

The Planning Board for the Town of Derry held a public meeting on Wednesday, August 19, 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; Randy Chase, Administrative Representative; Frank Bartkiewicz, Lori Davison, Mirjam Ijtsma, Members; Marc Flattes, Alternate

Absent: John O'Connor, Mark Osborne, Jim MacEachern

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 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

#15-16

Project Name: Highland Place Condos

Developer: Extended Realty, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 23262, 37 Highland Avenue

The request is to establish Letter of Credit # 27279, drawn on Enterprise Bank in the amount of \$303,060.53 for the above noted project. The expiration date for the Letter of Credit shall be August 6, 2016.

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

#15-17

Project Name: Parkland Medical Center – BHU

Developer: Parkland Medical Center

Escrow Account: Same

Escrow Type: Cash

Parcel ID/Location: 05043-001, 1 Parkland Drive

The request is to approve a release of cash escrow in the amount of \$56,401.92 plus any accumulated interest. The amount to retain is zero. This is the final release.

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

#15-18**Project Name: Indian Hill****Developer: Indian Hill Derry 2015, LLC****Escrow Account: Same****Escrow Type: Cash****Parcel ID/Location: 04003, Indian Hill Road**

The request is to establish cash escrow in the amount of \$211,793.75 for the above noted project.

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

#15-19**Project Name: Indian Hill Estates****Developer: Brady Sullivan Indian Hill Estates, LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 04003, Indian Hill Road/Goodhue**

The request is to approve the release of Letter of Credit #181 drawn on Centrix Bank in the amount of \$211,793.75. This is the final release. The surety has been replaced with cash escrow (See #15-18).

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

Minutes

The Board reviewed the minutes of the July 15, 2015 meeting.

Motion by Flattes, seconded by Bartkiewicz to approve the minutes of the July 15, 2015 meeting as amended. The motion passed with Granese abstained.

Correspondence

Mr. Fairbanks reported the members have received a copy of the Mixed Use Subcommittee minutes of July 27th. The Board is also in receipt of a 2014 annual report from the Rockingham

County Conservation District, the latest edition of *The Source*, and information on Solar Up Chester-Derry. Those items are available in the Planning Office.

Other Business

Voluntary Merger, 18 & 20 Coles Grove Road

Mr. Sioras advised this is a merger request of two lots on Coles Grove Road owned by the Anthony family. One lot contains an existing home; the other lot is now vacant. The garage has been removed. Staff would recommend approval of the merger.

Motion by Fairbanks, seconded by Bartkiewicz to approve pursuant to RSA 674:39-a, the voluntary merger of Parcel 51010, 20 Coles Grove Road and Parcel 51009, 18 Coles Grove Road. Parcel 51009 will be deleted and Parcel 51010 will be retained.

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

Voluntary Merger, 8 and 8A Sunset Avenue

Mr. Sioras said the intent is to combine the lots owned by the Estate of Eleanor Slatky. This is an older development with smaller lots that were constructed in the 1960s. Staff would recommend approval of the merger.

Motion by Bartkiewicz, seconded by Flattes to approve a voluntary merger, pursuant to RSA 674:39-a, of Parcel 25030, 8 Sunset Avenue and Parcel 25029, 8A Sunset Avenue. Parcel 25029 will be deleted and Parcel 25030 will be retained.

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

Compliance Review – Landscape Buffer – Crom, LLC, PID 01023-001, 003 & 004, 125 Windham Road

Mr. Sioras stated the Board approved the site plan for this project on Windham Road. One of the conditions of approval was that the applicant was to come back before the Board for a compliance review of the final landscape buffer. Eric Mitchell of Eric C. Mitchell & Associates is here this evening to review the changes made to the buffer with the Board.

Mr. Granese noted the Board is in receipt of correspondence from Maureen Rose, an abutter to the project. He read the correspondence dated August 19, 2015, into the record.

“Liz, George & Planning Board members: Here are some comments I have for the planning board meeting tonight. If the town did not change the zoning after I purchased my home from Residential to Industrial V, which I fought the best way I could, and the town did not rezone houses, I would not be in this situation now. So I hope the town will make this a situation I can live with by respecting my concerns.

Having said that these are my remaining concerns and issues:

Existing septic still not shown on the landscape plan – it needs to stay in that location in the rear of the property abutting my lot line.....it currently exists in my 50 foot buffer.

I do not want it in the buffer moved next to my septic system. Their notes say “unless alternate location is approved by the planning board”....would like those words removed.

