

The Planning Board for the Town of Derry held a public meeting on Wednesday, August 2, 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, Randy Chase, Town Administrative Representative; Dave Granese, Town Council Representative, Chris Feinauer; Richard Malaby, Dan Healey, Members.

Absent: Andy Myers, Secretary, Mark Connors, Member, John Morrison, Alternate.

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning and Economic Development Assistant; Mark L'Heureux, Town Engineering Coordinator, Lisa Carvalho, Planning Clerk

*Denotes virtual attendance.

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

Mr. O'Connor stated that Mr. Malaby will be Secretary Pro-Temp this evening as Mr. Myers is absent.

Minutes

The Board reviewed the minutes of the July 19, 2023, meeting. Mr. O'Connor noted a correction that he voted in the affirmative to have a site review.

Motion by Granese, seconded by Nelson to approve the minutes of the July 19, 2023, meeting as amended.

All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

Correspondence

Mr. Malaby stated that there was Correspondence from the **Town of Salem, NH** regarding a **Notice to Abutters** from the Salem planning board from Petitioner Tuscan Village Master Development, Site Plan 20-24 Via Toscana, Map 98/Lot 7887, located at the Salem Town Hall, Knightly Meeting Room on 7/25, 8/8, 8/22, 9/12/23 at 7:00pm. If interested, see George Sioras. Mr. Sioras clarified that this notice is a courtesy from a surrounding town to give notice on a meeting that has regional impact.

Ms. Robidoux noted a Memorandum regarding **proposed amendment to the Board Bylaws 2024**. Legislation approved in May of 2023 (effective the end of July 2023) includes changes to RSA 91-A; which is the Right to Know Law. The changes require public bodies to review meeting minutes withheld from public disclosure at least every 10 years to determine whether they should continue to be withheld. Minutes not reviewed after 10 years shall be made public. Staff would suggest amending the Planning Board Policy & Procedure as follows: AMEND

Article II, Meetings, Section 2, Regular meetings, to add the following paragraph: At the Annual meeting the Planning Board shall review any nonpublic minutes to determine if the minutes should continue to be withheld from public disclosure. Any minutes deemed appropriate to be released to the public shall be posted publicly, with the date of the Board's determination noted, and a copy of the minutes provided to the Town Clerk noting the minutes are now public.

Ms. Robidoux reviewed the Planning Board minutes for the past 12 years. There are several sets of minutes, one in 2010 and four in 2009. The subjects of those meetings are noted in the Memorandum contained in the packet. She suggests that the Board move forward with the amendment to the bylaws to add the verbiage in and the Board should make a determination at this meeting or the first meeting in September on whether the Board would want to unseal those minutes.

Mr. O'Connor clarified for understanding, that anytime we put into RSA 91-A:3, we vote every single year, as to whether to keep it or open it.

Ms. Robidoux stated that if you had a nonpublic meeting today and voted to seal the minutes, within 10 years you would need to decide whether you want to keep it sealed or not. In this particular case, the minutes from 2010 and the four from 2009, if you vote to unseal those minutes this evening, there are no other nonpublic minutes, so it would be a check during your annual meeting to see if you had any in the last year. If not, it is a nonissue. It would be good to have that check in your procedures, so you don't miss it. If you vote on these 5, then you clean the slate and you don't have any nonpublic minutes.

Mr. Granese asked if we must act on these 5 tonight. Ms. Robidoux responded that the board could act tonight or wait until September and put it on the agenda. Mr. Granese stated that he remembers these 5 decisions and would not be in favor of making them public. Ms. Robidoux stated that the board may vote to keep them sealed. The issue is that the board needs to review them and make a determination. If you do not do that, then they become public. Mr. Granese stated that he would be comfortable putting this on the next meeting agenda, giving the board members time to review the minutes.

Motion to add to the amendment as proposed to the Bylaws, as well as review of the nonpublic minutes to the next available meeting, by Nelson, seconded by Granese.

