

The Planning Board for the Town of Derry held a public meeting on Monday, October 24, 2011, at 7:00 p.m. at the Derry Municipal Center (Cable TV room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman, John O'Connor, Vice Chair; Frank Bartkiewicz, Secretary; John P. Anderson, Town Administrator (7:10 p.m.); David Milz, Town Council Representative; Darrell Park, Jan Choiniere, Members; Ann Marie Alongi, Michael Fairbanks, Alternates

Absent: Randy Chase, Anne Arsenault; Jim MacEachern

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Clerk; Bob Mackey, Code Enforcement Officer

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 the exits and meeting materials.

Mr. Fairbanks was seated for Mr. MacEachern.

Escrow

#11-27

Project Name: Tsienneto Fourteen Development, LLC

Developer: Tsienneto Fourteen Development, LLC

Escrow Account: Tsienneto Fourteen Development, LLC

Escrow Type: Letter of Credit

Parcel/Location: PID 08079-005, 14 Tsienneto Road

The request is to release \$49,345.20 and request a replacement Letter of Credit in the amount of \$21,319.20 for the above noted project. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit drawn on TD Bank, in the amount of \$70,664.40.

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

Minutes

The Board reviewed the minutes of the October 10, 2011, meeting.

Motion by Choiniere, seconded by Bartkiewicz to accept the minutes of the October 10, 2011, meeting as amended. The motion passed in the affirmative with Fairbanks and Park abstained.

Correspondence

Mr. Bartkiewicz reported there are three copies of escrow renewal reminder letters. The applicants are Bunker Hill Estates, Hampstead Road and Harvest Drive, LLC, and MartinGate. The Board is also in receipt of the new edition of *Town and City*.

The Board has received a letter from Margie Ives from the Conservation Commission requesting an update on the status of the proposed zoning changes sent to the Board. He read the letter into the record. A response was prepared by the Planning Office and that was also read into the record.

Mr. O'Connor suggested that when the Board is ready to hold a workshop on this matter, it should request the attendance of a representative from the Department of Environmental Services to discuss the recent changes to the wetland regulations and Shoreland protection.

Other Business

November and December meeting schedule

Mr. Sioras advised the Board will go back to its normal meeting schedule in November. Given the holiday, the Board will meet on Wednesday, November 9th and November 30th. The Board will meet once in December on December 14th, and then will resume its twice a month schedule beginning January 11, 2012.

The Board determined that November 30th would be the night to hold the workshop regarding the changes suggested by the Conservation Commission. Mrs. Robidoux will advise Margie Ives.

SNHPC Representative

Mr. Sioras advised that Anne Arsenault has resigned as a Derry Commissioner to the Southern New Hampshire Planning Commission. There are four Commissioner positions from Derry, including Mr. Bartkiewicz and Mr. Park. Ms. Alongi has volunteered if the Board would like to nominate her to the position. When last the Board advertised there were openings, no one applied.

Motion by Choiniere to forward a nomination to Town Council to appoint Anne Marie Alongi as a Commissioner to the Southern New Hampshire Planning Commission, seconded by Bartkiewicz.

Choiniere, Fairbanks, O'Connor, Milz, Park, Bartkiewicz and Granese all voted in favor and the motion passed.

Mr. Granese thanked Ms. Alongi for stepping up.

John Anderson entered the meeting.

Other

Mr. Sioras reported Town Council approved the proposed change for the 8 parcels in the Office Research Development zone to Low Medium Density Residential.

There was no other business to come before the Board. Mr. Granese advised the Board would now enter a workshop and it would not be televised.

Workshop

Discuss zoning in the area of Webster's Corner

Mr. Sioras asked that the Board think about zoning in this area over the next few months. Webster's Corner is the intersection of Island Pond Road, South Main Street and Rockingham Road, near Grandview Fleamarket and Clam Haven.

Town Council is currently considering adding water and sewer in this area, which if approved, will change the value of the properties in the area, and hopefully attract high end development on the properties. Currently, the land is zoned General Commercial and almost anything can go there. The Board may want to look at zoning and the uses that are currently allowed. Mrs. Choiniere noted she would like to see a medical park in that area of town. Mr. Milz said that Town Council has not approved the water and sewer expansion, but if it was approved, it would be done in stages. Currently, the infrastructure ends at the Fairways. The plan would be to extend it from Rite Aid (on Rockingham Road) up to the intersection at Clam Haven, down Route 28 to Berry Road and down the other side to Humphrey.

Mr. Sioras said the infrastructure would allow for better development and he hopes that it will happen in that area. Hillside Plaza has failed septs and would benefit from tying into the service. There are also two mobile home parks in the area that would be better served by municipal water and sewer. Dollar Bills would like to expand, but not if the property still relies on a septic system. Across the road from Community Electric Supply there are 40 acres of wooded land available for development. The former Grandview Fleamarket property might also become available.

The Board looked at some of the various commercial zones. General Commercial III does not allow car lots; nor does General Commercial II.

Mr. Granese asked, how large an area would the Board be looking at if they decided to change the zoning? Mr. Sioras said the purpose tonight is to start thinking about it. No particular property would be singled out. The area runs from Community Electric down to Grandview. There would be about 10-15 parcels involved. Mr. Anderson suggested adding a zone. Mr.

Granese said if Town Council decides to move ahead with water and sewer, the Board should make changes to the zone before the infrastructure goes in.

