

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 7, 2010, 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, Member; Jan Choiniere, Member; Randy Chase, Administrative Representative; Brian Chirichiello, Town Council Representative; John O'Connor, Member; Maureen Heard, Member; Jim MacEachern, Member, David McPherson, Member; Frank Bartkiewicz, Darrell Park, Alternates

Absent: Gary Stenhouse

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk

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, agendas and other materials.

### **Election of Officers**

Mr. Granese opened the floor to nominations.

Motion by Choiniere to nominate Granese as Chair, seconded by Heard.

Motion by McPherson to nominate O'Connor as Chair, seconded by MacEachern.

There were no other nominations for Chairman.

Chirichiello abstained from the vote. McPherson, MacEachern, and O'Connor voted for O'Connor. Heard, Chase, Choiniere and Granese voted for Granese. Granese was elected Chair by a vote of 4-3-1.

Motion by Granese to nominate O'Connor as Vice Chair, seconded by MacEachern.

There were no other nominations for Vice Chairman.

Chirichiello abstained from the vote. McPherson, Heard, MacEachern, Chase, O'Connor, Choiniere and Granese all voted in favor. O'Connor was elected Vice Chair by a vote of 7-0-1.

Motion by MacEachern to nominate Choiniere as Secretary, seconded by O'Connor.

There were no other nominations for Secretary.

Chirichiello abstained from the vote. McPherson, Heard, MacEachern, Chase, O'Connor, Choiniere and Granese all voted in favor. Choiniere was elected Secretary by a vote of 7-0-1.

### **Review of By-Laws**

The Board reviewed the Town of Derry Planning Board Policy and Procedures, effective May 6, 2009.

Mrs. Choiniere inquired if Section III regarding vacancies included alternates? Mr. MacEachern believed that was covered in the Derry Charter or by the State RSAs. Mr. Granese noted that there was still an alternate vacancy on this Board and the deadline to file for that position has been extended by Town Council to April 23<sup>rd</sup>.

Mr. MacEachern added Town Council solicits openings and appoints alternates. It is their prerogative to fill vacancies on all Boards. Mrs. Heard asked if anything should be added to this section? Mr. O'Connor felt it was covered under the definition of "membership" that was described in the section above and it would not be necessary to add anything at this time.

There was no other discussion.

Motion by McPherson to accept the Town of Derry Planning Board Policy and Procedures as printed, seconded by Choiniere. All voted in favor and the motion passed.

### **Escrow**

**10-09**

**Project name: Brandy Rock Estates**

**Developer: GRD Realty**

**Escrow Account: GRD Realty**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 04056, 04056-001, 04056-002, 04054-001, Gulf Road**

The request is to release Letter of Credit # 5185125-A, Salem Co-operative Bank, in the amount of \$12,303.84. The amount to retain is zero. This is the final release.

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

**10-10****Project Name: Pinkerton Freshman Building****Developer: Pinkerton Academy****Escrow Account: Pinkerton Academy****Escrow Type: Cash Escrow****Parcel ID/Location: 43001, 22 North Main Street**

The request is to establish cash escrow in the amount of \$10,368.00 for the above noted project.

Motion by Heard, seconded by Choiniere to approve as presented. Discussion followed.

Mr. MacEachern asked if the ten thousand dollars covered the whole new building? Mr. Sioras advised it covers inspection fees only. Mr. MacEachern asked why was the entire project not included? Mr. Sioras advised the unit price is determined by the Department of Public Works. He did not want to speak for that department but believes that they came to an agreement, since Pinkerton is our high school, that they would only escrow inspection fees at this time. Mr. MacEachern felt this project was too important not to escrow the entire project. He asked why the other components of the project were not escrowed at this time? Mr. Sioras suggested that Mr. L'Heureux could provide more information at the next meeting; there had been some discussion with regard to phasing construction. Mr. MacEachern said he was concerned that he is only seeing \$9000.00 when this is a multi-million dollar building. He would like to hold off on this item until there is a more complete escrow package. Mr. McPherson stated he felt the same as Mr. MacEachern. He wants to make sure the Board is not approving a blanket escrow for a 20 million dollar project. Who has the authority to set the escrow fees? Does the applicant come before this Board to ask for a waiver of the set fees? Mr. Sioras advised the pricing comes from DPW. This can be discussed at the next meeting and the Board can be provided with an explanation. Mr. McPherson said he did not want to delay construction of the project. Mr. Chirichiello noted that the town typically holds escrows on private developers to ensure completion of the project. He does not see any issue as this is Pinkerton Academy. Mr. MacEachern felt the rules were the rules. Mr. Sioras advised there has been a pre-construction meeting already and preliminary work has begun on the site. Mr. MacEachern said no work should begin on a site until escrow is established. Mr. Granese advised the Board can vote on this, or retract the motion and discuss this item at the next meeting. Mr. Sioras said he could speak with Public Works. Mr. O'Connor asked if the town has ever split escrow fees before? Mr. Sioras explained that in some instances it has been done on a project, for example, the cistern is escrowed separately, but he does not recall many.

Heard retracted her motion. Choiniere retracted her second and the motion died.

Mrs. Heard stated she removed her motion to ensure that the procedure remains consistent, even though this is for Pinkerton. Mrs. Choiniere agreed.

Motion by MacEachern, seconded by McPherson to table this item to the next agenda and request an explanation from DPW with regard to the escrow fee. All voted in favor and the motion passed.

**10-11**

**Project name: Firewood and Landscape Storage**

**Developer: Paul George**

**Escrow Account: Paul George**

**Escrow Type: Cash Escrow**

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

The request is to approve the release of \$5961.60 for the above noted project. The amount to retain is \$13,089.60.

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

**10-12**

**Project name: Floyd Road**

**Developer: Paul George**

**Escrow Account: Paul George**

**Escrow type: Cash Escrow**

**Parcel ID/Location: 06065, 65 Floyd Road**

The request is to approve the release of \$10,956.38 for the above noted project. The amount to retain is \$1,905.12.

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

**Minutes**

The Board reviewed the minutes of March 24, 2010 meeting.

Motion by O'Connor, seconded by Choiniere to accept the minutes of the March 24, 2010 meeting as written. The motion passed in the affirmative with Heard, MacEachern and McPherson abstained.

**Correspondence**

Mrs. Choiniere advised the Board is in receipt of a copy of a memo from Mike Fowler to the Highway Safety Committee regarding the status of the Kilrea Road/Route 28/Windham Depot Road intersection. She read the memo aloud. It advises that

NHDOT has conducted its preliminary survey of the intersection and has arrived at a conceptual plan. The project still qualifies for HSIP funding. NHDOT will host a public information meeting on April 28 and conduct a Public Hearing in the fall of 2010. The project requires some right of way acquisitions and the project is tentatively scheduled to begin in 2012.

The Board has also received a notice of the 2010 Local Government Center workshop for local officials. For information on the workshop, members should see Mr. Sioras.

Mr. MacEachern and Mr. O'Connor asked with regard to the update on the Route 28 improvements. It is known where the public meeting will be on April 28? Mr. Sioras did not know, but would obtain that information and provide it at the next meeting. He agreed this is a major project and will be beneficial.

### **Other Business**

Mr. Sioras advised the Derry Downtown Civic Profile will be held on Saturday, April 24<sup>th</sup> in the 3<sup>rd</sup> Floor meeting room, between 8:00 a.m. and 1:00 p.m. Michele Gagne from UNH Cooperative Extension will facilitate. The intent is to continue the revitalization of the downtown. He asked that anyone planning to attend, please RSVP to the Planning Office.

Mr. Granese welcomed the new members to the Board and thanked Virginia Roach for her years of service to the Board. Mrs. Choiniere added her thanks as well.

### Request to extend approval – FPA Office

Mr. Sioras advised the FPA Office site is located between CLM, The Goddard School and Merrimack Tile. The owners are in the process of obtaining funding for the project and wish additional time to meet the conditions of approval. This is the first request to extend the approval.

Motion by Choiniere to grant the request to extend the approval for an additional six months, noting this is the first request to extend the approval. The motion was seconded by O'Connor. All voted in favor and the motion passed.

### Request to rezone properties in area of North Main Street

Mr. Sioras advised a citizen has requested rezoning of three properties on North Main Street. One of the properties is the old Derry Village Store. The owner asked that the Board look at three properties and rezone them to commercial. Traditionally, the Board schedules a request of this type to a future workshop date and invites the individual property owners to the workshop to discuss it. It is currently zoned residential. The

property has been a convenience store and predates zoning. Recently, the owner was denied a change in use to add a Laundromat by the Zoning Board and has opted to request this zoning change.

Mr. O'Connor asked if the Board received a letter from the other two landowners? The Board has not. Mr. Chase recalled a variance had been granted approximately four years ago for the old Derry Village Store to be turned into a restaurant. When that did not prove successful, another variance was obtained to turn it back into a convenience store. It is still operating under a variance. The variance was not granted for a Laundromat. Mr. McPherson noted the request to rezone came from the owner of 14 North Main Street. Did the owners of 12 North Main Street and 10 North Main sign this request? Is it within the jurisdiction of the Board to change their zoning? Mr. Sioras stated there cannot be spot zoning. He assumed the owner of 14 North Main Street took it upon himself to request the change. When the Board looks at zoning changes, the Board invites the owners of the affected parcels. They can be notified of the workshop by certified mail. Mrs. Choiniere noted that in his email to the Planning Office, Mr. Shah states that he spoke with his *neighbor* not *neighbors*. Mr. O'Connor stated he drove by there today and there is a historic plaque on one of the buildings noting the location of the Daughters of the American Revolution - 1832. Across the street, there is the Matthew Thornton House. This is similar to the Robert Frost Farm area rezoning request.

Mr. Sioras explained that when the Planning Office receives calls requesting this type of change, staff does not encourage or discourage landowners from making the request. Staff advises of the procedure. He agreed that the DAR property could be historic. Mr. McPherson said he sat on the Board when the convenience store was changed to a restaurant. He hopes the Board includes the neighboring properties as it moves forward with discussion. He does not know how many times this property should be changed back and forth. Mr. Sioras noted that is a unique neighborhood; he is not sure it should be General Commercial. Mr. MacEachern stated there cannot be spot zoning, but there is an historical building involved. Maybe if the Board wants to do something, the Board needs to change the zone from the traffic circle all the way up to Pinkerton. Does it involve both sides of the street? He thinks the Board should hear it to see if people in the neighborhood even want this change. Mr. Sioras said that is the purpose of the workshop.

Motion by MacEachern to schedule a workshop on this rezoning request, seconded by Choiniere. The motion passed with all in favor.

Mr. Granese asked the Board if they wanted to set a date for the workshop? Mr. Sioras advised he would look at the schedule, most likely it will be in May.

#### Water's Edge Salon & Spa – Review of Sign

Mr. Sioras advised that this concerns the site plan approved by the Board for Shelly Devlin, at 128 East Broadway, located across the street from golf course at the rotary.

One of the conditions of approval was that the Planning Board review the sign design. Chris Nickerson, engineer for the applicant advised that since the March 17<sup>th</sup> meeting, he has revised the plan according to the Board's comments. They have changed from an internally illuminated sign to an external illumination, utilizing two, 50 watt halogen fixtures on either side of the sign. Details are provided on the plan provided to the Board. They have also decreased the height of the sign. There is a one foot base that denotes the location as 128 East Broadway, a 2 foot high reader board for the applicant to advertise and make note of charity work, and a 3 foot high by six foot wide top that shows the name of the salon. The plan was reviewed with Bob Mackey, the Code Enforcement Officer, who feels it meets the requirements. Mr. Nickerson read the memo from Mr. Mackey to Mr. Sioras into the record. Board members also had a copy of the memo. Mr. Nickerson concluded by stating he hoped the Board approved this sign plan. His client is anxious to get going on the project.

Mrs. Choiniere commented this design will look much nicer and thanked Mr. Nickerson.

Motion by O'Connor to accept the sign design as presented, seconded by Choiniere. The motion passed with MacEachern abstained.

## **Public Hearing**

### **Heather Asadoorian PID 32115-001, 19 Boyd Road Acceptance/Review, 2 Lot Subdivision**

Mr. Sioras provided the following staff report. The property is located at 19 Boyd Road in the Medium High Density Residential District. Minimum lot sizing in that zone is 10,000 square feet with public water and sewer. The applicant is proposing one new house lot. The existing home is located on the corner of Boyd and Lenox. All department heads have signed the plan and the outside engineer has reviewed the plan. There are no waiver requests of state approvals required. There are some technical issues with the plan, but he would recommend approval.

Martin Finch of Meisner-Brem Corp., represented the applicant. Mr. Finch advised the application has gone through the Technical Review Committee and they have made the applicable changes to the plan. There are some independent review comments which seem typical and are relatively minor with regard to some mistakes, notes and the erosion issue that can be addressed by silt fence and additional details on the plan. The remaining comments do not seem to require a significant change in the design of the plan.

The intent is to subdivide and construct a 24 x 36 new home with water and sewer. Some abutters had some issues as Boyd Road is a one way street and people park on the side of the road which causes an issue for the long term residents. He suggests

that signage for no parking on the street might be a deterrent. The proposed plan has adequate parking for the new home in the driveway and should not require parking on the street. He feels they can address the Jones and Beach issues in a timely manner and requests approval this evening with the condition that Jones and Beach approves the revisions to the plan.

The Board had no questions at this time and Mr. Granese opened the floor to the public.

Mark Hodgkins, 20 Boyd Road advised their concern is that the road is narrow and is a one way street. The existing resident at 19 Boyd Road parks on the street and it is difficult to enter and exit their driveway, which is located directly across the street. This plan now puts two driveways directly across from their driveway. Can the new driveway be moved or can parking on the street be restricted? That would benefit them. They have lived in this home for 25 years. The current resident now parks one car in the driveway and one outside. Mr. Hodgkins reported he needs to drive on the sidewalk sometimes to get out of his driveway. The two driveways will make this situation worse. No on street parking would help, or moving the driveway.

Mr. Granese advised that unfortunately, on street parking is not the purview of this Board, but the Board will take the driveway comments into consideration as they review the plan. Mr. Finch stated he understood Mr. Hodgkins' issue. To move the driveway and home is a minor issue and will give Mr. Hodgkins an extra 10 feet. They can move the driveway over without creating a major design change.

Mr. MacEachern asked if there was an opportunity to flip the whole thing so that two driveways are not across from each other? He did not feel moving the driveway 10 feet helped much. If the house was flipped, it would put the home closer to that abutting neighbor, but would move the driveway. Mr. Finch said there had been some thought to that during the design phase of the plan and it would put the driveway on the right side of the house rather than the left. The concern is with the slope issues on the right. The slope of the driveway would be an issue. Mr. MacEachern said he understood the slope is steep, but he did not feel flipping the house would be as much of an issue for the slope, especially with a garage under.

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

Motion by Choiniere to close the public hearing, seconded by McPherson. The motion passed.
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Mr. Granese asked if Mr. Finch was willing to do what Mr. MacEachern suggested? Mr. Finch said he would need to consult with his client. So long as the change did not detrimentally affect the lot, it is possible. If the driveway is moved, the plan will undergo independent review again and the engineer can approve it. That could be a condition of approval. He did not feel it was an efficient use of time to bring an entire new plan showing that change back to the Board. Mr. MacEachern disagreed and felt that Mr. Finch needed to come back. He stated three driveways to one is not good, nor is two



driveways to one. These roads are very narrow. Regarding the road parking; that issue should go to the Highway Safety Committee.

Mr. Granese asked how long it would take Mr. Finch to revise the plan? Mr. Finch thought the plan could be revised and reviewed by Jones and Beach by the next meeting. Mr. Granese noted if the Board accepts the plan this evening, the 65 day clock starts. Was that acceptable? Mr. MacEachern suggested not accepting jurisdiction. Mr. Finch thought it would be better to just revise the plan.

Mr. Chase had a question with regard to the erosion control. Has it been put in place? Mr. Finch was not certain. He did see that as a comment on the review, and if it is not in place, it should be. He noted that his office did not give his client to the go ahead to start construction. Mr. Chase suggested Mr. Finch advise his client that they don't move forward without erosion control in place. Mr. O'Connor stated he went by this lot and the silt fence has been installed to prevent further erosion into the storm drain. He recommended that someone look at the catch basin drain and see what has gone into it.

Mr. Granese asked the Board what would they like to do with this plan? Mr. Sioras suggested accepting jurisdiction of the plan.

Motion by Choiniere to accept jurisdiction of the subdivision plan for 19 Boyd Road, seconded by O'Connor. All voted in favor and the motion passed.

Motion by MacEachern to table the plan to April 21, 2010, seconded by Chirichiello. Discussion followed.

Mr. MacEachern stated the purpose of tabling the plan is to revise the plan to move the new home and driveway from the left side of the lot to the right.

All voted in favor and the motion passed.

There was no further business before the Board

Motion by Choiniere, seconded by Heard to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:52 p.m.