

The Planning Board for the Town of Derry held a public meeting on Wednesday, February 03, 2016, 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; John O'Connor, Vice Chairman; Michael Fairbanks, Secretary; Randy Chase, Administrative Representative; Mark Osborne, Town Council Liaison; Mirjam Ijtsma, Frank Bartkiewicz, Lori Davison, Jim MacEachern, Members,

Absent: Marc Flattes

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.

Escrow

None.

Minutes

The Board reviewed the minutes of the January 20, 2016 meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the January 20, 2016 meeting as amended. The motion passed all in favor.
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Correspondence

Mr. Fairbanks reviewed the correspondence. The Board is in receipt of a notice from the Town of Salem with regard to a proposed 100 foot tall personal wireless service facility to be located at 152 Zion Hill Road. Mr. MacEachern asked if this lot was located adjacent to the Cowbell Corner project recently approved by the Board. Mr. Sioras said it was not. Derry abuts Salem near Route 111. Mr. Chase said the site approved by the Board is about a mile away from the proposed tower. Mr. Sioras advised per state statute, towns are required to notify any town within a 20 mile radius of a proposed cell tower.

Other Business

Mr. Granese asked if the Planning staff had heard from anyone with regard to the workshop scheduled for the next meeting. Mrs. Robidoux reported she sent letters out via certified mail to

the 5 affected properties. All of the property owners received the notice. They have not yet heard from any of the five.

Public Hearing

21st Century Development Corp.

Owner: The Mental Health Center for Southern New Hampshire

PID 09090, 38 North Shore Road

Acceptance/Review, Site Plan

New 16 Resident Assisted Living Facility

Mr. Sioras provided the following staff report. The purpose of the plan is for a new 12,000 square foot, 16 bed assisted living facility which will replace the former 22 bed mental health, elderly and substance abuse care facility. The property is currently owned by CLM. CLM is selling the property and it will become a private, tax positive development. All town departments have reviewed and signed the plan. The applicant is requesting three waivers as outlined in the letter dated January 5, 2015 from The Dubai Group. Staff supports the waiver requests. There are no state permits required for the project. Staff would recommend approval of both the waiver requests and site plan application. He feels this is a good project; there is a need for assisted living facilities as people get older.

Doug MacGuire, The Dubai Group, presented for the applicant. Also present on behalf of the applicant was Tom Murray of Pugliese Construction and Kevin Cyr. Mr. MacGuire outlined the project. This is a 12,000 square foot assisted living facility that will replace the existing facility which is located off North Shore Road. The lot is located adjacent to Beaver Lake within the 250 foot Shoreland Protection zone. They have minimized the impacts within the 250 foot buffer zone and will maintain the existing driveway. All improvements will take place outside of the 250 foot zone, including the new building and associated parking. The location of the existing drive aisle has been expanded to meet current regulations. The parking spaces are 20 feet long and there is a 24 foot wide drive aisle. There is enough room for an emergency turn around area. They have proposed a landscape plan with plants around the facility and along the buffer. They will reuse existing vegetation to maintain the buffer as well.

With regard to stormwater design, they are maintaining the existing topography. Sheet flow will be collected in a swale along the top of the parking area and directed to an infiltration basin on the lower end of the property. This enhances the drainage control and maintains the current character of the property. They have three waiver requests.

Mr. Granese asked what will be on the exterior of the building. Mr. Murray advised it will be silver gray vinyl siding. There will not be any granite, but they will have a techno block wall which is a concrete product. Mr. Granese asked how much smaller will the new facility be from the old facility. Mr. MacGuire said the existing facility is 15,000 square feet. The new facility will be 12,000 square feet. They are decreasing the number of residents from 22 to 16. The

current facility is three floors; the new one will be one story. There is a larger overall footprint, but it is a smaller facility.

Mr. MacEachern had questions regarding Sheet A1. He does not see closets proposed for the resident rooms in the back wing. Mr. Murry said he was not sure if a closet could fit in the rooms and it may be that the residents would have furniture, such as an armoire. Some rooms were designed smaller on purpose to reduce cost. Ms. Davison asked if there would be double occupancy in the rooms. Mr. Murray said they are designed for single occupancy. There will not be a memory impairment wing. This is a small bedroom facility. Larger facilities have nursing staff and provide care for other types of needs. This facility is designed for people who do not need full time nursing staff. There will be nursing oversight. Mr. MacEachern asked if the residents will have someone available to them on site twenty four hours a day. They will. Mr. Murray said the staff count in Windham at a similar facility is between one and two people per day. Mr. MacGuire said the plan assumes four employees with ½ a parking space per bedroom.

