

The Planning Board for the Town of Derry held a public meeting on Wednesday, December 02, 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; John O'Connor, Vice Chairman; Michael Fairbanks, Secretary; Mark Osborne, Town Council Representative; Frank Bartkiewicz, Lori Davison, Jim MacEachern (7:02 p.m.), Members; Marc Flattes, Alternate

Absent: Randy Chase, Mirjam Ijtsma

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

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

Mr. Flattes was seated for Ms. Ijtsma.

Escrow

#15-28

Project Name: Wetland Impact Plans – Driveway Crossing

Developer: Yvon Cormier Construction Corporation

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 08280-004, 7 Ashleigh Drive

The request is renew Letter of Credit 121201, in the amount of \$36,573.12 for the above noted project. The expiration date will be December 03, 2016.

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

Mr. MacEachern was seated.

#15-29

Project Name: 70 Fordway – 13 Unit Apartment Building

Developer: 70 Fordway, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 24005, 70 Fordway

The request is to renew Letter of Credit #26281, drawn on Enterprise Bank, in the amount of \$163,642.03 for the above noted project. The expiration date will be December 24, 2016.

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

#15-30

Project Name: Mixed Use Development Site Plan

Developer: American Excavating

Escrow Account: Route 28 Custom LLC

Escrow Type: Letter of Credit

Parcel ID/Location: 03035-001, 230 Rockingham Road

The request is to establish Letter of Credit #22413-A for the above noted project in the amount of \$245,160.43, drawn on Enterprise Bank. The expiration date will be November 05, 2016.

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

#15-31

Project Name: Bunker Estates

Developer: JEMCO Builder and Developer, Inc.

Escrow Account: JEMCO

Escrow Type: Letter of Credit

Parcel ID/Location: 02020-001, 64565 Fordway

The request is to renew Letter of Credit #20001082 for the above noted project in the amount of \$60,122.86. The expiration date will be December 11, 2016.

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

#15-32

Project Name: Martin Gate, LLC
Developer: Same
Escrow Account: Same
Escrow Type: Letter of Credit
Parcel ID/Location: 30047, 1 West Broadway

The request is to renew Letter of Credit #19981 for the above noted project in the amount of \$45,961.34. The expiration date will be December 04, 2016.

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

#15-33

Project Name: Aroma Joe's #27
Developer: Zielfelder Builders, LLC
Escrow Account: Same
Escrow Type: Letter of Credit
Parcel ID/Location: 08274, 13 Manchester Road

The request is to approve the final release of Letter of Credit #200028445 for the above noted project in the amount of \$5,184.00. The amount to retain is zero.

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

Minutes

The Board reviewed the minutes of the November 04, 2015 meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the November 04, 2015 meeting as written. The motion passed with all in favor.

Correspondence

Mr. Fairbanks reviewed the correspondence. The Board has received a memo from Ms. Robidoux with regard to the 2016 Derry Town Survey. The request is to announce the survey at the December meetings and to encourage business owners and residents to take the survey. The survey is available on line at the Town of Derry website, or paper copies are available at the Town Clerk's window. The survey is available between December 1st and December 25th. Mr. Fairbanks advised he took the survey and it only took about five minutes. Mr. O'Connor stated he has also taken the survey. The Board is also in receipt of a letter from GZA

GeoEnvironmental Services, advising that the work associated with the transmission line work between Derry and Chester approved by NHDES' wetland permit has been completed. The Board has also received a handout from NH DES explaining the grants available for the installation of electric charging stations. The Planning Board received a copy of a book titled, *Lead Us Not....The True Story of the First Religious Discrimination Lawsuit in New Hampshire*. The book was sent anonymously to the Board. Mr. Sioras said he glanced through it and it discusses the new trend for unconventional churches and how they should be treated from a zoning perspective. The book covers the case law involving a town in western New Hampshire. The question that comes up is how do towns treat these unconventional churches since they typically are not located in the traditional structures; should they be treated the same as a traditional church with respect to zoning? Mr. Fairbanks said this may potentially become a zoning issue. The last item is a copy of a newsletter from the Rockingham County Soil Conservation District.

Other Business

Mr. Granese thanked the Town Council for moving forward with a request for rehearing on a recent variance approval granted by the Zoning Board of Adjustment to allow multifamily dwellings in an Industrial zone. The Planning Board worked hard on the rezoning and he appreciates the Council taking this step.

Mr. Sioras advised there will be no meeting on December 16, 2015. The next scheduled meeting is January 6, 2016.

