

The Planning Board for the Town of Derry held a public meeting on Wednesday, January 19, 2011, 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; John Anderson, Town Administrator (7:27 p.m.); Randy Chase, Administrative Representative; Brian Chirichiello, Town Council Liaison; Darrell Park, Jim MacEachern (7:07 p.m.), Members; Frank Bartkiewicz, Alternate

Absent: Jan Choiniere, Anne Arsenault

Also present: George Sioras, Planning Director; 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. Bartkiewicz was seated for Mrs. Heard.

Escrow

#11-03

Project Name: 39 Maple Street Condos

Developer: JRV Homes

Escrow Account: JRV Homes, Inc.

Escrow Type: Letter of Credit/River Bank

Parcel/Location: PID 29117, 39 Maple Street

The request is to approve Release #3 in the amount of \$18,306.00 and request a replacement Letter of Credit for the above noted project in the amount of \$10,150.27. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit in the amount of \$28,456.27.

Mr. O'Connor noted the excellent job the developer has done with this site; he wanted to publicly commend him.

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

#11-04**Project Name: Hampstead Road and Harvest Drive (Harvest Estates)****Developer: Robert MacCormack****Escrow Account: Hampstead Road and Harvest Drive****Escrow Type: Letter of Credit/Enterprise Bank****Parcel ID/Location: PID 10115, 10024, 10025, Hampstead Road and Harvest Drive**

The request is to approve Release #2 in the amount of \$250,338.99 and request a replacement Letter of Credit for the above noted project in the amount of \$740,725.56. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit in the amount of \$991,064.55.

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

#11-05**Project Name: Topsy Piper (bounds)****Developer: Topsy Piper****Escrow Account: Topsy Piper****Escrow Type: Cash Escrow****Parcel ID/Location: PID 08276-001**

The request is to approve the final release of cash escrow in the amount of \$650.00, plus accumulated interest for this project. Review of the approved and recorded plan show the bounds were set on April 25, 2006. The amount to retain is zero.

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

Mr. MacEachern was now present.

#11-06**Project Name: AEC Office/Garage****Developer: American Excavating****Escrow Account: Seven Hill Development****Escrow Type: Letter of Credit****Parcel ID/Location: PID 31013, 5 Madden Road and PID 31011, 15 Madden Road**

The request is to approve the renewal of Letter of Credit #5520513070,2, drawn on People's United Bank in the amount of \$22,137.51 for the above noted project. The new expiration date will be December 23, 2013. Project status update is as follows: applicant advises they do not plan to construct Building #3 until the status of the proposed Exit 4A is clarified. If Exit 4A is constructed, it will require the razing of buildings #2 and 3.

The Board asked if Finance had signed off on the credit worthiness of People's United Bank? Finance has not. The applicant was in the audience if the Board had questions.

Motion by MacEachern to approve as presented conditioned upon Finance approving the credit worthiness of People's United Bank. O'Connor seconded the motion. The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the January 5, 2011, meeting.

Motion by O'Connor seconded by Bartkiewicz to accept the minutes of the January 5, 2011, meeting as written. The motion passed in the affirmative with Chirichiello and MacEachern abstained.

Correspondence

Mr. Granese reported the Board has received an updated copy of the Change in Use applications. The Board is in receipt of a Notice for Public hearing from NH DOT that will be held on January 26, 2011, at the Derry Municipal Center, 3rd Floor, to discuss the proposed upgrade to the intersection at Route 28 and Kilrea Road. The hearing will begin at 7:00 p.m. The proposed plans will be available one half hour prior to the hearing for the public to view. The Board is also in receipt of a copy of a reminder letter to JRV Homes, advising the Letter of Credit for the project is due to expire on February 26, 2011.

Other Business

SNHPC Representative Update

Mr. Sioras advised that at the last meeting, the Board discussed the town's representation at Southern New Hampshire Planning Commission (SNHPC). Some of the Commissioners have not been attending meetings. David Preece asked if there were any new people interested. Per the RSA, Derry has 5 members: 4 full members and one alternate. Mr. Chirichiello is the alternate. Dave Gomez is a member and the other three members, Jack Dowd, Beverly Ferrante and Joel Olbricht have resigned. The Board asked last week if any Planning Board members were interested in becoming Commissioners. A notice can be placed on Channel 17 through Mrs. Bodenrader to see if there is any public interest. The Commissioners meet once a month on the 4th Tuesday of the month, between 12:00 and 1:30 p.m. It is a working lunch meeting. Mr. Park and Mr. Bartkiewicz both expressed interest in being

nominated. Mr. Sioras advised the Planning Board nominates candidates to the Town Council which votes to appoint the Commissioners. All of the positions expire in 2012.

Motion by MacEachern to nominate Darrell Park and Frank Bartkiewicz to the Town Council for consideration as Commissioners to the Southern New Hampshire Planning Commission. O'Connor seconded the motion. Discussion followed.

