

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 15, 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; Charles Foote, Town Council Liaison; Frank Bartkiewicz, Jim MacEachern, Lori Davison, Mirjam Ijtsma; Members; Elizabeth Carver, Mark Connors, Alternates

Absent: Michael Fairbanks; Marc Flattes, Randy Chase

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.

Connors was seated for Fairbanks.

Escrow

#16-20

Project Name: Kendall Pond Apartments

Developer: DJ Development, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 24037, 19 Kendall Pond Road

The request is to establish Letter of Credit #2505311601 in the amount of \$166,775.76, drawn on Merrimack Valley Federal Credit Union for the above noted project. The expiration date is May 31, 2017.

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

Minutes

The Board reviewed the minutes of the June 01, 2016 meeting.

Motion by O'Connor, seconded by Bartkiewicz to approve the minutes of the June 01, 2016 as written. The motion passed with Davison and Ijtsma abstained.

Davison was elevated to Secretary Pro-Temp for the evening.

Correspondence

Ms. Davison advised the Board has been copied on correspondence to Eric Spofford reminding him of the expiration date of his current Letter of Credit.

Other Business

Summer Schedule

Mr. Granese reminded Board members of a change in the summer schedule. The Board will meet on July 6th. The first meeting in August will be held on August 17th.

Lenox Road Rezoning

Mr. Sioras reported the Town Council approved the rezoning at Lenox Road at its last meeting. In addition, the state has approved the expansion of the Economic Revitalization Zone which is adjacent to the rezoned lots.

Mr. Granese expressed his thanks to the Town Council for their approval of the rezoning request.

NH Land Acquisitions – Request to change fire protection

Mr. Sioras advised the Board recently approved a subdivision on Frost Road for three lots (Parcels 03105-005 and 03104-005001). The original plan called for residential sprinklers as the source of fire protection. The Town will be expanding water service to this area in response to the MTBE issue in the area. The water line will run by this property. The developer spoke with the Fire Department. The house will be connected to the town water service by the spring of 2017. Capt. Jackson of the Derry Fire Department has signed an affidavit that states he will allow the fire protection note on the originally approved plan to be amended by the affidavit. The developer will have one year to connect to the town water system or must retrofit the homes with residential sprinklers. If the Board approves this amendment, the affidavit will be recorded.

Motion by O'Connor to accept the Affidavit – Plan Note Change with regard to the subdivision plan approved for NH Land Acquisitions, LLC, on February 03, 2016, recorded at the Rockingham County Registry of Deeds as Plan D-39386, and to have the Affidavit recorded at the Registry. The condition precedent to the approval is that escrow, in the amount of \$5000.00 is established for fire suppression, prior to the issuance of the occupancy permit for any of the affected lots. Bartkiewicz seconded the motion.

MacEachern, Ijtsma, Foote, O'Connor, Connors, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

H & B Homes
PID 03039, 7 Linda Road
Acceptance/Review
2 Lot Subdivision

Mr. Sioras provided the following staff report. The parent parcel is 7 Linda Road, which is located in Derry. The parcels are located at the top of Nathan Road which is a cul-de-sac in Windham. Half of the cul-de-sac is in Windham; half is in Derry. This lot was left to the end while the developer constructed a 115 lot subdivision in Windham. The purpose of this plan is for a two lot subdivision located in the Low Medium Density Residential District, which has a 2 acre minimum lot size. These will be single family homes. A variance was granted to allow less than sufficient road frontage. There is an inter-municipal agreement between Windham and Derry; Windham will take care of winter maintenance. There is one waiver request. All town departments have reviewed and signed the plan. State subdivision approval has been obtained and a copy is in the file. Staff recommends approval.

Joe Maynard, of Benchmark Engineering, presented for the applicant. This is a residual piece of land that was originally 5 acres in size. In 2013, the Board granted a subdivision to separate a piece of land that would become the Nathan Road cul-de-sac, leaving a parcel of 4.5 acres, which they now proposed to subdivide into two parcels. There is an inter-municipal agreement with the Town of Windham who will take care of the winter maintenance. The applicant would like to create two lots. The ZBA granted a variance in March to allow less than sufficient road frontage. When the developer proposed the original subdivision, this lot would have met the frontage requirement. The zoning has since changed in ten years and they no longer meet the frontage requirement at the road, but they do meet it at the 35 foot setback. The state subdivision approval has been obtained. There was a short discussion regarding previous approvals relating to the Windham development.

Mr. O'Connor recalled during the 2013 subdivision discussion for 7 Linda, there had been mention of blasting. Neighbors had raised concerns. Will there be any blasting associated with this subdivision? He would like to protect the neighbors. Also, how will the runoff be mitigated? Mr. Maynard said when they designed the roadway subdivision, they planned the drainage; it all goes into Windham. They reconfigured a portion of the drainage from Derry and put it into the wetland in Windham. This has been working well as far as he knows. The drainage has all been designed and grades to Windham.

Mr. O'Connor asked about blasting. Mr. Maynard said he is unaware of any proposed blasting. If anything needs to be done to create the cellar holes, he believes the developer will use a hammer. Mr. O'Connor confirmed there will be a pre-blast survey if any blasting is to occur. Mr. Maynard noted the Town of Windham has a stringent blasting policy.