Public Hearing

Craig & Snow Bonneau PID 04061, 20 Gulf Road Acceptance/Review, 2 lot subdivision

Mr. Sioras provided the following staff report. The purpose of this plan is for a two lot subdivision located in the Low Density Residential District which has a three acre minimum lot size requirement. There is an existing home on the parcel. One new building lot is being created. A variance was granted by the ZBA on March 5, 2015 to allow the subdivision of the existing property to create a new lot with less than the required frontage and lot width. All town departments have reviewed and signed the plan. There are no waiver requests. State permits are not required.

Robert Balquist of Meisner Brem presented for the applicant. The owner is proposing a two lot subdivision on Gulf Road. The parent lot has 11.7 acres. The intent is to subdivide 5.2 acres with the existing home and leave 6.5 acres for the new house. A variance was granted in March to allow the reduced frontage. He believes the ZBA granted the request as the project would not create congestion or overcrowding in the neighborhood. The Conservation Commission has

walked the site and allowed the Chair to sign the plan. The new home will be 80 feet from the wetland. They do not intend to fill or work within the 75 foot wetland setback. All town departments have signed off on the plan.

Mr. Balquist advised the owner has started work on site. He has cleared trees and done some site work. This work was not supervised by Meisner Brem. The owner is required to construct the new driveway per the plan before the Board. The culvert is to be tied into the existing catch basin and not be open ended at the outlet end.

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

Donald Kirkland, 18 Gulf Road had comments with regard to the work that has been done to date. The culvert that is in place right now will not work for the long term. The owner has placed 6" crushed at the end of the street, but that will fill up with sediment and debris over time and plug the culvert. That happened when they put in 20 Gulf Road. The other issue is the Town spent money to have Gulf Road repaired and rebuilt. The road is in disrepair now and the taxpayers should not pay for repairs. He believes some of the cracking was caused by the unloading of heavy equipment for a development on the other side of the road. Water runs downhill and is tough to manage in the winter.

Kalicharan Durgampudi of 24 Gulf Road has a concern with regard to the vegetation between his property and the proposed new lot. The ZBA required vegetation to be left as a buffer between the proposed new driveway and the Durgampudi property. They have no issues with the proposed subdivision but hope the Planning Board will support the ZBA request to leave the vegetation between the lots. They would like to maintain their existing privacy. From what he can see, the applicant has been adhering to the requirement to date. Mr. O'Connor advised there is a note on the plan with regard to retaining vegetation.

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 came back to the public.

Mr. Balquist spoke with regard to the driveway. The owner is just beginning work now. Mr. Bonneau intends to pave the driveway and will be required to install a 15" culvert that will tie into the existing catch basin. The work that has been done now is temporary. The culvert will have 3 feet of cover and be constructed per the town regulations.

Mr. Fairbanks asked if Mr. L'Heureux was satisfied with the plan. Mr. L'Heureux said he had several discussions with Mr. Balquist and the plan has been modified. He is satisfied. With regard to the disturbance on the property, the owner wanted to initiate tree clearing and needed to put in a temporary, undersized culvert to get the equipment onto the lot. He spoke with Mr. Bonneau on site and Mr. Bonneau understands what he has created is a temporary access and the final construction will need to comply with the regulations and Planning Board approvals. Mr.

Fairbanks asked if the applicant jumped the gun by working on the site before it was approved. Mr. Balquist noted land clearing is allowed without a permit. Mr. L'Heureux said the owner can cut the trees, but cannot stump the property.

Mr. MacEachern asked what was the reasoning behind the ZBA granting a variance for insufficient frontage when the main lot had plenty of frontage. He does not see the hardship other than someone wanted to divide a lot and created one with insufficient frontage. This is a large lot. He is just curious. Mr. Balquist said he believed the variance was granted because there is sufficient area to subdivide to construct two homes without overcrowding, affecting density, or congestion. 20 Gulf Road has the minimum required frontage for the zone and they requested the remainder for the second lot. Mr. MacEachern said he did not feel the applicant met the test, but that is not under this Board's purview. Mr. Balquist said the ZBA was in favor because they could have cut a road in with three homes and the ZBA would rather see one additional home on a 12 foot driveway than a 24' wide road with three homes which would have increased traffic, congestion and density. The driveway is at least 600 feet long.

