

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 17, 2015, at 7:00 p.m., at the Derry Municipal Center (3rd Floor Meeting room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; Michael Fairbanks, Secretary; Mark Osborne, Town Council Liaison; Randy Chase, Administrative Representative, Lori Davison, Frank Bartkiewicz, Members; Marc Flattes, Alternate

Absent: John O'Connor, Jan Choiniere, Jim MacEachern

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

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. Granese noted the emergency exits, the location of meeting materials and introduced the Board members and staff.

Mr. Flattes was seated for Mr. O'Connor

Escrow

#15-11

Project Name: Subdivision plan of 130 North Shore Road

Developer: OSP Realty, Inc.

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: 07094, 130 North Shore Road

The request is to establish cash escrow in the amount of \$20,703.60 for the above noted project. This is a non-interest bearing account.

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

Minutes

The Board reviewed the minutes of the June 03, 2015 meeting.

Motion by Fairbanks, seconded by Bartkiewicz to approve the minutes of the June 03, 2015 meeting as amended. The motion passed with all in favor.

Correspondence

None.

Other Business

Mr. Sioras advised the Town Council approved the proposed zoning changes for the downtown at its meeting last evening. This was the second of three major changes the Board worked on this past year and a half. The Board is entering its summer schedule and will meet next on July 15th. Following that, the Board will meet on August 19, resuming its normal schedule in September.

Mr. Granese thanked the Town Council for approving the changes and noted the hard work the Board and subcommittee put in to develop the changes.

Request to extend approval, PID 24005, 70 Fordway

Mr. Sioras advised the Board is in receipt of a request to extend the approval for 70 Fordway. The applicant is almost ready to move forward with the project. The escrow has been established and the engineer needed a few more weeks to finalize the plan revisions. The developer has held preconstruction meetings with Public Works. Staff would recommend granting the second extension of approval. Ms. Davison confirmed the location of the project which is at the corner of Fordway and Kendall Pond Road.

Motion by Flattes to grant a six month extension for the site plan conditionally approved by the Board on June 18, 2014. The new expiration date will be December 18, 2015. This is the second extension request. Bartkiewicz seconded the motion.

Chase, Davison, Osborne, Flattes, Bartkiewicz, and Granese voted in favor; Fairbanks abstained and the motion passed.

Mr. Granese noted the Board traditionally only grants two extensions.

Public Hearing

Public hearing to discuss proposed changes to the Town of Derry Zoning Ordinance amending Article VI, District Provisions, Section 165-44.B.2.e, Multi-Family Residential District and Section 165-45.B.2.e, Medium High Density Residential District. The purpose of the amendment is to correct the term used to calculate the distance for maximum allowable building height.

Mr. Sioras advised the changes are noted on the handout beginning on page 2. The change is to remove the word “circumference” and replace it with “radius”. This clarifies the wording. If the Board accepts the changes, it will go to Town Council for approval. This cleans up the language.

Motion by Flattes, seconded by Davison 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 Flattes, seconded by Bartkiewicz to close the public hearing. The motion passed with all in favor and review of the proposed changes returned to the Board.

Motion by Fairbanks, seconded by Bartkiewicz to accept the proposed changes to the Town of Derry Zoning Ordinance, Article VI, District Provisions, Section 165-44.B.2.e, Multi-Family Residential District and Section 165-45.B.2.e, Medium High Density Residential District and to forward the changes to Town Council for consideration.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

LHB Enterprises, Inc./Cumberland Farms, Inc.
PID 30065, 22 East Broadway
Acceptance/Review, Site Plan Determination
Architectural Design Review

Mr. Sioras provided the following staff report. The purpose of the plan is for an architectural design review and site plan determination for exterior and interior renovations for the Cumberland Farms store/plaza on East Broadway. The property is located in the Traditional Business Overlay District within the Downtown Central Business District. All town departments have reviewed the plan. There are no waiver requests. Mr. Sioras would recommend approval of both the site plan determination and architectural design review revisions. The renovations meet the criteria for the Architectural Design Review Regulations for the Traditional Business Overlay District found in the Land Development Control Regulations. This improvement will greatly enhance the visual quality of this block of downtown Derry.

Attorney F.X. Bruton of Bruton & Berube, PLLC, and John Marth of Cumberland Gulf Group, presented for the applicant.

