they want to replace the existing canopy with a 24,000 square foot building. Staff would recommend approval of the request which also extends the approval to June of 2020.

Motion by MacEachern, seconded by Bartkiewicz to grant a six month extension to the conditional approval granted to Yvon Cormier Construction Company, for the site plan application approved on June 05, 2019 for PID 08280-004, 23 Ashleigh Drive. The new expiration date will be June 05, 2020.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

Board and Commission Training – December 12, 2019

The Town Council has set up a training session for Board and Committee members for next Thursday, December 12, 2019. The training will take place in the third floor meeting room, beginning at 7 PM. Attorney Steve Buckley from NHMA will conduct the training and review social media etiquette, the Right to Know law, and what can and can not be discussed via email. It is highly recommended the Board members attend. The training will take 2 hours. It is possible this will be videotaped; Mr. Sioras will get clarification for that.

Mr. Grabowski was appointed Secretary Pro-Temp.

Public Hearing**Joanne Curran
PID 06060, 64 Lane Road
Acceptance/Review
2 Lot Subdivision**

Mr. Sioras provided the following staff report. The purpose of this plan is for a two lot subdivision located at 64 Lane Road. The lot is located in the 2 acre, Low Medium Density Residential District and one new house lot is being created. The new parcel will be 10.39 acres. There is an existing home on the parcel. All town departments have reviewed and signed the plan. The Conservation Commission has also signed the plan.

There is a waiver request and the State subdivision approval is pending. Staff recommends approval of the waiver and the subdivision plan. One abutter did come in and ask a question. He confirmed the TRC did review the plan. Town Department signatures are on file.

Timothy Peloquin, Promised Land Survey, presented for the applicant. Mr. Peloquin explained the property was granted a variance on September 16, 2018 for less than sufficient frontage and less than 2 acres of land. There were other options that could have avoided a variance, but the desire of the owner was to only create one large lot to the rear and for her to remain in her home on the smaller, 1.9 acre lot. They could have moved the lot line to meet the minimum two acre requirement, but it would have created a weird lot line. The Conservation Commission did walk the property. There is a lot of upland; aesthetically, it is a nice lot. There is a waiver request from the High Intensity Soils requirement. The 1.9 acre lot has an existing septic system. The 10 plus acre lot has more than enough land to accommodate a septic system; it would be an unnecessary exercise to perform the HISS mapping. They did test pits on the lot.

There is a wetland crossing required for the new lot. It is best shown on sheet 2. The crossing is 1600 sf and includes a culvert. Sheet 4 shows the detail; it has been reviewed by the Town Engineer and the Conservation Commission. All agree this is a sufficient crossing with minimal impact.

Motion by MacEachern, seconded by Davison, to accept jurisdiction of the two lot subdivision application before the Board for Joanne Curran, PID 06060, 64 Land Road.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by McPherson 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 MacEachern, seconded by MacPherson to close the public hearing. The motion passed with all in favor and review of the plan returned to the Board.

Mr. L'Heureux commented on Sheet 2 there is a note to remove an existing dead tree. He would like to see additional grading in that area to allow the water to flow away from the roadway. This is near one of the bounds just south of the driveway. The area should be properly regraded for drainage purposes. Mr. Peloquin agreed that once the stump is removed the area will need to be graded to avoid the natural flow of water which would put water into the roadway. Mr. L'Heureux said the land is very flat in that area. Mr. Connors expressed concern the water may pond on the road. Mr. Peloquin confirmed Mr. L'Heureux was looking for a small swale that diverts the water onto the lawn.

Mr. Connors had a question with regard to the ZBA approval. There had been discussion with regard to the deed and that the 10 acres would remain as a conservation lot. Mr. Peloquin noted "conservation" could be used in various contexts. During that discussion, he was using the word

to describe that the lot would not be further developed beyond the single-family home. Mr. Connors noted the current GIS and tax system has this lot as 17 acres and it really is 12 acres. There had been a previous subdivision. Mr. Peloquin said the lot is 12 acres and there is an error in the Assessing records. Mr. Connors noted the Board is being asked to create an undersized lot which will allow the fifty-foot access to the oversized lot. Is there anything that further restricts further subdivision of this new lot? The land behind this lot (06070-007) has been sold to a developer; is there anything that will restrict this lot from being sold, absorbed, and then further subdivided? Mr. Peloquin stated the lot behind (06070-007) will be for a single family home. This lot (proposed 060-002) has a wetland permit application in for the wetland crossing for the access. The State does not like to grant approval and then receive an amendment request. Typically, it is a "one and done". There is nothing to prohibit the future owner of this lot from doing a lot line adjustment with an abutter, but he does not see future development of the lot. Because the town does not allow shared driveways and because of the amount of wetland on the property, it would be difficult to place an additional home on the lot.