Shed straddles the 50 foot buffer line now and if it stays there I will not object – however if it is moved closer to my lot line inside my 50 foot buffer I will request that it be relocated outside the 50 foot buffer – do not want it any closer to my lot line. If moved my interpretation is that this is a new structure being put into my 50 foot buffer – the existing location would be grandfathered but not a new one....The buffer is not to have any structures per zoning regulations this is an additional structure to the existing house which you have allowed in the 50 foot buffer.

Currently we have a house partially in my 50 foot buffer, a septic system and septic line in the buffer, a perimeter drain and a shed partially in the buffer.....that is more than enough....a buffer is there for a reason.

It appears from the landscape plan that the perimeter drain for the existing house draining into the pond runs under the new building and new driveway could this be an issue?

It appears that the vegetation in front of the new proposed building will be removed and replaced with drainage next to the pond....are they doing anything to buffer from the street with plantings? This is a beautiful road and would like to keep that visual vegetation for the neighborhood and abutters across the street. I think the regulations say that there is a buffer from the road...of plantings.

New trees along the lot line planted need to be a safe distance from my existing trees so that their roots will not be destroyed causing their death. Hopefully a landscape person will be planting these new trees so that minimum damage will be done and my trees and the new trees will all live.

Lastly, I want to take this opportunity to thank Liz, George, Bob Wentworth and Bob Mackey for being so helpful and understanding during this difficult time for me. They have been gracious enough to have meetings with me and the developer until things were changed recently on the plans dated August 6, 2015. Thank you, Maureen Rose, direct abutter, 115 Windham Road.”

Mr. Fairbanks asked if anything is being added to the buffer. Mr. Mitchell stated that when they were here last at conditional approval, there were buffer elements on the plan and a letter submitted to the Board on behalf of Ms. Rose identifying things she wanted in the buffer. That night, he spoke with Ms. Rose during the fire alarm and got a better idea of what she was looking for; he relayed that information to the Board. The Board suggested a compliance hearing to see what had been agreed. Since that evening, his office has met with staff and staff has also met with Ms. Rose. He believes what is shown on the plan is the last change requested by Ms. Rose.

There will be two rows of arbor vitae located on the applicant's property, running adjacent to the common lot line, with a short piece of fence to fill in the holes in vegetation between the two homes. The remaining landscaping and split rail fence are the same. Other questions had to do with the septic description. The septic system is currently located to the rear of the property near the trail, surrounded by trees. This is a pump system with a septic line that runs through the buffer. The last plan showed a proposed relocation area in the grass behind the home; it had been proposed there so as not to disturb the rear buffer. Ms. Rose asked that the septic not be relocated to the grass area behind the house. If the existing system fails, and it can't be replaced in its current location, the new location would have to come back before the Board for approval. That is why they have a note. They are not planning to add a system at this time.

With regard to the shed, the Board viewed the existing shed during its site walk. In order to fit the road in, they would move the shed 3-4 feet toward Ms. Rose's lot line. That was the original proposal. When they had discussions about a more substantial buffer, they proposed moving it to 20 feet off the common lot line so that the shed itself would act as a buffer. The shed is still an accessory use to the residence. There was some discussion during approval of the minutes of the November meeting as to the Board's intent with regard to the shed and if the Board had wanted the shed to be left where it currently exists, or placed 20' off the lot line, so it was still shown at the twenty feet. Ms. Rose did not want it moved to 20 feet from her lot line, but the shed can't remain in its exact location because they need to move it a few feet to accommodate the ditch line running around the new building. He believes staff spoke with Code Enforcement who felt it was acceptable to have the shed in the buffer as an accessory use. The additions to the plan are the note on the plan relating to the septic approval, and the shed location. Other than that, it would be the two rows of arbor vitae and the fence as suggested by Ms. Rose.

Mr. Granese asked for a review of the changes to the landscape buffer since the November plan. Mr. Mitchell said now they are showing two rows of trees adjacent to the common lot line and a new shed location. The septic note was added to state that any location other than the existing would have to be approved by the Planning Board. There is a well located to the front so they would likely place any new septic system behind the house. It would be better to place it in the grassy area behind the house rather than in the buffer with a forced main. They would have to remove trees to replace it in the buffer. If they need to replace the system at any point they may need to come back to the Board to discuss the location. Septic installers are now installing smaller systems that have a smaller footprint and more advanced technology. Mr. Granese did not feel there would be enough room to put a replacement system directly behind the house. Mr. Mitchell noted they did not design a system, they just noted a possible relocation area. The pump line goes directly through the buffer now. Ms. Rose does not want a new septic system near her septic system.