All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

Ms. Robidoux noted a **Memorandum of Proposed changes to Development Project Security Workbook/Project escrow**: Recent changes to State Legislation with regard to how construction escrow for subdivisions is calculated will become effective in August of this year. The legislation establishes requirements and limits on the security required for street work and utility, installations, landscaping, final pavement, and fire suppression systems under subdivision regulations regarding completion of improvements prior to the final approval. Essentially, the amended legislation puts a cap on the cost escalations applied to project security (construction escrow.) The cap is 15% and it applies only to construction items. In reviewing our current regulations and costs, it should be noted that the Town of Derry has not updated its escrow

calculation fees since 2011, and our escalation factor was below 15%. The proposed change to the escrow itemized spreadsheet removes the Engineering and Contingency factor of 20% from the escrow calculation spreadsheet and increases the escalation amount to 15%, which complies with the new legislation. The new spreadsheet is attached as well as a copy of an older sheet for comparison. Additionally, to comply with the amended legislation, staff is proposing changes to the Development Project Security Workbook, attached at the back of your packet. The workbook was last updated in 2018. Proposed changes include the following:

- Add Performance Bond to the list of types of security.
- Remove the engineering and contingency of 20%.
- Note the escalation factor will be 15% rather than 10%.
- Update the Escrow Release Form to note the escalation factor of 15%.

Staff would respectfully request that the board consider the above noted changes and schedule discussion of the change at your September 6, 2023, meeting for a public hearing.

Mr. Nelson stated that this is not part of the scope of the LDCR. Is it a stand-alone document?

Ms. Ms. Robidoux stated that it is an appendix to the LDCR. The last time we made changes to this workbook because it was a change to the appendix only, we scheduled it to be reviewed at a board meeting and the board made a motion. We did not feel that a public meeting was warranted. She clarified that we do public meetings for the LDCR itself but this in an appendix.

Mr. Nelson clarified that if it is an appendix, then it is part of the document.

Ms. Ms. Robidoux stated that it is at the discretion of the board if they want to move forward with a hearing or not.

Mr. Nelson recommended that we schedule a public hearing and provide feedback in the interim to avoid risk of challenge at not having a public hearing.

Ms. Ms. Robidoux stated that at the first meeting in September there will be a date on the agenda to schedule the public hearing and then schedule that for the second meeting in September.

Mr. O'Connor added some of the differences in the documentation include the market rate changes that have occurred since 2011. Discussing the changes would be helpful for people who may have concerns over the pricing increase.

Ms. Ms. Robidoux stated that anyone who has established escrow to this point, their numbers are not going to change. Even when we do releases, they are held to the old numbers because that is what we set in place. Newly established escrow would fall under the new costs.

Mr. O'Connor stated that we will verify where the costs are coming from and who is supplying the costs.

Ms. Robidoux noted a **Memorandum of Proposed Planning Board fee schedule change**. The Town has been reviewing fees to ensure the Town of Derry is in line with other communities.

The Planning Department reviewed the current fees charged for Planning Board related applications and found that for the most part, the Town of Derry Planning Board is in line with other municipalities of its size. The Town Council will hold a public hearing on August 15, 2023, to review the proposed increases in fees and the attached Planning Board fees are also included in those changes. The proposed changes are as follows:

- Increase the Change in Use application fee from \$25 to \$50.
- Increase the application fee for a minor subdivision from \$175 plus \$50 per lot to \$200 plus \$50 per lot to be more in line with other communities.
- Increase the application fee for a major subdivision from \$200 plus \$100 per lot to \$300 plus \$100 per lot to be more in line with other communities.
- Decrease the abutter notification fee from the current Certified Return Receipt fee, plus a \$3.00 per notice administration fee to the current Certified Mail fee, plus a \$3.00 per notice administration fee. State law only requires notice be sent by *verified* mail and does not require a return receipt. The new charge would then be \$7.98 per abutter notice rather than the current \$11.53.
- Remove the administration fee of 5% for RCRD recordings as the applicant now provides the registry fee with the mylars.

Staff would respectfully request that the Board consider the above noted changes, if approved by the Town Council on August 15, 2023, and move forward with its own public hearing to amend the fees in the LDCR.

Mr. O'Connor asked if this is something that just the Board can do, or does the Board approve and then it moves forward to Town Council?

