

The Planning Board for the Town of Derry held a public meeting on Wednesday, July 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, Chairman; John O'Connor, Vice Chair; Brian Chirichiello, Town Council Representative; Randy Chase, Administrative Representative; Frank Bartkiewicz, Alternate.

Absent: Gary Stenhouse, David McPherson, Darrell Park, Jan Choiniere, Maureen Heard, Jim MacEachern

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, agendas and other materials.

Mr. Bartkiewicz was seated for Mrs. Heard and was elevated to Secretary Pro-Temp for the evening.

## **Escrow**

**10-24**

**Project name: Asadoorian Subdivision**

**Developer: Pace**

**Escrow Account: Nicole Pace**

**Escrow Type: Cash Escrow**

**Parcel ID/Location: 32115, 19 Boyd Road**

The request is to establish cash escrow in the amount of \$18,636.48 for the above noted project.

Motion by O'Connor, seconded by Chirichiello to approve as presented. The motion passed with all in favor.
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## **Minutes**

The Board reviewed the minutes of June 16, 2010, meeting.

Motion by O'Connor seconded by Bartkiewicz to accept the minutes of the June 16, 2010, meeting. The motion passed in the affirmative with Chirichiello abstained.
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The Board reviewed the minutes of June 23, 2010, workshop.

Motion by O'Connor seconded by Bartkiewicz to accept the minutes of the June 16, 2010, meeting. The motion passed in the affirmative with Chirichiello and Chase abstained.

## **Correspondence**

None.

## **Other Business**

Mr. Granese commented the opening of the Farmer's Market appeared to be a huge success today. The Market runs each Wednesday, through October 13, between the hours of 3:00 and 7:00 p.m. It is held in the Pocket Park. He thought the organizers did a good job with this program.

Abutters to the Harvest Road plan were invited to meet with the Surveyor prior to the public hearing to view the plan. There were no abutters present for the Tsienneto Road plan.

Mr. Granese advised the Board will meet on July 21<sup>st</sup> and will hold a Design Review Hearing for the Walmart site plan. This is an introduction to the project and an opportunity for the applicant to gain input on the project.

### Lewis Builders – Excavation Permit

Mr. Sioras advised that Lewis Builders had previously obtained permission to operate an excavation pit on Warner Hill Road. They have notified the Planning Board that they have no intention at this time to excavate from that site. The Board had issued an excavation permit in July of 2008. They have requested a release of the escrow held for the project. In order to do that, the Board needs to terminate the permit and then release the escrow. He would suggest any motion to terminate the permit include a condition that if the applicant wants to excavate from that site, they will need to come back before the Board for approval to restart the process.

Mr. O'Connor recalled that there had been discussion during the approval process with regard to protecting the road from deterioration and that is part of the escrow amount. He asked if any fees were due the town? There are none.

Motion by O'Connor to terminate the Excavation Permit granted on July 16, 2008, effective immediately, with the condition that if the applicant wishes to reconsider excavation from this site, the applicant shall apply for another permit pursuant to Article

XI, Earth Removal Regulations, in the Derry Zoning Ordinance. This is for Lewis Builders, Excavation and Restoration Plan, for Parcel 07075, located on Warner Hill Road. The motion was seconded by Chase.

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

**Escrow #10-23****Project name: Excavation and Site Restoration Plan****Developer: Lewis Builders****Escrow Account: Lewis Builders****Escrow Type: Cash Escrow****Parcel ID/Location: 07075, Warner Hill Road**

Motion by O'Connor, seconded by Bartkiewicz to release cash escrow in the amount of \$133,598.16, plus accumulated interest for the above noted project. This is the final release and the amount to retain is zero.

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

**Rezoning Request for 14 North Main Street**

Mr. Sioras advised the Board had received a request to rezone the old Derry Village Store site as well as two other properties. The Board had decided not to move forward with this request to change the lot to General Commercial. This has been a grocery store for over 50 years and has a variance to operate as such. The Board did not want to rezone the lots given the potential impacts to the neighborhood.

Motion by O'Connor to place discussion of the rezoning request for 14 North Main Street on the table, seconded by Bartkiewicz. All voted in favor and the motion passed.

Mr. O'Connor moved to review the rezoning of 14 North Main Street, seconded by Chirichiello. Discussion followed.

Mr. O'Connor commented the Board has reviewed this request and held a workshop on it. The affected property owners were not in attendance, nor did the Board receive any indication from the other two property owners that they were in favor of this request individually.

Chirichiello, O'Connor, Chase, Bartkiewicz and Granese all voted no, citing the reasons stated by Mr. O'Connor. The motion failed.

Creation of General Commercial III zone and rezoning in area of the Robert Frost Farm

Mr. Granese advised the Board had planned to schedule a public hearing for these items. However, in light of information received by the Board today regarding the draft General Commercial III zone, the Board will review the information and discuss it at a workshop on July 21<sup>st</sup>.

Motion by Chirichiello, seconded by Bartkiewicz to move the matter to a workshop on July 21, 2010. All voted in favor and the motion passed.