Mr. MacEachern inquired if Mr. Chirichiello would like to be considered as a member or remain as an alternate? Mr. Chirichiello advised he would prefer to remain as an alternate.

Motion amended by MacEachern to include a public notice shall be placed to inquire as to public interest for the third opening. The amendment was seconded by O'Connor.

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

Schedule Public Hearing for Fee Update

Mr. Sioras advised the Board reviewed the proposed fee update at the workshop and gave its stamp of approval. Staff would like to schedule the public hearing for February 16, 2011. All the discussed changes are incorporated.

Motion by MacEachern, seconded by O'Connor to schedule the public hearing to discuss the proposed fee increased on February 16, 2011.

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

Subdivision and Site Plan Construction Monitoring Procedures and Checklist

Mr. Sioras advised the Board reviewed this document at the workshop. The changes discussed have been incorporated into the workbook. If approved, the changes take effect immediately.

Mr. L'Heureux stated the construction monitoring workbook was discussed at the last meeting. It is used in the course of setting up pre construction agendas and the town has been using this all along. He would like to incorporate it into the Appendix of the LDCR so that all of the information is in one place. Mr. MacEachern asked if the procedures outlined in the workbook were the normal procedures that Mr. L'Heureux followed? He did not want to add extra layers of bureaucracy. Mr. L'Heureux stated he has used this through the years. It has been updated to add descriptions of the types of inspections developers can expect in the field. There is nothing that is unusual in the document and the procedures mirror those used on town managed projects.

Mr. Sioras advised a vote of the Board approves the document. It will be contained in the Appendix of the LDCR so does not require a public hearing; it needs to be approved at a public meeting.

Motion by O'Connor, seconded by Park to accept the Subdivision and Site Plan Construction Monitoring Procedures and Checklist, dated January 2011.

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

Development Project Security Workbook (Escrow Workbook)

Mr. Sioras advised this workbook was mentioned at the last meeting. Mr. Carrier, Mr. L'Heureux, Mrs. Robidoux and Mrs. Mobsby have been working on the revisions with input from the Treasurer. A meeting was held last week with Finance and Rita Correia, the Treasurer, was in attendance. This workbook outlines the internal procedures to be followed for escrow. Mr. Park inquired if the new hourly rate for inspections included in this document reflects the discussions at the last meeting? It does. It was noted there was an attached sheet with several recommended amendments to the draft the Board had in front of it this evening. Mrs. Robidoux advised they were recommended changes that had not made it into the draft the Board was viewing. [Draft and proposed amendments are attached to the minutes.]

Motion by MacEachern, seconded by Bartkiewicz to approve the Development Project Security Workbook revised January 19, 2011, along with the additions provided at the meeting this evening that contain amendments to pages 5, 11, 4, 13 and 9.

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

Mr. Granese thanked everyone for their work on this document.

Public Hearing

Bruce Radford and Jackie Radford
03152, 19 Kilrea Road
Acceptance/Review, 3 Lot Subdivision
Continued from December 15, 2010

Mr. Sioras provided the following staff report. The Board saw this plan a month ago. It was continued to address many items identified in the Jones and Beach review letter. A letter from Lavelle Associates dated December 29, 2010 is attached to the member packets. He would recommend the Board continue this plan and conduct a site walk to address the issue and concerns of the Public Works Department regarding the culvert and drainage issues. Also, it would be beneficial to see this portion of Kilrea Road

during the winter time to see the snow/ice buildup that has occurred in the vicinity of the parcel in the past.

Jim Lavelle of James Lavelle Associates, provided a brief review of the project. This subdivision is intended to settle the Radford estate. The proposal is to subdivide the existing lot into three, 15+ acre lots. There is an issue with the driveways and this is why the applicant is also asking for a site walk. There were 45 items in the first review letter dated December 8, 2010. They responded to Jones and Beach on December 29. Jones and Beach reviewed the plan and provided a second review letter dated January 12, 2011. There is only one item remaining to address on the plans and that is the driveway sight distance on Sheet 5. They changed the numbering and Jones and Beach did ask if the existing driveway met current town regulations for sight distance and if the Board would ask for that driveway to be removed. It does not meet sight distance regulations. That is why they want the Board to hold a site walk. They hope that by holding the site walk the Board can decide with regard to the driveway and if it needs to be removed or not. It has been in existence since the 1800's and there have been no known accidents at this location. This is an historic home and the driveway is located between the home and the barn; there is a mirror set up across the street that aides them in entering and leaving the home. The existing driveway is necessary for their use. The proposed driveway to the west meets the regulations.

Mr. Anderson was now present.