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

David Rivard, 40 North Shore Road, asked how close will the wing of the building be to his property. He has a well located near the property line. Mr. MacGuire said the Rivard well is located on the plan. The closest point of the building to the property line is 31.4 feet. The landscape plan enhances the area near Mr. Rivard with a buffer. They double stacked evergreen trees to buffer the Rivard's from the facility, but they did not buffer the Rivard's from the lake view.

Mr. Rivard advised there is an old foundation on the property that is a trash dump. It has 4-7 feet of trash in it; it has existed since the 1950's, before CLM took over the property. They can see it when the leaves are down. He is hoping the dump will be removed when they bring equipment onto the property to take the existing building down. Mr. MacGuire said he was not aware of that; it was not picked up during the survey. He did not feel that was an unreasonable request and that they might be able to do that when they clean up the invasive species as requested by the Conservation Commission.

Robin Thurgood, 34 North Shore Road, wondered how this development would impact the waterfront. There is a small dock there that is never used. Mr. Rivard advised the dock belongs to him. Mr. Thurgood asked if the residents will use the waterfront. Would there be a resort dock? 38 North Shore Road owns a significant piece of frontage on the lake and the previous residents did not use it. Mr. MacEachern stated this property comes with lakefront property. He asked if there were any plans to add a dock. Mr. MacGuire said the property has 212 feet of frontage along the lake. They are not proposing any improvements at this time in that area or within the 250 foot Shoreland protection area. Mr. MacEachern noted the owner would need state approval to construct anything along the shoreline.

There was no further public input.

Motion by MacEachern, seconded by Bartkiewicz to close the public hearing. Discussion followed.

Mr. O'Connor asked with regard to the dry hydrant shown along the shoreline. Mr. Rivard said the pipe opens out into the lake. Mr. Chase explained the Fire Department would use that as a water source if the water level of the lake was high enough to make it possible. In the winter, the water level is typically too low which is why the lake is not considered a reliable water source, and one of the reasons the town requires cisterns.

The motion to close the public hearing passed with all in favor, and review of the plan returned to the Board.

Mr. L'Heureux advised the Department of Public Works is neutral with regard to the waiver requests. He felt the applicant should trim the trees around the existing power line as noted in the Keach Nordstrom report. That is within the buffer. It would be up to the Board if the Board wanted to grant the waiver or not. The trees should be trimmed to get the branches off the power lines.

Mr. MacGuire stated there were minor comments in the Keach Nordstrom report that could be easily addressed. He has updated his plan set. There are two existing utility poles and overhead wires go to the existing building. They would like to keep the overhead wires along the property line and from the last pole along the property line, go underground to the new facility. They do not have quite the same concerns as mentioned by Mr. Keach in his report. They plan to have a full capacity, auto-on, propane powered generator in the event power is lost. If they lose power, they will be able to fully operate the facility. All the lines along North Shore Road leading to this area are overhead lines. In the event there is a weather related problem it is more likely the issue will come from off site. They intend to maintain the buffer and agree they should trim the trees. They are maintaining the intent of the buffer. He felt it reasonable not to dig up the land in the Shoreland area, maintain the existing line, and bring the wires onto the site.

Mr. Fairbanks felt the Board should be able to maintain the right to request additional plantings in the buffer if it grants the landscape waiver.

Mr. MacGuire said the existing swale slightly encroaches into the vegetated buffer. They have supplemented other areas of the site and are maintaining the 15 foot setback. The land between this area and the neighbor (Mr. Thurgood) is not buildable and the other side of the property line has significant vegetation. They felt they were maintaining an adequate buffer. They have added plantings on the other side of the property. They would like to cut the swale on the north side deeper. The intent is to collect water so that it does not go onto the abutter's property.

Motion by MacEachern to accept jurisdiction of the application before the Board for 21st Century Development Corp., 38 North Shore Road, PID 09090. Bartkiewicz seconded the motion.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern to grant a waiver from LDCR Section 170-62.B.1 to allow retention of the existing 14 foot wide drive aisle within the Shoreland protection zone. Bartkiewicz seconded the motion.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-66.C to allow retention of the existing overhead utilities along the buffered sidelines. Discussion followed.

Mr. Chase asked if equipment could get into this area to trim the trees as suggested by Mr. L'Heureux and Mr. Keach. There is a good grade in the front; the wires are hidden. Mr. MacGuire said yes they could. It is required as part of the cleanup of the invasive species.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz, to grant a waiver from LDCR Section 170-64.C.3.b to allow a certain portion of the new swale along the westerly 20 foot buffer to have a reduced buffer width of retained/new plantings. Discussion followed.