Mr. Connors asked if all the lots in this proposed subdivision are in Windham. Mr. Maynard said the entire development is in the Town of Windham, with the exception of these two lots.

These lots are entirely in the Town of Derry. Mr. Connors asked with regard to the addresses for the lots. Mr. Maynard said the address is by the tax card. 7 Linda is the address for the permitting. Once the lots are subdivided they will have an address of 26 and 29 Nathan Road in Derry. The Town of Windham will perform winter maintenance. Derry emergency services (Fire, Police, and Ambulance) will respond to emergency calls. Mr. Sioras explained this is not uncommon; the town does this for lots off Route 121 near Sandown and on Island Pond. Mr. Sioras confirmed children will attend the Derry School District and be provided transportation on the Derry bus, per his conversation with Dr. Nelson.

Mr. L'Heureux further clarified that the Town of Derry will be responsible for repair of the portion of Nathan Road in Derry, and summer maintenance. The Town will need to do a street acceptance for that portion of the cul-de-sac.

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.

Erica Denitto, 25 Nathan Road, asked if the applicant's lots will be cleared; how will it look? The new lots will be located behind their rear property line. Does the Town of Derry impose any tree clearing limits? Mr. Granese explained for a residential application, the town does not impose buffers. He would defer to the builder's representative. Mr. MacEachern said it would be important to know where the new homes would go. The town cannot stop a private land owner from chopping trees on his own property. Mr. Maynard said the lots abut against the back half of Diana Road. He cannot say what the buyer will do. Typically, what is cleared now is what would be cut for the building envelope. They cleared enough to construct three homes. Ms. Denitto said she noted the proposed street address of 29 and 26 Nathan; will there be additional street signs since these lots are in Derry. Mr. Maynard said he could not speak to what the Post Office might require. Those addresses comply with E911 requirements.

Jim Pastore, 2 Diana Road, said it appeared on the plan that the builder could access the lots from Linda Road or through the Town of Windham. He asked if there would be any blasting; that had been mentioned at the last subdivision hearing. Mr. Maynard explained Linda Road, at that point, is unbuildable. Technically, that portion belongs to the Town of Derry. A road could not be put through Linda to these lots. The only access is off Nathan Road. A driveway could not be constructed that meets the required standards to get up that hill. With regard to blasting, most of the blasting has occurred. The only reason they would need to blast would be for the cellar holes, but they have been using a hammer for those as it is less expensive than blasting. Mr. Pastore asked how close would the new homes be to his lot. Mr. Maynard thought about a few hundred feet; the elevation is also 30 feet higher.

David Suchecki, 24 Nathan Road, asked if the size of the homes had been determined. Mr. Maynard advised he is not involved in that part of the process; he does not know. He budgets for a 30 x 60 box for the drainage calculations. Most of the homes constructed in the Town of Windham as part of this project have been 30 x 60. He would suggest that questions of that nature can be directed to Brian Harvey. Mr. MacEachern said based on the footprint, the homes

would be about 3000 square feet in size. Mr. Connors confirmed the Planning Board does not review or comment on the building plans.

Joseph Irvin, 2 Linda Road lives near Mr. Pastore. Will this development affect his lot? Mr. Maynard said all of the work will be done off Nathan Road. Mr. Irvin asked if the work would be any closer to Mr. Pastore. Mr. Maynard said no; it will not affect either lot. They will build at the top of the hill with short driveways off the cul-de-sac. The Town of Derry owns the Linda Road right-of-way and they will not go through at that location at all. There are no plans to go on the slope on Linda.

There was no further 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. L'Heureux stated he had no issue with the waiver request. The applicant addressed all the housekeeping issues raised at TRC.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the 2 lot subdivision application before the Board for H & B Homes, 7 Linda Road, PID 03039.

MacEachern, Ijtsma, Foote, O'Connor, Connors, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from the following section of the LDCR, Section 170-26.A.16.b.iv, Driveway Sight Distance, as after review of the waiver request, the Board finds that specific circumstances relative to the plan, or the condition of land in such plan, indicate the waiver will properly carry out the spirit and intent of the regulations.

MacEachern, Ijtsma, Foote, O'Connor, Connors, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to approve, pursuant to RSA 676:4, III – Expedited Review, with the following conditions: subject to owner's signature, subject to on-site 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; correct the parcel id number for the proposed 26 Nathan Road to 03039-001, 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; submission of the appropriate recording fees, payable to the Town of Derry. Discussion followed.

Mr. Granese asked with regard to the requirement for pre-blast surveys in the event the applicant has to do any blasting. He wanted to make sure the neighbors were covered. Mr. L’Heureux said there are state regulations in place that if blasting occurs, a pre-blast survey needs to be conducted within a certain radius.

MacEachern, Ijtsma, Foote, O’Connor, Connors, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Mr. MacEachern had a request of Mr. L’Heureux. A portion of Linda Road, abutting these two lots, will never be developed. Could DPW make a request to start the process to request removal of the paper street so that the Planning Board could take action? Nothing will ever happen with that portion of Linda Road; there is too much of a hill in that location. Mr. O’Connor noted the two parties on either side of the roadway would need to petition the town. Mr. MacEachern thought the town could make a request; sometimes these requests come from the abutters. That is a very steep hill. The two abutters own the land from the centerline and it would revert back to them.

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 7:33 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____