

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 16, 2010, at 7:00 p.m. at the Derry Municipal Center (3rd Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice-Chair; Jan Choiniere, Secretary; Randy Chase, Administrative Representative; Maureen Heard, Member; Jim MacEachern, Member; Frank Bartkiewicz, Alternate

Absent: Gary Stenhouse, David McPherson, Darrell Park, Brian Chirichiello

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.

Mr. Bartkiewicz was seated for Mr. McPherson.

Escrow

#10-18

Project name: Firewood & 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 Release #3 in the amount of \$2,592.00 for the above noted project. The amount to retain is \$1,969.92.

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

#10-19

Project Name: 38 Maple Street Condos

Developer: JRV Homes

Escrow Account: JRV Homes, Inc.

Escrow Type: Letter of Credit

Parcel ID/Location: 29119, 38 Maple Street

The request is to approve Release #1 for the above noted project in the amount of \$75,556.80 for the above noted project (Letter of Credit #5543249525-2/River Bank.) The amount to retain is \$70,625.52.

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

#10-20

Project name: Water's Edge Salon & Spa
Developer: Shelly Devlin
Escrow Account: Water's Edge Salon & Spa
Escrow Type: Letter of Credit
Parcel ID/Location: 37010, 128 East Broadway

The request is to approve Release #2 in the amount of \$24,975.22 for the above noted project (Letter of Credit #19799/Enterprise Bank). The amount to retain is \$1,710.72.

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

#10-21

Project Name: Covey Run (Windsong Meadows)
Developer: Cover Run, LLC
Escrow Account: Letter of Credit
Parcel ID/Location: 31021, North High Street

The request is to approve the renewal of Letter of Credit 20001981 (TD Bank NA) in the amount of \$248,823.90. The new expiration date will be June 30, 2011.

Mr. MacEachern asked if this was the first extension. Mr. Sioras explained this is a renewal of the Letter of Credit, not an extension. The Letter of Credit needs to be renewed as the project is not completed. Mrs. Choiniere asked if there was an estimate on how long it will take to complete the project? There was a short discussion regarding the project. Mr. Sioras advised it is normal procedure to renew the Letter of Credit while the project is under construction. The town does not want to call the Letter of Credit. This is not an extension of site plan approval, just an extension of the Letter of Credit to cover the construction costs. He confirmed that the applicant does not need an extension in the site plan approval, because this plan has met all the conditions of approval, including the establishment of escrow. This is just a renewal of the Letter of Credit.

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

#10-22**Project Name: Woods of Derry II****Developer: Edward Cooper/Mark Cooper****Escrow Account: Woods of Derry II****Escrow Type: Letter of Credit****Parcel ID/Location: 03119, Lawrence & Stark Road**

The request is to approve Letter of Credit #1227B (Bank of New England) in the amount of \$25,239.60, which was approved by the Board on December 2, 2009 (Escrow #09-38). The Letter of Credit replaces Letter of Credit #1227A.

Mr. MacEachern asked why the amount had been cut from \$57,574.80. Mr. Sioras explained the Board approved a release in December. This new Letter of Credit covers the new, reduced amount. Mr. MacEachern asked if there had been a miscalculation? Mrs. Robidoux stated work has been done and DPW reduced the amount down to the \$25,239.60. Mr. MacEachern asked why is there a new Letter of Credit? This is just a reduction and normally, the bank issues a new Letter of Credit. This is a step the Board does not need. Mrs. Robidoux advised the Board approved the reduction. Information was sent to the bank so that we could get a new Letter of Credit. The Bank did not send one to us at that time. They have finally sent one, six months later, so the town needs to do the paperwork for it. Mr. MacEachern said, we started at \$57,574.80, did the work, approved a reduction, so now why did they reissue a Letter of Credit? The original Letter of Credit is still valid and after the reduction, the next thing the Board should see is a request to release the remaining \$25,000.00. Mrs. Robidoux said that normally, the original Letter of Credit, if reduced, is reissued in the new, reduced amount. These are like checks in the amounts indicated. As we reduce them, we need to return the originals because we can't hold onto \$75,000.00. They [the bank] reissue the Letter of Credit in the new amount. This is unusual. Normally, the Board does not make a motion on this. But because of the length of time, Finance has asked that we make a motion, and the Bank has also changed the Letter of Credit number from A to B, so we need to accept it as a new Letter of Credit.

Mr. O'Connor recalled a new procedure had been put into place after the Board dealt with the Letter of Credit from Butler Bank. Mr. Sioras advised Finance has asked that the Board approve the new Letter of Credit. Mr. O'Connor asked that in the future, the cover sheet reflect that. Mr. MacEachern asked why do they need to revote? The Board has never done this before. There has to be another reason other than the reduction. Unless something expired, or the bank changed, the Board should not have to do this. Mrs. Robidoux said it is a new Letter of Credit number. This is housekeeping. Mr. Sioras explained that Finance, rightly so, wants the Board to accept the new Letter of Credit in the reduced amount. Mr. Granese remarked he would have liked to have seen a memo from Finance explaining this. Mrs. Robidoux said she has an email from Finance that she can forward to the Board members. Mr. Granese stated the bottom line is the Letter of Credit is for \$25,239.60, it is what is owed and this clears up the paperwork.