**Public Hearing****Two Tsienneto Road Realty, Inc.  
PID 08079-001, 6 Tsienneto Road  
Acceptance/Review, Site Plan, Parking Lot Expansion**

Mr. Sioras provided the following staff report. The project is located at the Overlook Medical Center, which was approved a few years ago. They are requesting an expansion of the parking lot, adding an additional 24 spaces. All departments have reviewed the plan and provided signatures. There are no waivers requested. The applicant has obtained the NHDES wetland permit and Alternation of Terrain Permit. He would recommend approval of the site plan application. He suggested letting the engineers work out the issues identified in the Jones & Beach review. He is sure they can be satisfactorily addressed.

Todd Connors, Sublime Civil Consultants, represented the applicant. Overlook Medical Center is located at 6 Tsienneto Road. This lot is located in the General Commercial II zone. The current facility is an 80,000± square foot medical/office building. Currently, there are 350 parking spaces. The intent of the plan is to add 24 parking spaces behind the building. Currently, parking becomes tight at peak hours. They will add an additional 12 spaces on each side of an aisle. They will relocate an existing treatment swale, which was constructed as part of the original project. The original treatment swale will be filled and relocated as per the approved wetland permit. They will extend electrical service for one light pole to illuminate this area. There are no changes or expansion of use at the facility. Essentially, this will alleviate some growing pains.

Of note, is that the project will use permeable pavement for the surface of the 24 parking spaces. The stormwater will run through the permeable asphalt onto a crushed stone base. This will decrease stormwater runoff and is one of the stormwater treatment options preferred by DES. This method does require extra maintenance, which will be performed by building maintenance at the existing facility. They will need to set up a schedule to vacuum sweep the area two to four times per year to remove sand particles. This type of pavement is not sanded or salted, just plowed.

Mr. Connors reported his office met with the Conservation Commission which liked the idea of a trial at this location. He also advised he received a copy of the engineering review letter and will comply. He disagrees with about half of the comments as they have to do more with style than best engineering practices or regulations. He feels he can meet with the consulting engineer to address the comments.

Mr. Granese asked if the Board had any questions?

Mr. O'Connor asked if Mr. Connors had experience with permeable pavement? He has not; this is their first application. Mr. O'Connor asked if there was any research available that proved this was a viable application for the northeast? Mr. Connors explained that UNH Durham has an active trial on at least a dozen different styles of treatment at the Storm Center. They have a parking lot that is half porous and half impermeable pavement. They developed the specification to be used in New Hampshire, and DES has adopted those specifications, which will be used in this application. Mr. O'Connor asked if DES has specifications in place? Mr. Connors said that DES revised the regulations for the Alteration of Terrain permit which covers erosion control and drainage design. The design guidelines adopted the UNH specifications.

Mr. O'Connor asked with regard to the periodical inspections to be performed during storm events and the vacuuming – who inspects and keeps record of the inspections? Mr. Connors said that in writing the new regulations, DES missed the enforcement aspect with regard to reporting. There is no requirement in the state permit to submit inspection logs. However, as part of their application to DES, they prepared an inspection manual and attendant forms which have been provided to the landowner. The expectation is that the landowner will follow it. DPW also had concerns regarding the porous pavement. Sublime prepared the drainage design so that the new treatment swale will handle the runoff if the permeable pavement fails, so there is a back up in place.

Mr. O'Connor inquired if the oil/water separator is upstream? Mr. Connors advised it is located in the catch basin. The new area pitches to the center and directs the water to the catch basin. Mr. O'Connor had a question regarding J&B's comment #16. Will this be discussed with J&B? Mr. Connors stated he had no issue with this comment and will address it by noting "repair/replace crushed pipe", which is appropriate there.

There were no questions or comments from the public and the plan came back to the Board.

Motion by O'Connor to accept jurisdiction, seconded by Bartkiewicz.

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

Motion by O'Connor to approve the site plan for a parking lot expansion for Two Tsienneto Road Realty, LLC, Parcel 08079-001, 6 Tsienneto Road, pursuant to RSA

676:4,I, Completed Application, subject to the following conditions: comply with the Jones and Beach report dated July 6, 2010; any differences will be ironed out with the agreement of George Sioras and the Code Enforcement Officer; subject to owner's signature; subject to onsite inspection by the town's engineer; establish appropriate escrow as required to complete the project; obtain written approval from Doug Rathburn that the GIS disk is received and is operable, and that the above conditions be met within 6 months. Chirichiello seconded the motion. Discussion followed.

Mr. Chase inquired with regard to Note 23. Will a conditional use permit be required? Mr. Sioras advised one will not. He had spoken with the Code Enforcement Officer and his interpretation of this area is that it is not a wetland and therefore does not require a conditional use permit. Mr. Granese noted questions of this type would fall under condition number one.

