

The Planning Board for the Town of Derry held a public meeting on Wednesday, September 20, 2023, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

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

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

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

*Denotes virtual attendance.

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

Mr. Nelson stated that he would be Chair Pro-Tem this evening as Mr. O'Connor is unable and participating virtually.

Escrow

#23-12

Project Name: Subdivision Mill Rd/Alyssa Dr

Developer: NIKKO Land, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 06040-001, 45 Mill Road

The request is to approve Release #1 in the amount of \$9,059.04 for the above noted project. The amount to retain is \$15,422.40. This escrow is non-interest bearing. It has been signed by Public Works, Planning and Code Enforcement. Staff recommends approval.

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

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

Minutes

The Board reviewed the minutes of the September 6, 2023, meeting.

Motion by Granese, seconded by Myers to approve the minutes of the September 6, 2023, meeting as amended.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, vote Yes. Chase, Granese, Myers, and O'Connor abstained. None opposed. The motion passed.

Correspondence

Mr. Myers noted receipt of an issue of the New Hampshire Municipal Association's magazine, Town and City. He noted the announcement of a Land Use Law Conference in October 2023, with Planning and Zoning Boards. Mr. Nelson noted that this would be the first in-person conference since covid. Mr. Sioras stated that the Town pays for admission to this meeting for the Board and those wishing to register should contact Mr. Sioras by email.

Other Business**2nd Reading, Proposed amendments to the Planning Board Policy & Procedure, to Amend Article II, Meetings, Section 1, Annual Meeting.**

Mr. Nelson polled the Board as to their acceptance of the second reading as presented.
Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, O'Connor, Nelson, vote Yes.

Voluntary Merger: Nancy Piccirilli.

Mr. Sioras stated that the two properties owned by the family are 140 Island Pond Road and 146.5 Island Pond Road. The location is near Ballard Pond on Warner Hill. Staff would recommend approval to merge the lots.

Motion by Granese, seconded by Myers, pursuant to the provisions of RSA 674:39-a, the Derry Planning Board approves the voluntary merger of PID 06033, 160 Island Pond Road and PID 06026, 146.5 Island Pond Road. Parcel 06026 shall be deleted, and Parcel 06033 shall be retained.
Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, O'Connor, Nelson, vote Yes. The motion passed.

Planning Director/Chairman Updates

There were no updates.

Public Hearing**A public hearing to discuss Town of Derry PID 05043, 56 Rockingham Road. Pursuant to RSA 674:54, Governmental Use of Land, Review of proposed Derry Fire Department Station Headquarters Site Plan.**

Mr. Nelson stated that this is a courtesy review. The public is free to make non-binding comments. The Planning Board is free to make non-binding comments, however the Board will not vote to approve or disapprove in this matter this evening.

Mr. Sioras agreed and noted that abutters are present at the meeting. The Engineer of BETA Engineering, David McKinley, is attending virtually. Fire Department Chief Jim Richardson is in attendance.

Mr. David McKinley introduced himself as a registered Landscape Architect working for BETA Engineering. He represents Windell and well as Bob Mitchell Art Associates who are working with them for the Town of Derry to construct a new Fire Department Headquarters on Rockingham Road. The 4 acre lot is part of the south end of a 30 acre parcel, between Rockingham Road and Pierce Avenue, with no access from Pierce Avenue. It is southeast of the center of Town. The existing power lines will remain. There are grade issues on the site. There is a 28 foot change in elevation from the southeast corner up to the northwest corner of the site, 284' to 312'. There will be retaining walls to ensure that the site is navigable. Three-quarters of the site is wooded and will be cleared. It will not be feasible to save some of the woods at the southeast corner, due to drainage issues and the fact that underneath the area is rock. They will attempt to keep at least a 20' buffer along the east property line, providing vegetation in the area. Along Sunnyside Lane will be excavation to connect a drainage line to connect to a drainage manhole as an overflow for the infiltration basin. An LED Fire Department sign will be perpendicular to the road for public announcements. The sign will be within the property line, tucked into the hill. The grade drops between the road and the upper platform by 5-6 feet. There is a perched platform where the site wall is located, which will surround three flagpoles. There are 5 apparatus bays and a training tower on the left-hand side. As part of the design requirements for the Fire Station there needs to be a communications antenna that can reach the entire Town. This is being studied by a company called Two-Way, which represents many towns in NH. The antennae is targeted to be about 150 feet tall and will be on the northwest corner, on the Rite Aide side. It will be designed to have a break-away in the middle so that if it falls, it will stay within a 75 foot zone, keeping it on the property. There is no expectation of that happening. The building would not be over 32 feet tall. There are two entrances with the visitor entrance on the east side and the apparatus entrance on the west side. The reason is sight distance down the road in both directions. The site distance is better where the apparatus entrance has been determined than the visitor entrance would be. This decision was safety based and make the entrance farthest from the abutters on Sunnyside Lane, give those abutters less disturbance. Staff and visitor parking are on the east side of the site, with a few visitor spaces at the front of the building. There is a wall from the east side across the length of the north edge and almost all the way along the west side of the property. In the back corner, the wall is about 10 feet tall and tapers down toward the front. The wall is structured toward the functionality of the apparatus bays. The design of the modular building wall behind this area to accommodate a future foundation for an outbuilding. The generator is next to the future outbuilding site. The transformer is up against the building. There is a plaza in the back of the building for the fire fighters. There is a memorial plaza in front of the building. This green area is where the underground drainage will be. Figuring out the drainage and not having the project go over budget was the most difficult part of this site. In order to build to the site plan, we will have to blast 2,000 cubic yards of rock from the site, according to many calculations with Weston Sampson. This increased the cost of the project. If drainage were to be behind or to the east of the building it would have elevated the cost and turned the drainage areas into bathtubs. All of the drainage areas are in the front and perched above the rock that we think we have. All three basins overflow into an infiltration area on the right hand side, which also has a retaining wall around it. This maximizes the space and meets the requirements. On the southeast corner of that there is an overflow going straight to the Sunnyside catch basin. A gas line will be added by Liberty Gas. The line will go the west side of the building and will wrap around to the gas powered generator. All other lines, other than sewer, will come up by the visitor parking area, as