Mr. Fairbanks would like to add a condition or amend the motion to include the right of the Planning Board or Planning Director to request additional plantings if as built conditions suggest the same. Mr. MacEachern suggested adding that as a condition of approval.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Mr. MacEachern stated the reason the Board approved the three waivers was because after review of the waiver requests, the Board found 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 MacEachern, seconded by Bartkiewicz, with a friendly amendment by Ijtsma, to approve the application pursuant to RSA 676:4,I, Completed Application, subject to the following conditions: comply with the Keach Nordstrom Associates review; subject to owner's signature; subject to on site inspection by the Town's Engineer; establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-61; note approved waivers on the plan; subject to receipt of state or federal permits relating to the project; trimming of the trees by

the power line by self, PCU, or power company be part of the plan per the KNA report item 15, bullet #3; conditions precedent shall be met within 6 months; 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; the Board reserves the right on the part of the Planning Director to direct the applicant to install supplemental plantings at one or more strategic locations along the length of the buffer if as-built conditions are found to warrant the same; and, the applicant will look into the removal of the debris located on the back of the property in conjunction to the trimming/removal of invasive vegetation.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Mutual Sales, Inc.
PID 31005-007, 2 Corporate Park Drive
Acceptance/Review, Site Plan
7500 Square Foot Warehouse Addition

Mr. Sioras provided the following staff report. The purpose of the plan is for a 7500 square foot warehouse addition to the existing Mutual Sales, Inc., building on Corporate Park Drive in the Industrial VI district. All town departments have reviewed and signed the plan. There are no waivers requested or state permits required. Staff would recommend approval of the site plan application.

Doug MacGuire of The Dubai Group presented for the applicant. Steve Sciuto of Mutual Sales was also present. Mr. MacGuire advised Mutual Sales owns an existing office and warehouse space on Corporate Park Drive. The proposal is to add a 7500 square foot expansion to the warehouse portion. The addition is set back with the same first floor elevation as the existing structure and will have a single, roll up door access. They are not proposing any changes to the existing access or parking lot. One comment from VHB was that the parking spaces should be increased to 20 feet in length to correspond with the current regulations. They can meet that and propose to extend the pavement by painting lines to meet that requirement. They did a pre/post drainage analysis and can accommodate the roof runoff. The runoff travels to a swale on the west side of the expansion and is directed to the drainage basin which matches the existing drainage flow patterns. There is minor landscaping proposed. They will re-establish the buffer in areas where they need to disturb the existing buffer.

Ms. Ijtsma asked if they will be adding additional employees. Mr. Sciuto said they are a seasonal supplier of leisure products. They have four full time employees and during the summer employ between ten and twelve employees. They have sufficient parking. Ms. Ijtsma asked if there is an area for the employees to get outside and enjoy good weather during lunch hours. Mr. MacGuire said there is a patio area to the rear which is utilized by the employees.

Mr. Granese asked what product was sold by Mutual Sales. Mr. Sciuto passed around catalogues to the Board members. The catalogue contained summer season product such as skim boards,

beach toys, inflatable rafts, towels, etc. He advised he and his wife have lived in Derry for 31 years. His business came to town seven years ago and has grown nicely. They have maxed out the current space and he would like to bring the items he is warehousing in Nashua to Derry so that everything is under one roof. Ms. Davison confirmed they sell wholesale. Mr. Sciuto added that they import and distribute.

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

There was no public comment.

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

Mr. MacEachern felt this was a straightforward plan. VHB has supplied a report and the Board has the documents prepared by Planning staff.

Mr. L'Heureux said Public Works does not see any issues with the plan, nor should the applicant have a hard time complying with the comments in the VHB report.

Motion by MacEachern to accept jurisdiction of the application before the Board for Mutual Sales, 2 Corporate Park Drive, PID 31005-007, seconded by Bartkiewicz.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks, and Granese voted in favor and the motion passed.

Motion by MacEachern to approve the application pursuant to RSA 676:4, I Completed Application with the following conditions: comply with the VHB review, subject to owner's signature, subject to onsite inspection by the Town's Engineer, establish appropriate escrow as required to complete the project, obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-61, conditions precedent shall be met within 6 months; 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. Bartkiewicz seconded the motion.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

NH Land Acquisitions, LLC**Owner: Richard & Sandra Salvo****PID 03104-005 and 03104-005001****37 and 21 Frost Road****Acceptance/Review****Lot Line Adjustment and 3 lot subdivision**

Mr. Sioras provided the following staff report. The purpose of the plan is for a lot line adjustment and three lot subdivision of a parcel located on Frost Road in the Low Medium Density Residential District which has a two acre minimum. All town departments have reviewed and signed the plan. There is a waiver request from the storm drain requirement which will be discussed by Mr. L'Heureux and Mr. Mitchell. NH State Subdivision approval has been obtained and a copy has been placed in the file. Staff would recommend approval of both the waiver and the application.