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

**Hampstead Road & Harvest Drive, LLC  
PID 10015, 10024 and 10025, Hampstead Road  
Acceptance/Review, Subdivision Drainage Improvements**

Mr. Sioras provided the following staff report. The purpose of this plan is for subdivision drainage improvements. The original subdivision plan was approved by the Planning Board in 2006. A new builder has purchased the development. The drainage improvements reflect the new requirements from the NHDES Alteration of Terrain regulations and new site-specific requirements per the new permit. Town department signatures are not required for this application, and there are no waiver requests. The NHDES Alteration of Terrain permit has been obtained and is part of the file. He would recommend approval of the drainage improvement plan. The changes to the plan only reflect drainage improvements. There are no changes to the layout or the lots. The subdivision is already recorded. The changes will improve the drainage in the subdivision and the Keach-Nordstrom report supports that.

Mike Malynowski, of The Dubay Group, Inc., and Tim Peloquin of Promised Land Survey represented the applicant, Robert MacCormack, who was also present.

Mr. Peloquin provided the following overview. Mr. Mead owned this property previously and let the site specific permit lapse. The permit requirements changed in January of 2007 to the Alteration of Terrain permit, which enacted a complete change of analysis for erosion control. The new owner falls under the new Alteration of Terrain permit requirements. The consultants were hired to prepare for the permit. The owner has a reputable road builder on board and the owner wants to make progress on the plan. In order to do that, he needed to renew the Alteration of Terrain permit. Mr. Peloquin explained the colored plan provided to the Board. The green areas show the new detention basins and swales to be constructed as part of the AOT approval process. The original plans were redesigned and the applicant obtained the AOT. This plan is

considered a betterment over the prior approved drainage plan. They had though they could go administratively to the Board, but the town felt this needed to be brought to public hearing. Mr. MacCormack desires to build the road as soon as possible and intends to clean up the mess out there. There were previous wetland violations and he has cleaned up those areas, and good work has begun on the project.

The Planning Board approved the original subdivision in 2005. In 2007, the Planning Board approved a phasing plan for the project. DES has acknowledged that Phase I can be constructed under the requirements of the old permit, but Phase II was pending upon these drainage improvements.

Mr. Granese advised David Donovan, an abutter, had submitted a letter outlining his concerns with this application. The Board members all had a copy. Mr. Donovan was unable to be present this evening. Mr. Granese asked Mr. Peloquin if all of the property bounds are accurately marked? Mr. Peloquin confirmed they were and if Mr. Donovan had issues or questions, he would be happy to work with him. He added that during his on site verification of the bounds he did not note any obliteration of property corners or erosion problems. The previous developer did not obliterate any corners.

Mr. Malynowski advised he was aware of Mr. Donovan's concerns with regard to drainage into the wetland located on his property. As part of the permit process, they calculated a one year, two year, ten year and 50 year storm. Today, he also ran a 100 year storm model and there is no increase in pre construction versus post construction runoff onto Mr. Donovan's property. He explained that they went through the new AOT criteria, which holds to a higher level than the old site specific requirements. The previous rules required little mitigation and actually allowed a slight increase in off site stormwater runoff. The new regulations allow a zero increase in pre versus post runoff, so the creation of the detention ponds was necessary for this phase of the project. This plan is providing nine times better drainage than what was previously approved.

Mr. Peloquin advised that Steve Keach commented on that as well, and sees the new drainage as a betterment. Mr. Keach has also offered to meet with the abutter to help him feel more comfortable with the drainage design.

Mr. Granese asked with regard to the phasing of construction. Mr. Peloquin said Phase II will be constructed as permitted. The developer will construct Phase I and plans to construct a significant portion of Phase II this year.

Mr. O'Connor asked if Phase I is completed, will it affect flows to Mr. Donovan's property? It will not.

There was no public comment or input, other than one abutter in the audience stating questions had been answered by the engineer prior to the hearing, and the plan returned back to the Board.

Mr. Peloquin advised Mr. MacCormack will hold conversations with one abutter who is located at the end of the cul-de-sac regarding the construction sequence of the emergency access lane, as it will affect that landowner.

Motion by O'Connor to accept jurisdiction of the plan, seconded by Bartkiewicz.

Chirichiello, O'Connor, Chase, Bartkiewicz and Granese voted in favor.

Motion by O'Connor to approve pursuant to RSA 676:4,I, Completed Application, the subdivision drainage plan review for Hampstead Road & Harvest Drive, LLC, located at parcels 10015, 10025 and 10024, Hampstead Road, subject to the following conditions: Comply with the KNA report dated July 6, 2010, subject to owner's signature, subject to an onsite inspection by the town's engineer, establish appropriate escrow as required to complete the project, 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 requirements. The motion was seconded by Bartkiewicz.

The Board confirmed the plan will be recorded as there are easements involved.

Mr. Granese acknowledged the Board received the email from Mr. Donovan and staff responded appropriately by contacting the engineers and surveyors involved. He believes all of Mr. Donovan's concerns and issues were addressed.

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

There was no further business before the Board.

Motion by Bartkiewicz, seconded by Chase to adjourn. The motion passed in the affirmative and the meeting stood adjourned at 7:44 p.m.