Ms. Robidoux replied that the Town Council has the proposed fee changes before them. If Town Council decides to go forward with the fees that have been proposed and approve them, then the planning board needs to amend the LDCRs. If they do not approve them then it is status quo.

Mr. Sioras stated that during the budget process this past spring, the Town Administrator asked all departments to look at their revenues. We were consistent, but every department will have their revenues next Tuesday night before the Council meeting to amend them. Some haven't been done in many years. The budget meeting was the trigger for this. We were consistent with other competing towns.

Motion to add this issue to the agenda for our next meeting to set a public hearing date amending the workbook and the fees in the same public hearing as they are amendments to the LDCR by Nelson, seconded by Granese. All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

Other Business**Voluntary Merger, PID 19067, 1006 Collette's Grove Rd, PID 19067-007, 1008 Collette's Grove Road.**

Mr. Sioras stated that we are combining the two lots on Collette's Grove Road. This is standard procedure to converge the lots. Robert Higgins, the owner, is in attendance. Staff would recommend approval.

Motion to Approve pursuant to RSA 674:39-a, the voluntary merger of PID 19067, 1006 Colette's Grove Road and PID 19067-001, 1008 Colette's Grove Road. PID 19067-001 will be deleted and PID 19067 retained by Granese, seconded by Nelson. All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

C.H.I. Overhead Doors, PID 08280, 10 Ashleigh Drive, Discussion – conditionally approved site plan.

Mr. Sioras introduced Austin Turner of Bohler Engineering.

Ms. Robidoux stated that on April 19, 2023, the Board approved a site plan for the redevelopment of 10 Ashleigh Drive, changing the former movie cinema into CHI Overhead Door. Since that date, the applicant completed the conditions of approval, and the plan was executed in June. The applicant plans to continue interior renovation of the building for the industrial warehouse space and to construct the 3,000 sf addition which supports the loading area. At this time, the applicant would like to defer construction of the 10,000 sf addition until after the building is occupied and in operation for a certain period of time. The applicant is requesting approval to phase the project and defer the construction of the 10,000 sf addition at this time. In preparation for the future construction, the applicant will loom and seed that area of the lot. The previously approved detention pond will not be required for the construction of what can be deemed Phase 1 of the project. The applicant proposes a 5,300 sf landscaped area to offset the small increase in impervious surface resulting from the loading area improvement. Staff would respectfully suggest that the Board contemplate approving the phasing of the project. Escrow is currently being held for the detention pond and infrastructure work to support the construction of the 10,000 sf addition which would be Phase 2. If escrow is fully released upon completion for the site work for the 3000 square foot addition, the applicant understands that they would need to establish a new construction escrow for the construction of the 10,000 square foot addition and the drainage work associated with the detention pond. Ms. Robidoux yielded to Mr. Turner.

Austin Turner of Bohler Engineering stated that they had always intended to complete the 10,000 sf addition after we were open, and the site was operational. In the interest of clarity, as we were working on the preconstruction meeting with your team, we felt it made sense to come back to the Board and fully articulate that so there was no confusion. We have made a couple of very minor changes to the plan, which was noted in the Memorandum. Loaming and seeding would occur in the area where 10,000 where the 10,000 sf building would be. This would be temporary, until that part of the project comes forward with additional minor refinements as

construction evolves. It doesn't change from a functionality standpoint from anything that was previously approved, but formalizes the deferring of the construction of the 10,000 sf addition to the building.

Mr. Nelson asked for clarification regarding the handout.

Mr. Turner replied that this is the plan for what is being constructed now. We are completing it, ideally, in the next month, without the 10,000 sf addition on it.

Mr. Nelson stated that the Board approved a different site plan for both buildings. He clarified that the applicant's intent is to phase that with Phase 1 being this plan set and Phase 2 being this plan set plus what we previously approved. Mr. Turner confirmed. Mr. Nelson stated that this is an amendment to an approved site plan and the Board should go through the public hearing process again. He believes it should be one approved document, clearly labeled Phase 1 and Phase 2, with completion time frames scheduled out for each of them. We cannot simply take an alternate document which has not been through the public hearing process and swap them with the one that has been recorded at the Registry. He believes the applicant should submit a Site Plan Amendment and discuss which parts are in which phase and figure out the appropriate completion dates and revise the escrow appropriately. We don't need to keep escrow for a project that is not under active development.