Attorney Bruton explained he represents Cumberland Farms. The current proposal reflects the changes his client is making state wide to their facilities. For this site, they are looking to expand the facility into the space formerly occupied by the Army Recruiting office. The florist will be retained. The intent is to reface the front. The canopy and pump stations will be replaced and upgraded. This will be a 24 hour a day operation. They believe the changes will provide quite a benefit to the town in terms of aesthetic value. Attorney Bruton noted they met with the town departments on two occasions.

Mr. Marth said he was sure the Board members had seen the new Cumberland Farms locations across New Hampshire and other areas of New England. This particular site is not large enough

for a full redevelopment. They will remodel the existing facility to match the new prototype. The existing building is aged, has a flat roof and a hodge podge of architectural elements. The outside of the existing building will be upgraded and they will gut it down to the four walls and roof, adding stonework, siding, a mansard, and a gabled entrance. It will create a more colonial look. Attorney Bruton showed the Board members a material board for the project. The Board was pleased to see granite will be used on the façade as one of the elements.

Mr. Marth provided an overview of the site. The curb cuts, parking spaces, and loading zones will all stay the same, as well as the handicap spaces. They will be performing deferred maintenance items such as patching pavement and restriping the parking spaces. New fuel dispensers will be installed. The canopy will be reimaged from the current blue/orange to white with a green stripe. The sidewalks will be brought up to current ADA codes if they don't already meet code. The site will remain largely the same other than aesthetic improvements.

Mr. Marth reviewed the interior floor plan. They will expand into the existing recruitment space. Dimensionally, the footprint will mimic the new build stores. He reviewed the interior elements such as the back room areas which will be used for storage and coolers. This space encompasses approximately half of the total square feet of the space.

With regard to the canopy, they will reimage to the new corporate colors. This will be accomplished with a graphic application over the existing structure. They will install new gas dispensers. The sign currently has an alternating LED. The only change will be to reimage to the new corporate brand. The current sign is 6' x 8' and is internally lit. The new sign will be the same size, but the only thing lighted at night will be the Cumberland Farms logo. This results in a net reduction of the light cast at night.

Mr. Osborne said the proposed changes look good. The new bollards that are proposed in front of the building are attractive, but he wondered if there needed to be that many placed in front of the building. Mr. Marth stated they are a necessary evil. They have had instances in the past to the point where this is a company mandate and a vital necessity to protect the customers and prosperity of the store. They can look at alternate designs for the bollard sleeve.

Mr. Fairbanks inquired if the underground tanks would be replaced. Mr. Marth said they do not need to be replaced at this time. They have a 30 year life span and the current tanks were replaced about ten years ago. Mr. Fairbanks said he was glad they were doing this project; it will assist with the downtown improvement effort. What is the proposed construction schedule? Mr. Marth said there is no definite time frame set up, but he believes it will be a fall project. The company's fiscal year begins in October. This is a 6-8 week project. He believes the company would want this project to be completed by snowfall.

Mr. Granese asked if the bollards would be the same size as what exists today; he has seen larger bollards at other sites. Could they use larger bollards and decrease the number? Mr. Marth said larger bollards would encroach into the parking area and wheel stops create potential trip and fall hazards and act like ramps.

Ms. Davison asked if there would be diesel pumps at this location. Mr. Marth advised they would not have diesel pumps at this location; a large truck could not maneuver this site.

Mr. Granese asked if the construction will affect Wisteria Flower Shoppe. Mr. Marth was unsure of the lease arrangement. They will do all they can to keep the tenant open while under construction. They will replace the storefront to match Cumberland Farms' storefront. He believes they will be able to keep that shop open.

Mr. Flattes asked if they had considered electric car chargers at this location. Mr. Marth explained there is no program in place yet, so there is nothing on the table for that use. Mr. Flattes asked if the tenant will also have a space on the pylon sign. Mr. Marth said there is not one currently. There is one on the building.

Mr. Sioras confirmed the Cumberland Farms will be closed during construction. Mr. Marth noted this is tight site. They will be able to keep four to five parking spaces open for Wisteria during construction.

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

Jerry Kapetanakis, 10 Franklin Street, thanked the Board for the zoning changes that were approved by Town Council last evening. He is glad Cumberland Farms is updating this building. He feels it is important to solidify the identity for Derry's downtown. This is a corporate building and the proposal is an improvement. Does it reflect the downtown identity? For example, Irving Gas in Hampstead looks like an old train station. Other communities make new buildings look like it belongs to the rest of the town. He does not want to see another corporate concrete block. It would be nice if they incorporate a building that fits more into the character of the downtown – similar to the Adam's Memorial Building. He would hate to lose an opportunity.