Mrs. Heard spoke regarding the process. Anything that is out of the ordinary should have an additional staff report attached explaining why it is being handled differently. It would make her feel safer and make sure that the Board handled the process correctly.

Motion by MacEachern to approve as presented with the condition that a letter is supplied by Finance indicating the original escrow of \$57,574.80 has had a payment of \$32,335.20, resulting in the reduced amount of \$25,239.60. It was noted an updated escrow sheet did not need to be provided. Mr. Sioras reiterated the Board has already approved the reduction from the original amount. Mr. Bartkiewicz seconded the motion. All voted in favor.

Minutes

The Board reviewed the minutes of May 19, 2010, meeting.

Motion by MacEachern, seconded by Heard to accept the minutes of the May 19, 2010, meeting. The motion passed in the affirmative.

Correspondence

Mrs. Choiniere advised the Board is in receipt of a Notice from the New Hampshire Division of Parks and Resources and Economic Development, that the Robert Frost Farm is seeing a grant for improvements to the Farm House. Posting the notice is part of the grant process. Lewis Builders has provided information on the status of the excavation project located on Warner Hill Road. There is a new edition of *Town and City*. For more information, please contact Mr. Sioras. The Board has also received an email from a citizen who did not provide a last name, expressing his opinion of Walmart.

Other Business

Workshop

Mr. Sioras advised the Board will be holding a workshop next week beginning at 7:00 p.m. The next meeting will then be on July 7th. Town Council approved the rezoning in the area of Wilson Avenue.

Public Hearing**Public Service Company of New Hampshire****Scenic Road Public Hearing****To review a proposal for the trimming and removal of trees on English Range and Stark Roads.**

This hearing is conducted pursuant to RSA 231:158.

Mr. Sioras provided the following staff report. David Crane from PSNH is present this evening to answer questions. Every two to three years, PSNH works on the roads in Derry. English Range and Stark Roads are still designated scenic, and therefore, approval by the Planning Board is required before they can perform any trimming or cutting on those roads. The work is being done town wide and the areas are shown on the map provided.

David Crane, Arborist with PSNH advised this proposal is part of PSNH's annual maintenance program. They perform power line tree trimming on a four to five year cycle. This year, a large amount of the trimming of trees will be done in the Town of Derry. Both scenic roads were trimmed in 2006. The specifications have not changed. They will remove limbs and brush that are 4 inches or less in diameter that are within 8 feet to the sides of the power lines, 15 feet above and 10 feet below the lines. They take into consideration anticipated growth over the next four to five years and allow room for the trees to grow back into the space without interfering with the lines during all seasons. Larger trees are judged on a case by case basis, depending on the health of the tree and its proximity to the power line. A customer has asked them to remove one maple tree on English Range Road because the proposed trimming would leave the tree misshaped. On Stark Road, a customer asked them to remove trees on his property that are healthy, but they interfere with his sight distance. They have spoken with almost all of the customers on Stark Road and are just beginning customer contacts on English Range Road. They have asked their contractor (Asplundh) to contact each landowner in person or by mail before cutting any trees on individual properties. They have two people in town full time, working on customer contact.

Mr. Granese asked if they don't hear back from the landowner, how long do they wait? Mr. Crane advised if they don't hear back from the landowner within 45 days, the state deems that consent under the statute. PSNH would be more conservative and not do removal without contact. Asplundh asks for signed consent before removing any trees.

Mr. O'Connor asked if the distance of the trimming is 8 feet from the poles? Mr. Crane said the 8 foot distance is from the wires. The circumference is found in the state statute for scenic roads. Smaller than 15 centimeters in circumference (about 5 inches) is considered brush, and they don't need to come before the Board. But they do have dead limbs to remove and healthy limbs to trim. Mr. O'Connor asked if the easement is on the poles or on private property? Mr. Crane said the easements are normally on private property. Sometimes they have easements, sometimes they do not. Regarding

the roadside lines, they have a license to erect lines and maintain them within the Town's easement. Mr. O'Connor asked if a stone wall were to fall because of the trimming, would they put it back? Mr. Crane said they would. Mr. Granese asked if PNSH obtains written consent when the customer asks for removal of a healthy tree, or uses the verbal agreement? Mr. Crane said PSNH does not obtain written consent, although it is a good policy to obtain it; they use the verbal agreement. Asplundh obtains written consent. When asked about the ice storm, Mr. Crane said that created as many problems as it solved as it took away and weakened otherwise healthy trees.

There was no public comment.

Motion by MacEachern to approve the request by PSNH to trim and remove trees on English Range Road and Stark Road, seconded by Choiniere.