Mr. Turner stated that when they submitted the original application, it contemplated these improvements being constructed in a phased manner with the 10,000 sf area being constructed after the loading expansion was completed.

Mr. Nelson asked if the original document had notes on it to that effect.

Mr. Turner replied that he does not know if the plans expressly stated that the 10,000 sf building was going to be deferred, which is why, as we were working with your team, during the preconstruction meeting, they thought it made sense to meet administratively with the Planning Board tonight, to show, in the interest of transparency and clarity, what was being completed now.

Mr. Nelson stated that his opinion is that even if it was part of the discussion, what is really binding is what gets recorded, approved, and archived. It was noted site plans in Derry are not recorded at the registry. He does not believe that we can take a new plan set that administratively replaces a plan that went through public hearing and approval. More formality is required.

Mr. Granese asked for more clarity from the Planning Director in procedure regarding this.

Mr. Sioras stated that the original plan showed there would be the 10,000 sf addition. The Board approved a plan of the overall dock space. There were site issues raised at the pre-construction meeting that triggered the discussion tonight. It is not going to hold up construction. The applicant simply wanted to bring this to the attention of the Board. It's really phasing. That is something that the Board can make a motion on and he would suggest that you approve the

phasing of the project. The original site plan had approval for the dock space. Mr. Sioras yielded to Mr. L'Heureux.

Mr. L'Heureux stated that this came up in the preconstruction meeting. The plan was modified to show that area to be crushed stone, porous gravel surface. That triggered his concern. Everyone understood what had been approved and that stone was not part of the approval. They spoke extensively on this question at the pre-construction meeting. His concern is regarding timing and escrow. He stated that he does not want to hold escrow but felt that it was a big change right before construction started. Since that point they have modified the stone area where they are showing grass. They are trying to balance the need for permeability on the site based on the permits from NHDES. Mr. L'Heureux did not have an issue with that but does not think it is good practice to have escrow extended for many years. We want to have this placeholder. We do not want to come back to ask for another building addition later. It is up to the Board to discuss if you want to have them scale down the plan as shown. They might want to come back and fine tune what kind of addition would be there that would not be much of a change from the plan. At that point, there might be different members of the Board, and we could address the escrow again, rather than hold escrow for a shortened period for that particular project instead of holding it for an unspecified time.

Mr. Turner stated that they were asked to show what the interim conditions would look like. The Board has approved everything. The purpose of the discussion tonight is to explain, when someone is out there in the field on the Town's behalf and they see that the 10,000 sf part of the building isn't immediately constructed, there would be no confusion as to why. We updated the drawings to show that interim condition. It doesn't fundamentally change what the Board has approved, but rather, graphically depicts the first step. He does not believe this requires formally amending the site plan but defers to the pleasure of the Board.

Mr. O'Connor recognized Allen Mello of Sigma Properties, the property owner. Mr. Mello stated that in speaking with Mr. L'Heureux at the preconstruction meeting, their original application was always to build the 10,000 sf at a later date. They are moving forward with looking at that sooner rather than later, but CHI has pulled back from that. As he understands it from a layman's perspective, they must increase the asphalt at the rear of the building by the new loading dock area and increase permeable soil. In lieu of building the retention pond near the connecting road from Ashleigh Drive to the mall, at this point, we are proposing to open the pavement there so that the water can leach into the ground. For full disclosure, this would be before the 10,000 sf area is built. It was fully disclosed on our original application that the project would be phased. The engineers and construction folks saw this as a suitable interim solution to accommodate the storm water permeating back into the site.

Mr. O'Connor asked if the phasing would be at a particular timetable.

Mr. Mello responded that it would be a minimum of 2 years, at this point, based on the current economy.

Mr. O'Connor noted page C-501 and the storm drains. It does not appear that those drains have gas oil separation. Since we are not doing the retention pond, he has a concern with the drains as

there will be tractor trailers in that location. He did not see gas oil separators in the previous plan.