Mr. Granese asked if there would be underground utilities. Mr. Balquist said that is required by the regulations. Mr. Granese acknowledged the note on the plan with regard to maintaining existing vegetation between the new property and 24 Gulf Road. Mr. Balquist added that there are other notations on the detail sheet as well.

Motion by MacEachern to accept jurisdiction of the 2 lot subdivision application before the Board for Craig & Snow Bonneau, 20 Gulf Road, PID 04061, seconded by Bartkiewicz.

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

Motion by MacEachern to approve, pursuant to RSA 676:4, III, Expedited Review, with the following conditions: 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; conditions precedent shall be met within 6 months; a \$25.00 check, payable to Rockingham County Registry of Deeds shall be submitted with the mylar in accordance with the LCHIP requirements; submission of the appropriate recording fees, payable to the Town of Derry. Bartkiewicz seconded the motion. Discussion followed.

Mr. MacEachern advised since the note regarding retention of existing vegetation along the property line is on the plan; it does not need to be added as a condition of approval.

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

WORKSHOP

Discussion of potential zoning changes to two properties on Lenox Road – residential to commercial

Mr. Sioras advised the two properties under consideration are 4 and 8 Lenox Road. They are located at the corner of Lenox and Crystal, next to Sal's Pizza and across from Walgreens' entrance. The homes face Walgreens driveway. The owners would like to rezone their property from Medium High Density Residential to General Commercial. There is a proposal for a commercial plaza behind these properties that is still in the development stage.

Mr. Fairbanks asked if the residential abutters to these two properties were notified of the workshop this evening. He felt since any changes would affect them as well, they should be notified. Mr. Sioras and Mr. Granese explained the typical process is to receive the request, hold a workshop with notice to the landowners to which the change would apply, and then, if the changes move forward to public hearing, notify the abutters at that point. Mr. Fairbanks felt if the affected land owners were allowed to participate in the workshop, the abutters should be as well. He would like them to have the option to participate if there are any future workshops. Mr. Granese thought that was a good point.

Lori Van Curen, 8 Lenox Road, said she would like to have her property changed. There are plans to build behind her lot and she can foresee the development requiring an exit onto Lenox Road. There are no plans for one now, but she could see the need for it in the future. When Walgreens was constructed, there had been discussions about traffic patterns on Lenox Road. She would like the zone changed prior to someone purchasing her lot in the future. She noted the lights from the Walgreens parking lot shine into her window. Her property is very close to the General Commercial zone.

Mr. MacEachern confirmed the commercial development that is still in the design stage was for 23 Crystal Avenue. Mr. Sioras said the Board may see that site plan in the spring. Ms. Van Curen said she wanted to be proactive and request this change. Mr. Sioras said the original plan called for an exit onto Lenox, but the more recent renditions of the plan do not.

Ms. Van Curen believed half of the Snell's lot is in the Commercial zone. They were unable to attend the meeting this evening. Mr. Flattes asked if the requested change moves forward, where would the zone stop. Will it affect any of the abutting residential rights? Mr. MacEachern said this is why the abutters would be brought in for the public hearing. The next three homes on that side of Lenox may or may not have a problem with the change; the lot behind them is the school lot. If this passed, the person beside Ms. Van Curen would have a commercial lot beside them and a school behind.

Mr. Flattes asked about the lots located across the street, adjacent to Walgreens. Mr. MacEachern said one lot abuts Walgreens' driveway. Mr. Flattes said there are potentially seven properties for which the zone could change. Mr. MacEachern noted for any residential property

that gets changed to General Commercial, the residential use would be pre-existing, non-conforming but the landowners would be able to add onto their homes without requiring a variance. Other changes to the property might require a trip to the Zoning Board. He wanted Ms. Van Curen to know that up front. This change would give Ms. Van Curen an option to have discussions with the owner of the lot behind her and the change would also create a nice square zone line.

Mr. O'Connor agreed the GC zone should be squared off. Within the last year, the Board made a similar change on Folsom Road. After notifying the abutters, he feels it would be a good idea to move forward with the change.

Mr. Sioras noted the commercial lot behind the properties on Lenox is larger than it might appear.

Mr. Granese suggested scheduling another workshop, and asking the other three property owners to attend who own the lots on Lenox. Also, he likes what Mr. Flattes suggested and felt the two landowners next to Walgreens should also be invited. If the zone was extended to those properties, it would create an even cleaner zone line.

Mr. Sioras said the next workshop will be scheduled in January and the other five property owners would be notified.

The Board extended holiday greetings to the public.

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 7:48 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____