this showed the lowest elevation of rock and required less blasting. There is one catch basin above the retaining wall as the entire area above the site drains towards this site. It will be picked up in a swale and brought around to the infiltration basin. That water does not have to be treated. We sent the site plan to NH DES as an AOT. The AOT was approved with this plan. We have gone through the Highway Safety Commission. The traffic signals will ensure that traffic is stopped safely as apparatus is leaving the site on Rockingham Road. One apparatus arm on the east side will function for both east and west directions. There are 2 pedestals on the opposite side of the road, facing the apparatus so that they can see the signals clearly. There were three options for this, and we chose the most affordable with the least impact on the neighbors across the street.

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

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

The **Public Hearing** is now open.

Mr. Nelson stated that the subject matter is the site plan and not any of the items that the Town Council has previously decided.

Mr. Sultan Chowdhry, owner of 77 Rockingham Road, Derry, NH was recognized. His property is across the street from the proposed entrance of the site. He asked how his location would be affected by the project. He later asked where the apparatus would be entering and exiting. He also asked if the Town would be taking land from local property owners, as the road may not be large enough for the trucks.

Mrs. Bernadette Martel-Gourd of 16 Sunnyside Lane was recognized. As an abutter she is concerned about noise pollution because of the project. Mrs. Martel-Gourd acknowledged that some topics in the presentation by Mr. McKinley addressed the issue, but she would like a full list of what the impact will be, especially concerning lights and sirens, specifically overnight. Aside from having the apparatus entrance further from Sunnyside Lane, what other mitigating factors have been considered? She wondered if other locations have been considered for the Fire Department Headquarters.

Mr. Nelson commented that her last question is out of scope of this discussion, as questions will be entertained regarding this site, which has been approved by the Town Council.

Mr. Granese commented that the Fire Chief may touch base on that.

Mrs. Martel-Gourd stated that property owners are curious about the impact on property values, having the Fire Station so close and losing so much tree cover. Has there been any analysis done of the impact on residents in the area. She would also like to know the proposed time frame for the project.

Ms. Leah Eastman of 12 Sunnyside Lane was recognized. Referencing the site plan, Ms. Eastman asked for confirmation that the project will abut 2, 4, 6, 8 and 10 Sunnyside Lane and

will not abut other residences on Sunnyside Lane. Later, Ms. Eastman asked what the blasting survey entails and when it would occur.

There were no online requests.

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

The **Public Hearing** is now closed.

Mr. Nelson invited Mr. McKinley and Chief Richardson, and other staff to respond to the public comments.

Chief Richardson commented on the proximity of the project to Mr. Chowdhry's property. Chief Richardson showed that the property will not be affected.

Mr. McKinley addressed Mrs. Martel-Gourd's inquiry about noise and light pollution. The site must be well lit for parking, and it is a 24-hour operation. There can be dimmers set up in the Visitor's parking area. It cannot be completely dark but will have shut offs so that no light will spill over to the abutter's properties. The two houses that are abutting the property on the north end of the parking area will not see much of the site because of the retaining wall. There will be plantings on the east side of the parking area. Plantings cannot be put on the west edge because of the proximity of the building and is abutted by a commercial building, so would not have much impact. He offered to differ to Chief Richardson on the issue of noise pollution but believes that the firefighters do not have to turn on the sirens unless necessary.