Mr. Turner replied that the catch basins have a deep sump to catch the solids and are designed to be equipped with gas traps, which is an anti-syphon device. That hood extends approximately 2 feet below the invert of the pipe, which is exiting the catch basin. Anything floatable doesn't get syphoned out through the pipe. It has the ability to be trapped inside the structure so that when it goes through regular maintenance, that can be removed without it exiting pipe and being discharged into larger storm water system. The details are on sheet C-602 (Precast Concrete Deep Sump Catch Basin). There is a label that says, "gas trap" and it points to the device which it attached to the pipe which exits the catch basin. Floatables can be removed by a vacuum truck.

Mr. L'Heureux stated that it is a simple tee, a 90 degree bend that siphons the water lower than the surface so that everything stays above it, including gas and oil. It stays trapped in the manhole. It is not an elaborate system, and we have many through the Town. The detention pond was more for the 10,000 sf building.

Mr. Granese asked Mr. L'Heureux if this normally would be field change.

Mr. L'Heureux stated that he felt this was a bit more than a field change. He understood that the project was presented in phases. He felt he could not approve a cut in the pavement and the use of crushed stone that was not discussed at the Board level. Anytime there is an issue that is drainage related, especially with the storm water regulations in this part of the State, he wants to make sure that we cover our bases regarding compliance with the Board. He does not feel this is a big change and will not hinder their current construction. They are seeking approvals that everyone is comfortable with.

Mr. Granese stated that he would not be opposed to making a motion to accept this plan, as an amendment to the last motion with any concerns from Public Works. He clarified that the goal is to release the escrow for the 10,000 sf addition.

Mr. L'Heureux stated that he would not release the escrow until construction was completed. If this is what they choose to complete, we would release it all, and then the second phase would have to return for approval of the new escrow.

Mr. O'Connor asked if the applicants would be receptive to Mr. L'Heureux's comments.

Mr. Mello stated that they would like to retain the ability to construct the 10,000 sf. This is an interim solution to handle recharge of water into the site. Other than that, to keep the escrow on account is fine. At the preconstruction meeting, in defense of Mr. L'Heureux, Mr. Mello didn't have all of that information at hand. We researched it right after that meeting and did disclose it here. He would like to keep the 10,000 sf in place. The engineer brought this accommodation for storm water to our attention. If we stopped now, we wouldn't need to put the pond in, but we felt to be proactive to do this.

Mr. Granese stated that he does not see the need for this to go to a public hearing. He deferred the rest of his time to Mr. Sioras.

Mr. Sioras requested to read from the Land Development Control Regulations, as this touches upon the discussion between engineering and planning and will address that the Board can administratively do this. It comes under Administrative and Enforcement.

“General Requirements, Section 170-74 B, Minor changes, or revisions to said plans, profiles, typical sections, and details caused by unanticipated conditions encountered during construction shall be designed by the applicant’s engineer and shall be subject to the written approval of the Town Engineer with concurrent notice to the Planning Director prior to such approval being given. Major changes or revisions to any plan previously approved by the Planning Board, which involve material alterations in the work or involve discretionary judgement generally reserved by the Planning Board under these regulations or applicable statutory provisions shall be made upon receipt of approval from the Derry Planning Board. Those contemplating a change or revision to the approved project plan, shall contact the Planning Director and Town Engineer regarding the proposed change. The Planning Director in consultation with the Town Engineer shall render an opinion as to whether a contemplated change is deemed to be major or a minor revision.”

He continued that based on what Mr. Granese and Mr. L’Heureux said, deferring to Mr. L’Heureux as the engineer and developer in the field, he does not see that this raises to the level of a public hearing, but this was written to allow the staff and the planning board to make these changes at their discretion.

Mr. Nelson stated that he does not feel that this is a minor change, but a major change that does need to come before the board. He assumes that we are ok to not have a public hearing. We have 2 plan sets: one that we approved that has signatures on it and this other document that has not been identified to its function in the plan. We have been told that it is an interim solution. There are no signature blocks on it. This second document will presumably be used for construction monitoring and inspections. If it is a minor or major change to an approved site plan, how does that normally get memorialized?