There was no further public comment.

Motion by Bartkiewicz to close the public hearing, seconded by Flattes. The motion passed with all in favor and review of the plan came back to the Board.

Mr. L'Heureux advised his department had no issues with this plan; this primarily involves the building.

Mr. Fairbanks asked if there is an architectural requirement to be met. Mr. Sioras said for new buildings that are constructed from the ground up, there is more stringent architectural review criteria. The Board does have Architectural Regulations. They imposed them when Irving was being constructed. For an existing building such as this, there is some level of architectural review. This particular plan is a huge improvement over what currently exists and meets the criteria in the regulations. Mr. Granese recalled when CVS was built, the town made them change the façade plan. Mr. Sioras recalled the Dunkin' Donuts on Ryan's Hill was also

required to meet more stringent requirements. Mr. Granese felt that raising the roof and adding the architectural elements made the building look more colonial. He inquired about lighting on the site. Will the lighting on the front of the building be downward facing?

Mr. Marth explained the soffit overhangs the sidewalk and the LED lighting shines down on the sidewalk. The canopy lights will be upgraded to LED lighting. This will result in less foot candles on the site. He is unaware if there are any parking lot lights. Mr. Granese believed there was an old one attached to the top of the light pole located in the southwest corner of the lot. Mr. Marth stated if it did belong to Cumberland Farms they would look to remove it as it would be redundant.

Motion by Fairbanks, seconded by Bartkiewicz to accept jurisdiction of the application before the Board for LHB Enterprises, Inc./Cumberland Farms, Inc., PID 30065, 22 East Broadway.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by Fairbanks, seconded by Bartkiewicz to approve pursuant to LDCR Article IX, Section 170-51, Site Plan Determination, with the following conditions: subject to owner's signature, obtain written approval from the IT Director that the GIS disc is received and is operable and complies with LDCR Section 170-61, subject to receipt of state or federal permits relating to the project, the above conditions shall be met within 6 months and 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.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

BR-10, LLC

PID 04084, 1 Bartlett Road

Acceptance/Review, Subdivision Application

11 Lot Subdivision

Mr. Sioras advised the Board has seen this application several times before. The parcel is located on Bartlett Road. The purpose of the plan is for an eleven lot subdivision located in the Low Density Residential District. The Planning Board originally approved this plan on September 14, 2011 and November 6, 2013. Those approvals have expired and the applicant is resubmitting a new application. The establishment of escrow is the primary reason for the delay in fulfilling the conditions. All departments have reviewed and signed the plan. There are three waiver requests, one to allow 2:1 slopes beyond the limits of the right of way, one to allow for construction of a section of roadway at a grade of 8% and the third to allow less than three feet of cover over a storm drain. All three waivers had been approved by the Board previously. NH DES state subdivision, Alteration of Terrain and NH Wetlands Dredge/Fill permits have been

obtained and copies are in the file. One abutter, Mr. Burrington, sent a letter to the Board. Mr. Sioras would recommend approval of both the waiver requests and the subdivision plan.

Karl Dubay of The Dubay Group was present acting as the agent for Robert Allen, the property owner, who was also present. He advised they were hired to provide construction phase services to the applicant and have been working with Public Works on the related items. An abutter has requested a curb cut be placed on the new road to accommodate access to his parcel. If the town is okay with the request, they will put that in. They are not opposed to that. Mr. Dubay explained his office put the application together as an agent of the owner; they are not the engineer or surveyor of record. Escrow is ready to be put in place. The application had to be refiled because the approval extensions expired. There have been no changes to the plan. Mr. Granese confirmed this is the same plan the Board saw in 2013. Mr. Sioras advised all the requested changes have been incorporated. Mr. Granese confirmed via the record the prior approval was granted unanimously on November 06, 2013.

Mr. L'Heureux advised there would be a small drainage alteration to accommodate the elevations but that can be handled as a red line change to the plan prior to construction or as a field change. It is not a significant change.

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

Mr. Fairbanks read the following correspondence received from Wayne and Donna Burrington, 3 Bartlett Road. "I will not be able to attend the meeting tonight for the permit review for Sterling Estates but I would like to ask the Board for permission to have the curb cut or lowered for occasional access to the wooded portion of my land adjacent to my lot at 3 Bartlett Road, somewhere between the 250-300 foot mark. Thanks for your consideration."

There was no further public input.

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

Mr. Granese asked if DPW had any issues with the request. Mr. L'Heureux said the driveway regulations require the first 40 feet of driveway construction from the edge of the right of way. In this case, he does not feel that is warranted because this is an access for someone who already has an existing driveway [in another location]. He would recommend the curbing not be placed in this location and about 12-13 feet of gravel be placed to the right of way line to protect the edge of the roadway from erosion. If Mr. Burrington wants to improve the access further, it would be up to him. Mr. Allen was agreeable to the request to create the access and to place gravel adjacent to the roadway.

Ms. Davison noted that water tends to collect on Bartlett Road as one enters from Island Pond near the proposed street location. This creates icy conditions in the winter months. Will that be mitigated? Mr. L'Heureux advised the applicant will be constructing drainage improvements at

the proposed entrance to the subdivision that will take care of those issues. Most of the drainage is from the wetland.

Mr. Granese asked what type of home is proposed for this subdivision. Mr. Allen said they will be similar to the colonials constructed on Cella Drive. They will be about 2500 square feet. Mr. Granese asked if Mr. L'Heureux had any issues with any of the waiver requests.

Mr. L'Heureux said nothing has changed since 2013 on the plan set. The 2:1 slopes are requested because of the increase in elevation on the high side; they will need slope easements. The 8% grade helps transition to the change in elevation on the high side of the road. It accommodates the lay of the land. The cover issue is related to the storm drainage restrictions. They are starting from a fixed elevation on Bartlett Road.

Mr. Flattes asked if all of the previous issues raised by abutters had been addressed. Mr. Granese reviewed the minutes of the last meeting and noted the unanimous approval for the waiver requests.

Motion by Fairbanks, seconded by Bartkiewicz to accept jurisdiction of the eleven lot subdivision plan before the Board for BR-10, LLC, PID 04084, 1 Bartlett Road.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by Fairbanks, seconded by Bartkiewicz pursuant to the Town of Derry Zoning Ordinance, Section 165-80.B.2.a, a Conditional Use Permit is granted to allow disruption for the purpose of the proposed 11 lot subdivision of 1 Bartlett Road, of an area of poorly drained or very poorly drained soils, other than prime wetlands, with conditions. After review of the proposal, the Board finds that: 1) The proposed construction is essential to the productive use of land not within the Wetlands Conservation District; 2) Design and construction methods will be such as to minimize detrimental impact upon the wetland, and the site will be restored as nearly as possible to its original condition; 3) No alternative which does not cross a wetland, or has less detrimental impact in the wetland, is feasible; 4) Economic advantage alone is not reason for the proposed construction.

Condition: a note regarding approval of the Conditional Use Permit be added to the plan.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Mr. Granese felt it would be acceptable to take the waivers all at once in this instance as the last time they had been approved unanimously.

Motion by Osborne to grant a waiver from LDCR 170-26.C (4), Table of Geometric Roadway Design Standards, to allow a 365' section of the proposed roadway, Steele Road, to be constructed at a grade of 8% rather than the 6% maximum grade required by the regulation as

after review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Motion by Osborne to grant a waiver from LDCR 170-26.A (17), Streets, to allow a 2:1 slope along sections of the roadway embankment as shown on the plan presented this evening, where the regulation requires a 4:1 slope for the full length of the embankment as after review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Motion by Osborne to grant a waiver from LDCR Section 170-29.J to allow less than 3 feet of cover over the culvert pipe as after review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

The motions were seconded by Fairbanks.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by Osborne, seconded by Bartkiewicz to grant conditional approval pursuant to RSA 676:4, I, Completed Application, subject to the following conditions: Subject to owner's signature; subject to on-site inspection by the Town's engineer; establish escrow for the setting of bounds or certify that the bounds are set; establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received and that the disk is operable and complies with Section 170-61; Certified Wetland Scientist stamp should be added to the plan; update the plan to indicate the current abutters to the project; note approved waivers on the plan, testing, post construction, of the dug well located at 3 Bartlett Road; that the above conditions be met within 6 months; improvements shall be completed by October 31, 2015; a \$25.00 check payable to Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement; recording fees, payable to the Town of Derry, and the addition of the modified curb cut or access point to the Burrington lot, 3 Bartlett Road.

Chase, Davison, Osborne, Flattes, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

There was no further business before the Board. Mr. Granese wished the Board a happy July 4th holiday as the Board would not be meeting before then.

Motion by Flattes, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:00 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____