Eric Mitchell of Eric C. Mitchell and Associates presented for the applicant. Currently two lots are owned by the Salvo family. Map 03, lot 104-005 has the home on 4.26 acres. Lot 104-005001 has 3.6 acres and no home. They propose to move the lot line between the lots to leave the house with a 2.1 acre lot and subdivide the remainder into three lots containing a minimum of two acres each. The lots are located in the Low Medium Density Residential District and meet the frontage and lot sizing for the zone. The lots will be served by individual wells and septic systems. The new homes will have sprinkler systems. They are requesting a waiver from LDCR Section 170-29.J for the cover over the driveway pipe.

Mr. O'Connor noted in the TRC notes there was mention of an MTBE plume in the area. Was the applicant required to do testing? Mr. Mitchell explained the applicant spoke with State; this property is not designated as having a problem. Other lots in the area showed MTBE. The States says the levels are reducing in the area. No occupancy permit will be issued until the wells have been tested and found to be sufficient and free of contaminants. If needed, there are treatment systems available for the wells. Per discussions with the State, the applicant is of the understanding that the problem in the area is getting better rather than worse. Mr. O'Connor asked if the applicant is aware that MTBE funds are available to help mitigate issues. Mr. Mitchell said the applicant, per discussions with the state, does not feel this particular lot will have a problem. That will be confirmed when the wells are drilled.

Mr. MacEachern asked if there are any issues on the lot now. Does the town know if there is a problem there now at the home? He does not want to multiply an existing problem.

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

Danielle Allen, 17 South Range Road, advised she used to live at 35 Frost Road. She had high levels of MTBE at that lot and the State put in a charcoal system. She then moved to 17 South Range Road. The State has tested the well on South Range Road twice and found MTBE at a few parts per billion, which is below the threshold. She has an 850 foot well; the previous well

on Frost Road was 250 feet deep. She now lives on a higher elevation and feels she may be in a different water area. She advised she has no issues with the project but did have several questions. Will the horse barn remain? Mr. Mitchell said the barn is intended to stay. Ms. Allen asked if someone wanted to put a driveway off of South Range, how would they do that. Mr. Mitchell indicated Note 12 on the plan which states that access to the lots is to be off Frost Road and not from South Range Road. They are not proposing access from South Range because the road is narrow and because of the status of the road. They wanted to keep the driveways on Frost Road. Someone could access the rear of their property from South Range, but if they wanted permanent access from South Range they would have to go to the town for permission.

Ms. Allen asked if she could see the driveway profiles. A copy of the full plan set was provided. Mr. Mitchell said the lot is fairly flat and the grades are between 2 and 3%. The driveways are all 1-2% off of Frost Road. Ms. Allen asked if locations for the new homes had been determined. Mr. Mitchell said they had not. Ms. Allen asked if there would be further division of the lots. Mr. Sioras said the lots are at least 2 acres in a 2 acre minimum zone so they can't be further subdivided. The lots in this area used to have 1 acre minimums but the Board changed the acreage requirement several years ago. Ms. Allen asked if there was any idea as to the timeframe to construct the new homes. Mr. Sioras said the house will remain and NH Land Acquisitions intends to purchase the three new lots and construct the homes. Ms. Allen asked if this subdivision is tax positive. Mr. MacEachern said that would depend on the type of home constructed and the number of children.

There was no further public comment.

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

Mr. L'Heureux advised DPW has no issues with the plan. There are small details noted in the KNA report to be addressed but the applicant addressed the comments from Public Works. With regard to the waiver request, they are limited by the flatness of the road and the existing swale. The required amount of cover is not conducive to the surrounding grade.

Motion by MacEachern to accept jurisdiction of the application before the Board for NH Land Acquisitions, LLC, 31 and 27 Frost Road, PID 03104-005 and 03104-005001, seconded by Bartkiewicz.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-29, Storm Drains, to allow a minimum of 2 feet of cover over the proposed driveway culverts where the regulation requires three feet. After review of the waiver request, the Board finds that specific circumstances relating to the plan, or conditions of the land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor. The motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant approval pursuant to RSA 676:4, I, Completed Application with the following conditions: Comply with Keach Nordstrom Associates review, subject to owner's signature, subject to onsite inspection by the Town's Engineer, establish escrow for the setting of bounds or certify the bounds have been set; establish appropriate escrow as required to complete the project, obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24, note approved waiver on the plan, conditions precedent shall be met within 6 months, a \$25.00 check, payable to the Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, and submission of the appropriate recording fees, payable to the Town of Derry. Discussion followed.

Mr. MacEachern asked if Mr. O'Connor needed a condition added with regard to the wells. Mr. O'Connor said that his concern was satisfied because the wells will be tested and it seems the MTBE is getting away from this area.

Chase, Ijtsma, Osborne, O'Connor, MacEachern, Davison, Bartkiewicz, Fairbanks and Granese voted in favor and the motion passed.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:09 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____