Mr. Fairbanks noted on the last plan, the shed was closer to the common lot line. It appears the applicant has done all that was requested of him.

Mr. Chase commented the State of New Hampshire will decide where any replacement septic system would be located on the lot. If the state says a system will fit in the grassy area behind the house, it can go there. It depends on soils, and the type of system. An ideal answer would

be to get the system closer to the house. The home has a perimeter drain that leads to the pond. A tank cannot be any closer than 15 feet to a house. The State has the ultimate decision making authority. He agrees with not tearing out the buffer to replace a system in the back, but the Board really has no say in the final location for a replacement system. With regard to the shed, he did not agree that a house and shed could be placed in a residential buffer and he does not want to see the shed any closer to the common lot line than it is now. He would rather see it placed to the south. He does not agree with moving the shed to the 20 foot setback.

Mr. Flattes confirmed there are no issues with the existing septic or house but that they were depicted on the plan for the future. Mr. Mitchell said the proposed replacement septic area was depicted on the plan in the interest of disclosure. It was not requested that they put a system there, nor were they asking for approvals for it. Mr. Flattes asked why then, does it need to be shown on the plan at all. Mr. Mitchell said the note is there for the future in the event they need to ask the Board to approve a location. He stressed they are not asking for approval at this time for a replacement septic area. Mr. Fairbanks noted this Board would then be binding a future Planning Board. Mr. Flattes said he thought the note should be removed and he also did not like the shed in the buffer. The shed should not be closer to Ms. Rose's property.

Ernie Brown, tenant at 117 Windham Road, asked if the shed could be turned 90°; that would give back about four feet towards the lot line.

Mr. Mitchell explained they had always proposed the shed be relocated about 3-4 feet off the lot line in the garden area. In other discussions and iterations of the buffer, the shed was moved over closer to the property line to act as an additional buffer. Since then, it was requested more arbor vitae be planted, so they moved the shed back to the originally proposed location. They don't want this to be a big issue. The shed is a residential use and is not out of the ordinary to have one.

Mr. Flattes asked if the house on this lot would have access to the commercial property. Mr. Mitchell said no. On the existing facility, there is an office with a caretaker. Next to this house there would be a gate for emergency access. This is all one property so the house cannot be sold; they will need to rent it. Currently the caretaker does not reside in this house nor is this house part of the storage facility.

Mr. Granese questioned the addition of the septic note on the plan after the Board had granted conditional approval. It was explained it would not be unusual to add additional notes to the plan as an applicant is revising the plan to meet the conditions of approval.

Mr. Fairbanks said the additional note on the plan (Note 25 on the cover sheet) does not really do anything. If there is an alternative place for it, of course it would need to be approved. Right now, it is saying it has to be in the same spot. Mr. Granese read the note "Existing septic to be replaced in the same location upon failure, unless an alternate location is approved by the Planning Board." Mr. Fairbanks said any new design and location would need to be approved. Mr. Granese thought Mr. Chase had made a good point in that the Planning Board cannot approve a location because the State has the final approval authority. It sounds like if the septic

fails, the applicant will need to come back to the Board. Mr. Mitchell said if the system fails, it will go in the current location, or an alternate location has to be approved by the Planning Board at that time if it is in the buffer.

Mr. Granese asked if any of the Board members had an issue with the shed. Mr. Fairbanks said if they could make it more conforming by turning the shed, he would be in agreement, but would want it no more than 3 feet off the left lot line. Mr. Chase said if it can be turned and meets the criteria, that would be okay. Mr. Mitchell said they would not move it more than 3 feet off the property line. Mr. Fairbanks confirmed Mr. Mitchell meant it would be 37 feet from the common lot line. The shed is currently between 40 and 41 feet off the common lot line. Mr. Granese confirmed they could turn the shed 90°. Mr. Mitchell said they could change the orientation and move it no more than three feet. That would accomplish their goals and it would be less close to the common lot line because the shorter side of the shed would be the side closest to Ms. Rose's lot line. Mr. Granese confirmed there will still be a fence on the other side.

Motion by Fairbanks, seconded by Bartkiewicz to find the applicant, Crom, LLC, has proposed a 50 foot wide landscape buffer that meets the requirements as set forth in both the Zoning Ordinance and the Land Development Control Regulations. The landscape buffer shall be constructed as depicted on the plan provided to the Board for its meeting of August 19, 2015. The shed depicted within the buffer shall be located 40 feet off the property line between the applicant's lot and Parcel 01023-005, 115 Windham Road.

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

Mr. Sioras advised the Board would meet again on September 2, 2015.

There was no further business before the Board.

Motion by Flattes, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:42 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____