MacEachern, Heard, O'Connor, Chase, Bartkiewicz, Choiniere and Granese all voted in favor and the motion passed.

**Thomas Weber and Fredrick Weber, Jr.
PID 14008, 14008-001, 14007, 28 By-Pass and Wayne Drive
Acceptance/Review, Lot Line Adjustment**

Mr. Sioras provided the following staff report. The property is located on By-Pass 28. The purpose is a Lot Line Adjustment between parcels 14008, 14008-001 and 14007. The properties are located adjacent to the mobile home park. There will be no new construction. No department signatures are required for a Lot Line Adjustment, and no waivers have been requested. He recommends approval of the lot line adjustment. He introduced James Lavelle, of James Lavelle Associates, representing the applicants.

Mr. Lavelle advised the Weber's own two lots, one totaling 2.4 acres, the other is the mobile home park which is 24 acres, plus or minus. The Smerdon's own the corner lot. The Smerdon's are now selling their property. Mr. Lavelle performed a survey of the Smerdon's existing property lines. One touches a unit in the park, his LP tank is located off his lot, and there is a telephone pole in the rear of the lot that services the park.

After the lot line change the Smerdon property will remain one acre as before, and there will be a change of 100th of an acre between the 2.4 acre and 24 acre properties. The intent is to keep the land straight. He understands the need for new deeds for the parcels if this is approved.

Mr. MacEachern thought this seemed pretty straight forward and cleans up the lot lines.

There was no public comment.

Mrs. Choiniere asked if signatures were required? Mr. Lavelle advised owner signatures are on the plan.

Motion by MacEachern to accept jurisdiction, seconded by Bartkiewicz. Discussion followed.

Mr. O'Connor asked if the existing shed would meet the setback requirements if this is approved? Mr. Lavelle said it can be moved if necessary.

The motion passed with all in favor.

Motion by MacEachern to approve a lot line adjustment for Thomas and Frederick Weber and Charles and Marilyn Smerdon, on parcels 14008, 14008-001, 14007, 28 By-Pass and Wayne Road {parcel id numbers corrected to reflect the accurate parcel numbers}, subject to the following conditions: owner's signature, establish escrow for the setting of bounds or certify the bounds have been set, include parcel ID numbers in the title block, obtain written approval from Doug Rathburn that the GIS disk is received and is operable, that the above conditions be met within 6 months and a \$25.00 check, payable to RCRD is submitted with the mylar in accordance with the LCHIP requirement. Choiniere seconded the motion.

MacEachern, Heard, O'Connor, Chase, Bartkiewicz, Choiniere and Granese all voted in favor and the motion passed.

First Stark Road Properties, LLC

PID 03119-007, Lawrence & Stark Road

Acceptance/Review, 2 lot subdivision for the John Stark Monument Relocation

Mr. Sioras provided the following staff report. The property is located on the corner of Stark and Lawrence Roads. The purpose of this plan is to subdivide off the existing John Stark Monument easement area on parcel 03119-007 and create a separate parcel for the monument only, which will be on Parcel 03119-007001. The Planning Board approved this subdivision plan in August 2008, with the relocation of the monument to its current location as an easement. The monument has since been moved to this location. The lot will be conveyed to the Molly Reid Chapter of the National Society of the D.A.R. The Zoning Board granted a variance on February 4, 2010 to allow for the subdivision, creating an undersized lot for the monument location. All town departments have signed the plan. There are no waivers requested. He would recommend approval of this subdivision plan.

Todd Connors, Sublime Civil Consultants, presented for the applicant's surveyor, Tim Peloquin, who was unable to attend this evening. He advised the area was to be an easement, but the DAR would prefer to have a fee simple lot. The Zoning Board approved the creation of an undersized lot. The stone wall borders the lot, which is commonly known as the "sheep hold". The new lot will be 3909 square feet. The remaining lot, 03119-007, will be reduced to 2.36 acres, which still meets the

requirement of the zone. There is frontage for the new lot on both Lawrence and Stark Roads. The monument is located close to the intersection of these roads.

There was no public comment.

Motion by MacEachern to accept jurisdiction of the plan pursuant to RSA 676:4, III, Expedited Review, seconded by Choiniere.

MacEachern, Heard, O'Connor, Chase, Bartkiewicz, Choiniere and Granese all voted in favor and the motion passed.

Motion by MacEachern to approve, with the following conditions: subject to owner's signature, establish escrow for the setting of bounds, or certify the bounds have been set, obtain written approval from Doug Rathburn the GIS disk is received and is operable, the above conditions are to be met within 6 months and a \$25.00 check, payable to RCRD is submitted with the mylar in accordance with the LCHIP requirements. Bartkiewicz seconded the motion.

MacEachern, Heard, O'Connor, Chase, Bartkiewicz, Choiniere and Granese all voted in favor and the motion passed.

There was no further business before the Board.

Motion by MacEachern to adjourn, seconded by Choiniere. The motion passed with all in favor and the meeting stood adjourned at 7:40 p.m.