Mr. L’Heureux replied minor changes that happen on just about every project are memorialized on the “As Built” plan which is completed by the surveyor or the engineer. For example, if we moved a catch basin, we would get an SK plan on 11”x7” sheet showing the change for any incidental or minor thing. That gets collected. Then we do an overall “As Built” plan.

Mr. Nelson stated that now we have this other document, which is the interim solution, which is neither an As Built, nor the original plan. How do we document control this document?

Mr. L’Heureux replied that it may have been better to have a Phase 1 and Phase 2 plan.

Mr. Nelson stated that he thinks that is where the applicant wants to get to. What is our most expeditious way to get there?

Mr. O'Connor asked if it was coming back to the Planning Board as Phase 1 and Phase 2.

Mr. L'Heureux replied that it is not. This is the Phase 1, if it must be labeled.

Mr. Nelson stated that he would withdraw his objections if the plans were to be labeled "Phase 1 of 2" and would have signature blocks so that the Planning Board could sign it so that we could have document control.

Mr. Sioras stated that is exactly what we can do. We could have the engineer change that cover sheet. We can bring it back and have the Board sign it so you will have a more formal record.

Motion by Nelson, with an amendment by Mr. O'Connor relevant to the date of the document, both seconded by Granese, to accept the proposal from the applicant this evening to recognize the phasing of this approved site plan and to request that the Phase 1 document presented dated July 26, 2023, indicate the interim solution be redrawn to indicate that it is a Phase 1 of 2 phases plan, to add signature blocks for the engineering staff, other staff, and Planning Board sign it, in order to have document control.

Roll Call Vote: Chase, Healey, Granese, Nelson, Feinauer, Malaby, O'Connor. The motion passed with all in favor.

Discussion before the vote:

Mr. Turner asked for clarification. Would the board like the plans that were originally approved by the Planning Board to be differentiated to be called Overall Build Out?

Mr. Nelson replied to note Phase 1 and Phase 2, to explicitly recognize the phasing. We are looking for clarity and appropriate signatures, so that it is appropriately identified.

Mr. Turner added that adding a signature block to the plans reviewed at this meeting would have been presumptuous on his part. He is happy to do what is described in the motion.

Chairman and Planning Director Updates

Mr. O'Connor stated that it is with sadness that Elizabeth Robidoux will be leaving Derry. She has been George's Assistant for many years providing guidance to himself and other chairman over the years. It is with sorrow that we are going to lose her, but Mr. O'Connor is so glad that she will be respected and move into a position of higher authority.

Mr. O'Connor presented flowers to Ms. Robidoux. He invited other comments.

Mr. Granese stated to Ms. Robidoux that he has been on the Planning Board for 16-17 years during which time they became professional and personal friends. He stated that he personally appreciates all Ms. Robidoux has done for the Town and for himself when he was Chairman and feels she has been an asset to the Town. He wished her luck in her future endeavor.

Mr. Granese presented flowers to Ms. Robidoux.

Ms. Robidoux stated that she has really enjoyed her tenure here in Derry, mentoring under Mr. Sioras. She appreciates the friendships she has made here and the opportunities she has been given by the Town, to learn and to grow in this profession. It has been a true honor to serve the Town.

Ms. Robidoux was presented with a standing ovation.

Mr. Sioras shared he and Ms. Robidoux have a friendship in addition to being co-workers; they are a team. He wished her well and said he has enjoyed working with her

Public Hearing

A public hearing to discuss 22 Lenox Avenue, LLC, PID 32039, 20 Lenox Road, PID 32040, 22L & 22R Lenox Road, Acceptance/Review, Lot Line Adjustment

Mr. Sioras stated that this is a simple lot line change. Town department signatures are not required for a lot line change. There are waivers for traditional subdivision requirements. Staff recommends approval for both the waiver and the lot line adjustment plan. Mr. Sioras yielded to Mr. Peloquin.

Mr. Tim Peloquin of Promised Land Survey, representing the owner, was recognized, and stated that as a fellow professional, Ms. Robidoux is the best. He works in Towns all over New England and in terms of an Assistant, a friendly voice with astute advice, there's no one better.

Mr. Peloquin stated that this is a simple lot line adjustment. There was a previous lot line adjustment approved in 2012 with Parcel 32040. The owner adjusted the line between these two lots so he would have 15 feet from his building to the new lot line while he developed condominiums next door. Somehow the building ended up not at 15 feet, but closer to 11 feet from the property line. This is a new lot line adjustment to slightly alter those lot lines to make the building most conforming at Parcel 32039, known as 20 Lenox Road. Both lots still meet all the zoning requirements. They are both on Town water and sewer and are much larger than they need to be. He does not believe there are any violations of zoning.

Motion by Granese, seconded by Nelson to accept jurisdiction of the lot line adjustment plan before the Board for 22 Lenox Ave, LLC, PID 32039, 20 Lenox Road, PID 32040, 22L & 22R Lennox Rd.

All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

Motion to open the public hearing by Granese, seconded by Chase. All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. 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. All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

The **Public Hearing** is now closed.

Mr. Chase stated that the original lot line adjustment included that it had to be moved to the west to allow for frontage for 22 Lenox and now we see that it is being moved back to the east. Is there still going to be enough frontage on 22 Lenox? Previously, it came in 2 parts, the original lot line adjustment and a site plan review for 22 Lenox. There was a lot of contention about moving that lot line because doing so gave them the frontage they needed to move ahead with the project on 22 Lenox. He wants to make sure we are not moving it back to its original position, which would create nonconforming frontage on 22 Lenox.

Mr. Peloquin replied that the zoning requirement is 100 feet at the 35 foot setback. The current frontage is 152.25 feet and the proposed is 142.04 feet. There is a slight reduction in the frontage, however 100 feet is the frontage requirement. To my knowledge, the answer is No. Tim Whinings was the surveyor back in 2012 and has since retired.

Mr. Chase stated that the previous lot line adjustment was voted down. Over the course of several months, changes were made, and plans came back several times before they came up with a plan that met the ordinances and could be approved.

Mr. Chase stated that the previous lot line adjustment failed and had to be brought back for reconsideration because it was denied. The second plan couldn't go through.

Mr. Sioras stated this is better for the building department because now you have a setback that meets the requirement of a 15 foot setback for a building permit.

Mr. Chase stated that he wants to make sure that we are not moving something back into nonconformity. It appears that it is not.

Grant Waivers

Motion by Granese, seconded by Nelson, to grant a waiver from LDCR section 170-24.A (11) to not provide 2 foot contours on the plan as these are existing lots of record, and both are served by municipal water and sewer. 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.

Also move to grant a waiver from LDCR section 170-24.A (12), HISS mapping, as these are existing lots of record, and both are served by municipal water and sewer and the lands do not contain wetlands. After reviewing the waiver request the Board finds the 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.

All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The Motion passed.

Motion by Granese, seconded by Nelson, to grant a waiver From LDCR section 170-24.A (18) to not provide a Traffic Impact Statement, as these are existing lots of record, there are existing residences on the lots which will not change at this time; therefore, there will be no increase in traffic entering or exiting the lots. After review of the waiver request the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The waiver is granted.

Finding of Facts

The Board finds the proposed plan does not alter 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 adjustment of the lot line.

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


Approve pursuant to

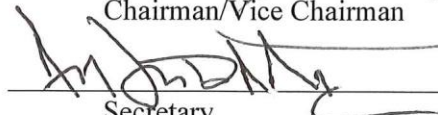
Motion by Granese, seconded by Nelson, to approve pursuant to RSA 676:4, III, Expedited Review with the following conditions:

1. Subject to owner's signature.
2. Subject to on-site inspection by the Town's engineer.
3. Establish escrow for the setting of bounds or certify the bounds have been set.
4. Note approved waiver(s) on the plan.
5. 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.C
6. Subject to receipt of applicable state or local permits relating to the project.
7. Conditions precedent shall be met within six months.
8. Submission of 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.)

All in Favor: Chase, Healey, Granese, Feinauer, Malaby, Nelson, O'Connor vote Yes. None opposed. The motion passed.

Motion by Nelson, seconded by Chase to adjourn. The motion passed with all in favor and the meeting was adjourned at 8:06 p.m.

Approved by: 
Chairman/Vice Chairman


Secretary

Approval date: 9/6/2023