Mr. Sioras reported the abutter at 55 Floyd Road came to the office and viewed the plan; he had no objections. Mr. Alexander did ask if any trees would be cut to the rear of his lot near the stone wall. Mr. Peloquin believed the couple interested in lot 060-002 were interested in privacy. The Floyd Road lots are fairly deep with the homes closer to the road. There are woodlands to the rear. He would not want to restrict the new homeowner from the ability to cut their own trees, but he is not aware of any plans to clear cut the lot.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-25.B. Minimum Lot Sizes, Unsewered Area, to allow a 1.91 acre lot where the minimum lot size in the LMDR is 2 acres 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 wavier would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mr. Connors asked if making the parent lot smaller than 2 acres would restrict the current or future owner. Mr. Peloquin advised the homeowner would need to conform to the setbacks.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor 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; note approved waiver on the plan; obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24.C, submission of the disk is to the Planning Department; correct the date of the variance noted on the plan to September 06, 2018; subject to receipt of state or local permits relating to the project; conditions precedent shall be met within 6 months; submission of appropriate recording fees, payable to the Rockingham County Registry of Deeds [this includes the \$25.00 LCHIP fee, and recording fees for the mylar and Notice of Decision]; add a Note 11 to Sheet 2 to regrade the front edge of the driveway to regrade as appropriate to regrade the area following the removal of the large tree stump.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

McMaster Development**PID 01028-001, 83 Frost Road****Acceptance/Review****Waiver Requests – Monumentation and Other Utilities**

Mr. Sioras provided the following staff report. The Planning Board approved a two lot subdivision application creating this lot on May 15, 2019. The waiver requests are for boundary monumentation and underground utilities. There is a letter from Promised Land Survey outlining the waiver requests. Staff recommends approval of the requests. This plan has been recorded at the registry but the note on the plan would need to be changed.

Timothy Peloquin, Promised Land Survey, presented for the applicant. The main reason for the waiver requests is for overhead utilities, rather than underground, which was not requested the first time. There is a pole across the street and at the time of subdivision approval, the applicant was unaware that Eversource would allow him to place utilities on that pole. They are also requesting a waiver for the monuments to be set along the roadway.

For the waiver from Article V, Section 170-31.A, Other Utilities, they are asking permission to provide only overhead utilities as a utility pole (128/6) is directly across the street from the new dwelling under construction at 83 Frost Road. This request is in unison with Eversource and other utility companies who have agreed to this provision. The second waiver request is from Article V, Section 170-25.G. to allow PLS to set iron rods or pipes with "Promised Land Survey" caps at intermediate and various points due to the amount of bounds (19) previously indicated "to be set" along the Frost Road Right of Way; most of these points are down a steep embankment and a few bounds would be less than 3 feet from one another due to the road geometry. From a professional perspective, it would make practical sense to set granite bounds at all property corners and two or three along good intermediate points, with the rest being iron rods or pipes. They created the road geometry for Frost Road, based on existing plans of record across the street. They created a fifty-foot offset from the known boundary. As a result of offsetting the plans of record from across the street, it created curvatures which creates intermediate points. The Derry regulations require granite bounds at all road geometry points. It does not make sense to set 19 bounds when they could set pipes at the various points; the pipes would be equally viable. They could work out the points to set the pipes with the Town Engineer.

Mr. O'Connor asked if there is a difference between galvanized iron pipe and rebar. Mr. Peloquin said the iron pipe is good. Mr. L'Heureux said his request would be to update the plan to show the waivers as notes, and update the plan with the new rods and bounds, shown 'as set'. It should be sufficient to show granite bounds at the corners with a few on the curves; iron pipe should be sufficient for the remainder. This would be a benefit to the town as it would define the lot line in the event the town ever needs to perform road upgrades in this area.

Motion by MacEachern, seconded by Bartkiewicz, to accept jurisdiction of the waiver request application before the Board for McMaster Development, LLC, PID 01028-001, 83 Frost Road.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

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

John Magnan, 1 Depot Road, Windham, New Hampshire, owns several pieces of property in this area. His concern is that the markers, when installed, define the curve which has not been defined as of yet. He would prefer granite bounds to define the lot line.

Motion by MacEachern, seconded by MacPherson to close the public hearing. The motion passed with all in favor and review of the waiver requests returned to the Board.

Mr. Peloquin had no issues with placing a granite bound to meet Mr. Magnan's concern. All property corners would be granite bounds. Trees will be and have been cut along the frontage of the property to allow snowplows room to push snow.

Mr. Connors confirmed there will be about 7 granite bounds with the remainder being iron pins. With regard to the utility waiver, he believes the homes on that road all have overhead utilities.

Mr. Chase confirmed the home would be tall enough to have clearance from the road and there would be no issues with snow or ice on the wires.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-25.G, Monumentation, to allow iron rods or pipes in place of concrete or stone markers per the written request dated November 12, 2019. After review of the waiver request, the Board finds specific circumstances relative to the plan, or conditions of the land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations. The plans will be updated to note the location of the granite bounds and pipes and a corrective plat of land recorded.

Chase, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz, to grant a waiver from LDCR Section 170-31.A, Other Utilities, to allow overhead utilities 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, McPherson, Grabowski, MacEachern, Connors, Bartkiewicz, Davison and O'Connor voted in favor and the motion passed.

Other

The Board noted they received a copy of a proposed zoning amendment. Mr. Sioras said this was for information only and would be taken up at a workshop on December 18, 2019.

There was no further business before the Board.

Motion by MacEachern, seconded by Davison to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:50 p.m.
--

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____