

The Planning Board for the Town of Derry held a public hearing on Wednesday, July 1, 2009 at 7:00 p.m. at the Derry Municipal Center (3<sup>rd</sup> Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chair; Brian Chirichiello, Council Representative; Randy Chase, Administrative Representative; Phil Picillo, John O'Connor, Paul Hopfgarten, Members

Absent: Virginia Roach, Gary Stenhouse, Jan Choiniere, Maureen Heard, Darrell Park, and Jessica Hodgeman

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk; 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. He introduced the staff and Board members present, and noted the location of emergency exits and agendas.

Mr. Picillo was asked to be Secretary Pro-Temp for the evening.

## **Escrow**

### **#09-19**

**Etz Hayim Synagogue  
Bishop of the Protestant Church  
32062, 1.5 Hood Road**

The request is to approve Release #2 in the amount of \$93,809.59. The amount to be retained is \$8424.00.

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

### **#09-21**

**Derry Retirement Residence  
Harvest Development  
25014-002, 7 Kendall Pond Road**

The request is to approve Release #4 for the above noted project in the amount of \$20,732.00. The amount to retain is zero. This is the final release.

Mrs. Robidoux asked that the amount to be released be corrected to \$20,736.00.

Motion by O'Connor, seconded by Hopfgarten to approve as amended. All voted in favor and the motion passed.

**#09-22****Covey Run (Windsong Meadows)****Covey Run, LLC****31021, North High Street**

The request is to renew Letter of Credit 20001981 in the amount of \$248,823.90. The new expiration date will be June 30, 2010.

Mr. Picillo asked which property? Mr. Sioras advised it is for the half finished town houses on the corner of North High Street.

Motion by Picillo, seconded by Hopfgarten to approve the renewal of the Letter of Credit as noted. The motion passed with Mr. Chirichiello abstained.

**Minutes**

The Board reviewed the minutes of the June 17, 2009 meeting. Mr. Chirichiello noted he attended the meeting as noted in the bulk of the minutes, but would like his name added to those who were present. Mrs. Robidoux asked to correct the spelling of Mr. Park's name.

Motion by Hopfgarten, seconded by Chirichiello to approve the minutes with the changes as noted: to include Mr. Chirichiello in the list of those present and to correct the spelling of Mr. Park's first name to "Darrell". The motion passed in the affirmative with O'Connor and Chase abstained.

**Correspondence**

Mr. Picillo advised LGC has sent a postcard asking members to save the date for the 68<sup>th</sup> annual LGC conference which will be held on November 18-20, 2009 at the Radisson in Manchester.

**Other Business**Schedule public hearing for zoning district changes

Mr. Granese advised the public hearing for the proposed zoning district changes should be held on August 5, 2009. The Board has received a memo from Mr. and Mrs. William Smith dated June 28, 2009, who ask that their property, 161 Rockingham Road, also be rezoned from Medium Density Residential to General Commercial. This is the Rockingham Acres property. The Board did discuss this during the workshop at the last meeting. Mr. Sioras also recalled it had been

discussed and reported Mr. Smith came into the office and asked that his property be considered as well. Since the Board can't spot zone, he recommends including the two parcels to the north as well. All three are located across the street from the proposed change from Office Research and Development to General Commercial. Mr. Picillo confirmed the change should not be for just parcel 03109. Mr. Sioras stated the change should include the two parcels above it, up to the duplex, which currently is noted on the tax map in white. The Board was in agreement to include these changes.

Motion by Picillo to schedule the public hearing for the proposed zoning district changes to August 5, 2009. Chirichiello seconded the motion.

Picillo, Chirichiello, Hopfgarten, Chase, O'Connor and Granese all voted in favor.

Mr. Sioras suggested any abutters to the 38 Maple Street project meet with the engineers while the Board took up other business prior to the public hearing. There were no abutters present for the Tire Warehouse project.

Motion by Hopfgarten, seconded by Chirichiello to enter non-public session, pursuant to RSA 91-A:3, II (e), to meet with legal counsel and to include Mr. Sioras and Mrs. Robidoux in the meeting.

Picillo, Chirichiello, Hopfgarten, Chase, O'Connor and Granese all voted in favor. The Board recessed at 7:10 p.m.

The Board reconvened at 7:32 p.m.

## **Public Hearing**

### **Tire Warehouse**

**Parcel ID 08073-003, 17 Tsienneto Road**

**Acceptance/Review, Final Site Plan Application**

**Tire Warehouse facility**

Mr. Sioras presented the following staff report. This plan was originally unanimously approved by the Planning Board in October, 2006. Work began on the project and there is an existing foundation and some site work completed. The company decided to change the design of the building and has since revised the plan. The revised proposal is for a 5000 square foot retail facility. It is now a one story building and the building design has been improved by adding brick and white siding. All town departments have reviewed and signed the plan. There may be one waiver request for sight distance. He would recommend approval of the plan. He introduced Bob Baskerville of Bedford Design Consultants. Also present was Bob Dabrowski, the owner of Tire Warehouse.

Mr. Baskerville introduced Mr. Dabrowski and Pam LaFleur from the Tire Warehouse marketing department. Mr. Baskerville advised this plan had originally been approved in 2006. The back part of the site has been graded and has a detention pond. They are making minor changes to the building. It will be more 'green' – the tire storage area will not be heated. Utilities have been installed to the building and to the adjacent lot. He has reviewed the letter from Keach-Nordstrom Associates (KNA). The driveway will be changed back to 24 feet wide, and there are no sight distance concerns. KNA had inquired in the comment letter with regard to the storage trailer, which will be used to store used tires. What type of fence will be used? Tire Warehouse is willing to work with the town to decide what type of fence would be best suited for this site. They have made the suggested drainage changes per the KNA review and parking will be in the front. Mr. Baskerville advised he would be happy to answer any questions from the Board.

Mr. Picillo inquired if there was a significant difference between this plan and the plan that was originally approved? Mr. Baskerville responded that originally there was a flat front and the retail area was inside the building. They have extended the retail area, and the tire change area will now be located outdoors under the canopy in six service bays. Mr. Sioras commented there will be more red brick on the façade. Mr. Baskerville stated the front will be all red brick and the siding will be light gray. There will be a green roof, and metal siding to the rear of the building. The canopy is open and will be constructed of the roofing material.

With regard to operations, the tires are removed outside, brought into the tire changing area, and then brought back outside. This facility does not perform alignments.

Mr. O'Connor noted the Fire Department has signed off on this plan and is not requiring a sprinkler system. How many tires will be stored on site in the facility and the trailer? Mr. Dabrowski explained there will be approximately 3,000 tires on site. No tires are stored outside, so there is no danger of water collecting and causing a mosquito issue. Used tires are stored in the trailer. When the trailer is full, they contact an authorized tire recycler to come and remove the trailer and bring an empty one.

Mr. Granese asked what will be the hours of operation? Mr. Dabrowski indicated Monday through Friday, between 8:00 a.m. and 6:00 p.m., and Saturday between 8:00 a.m. and 2 p.m. They are closed on Sunday.

Mr. Chirichiello had questions regarding the trailer storage area. What will be used for the fence material? Would it be visible from Tsienneto Road? Mr. Baskerville said it would be a privacy fence. The trailer may be taller than the fence. What would the town like to see? Mr. Chirichiello did not want to see a chain link fence; it should be a privacy fence so that the trailer is not visible. Mr.

Baskerville asked if this is something that can be worked out? Mr. O'Connor did not think, with regard to maintenance, that a wood privacy fence was the way to go. He suggested a chain link fence with privacy slats with the same color scheme as the building. Mr. Picillo suggested a white vinyl fence.

Mr. Dabrowski explained the trailer is 12 feet tall or higher. It would be hard to put up a fence that would completely block the view of the trailer. Typically, they install a 6 to 8 foot high fence. Bentley is next door and is not likely to be going anywhere soon. He is not sure how he could achieve a 12 foot high privacy fence. Mr. Chirichiello asked if there was room in back for the trailer? Mr. Dabrowski advised the detention pond is there. Mr. Granese had no issues with a chain link fence, provided it had privacy slats and it was maintained.

Mr. Chirichiello asked how many employees will there be? Mr. Dabrowski advised 4; they will work split shifts. Mr. Chirichiello asked if there is enough parking for the employees and customers? Mr. Dabrowski said there is.

There was no public comment and the plan came back to the Board.

Motion by Picillo to accept jurisdiction of the plan, seconded by Chirichiello.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Picillo to approve the site plan for Tire Warehouse pursuant to RSA 676:4, I, Completed Application, subject to the following conditions: Comply with the KNA letter dated July 1, 2009, 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 Doug Rathburn that the GIS disk is received and is operable, the above conditions are to be met within 6 months; a \$25.00 check, payable to RCRD, should be submitted with the mylar in accordance with the LCHIP requirements, the fence design should be chain link, no less than 6 feet in height, with privacy slats. The motion was seconded by Chirichiello.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Mr. Granese noted it was nice to see a new business in the Town of Derry.

**JRV Homes, Inc.**  
**Parcel ID 29117, 38 Maple Street**  
**Acceptance/Final Site Plan Application**  
**6 Unit Condominium**

Mr. Sioras provided the following staff report. Many know this property, which sits on the corner of Maple and North High Street. It is dilapidated and was

recently auctioned. Joe Vachon, the current owner is present this evening. The original site plan was approved in 2006 and granted extensions, but the original developer had financial issues and the plan did not move forward. The purpose of the plan is to replace an existing 7 unit multi-family building with a six unit, 2 bedroom condominium. This parcel is located in the Medium High Density Residential District. All town departments have reviewed and signed the plan with the exception of the Public Works Department. There are several waiver requests; one letter is dated June 16, 2009, the other June 22, 2009. The first letter details the same three waiver requests from the original application, which the Board at the time, unanimously approved. There are no state permits associated with this application. He would recommend approval of the plan. He also recommends approval of the original waivers. The second waiver request is more technical with regard to drainage, but he does support it conditionally, after discussing it with Mike Fowler. The Department of Public Works will work with the engineer on the drainage issue. The developer performs good work, as evidenced by the construction of the townhouses on Elm Street. He feels this project would be a great improvement.

Henry Boyd of Millennium Engineering introduced himself. He represents the applicant, Joe Vachon. Mr. Vachon has recently purchased the property from Butler Bank. Sheet 2 of the plan shows the existing conditions. The current building is located 1 ½ feet off the property line. The proposed plan will move the building back 20 feet. KNA performed a good review of this plan and was very thorough. This plan will bring the site into a more conforming status. Mr. Sioras asked if Mr. Boyd could give the Board a quick overview of the plan and then discuss the waiver requests.

Mr. Boyd advised one of the items KNA requested in the review was a specific lighting plan. During the last approval, this did not require a waiver. They have prepared one for the Board this evening; a copy was retained for the record. Sheet 4 of the plan shows the proposed placement of lights which would be similar to those on Elm Street. They would like to also place the symbols on Sheet 5. Hopefully, that meets the request and the lighting requirements. The most important waiver is for the infiltration unit. There is difficulty in meeting the new regulations. The regulations call for 3 feet of cover over the infiltration chambers, with a 2 inch per minute perc rate. He views that as making some sites impossible to develop. On the north side of this property, the rooftop runoff is directed to two separate chambers. They are proposing a foot of cover with a perc rate of 3 inches per minute. For comparison, the State of New Hampshire allows a perc rate of 30 minutes for a new septic system. He is not sure what the intent was behind the change in the regulation, but feels it is excessive. They are asking for a waiver from this requirement. KNA supports the waiver. If they add an additional 2 feet of cover over the H2O loading, they may need to build a retaining wall to hold the side slope on Maple Street. He feels this adds an unnecessary burden. In addition, adding 2 feet of cover will make it look like a mounded system and be visually distracting. They feel they comply with the

other detention system. They will also reconstruct the existing catch basin. The proposed plan is to have a 12" pipe invert to the basin with a 6" outlet leading to the 15" municipal pipe. They feel this complies because before it enters the municipal system it has a precast structure. For this reason, they do not believe they need a waiver.

Mr. O'Connor inquired if the other catch basins are sand/silt removers, or do they have oil/water separators? Mr. L'Heureux advised the catch basins have separators. Mr. Chirichiello confirmed the drainage from this project leads to Hood Pond.

Mr. O'Connor inquired about the large, old tree in the apex of the property. Will that be removed? Mr. Boyd noted the tree is not indicated on the plan, and is not sure what will happen to it. If they can make it work, the tree could stay. Currently, they are tying everything into grade. Mr. Vachon advised he will consult with a tree expert to see if the tree is worth saving. Mr. O'Connor noted the KNA report asked for directional signs, but Maple Street is not a one way street. Therefore, the applicant may not need to put in those signs.

Mr. Boyd asked for some direction with the KNA comment #6 in regard to Section 170-62.A, which refers to Section 170-26. Mr. L'Heureux explained the plan proposes the approach to the slope on the profile to be over 3% which is required by the regulation. The applicant may want to request a waiver from that requirement, instead of adjusting the cover on the slope. Mr. Boyd handwrote a request, asking for a waiver from Section 170.26.16 and presented it to the Board. It was retained for the record.

Mr. Chirichiello asked if the snow will be taken off site? Mr. Vachon advised that would be up to the condo association. They plan to put the snow in front of the retaining wall. Mr. Chirichiello asked how many parking spaces will be available? It appears as though there are 2 per unit, plus the garage space. Mr. Vachon confirmed, adding that all units will have three spaces total, except for the end unit. Mr. Chirichiello felt there is not much room for visitor parking. Mr. Picillo asked what will the retaining fence look like? Mr. Vachon was open to suggestions. He thought he would meet with Mr. Sioras and Mr. Mackey to discuss that. Did the Board want something decorative? The building will be similar (vinyl) to what was constructed on Elm Street. Mr. Chirichiello asked if the parking will be deeded to each unit? Mr. Vachon said they can put that in. He hopes the neighbors would respect each other's parking spaces. Mr. Picillo asked if there would be mulch to the rear? Mr. Boyd noted that sheet 5 has the landscape plan. Mr. Vachon indicated he will have the snow placed to the side. Trash will go in a dumpster near the snow storage area. Mr. Chirichiello noted Sheet 3 indicates snow storage in the island landscaped area, and does not see snow storage noted as indicated by Mr. Vachon along the retaining wall. Mr. Vachon stated he will have that revised. He did not feel it was appropriate to

place snow on the plantings. The existing shed will be removed and the trash will be fenced on all three sides with a gate.

Mr. Chirichiello asked if lighting will spill to the abutters? Mr. Vachon said he plans to place lights at the front doors, post lights near the walk way, at the garage doors, at the sliders to the decks and a few, higher up, to light the parking area. Mr. Picillo asked if there will be sidewalks? Mr. Boyd indicated the plan proposed to construct a sidewalk on Maple Street, but there is bituminous curbing on High Street. They plan to repair the curb, but not install sidewalk in that location.

Mr. Granese opened the floor to the public.

Al Dimmock, an abutter, thanked the Board. He asked if the Board wanted the large tree removed or kept on the plan? In the winter, the tree could become dangerous. It is a hazard and could damage Maple Street if it came down in a storm. He feels it should be removed. The neighbors are hoping it will be removed. He asks the Board to help the applicant complete the project. This property has been a thorn in the side of the neighborhood for years. Even tearing the building down will be a service to the Town of Derry.

There was no other public comment and the plan returned to the Board.

Mr. Picillo noted the tree may have to be removed; it is possible the existing root system will interfere with the proposed drainage. Mr. Vachon indicated he had intended to remove it, unless the Board asks him to keep it on the property. There was discussion back and forth regarding the merits of retaining the tree or removing it. The Board agreed the tree may need to be removed.

Motion by Picillo to accept jurisdiction of the JRV Homes plan, Parcel ID 29117, 38 Maple Street, seconded by Hopfgarten.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Picillo to grant a waiver from Section 170-63.A.2, which requires all onsite parking spaces, service or delivery aisles, interior drives, aisles and vehicular access ways to be set back a minimum of 10 feet from all side and rear property lines. The waiver is to allow for a minimum rear parking setback of 7 feet.

Motion by Picillo to grant a waiver from Section 170-67.B.1, which requires all solid waste storage areas shall be situated and, where necessary, screened in order to conform to the requirements of Section 170-64.D (1) of these regulations and to be located a minimum of 25 feet from any boundary line of a site. The waiver is to allow for a minimum solid waste storage area setback of 14 feet.



Motion by Picillo to grant a waiver from Section 170-64.B.1, which requires a street tree strip, 15 feet in width, running parallel to the frontage of any nonresidential or multifamily residential property be provided. The waiver is to allow for a minimum of 4 street trees. The three motions were seconded by O'Connor.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Picillo to grant a waiver from Section 170-67A, Exterior Lighting Provisions, which require all non-residential and multi-family residential site design plans presented to the Planning Board for approval include a lighting plan which provides for a method and level of lighting appropriate for the proposed use or uses as determined by the Planning Board. All such lighting plans shall, as a minimum, identify the location, number, height, type and intensity of all exterior lighting fixtures to be installed. The waiver is to allow for current sheets 4 and 5 of 9 to meet the requirement of the Lighting Plan. Sheet 4 shows the locations of proposed lights and sheet 5 shows proposed intensity. The motion was seconded by Chirichiello. The Board added the condition that the pole lights to be located on the stairs on High Street will be depicted on Sheet 5.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Picillo to approve a waiver from Section 170-26.16 requiring a minimum of 3% maximum on the first 10 feet of the driveway, where the plan shows 3.62%, seconded by Chirichiello.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Picillo to approve a waiver from Section 170-65.L, Infiltration System. He read the section verbatim. The waiver request is to allow for the current infiltration design to remain. At the time of the design the system was in accordance with town regulations and generally accepted engineering practices. Not allowing the waiver request would require complete redesign of the entire site drainage to eliminate the infiltration and may make the proposed project infeasible. The motion was seconded by Chirichiello.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Picillo, seconded by Chirichiello to approve the site plan for JRV Homes, 38 Maple Street, with the following conditions: comply with the KNA report dated July 1, 2009; address comments as discussed with the Public Works Department on the drainage system, 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; note approved waivers on the plan; that the above conditions be met within six months, a \$25.00 check, payable to RCRD should be submitted with the mylar in accordance with the LCHIP requirement; snow storage area should be changed on the plan to the area indicated by the applicant; a profile of the retaining wall shall be provided for the file; a drainage report is to be submitted and is subject to review by KNA and Mike Fowler.

Picillo, Chirichiello, Hopfgarten, O'Connor, Chase and Granese all voted in favor.

Motion by Chirichiello, seconded by Picillo to adjourn. The motion passed in favor and the meeting stood adjourned at 8:26 p.m.

Minutes prepared by Elizabeth Robidoux, Planning Clerk.