Mr. Lavelle advised Jackie Radford would plow the lower driveway for the site walk; the one for the house is already plowed. Mr. Sioras noted the plan was incomplete at the last meeting and the Board did not take jurisdiction. He would recommend the application be considered complete this evening, a site walk scheduled and the plan continued. Mr. MacEachern had a concern for the 65 day clock if the application was accepted this evening. It was noted if the applicant agrees to the continuance, it will stop the clock. Mr. MacEachern asked if the Board continued this hearing would Mr. Lavelle have time to address and comments from the site walk before the next meeting? Mr. Lavelle said he did not feel he would have a problem with turnaround time.

Mr. Granese confirmed Mr. Lavelle addressed the 45 comments from Jones and Beach. Did Mr. Lavelle address the comments from Public Works? Mr. Lavelle said those comments were relative to the driveway. He addressed the comments of the TRC. He pointed out Note 9. He advised that his memo requesting a waiver speaks to the driveway issue. It was suggested that they extend a culvert. They have chosen to give two, thirty foot easements at the end of the culvert to the Town. That is now shown on the plan.

Mr. L'Heureux advised he has not reviewed the plan modifications or discussed them. The major points in his memo dated December 9 are that the driveway should not be shared. Each lot should have its own individual driveway. The Board will need to vote on that. He is not aware of additional information regarding the sight distance and there has not been an agreement with regard to the culvert.

Motion by MacEachern to close the public hearing, seconded by Bartkiewicz. Discussion followed.

Mr. Granese asked if anyone from the public would like to speak on this matter? There was no public input.

The Board voted in favor to close the public hearing.

Motion by MacEachern, given the fact the applicant has no issue with the 65 day clock, he would move the Board take jurisdiction of the 3 lot subdivision plan prepared for Bruce Radford and Jackie Radford, PID 03152, 19 Kilrea Road. Bartkiewicz second the motion.

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

Motion by MacEachern to continue to a date certain to allow for a site walk to be held on Saturday, February 5, 2011, at 10:00 a.m. The public hearing will be continued to February 16, 2011. Park seconded the motion.

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

The property owner will allow the site walk and Mr. Lavelle advised the lower driveway would be plowed for the site walk so that the Board can view it.

**T-Mobile (Janice Burke, Owner)
05007, 133 Rockingham Road**

Consideration of revocation of Site Plan approval granted on April 18, 2007 to allow the construction of a telecommunication tower. Proceedings are pursuant to RSA 676:4-a.

Mr. Sioras provided the following staff report. The purpose of the is plan is to revoke the approval of the site plan granted by the Planning Board on April 18, 2007 to allow the construction of a 120-foot cell tower at 133 Rockingham Road. The Planning Board put conditions on that approval that were not met by the applicant. Also, T-Mobile put the construction of the tower on hold and eventually installed antennas on an existing SBA tower located on Warner Hill Road. T-Mobile has subsequently had their variance nullified by the Zoning Board and has approval for a new tower on Lawrence Road at the radio station, WDER towers' location. To make it clean, the Planning Board should revoke the original site plan approval from 2007 and release the established escrow monies. T-Mobile is in agreement.

Motion by Anderson to open the public hearing, seconded by MacEachern. Public hearing was opened.

There was no public comment.

Motion by O'Connor, seconded by Park to close the public hearing. The motion passed in favor and the hearing closed.

Motion by Anderson, pursuant to RSA 676:4-a, applicant request, the Derry Planning Board moves to revoke the site plan approval granted on April 18, 2007, for the construction of a 120-foot telecommunication tower at 133 Rockingham Road. Bartkiewicz seconded the motion.

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

Mr. Granese appointed Mr. Park as Secretary Pro-Temp for the evening.

#11-01

Project Name: Omnipoint Communications (T-Mobile)

Developer: Omnipoint Communications (T-Mobile)

Escrow Account: Omnipoint Communications

Escrow Type: Cash Escrow

Parcel ID/Location: 05007, 133 Rockingham Road

Request is to approve the final release of cash escrow in the amount of \$8,968.32, plus accumulated interest. The site plan approval has been revoked at the request of the applicant. The amount to retain is zero.

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

#11-02

Project Name: Omnipoint Communications (T-Mobile)

Developer: Omnipoint Communications (T-Mobile)

Escrow Account: Omnipoint Communications

Escrow Type: Surety Bond Certificate

Parcel ID/Location: 05007, 133 Rockingham Road

The request is to approve the release of the removal bond in the amount of \$25,000.00 for the above noted project. The site plan approval has been revoked at the request of the applicant.

It was noted this is a surety bond, not cash.

Motion by O'Connor to approve as requested with an amendment made to Escrow #11-01 and 11-02 indicating the revocation is at the request of the applicant and by approval of the Derry Planning Board. Park seconded the motion.

The motion passed with all in favor.

There was no further business before the Board.

Motion by MacEachern, seconded by Anderson to adjourn. The motion passed and the meeting stood adjourned at 7:41 p.m.