Chief Richardson confirmed that the control light out front will allow them to do that. Once they have a green light and the traffic has red lights, they can pull out safely without blaring sirens. Once they move past the intersection, they can engage sirens if necessary.

Mr. Nelson stated that the photometric plan is in plan set on sheet #E-801.

Chief Richardson stated that they purposefully put the training aspect of the building farthest from Sunnyside Lane, taking the neighbors into consideration. He confirmed that there will be zero light toward the abutters.

Mr. McKinley noted that the cutoffs would allow the lights to shine straight down into the parking area. The intensity of the light can also be controlled with motion sensors.

As to the location chosen, Chief Richardson stated that this project was begun in 2004. There was a Fire Station at 32 W. Broadway that was closed. The original plan was to move the Fire Station to that area. MMA Consultants was hired to do a study, for the Town, and determined that the Shute's Corner area was the best location for the new Fire Station regarding response times and location to the highest density population and the southwestern side of Derry. Other lots in the area were reviewed, with the chosen lot being the only feasible option. Sites on

Windham Road and further down Rockingham Road were considered as well. Due diligence was performed.

Chief Richardson stated that at present they have sent out early bid packages for the groundwork. Those were closed on Tuesday of this week. Although he has not seen the bids, if they are favorable, the lot could be cleared in mid-October. The foundation could be in before the snow arrives. The plan would then be to move in by the end of 2024 or the beginning of 2025. That is a preliminary schedule.

Mr. Nelson asked which parcels on Sunnyside are direct abutters.

Mr. McKinley stated that there are 4 abutters on the west side of Sunnyside, but it is the first 3 from Rockingham Road that will be impacted: 2, 4, and 6 Sunnyside Lane. The 4th parcel will abut the forested area that will remain.

Chief Richardson is not aware of any property value analysis being undertaken.

Mr. Granese addressed the question of whether property value analysis will be done and reiterated that, as Mr. Nelson mentioned, this will not be voted on tonight. The Town Council has voted, and the project will be moving forward. There were a couple of properties for sale on East Derry Road near the Fire Station. He is aware of a property owner in that area who saw no effect in the sale as buyers wanted to be near a firehouse. Mr. Granese suggested they attend the next Town Council meeting for the open forum and ask their question of Mr. Foote. He is not aware of property value analysis in this area.

Mr. Nelson responded to Mr. Chowdhry's inquiry about imminent domain. He stated that he right of way, land which the Town owns is usually much narrower than the actual pavement. The pavement could be extended without encroaching on any private land. He stated that we have not had any presentation that there is any acquisition of land required for this project.

Mr. L'Heureux stated that the road is not being widened. There will also be no impact to the sewer systems. There was a sewer service that was left as part of the extension of sewer main when the Rite Aid and Speedway were constructed. The water is on the opposite side of the road.

Mr. Nelson offered the opportunity to ask questions to the Board. He commented that Mr. McKinley mentioned an extensive amount of blasting that perhaps wasn't in the original plans. This would raise abutter concerns about the noise, the hours of when it is conducted. What would they do if they find shock damage to their homes because of the blast waves going through their homes. Is the Town going to reach out to the abutters to explain this to them?

Mr. McKinley stated that as part of the specification, the blaster must do a presurvey of the foundations and houses that would be affected. Most of the blasting would take place during specific hours of the day: not early in the morning or late at night. We know there is weathered rock that may be able to be ripped out. We are using the "worst case scenario" in terms of what would have to happen. We may find that the rock can be excavated with a backhoe. With the

borings and test bits that were performed, we did hit rock, but we will not know until we strip it all what the situation will be. The blaster will be responsible for any damage.

Mr. Nelson asked Chief Richardson to explain to the Board and the public what the Department's current protocol on travel speeds, use of lights and sirens, before and after it is declared a working fire.

Chief Richardson replied that the Fire Department has a tiered response for different types of calls: Omega, Alpha, Bravo, Charlie, Delta. An Omega or Alpha call is a service call, no lights or sirens. This would be a medical check or an alarm check. On a Bravo call, one unit responds with lights and sirens and the other going with the traffic, with the capabilities of upgrading, depending on the information found. A Delta call is a reported structure fire with all apparatus coming with lights and sirens. The Fire Department is cognizant of the neighborhood and wishes to be on good terms with their neighbors.