The Board started to discuss potential uses they would like to see in the area. One member suggested a supermarket. Mr. Fairbanks asked if there was a vision in place for this area? Mr. Anderson said a higher commercial use would be better. They could consider getting away from the car dealerships and strip malls. He agreed a visioning process would be beneficial to determine what the community wants to see in that area. The community might say they want that area to be industrial.

Mr. Fairbanks recalled George Kassas discussing software houses. He felt Route 28 would be more inducive to that type of use than the downtown. Mr. Anderson explained that the intent for that use in the downtown would be as an incubator type business with few employees. As the businesses grow, the owners would begin to look for more space and the town would need a place to move them to. The town needs to be flexible because people have owned property in this area (Webster's Corner) for a long time. This may be similar to what the Board did with rezoning in the area of the Robert Frost farm. The Board needs to make sure that whatever it does, it is compatible with that. If the Town Council approves the water and sewer expansion, then the engineering will move forward. There would not be a shovel in the ground until 2013. It will about 9 months to get the engineering in place as there is a lot involved with that aspect.

Mr. Sioras suggested scheduling another workshop on this subject at the beginning of the year. This would give the Board a chance to think about it and to hold a visioning workshop. He suggested looking at the first meeting in February.

Impact Fees

Mr. Sioras said this item is tied into the previous one. When sewer and water get to the new areas in town, there would be an impact fee paid toward the cost of the project. VHB has a lot of experience in this area and could help the Board develop the formula. This would go hand in hand with the zoning changes. Mr. Milz noted that impact fees would put the burden on the developer rather than the taxpayers. Mr. O'Connor thought the town already had this provision in the Zoning Ordinance. The town does, but there needs to be a formula so that a fair fee is assessed to everyone and no one project takes the burden of the expense.

Industrial Zones

Bob Mackey, the Code Enforcement Officer, joined the discussion. Mr. Sioras explained the current industrial zoning is from the 1970s. Retail business is allowed. They would like to clean up the zoning and tweak the zone to allow more commercial uses. Mr. Mackey had some ideas on how to accomplish it. He advised that the area under discussion runs from the Police Station north to Scobie Pond Road. The Industrial IV zone is the only one that allows 'retail business', although there is no definition for that use. The town has 'retail store', but that excludes commercial services. The area is a mish mash of businesses. There are service type uses, such as chiropractors, doctors, day cares, laundromats, retail stores and restaurants that should be allowed by right. They have tried to buckle down on the uses that are moving into the area

lately. The widening of Route 28, will promote new development in the area. Some of the existing businesses are incompatible with the existing zoning, such as restaurants with a drive-through (Burger King). They need to broaden the uses to allow service type business so that they don't need to go to the ZBA. Given the setting of Industrial IV, the Board should look at the zoning.

Mr. Anderson noted that some of the issues have been dealt with by sending applicants to the ZBA, but how do you prohibit uses without being discriminatory? Mr. Mackey suggested adding some allowed uses. The other issue becomes how do you control it? Mr. Anderson noted the town does not want to prohibit businesses like Sanmina from expanding.

The Board looked at the area on the zoning map. Mr. Sioras provided the following background. In 1970 the area was zoned Industrial. Tinkham Avenue was an industrial park; Klev-Bro Shoe was also in operation. In the 1980's there was a sewer moratorium and Derry was shut down by the state. When the town was taken off the list, it was sued by a developer and the town lost. The developer was able to build the multi-family residential units in the industrial zone by Court decree. There was also a pitch and putt up where the new Walmart will be constructed. That is why retail is allowed in that area today. Mr. Sioras thought it made sense to look at the areas again and the zones. Mr. Milz agreed with Mr. Mackey that the list of allowed uses should be firmed up. He would like to see a more clear description of the uses. Mr. Anderson asked how the Board would move forward on this?

Mr. Granese asked Mr. Mackey to come up with a list of permitted uses for the Board to review. Mr. Milz agreed adding that by not being consistent, it puts the town at a disservice.

The Board asked to have a list of potential changes for this area presented at the December 14th meeting.

Floodplain Regulations

Mr. Sioras advised this issue has two parts. The Board members have a handout explaining them. The first issues deals with code compliance which falls under Mr. Mackey's purview. The second issue is the housekeeping to address the changes in the Federal regulations. The Board can schedule this for a public hearing and then bring it to Town Council.

Mr. Mackey advised he met with FEMA representatives and found that meeting to be very informative. They helped to identify areas where the town could do things a bit differently. One of the changes that FEMA made was to do away with the multiple zone designations within the 100 year flood areas. The town will need to update its language to be in accord with the FEMA regulations. The second part was to address flood elevation information that he will need to get back to FEMA for a few selected properties.

Mr. O'Connor asked with regard to materials stored within the 100 year floodplain. Mr. Mackey said that "material" referred to the things that people store in their yards such as RVs, etc. He will need to develop a form letter to send to residents in those areas to let them know that any material stored in those areas could create a potential hazard if the area floods. Mr. O'Connor

felt that the term “material” needed to be defined in the town’s floodplain regulations. Mr. Milz suggested adding the words “as defined per FEMA” to the definition of “development”.

Mr. Sioras advised the Board could vote on November 9th to schedule the public hearing on this. The Board would hold its public hearing and then move the suggested changes on to Town Council.

Mrs. Robidoux confirmed that in February, the Board would look at impact fees and that in the interim, staff would work with VHB to develop the fair share formulas to bring back to the Board. Mr. Sioras suggested having VHB attend the meeting in February.

Motion by Choiniere, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:50 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____