Mr. L'Heureux added that it would be helpful if residences were cooperative when approached for the blasting survey. It is to their benefit to make sure that we get good photographs or notes about anything within your home. There may be apprehension about letting a stranger into your home, but this is a useful tool to have repairs for you if anything occurs during blasting. The survey is collecting background information to prove the damage, should it occur. Regarding the content and timing of the blasting survey, the neighbors would receive written prior notice. They will look at foundation walls and note any cracks or irregularities. They are looking for an "as is" picture of the interior structure of the house. If a neighbor claims that they had a hair crack that is now 3 inches wide, it will be easily proven. If the survey is not allowed, then we have nothing to measure against and it becomes one's word against the other. It is not meant to be an invasion of privacy. The blasting company will set up the surveys by appointment.

Motion to close the review of this site plan by Granese, seconded by Myers.

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

A public hearing to AMEND Article III, Application and Approval Process, Section 170-17, Fees and Costs, and Article IX, Application and Approval Process, Section 170-56, Fees and Costs to update the Planning Board application fees.

Mr. Sioras stated that during the budget process the Town Administrator asked all departments to review their fees. Some had not been done in several years, some as far back as 20 years. We found that our fees are consistent and competitive with other communities that are similar to ours, with the same amount of development. We reviewed Merrimack, Londonderry, Rochester, and Salem. The Town Council approved all the budget increases in July of 2023, across the board, for all Town Departments. Our fees are approved but need to be added to the LDCR Regulations. The increases are only for a few dollars, primarily for lots. Staff would recommend approval based on the Town Council action that approved these fees. The Planning Board does not approve the fees. That can only be done by the Town Council.

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

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

The **Public Hearing** is now open.

There were no online requests.

Motion to close the public hearing by Granese, seconded by Myers.
All in Favor: Chase, Healey, Granese, Malaby, Myers, O'Connor, Nelson, vote Yes. The public hearing is closed.

Mr. Myers asked if this has already been approved by the Town Council, why do we vote?

Mr. Sioras responded that the Board is amending. The fees are in the LDCR and any time there is a change to the subdivision site plan regulations, the numbers must be changed.

Mr. Nelson stated that the Town is requesting that we be competitive with fees and they have placed those in the budget. They have given us permission to raise them, but statutorily it is only the Planning Board that can revise our regulations, so we are doing our end of the bargain.

Motion by Granese, seconded by Malaby, to approve the proposed changes to the Land Development Control Regulations, Article III, Application and Approval Process, Section 170-17, Fees and Costs and Article IX, Application and Approval Process, Section 170-56, Fees and Costs.
Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, O'Connor, Nelson, vote Yes. The motion passed.

Public hearing to discuss proposed amendments to the Appendix of the Land Development Control Regulations, specifically the Development Project Security Workbook, to revise how construction escrow is calculated.

Mr. Nelson commented that some of this is based on changes in State law.

Mr. Sioras stated that this Workbook is part of the LDCR. Making a change to the Appendix requires a vote at the public hearing. He deferred to Mr. L'Heureux for questions on how they calculate the costs highlighted and the escalation.

Mr. L'Heureux stated that we must allow for performance bonds, and we have for several years. This is a formal update of the entire package relative to offering cash, letter of credit or a performance bond for escrow on these projects. As part of the State law, they do not like the word engineering contingencies. They struck it out and wanted an escalation factor to be imposed on the unit prices. There have not been updates to these prices in 13-15 years. It is easier for us to do the 15% when we are doing the spreadsheet; it is a simpler application. The construction costs are up to date with what we are seeing for projects.

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

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

The **Public Hearing** is now open.

There were no online requests.

Motion to close the public hearing by Granese, seconded by Myers.
All in Favor: Chase, Healey, Granese, Malaby, Myers, O'Connor, Nelson, vote Yes. The public hearing is closed.

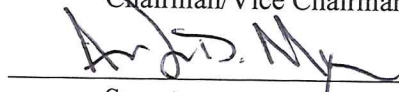
Mr. Chase noted that on page 5, types of escrow, the typing needs to be formatted correctly to avoid confusion.

Motion by Granese, seconded by Myers, to approve the proposed changes to the Land Development Control Regulations, Appendix, Development Project Security Workbook, to revise how construction escrow is calculated.
Roll Call Vote: Chase, Healey, Granese, Malaby, Myers, O'Connor, Nelson, vote Yes. The motion passed.

Motion by Granese, seconded by Myers, to adjourn. The motion passed with all in favor and the meeting was adjourned at 8:22 p.m.

Approved by:


Chairman/Vice Chairman


Secretary

Approval date:

