

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 11, 2012, at 7:00 p.m. at the Derry Municipal Center (3rd floor meeting room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman, John O'Connor, Vice Chair; Frank Bartkiewicz, Secretary; David Milz, Town Council Representative; John P. Anderson, Town Administrator; Randy Chase, Administrative Representative, Darrell Park, Jim MacEachern, Members; Ann Alongi and Joe Donahue, Alternates

Absent: Jan Choiniere

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 the exits and meeting materials.

Organizational Meeting

Election of Officers

Mr. Granese opened the floor for nominations for Chairman.

Motion by MacEachern, seconded by all, to nominate David Granese for another term as Chairman. There was no discussion, nor were any other nominations put forth.

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

Ms. Alongi was seated for Mrs. Choiniere.

Mr. Granese opened the floor for nominations for Vice Chairman.

Motion by MacEachern, seconded by Bartkiewicz to nominate John O'Connor as Vice Chairman. There was no discussion, nor were any other nominations put forth.

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

Mr. Granese opened the floor for nominations for Secretary.

Motion by MacEachern, seconded by Park to nominate Frank Bartkiewicz as Secretary. There was no discussion, nor were any other nominations put forth.

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

Review of Policy & Procedures

The Board reviewed the Policy & Procedures document. Mr. Granese outlined the suggested changes, which include throughout the document a change from "Community Development Director" to "Planning Director"; an addition to Article I, Section 1, adding subsections "g" and "h" which outline the role of Alternates and their interaction with the Board; a change in Article II, Sections 1, 2 and 4, to hold the annual meeting on the first Wednesday in April, and regular meetings and workshops on the first and third Wednesday.

Motion by Anderson to move forward with the adoption of the suggested changes, seconded by Bartkiewicz. Discussion followed.

Mr. MacEachern asked for a summation of the change with regard to alternates. Mr. Anderson advised that alternates can participate with the Board during all discussions, but may not vote unless elevated to do so. Mrs. Robidoux added there had been a change to RSAs (RSA 673:6 and 676:1) that state alternates may participate but it needs to be spelled out in the Board's procedure.

The motion passed with all in favor.

Escrow

None.

Minutes

The Board reviewed the minutes of the March 28, 2012, meeting.

Motion by Bartkiewicz, seconded by O'Connor to accept the minutes of the March 28, 2012, meeting as written. The motion passed in the affirmative with MacEachern abstained.

Correspondence

Mr. Bartkiewicz advised the Board is in receipt of notices from the Community Alliance for Teen Safety (CATS) reminding people to not drive distracted and of the Drug Take Back day scheduled for April 28, 2012 in Hood Commons. The Board also received an updated member list.

Other Business

Jack Munn, Senior Planner at Southern New Hampshire Planning Commission (SNHP) provided a presentation to the Board with regard to the Regional Planning Program and the Certified Sites Program which is a new program agencies in the state are trying to get up and running. He will work with the regions municipalities to get more information on this program at a later date. This evening, he will provide an overview.

Housing and Urban Development has awarded the Nashua Planning Commission \$3.3 million on behalf of the 9 regional planning commissions to implement a comprehensive state wide regional planning program. As part of the process, the most recent Regional Comprehensive Plan (for the SNHPC region) will be updated to incorporate the six livability principles. It will be coordinated with other regional plans including the Transportation Improvement Program (NH DOT 10 Year Highway Program), the Comprehensive Economic Development Strategy and the Regional Housing Plan. Mr. Munn reviewed what would happen, when it will happen, how it will happen and the benefits and expected results. One of the benefits for the municipality is if the town applies for a HUD grant, economic development grant, or a Water/Sewer grant, the town will gain additional points for its grant application if it has signed a Memorandum of Understanding with its regional planning commission. Derry has signed such a document. Information pertaining to the Regional Comprehensive Plan will come under the phrase, "A Granite State Future".

Mr. Munn also gave an overview of the Certified Sites Program, for which Mr. Sioras has also been participating in regional meetings. The meetings have occurred between Planners, municipalities and developers to promote a regional cooperative initiative to create 'shovel ready' sites in southern New Hampshire. He reviewed the program elements. The Planning Commission is to administer the program. There are many sites available in southern New Hampshire, but there is no central website that promotes the available land. Mr. Munn reviewed the primary program goals. There are municipal benefits to participating in the program such as the use of it as an economic development tool. There are minimum standards to be met and three levels of certification: Bronze, Silver and Gold. The model ordinance can be provided to the Planning Board at a later date. The next step would be to establish an administrative team. The plan is to come back to the Board with the roll out of the program, most likely in September.

Mr. Granese thanked Mr. Munn for the information.

Public Hearing

Zoning Ordinance Amendment –to review the following proposed amendments to the Town of Derry Zoning Ordinance:

To amend Section 165-5, Definitions as follows:

To **delete** the following terms from this section of the Zoning Ordinance: Contractors Yard; Drive In Restaurant or Refreshment Stand; Retail Store; Vehicular Sales or Repair Facility.

To **amend** the following terms in this section of the Zoning Ordinance: Agriculture; Commercial Service Establishment; Hotel; Professional Office; Restaurant; Wireless Communication Facilities.

To **add** the following terms: Commercial Agriculture; Non-Commercial Agriculture; Automobile and Similar Vehicular Sales Facility; Automobile Repair Facility/Garage; Automobile Service Station; Church; Filling Station; Indoor Commercial Recreational Facility; Industrial Establishment; Light Industrial Establishment; Manufacturing; Drive In Restaurant; Retail Sales Establishment; Wholesale Business.

To **amend** Section 165-14, Churches

To **amend** Section 165-42, Industrial District–IV (IND IV), subsection A, Permitted Uses, and subsection C, Prohibited Uses.

The purpose of the amendments is to clarify the definitions contained in the Ordinance as well as the uses allowed in the Industrial IV district.

Mr. Granese advised copies of the proposed amendments are available at the Office of the Town Clerk, 14 Manning Street, the Derry Public Library at 64 East Broadway and the Planning Department at 14 Manning Street and they may also be viewed on line on the Town of Derry website.

Motion by Anderson to open the public hearing, seconded by Park. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by Anderson to close the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and the proposed amendments came back to the Board for consideration.

Mr. Sioras advised the Board has copies of the opinion from Attorney Boutin as requested. The Industrial IV area is located along Route 28/Manchester Road in the area of the existing and future Walmart. This amendment cleans up the ordinance to reflect the current uses in the area which is a mix of retail, industrial and commercial uses.

Mr. MacEachern asked with regard to wireless communication facilities. Mr. Sioras advised there is an overlay and specific zone. Mr. MacEachern is correct that part of the overlay is in the Industrial IV zone. Mr. MacEachern thought if the IND IV was ever expanded, that would be inclusive and perhaps the Board may not want telecommunication facilities in this zone. Mr. Sioras said for the short term, the intent is to clean up this zone with regard to the permitted uses. The Board had indicated in the past it would like to revisit the telecommunications ordinance. It might be more appropriate to look at where they would be allowed at that time.

Regarding Section 165-14, Churches, Mr. MacEachern asked if [the Ordinance] was too restrictive in that it requires a school be directly attached and controlled by the church? Mr. Sioras did not feel it was too restrictive. The nearby church and school (St. Thomas Aquinas) are pre-existing. All of the newer churches have one building. Calvary Christian had the school physically attached to the church.

Motion by Anderson to recommend Town Council consider the proposed changes to the Town of Derry Zoning Ordinance, Section 165-5, Definitions; Section 165-14, Churches; and Section 165-42, subsections A and C, permitted and prohibited uses in the Industrial IV zone, as presented. The motion was seconded by Bartkiewicz.

Chase, Park, Anderson, Milz, Alongi, Bartkiewicz and Granese voted in favor. O'Connor abstained as an abutter to the district, and MacEachern voted no. The motion passed.

Jean Gagnon

PID 12119-001, 103 Old Chester Road and Adams Pond Road

Review, 10 lot subdivision

Continued from March 28, 2012

Mr. Sioras provided the following staff report. This plan was continued from the March 28, 2012 meeting. Eric Mitchell has an update on what has transpired since the meeting. The meeting had been continued so that the applicant could address the issue of the house numbering, per E-911. Mr. Sioras advised he has spoken with the Derry Fire Chief, and Chief Klauber agrees this can be a condition of approval. The applicant will need to meet with the Chief to decide on the numbering. Mr. Mitchell will also provide an update as to the meeting with the abutters. There have been no changes to the plan since the last meeting.

Eric Mitchell, of Eric C. Mitchell & Associates, Inc., presented for the applicant, Jean Gagnon. Two weeks ago, there were two items the Board wanted addressed. The meeting was continued to look at the E-911 house numbering and the applicant was to hold a non-binding meeting with the abutters. Regarding the house numbering, they did provide numbering based on the current town criteria. They can assign new numbering, but are not sure that those numbers are readily available to put on the plan. He knows that each 50 feet of roadway is assigned a number. The final house numbering will be based on the final driveway locations, which are not always known at the time of subdivision. He is not sure they can identify the number now, but it can be done when they pull the building permit. They will do what the Board wants. Mr. Anderson noted if the driveway is moved, the number would change based on where the driveway is finally constructed. Mr. Mitchell said they will put a number every 50 feet on the roadway on the recordable plat.

Mr. Mitchell reported they met with the abutters on Saturday. Mr. Gagnon agreed to a pre-blast survey to 400 feet, and has extended that to the abutters who requested one at the meeting. Mr. Gagnon will pay for the pre-blast survey. The letter that will go to the abutters has been provided, and is part of the Planning file. At the last meeting, the Board approved the Conditional Use Permit and the waiver. This evening, they would ask for conditional approval of the plan.

Mr. Granese read the pre-blast survey letter aloud for the record.

Motion by Milz to open the public hearing, seconded by MacEachern. The motion passed with all in favor and the floor was open to the public.

Mr. Granese asked that only new business or information be brought before the Board. He felt that most of the questions had been answered at the last hearing.

There was no public comment.

Motion by MacEachern to close the public hearing, seconded by O'Connor. The motion passed with all in favor and the plan came back to the Board for review.

Motion by O'Connor, seconded by Anderson, to approve the 10 lot subdivision plan for Jean Gagnon, identified as Deer Run at Adams Pond, located at 103 Old Chester Road and Adams Pond Road, Parcel ID 12119-001, subject to RSA 676:4, I, Completed Application, with the following conditions: subject to owner's signature, subject to on-site inspection by the Town's Engineer, establish escrow for the setting of bounds or certify the bounds have been set; establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received and is operable; note the approved waiver on the plan; note new address numbers, which comply with E-911 requirements on the plan, change name of proposed road from "Deer Run Drive" to "Deer Run"; add notes to the plan relative to the granting of the Conditional Use Permit, and the slope easements to be conveyed to the Town of Derry; subject to receipt of local permits relating to the project; that the above conditions be met within 6 months; improvements shall be completed by August 31, 2015; and, a \$25.00 check, payable to Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, along with the appropriate recording fee. Discussion followed.

Mr. Anderson asked for one more condition: that if an agreement is not reached with the town relative to Parcel 12119-010 (the dam), that proposed lot 10 shall not be created and that area shall become part of 12119-009.

O'Connor moved to add the condition, seconded by Bartkiewicz.

Mr. L'Heureux confirmed Public Works had no issues with the plan.

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

Sanmina-SCI Corporation
08278-001 & 08278
4 & 6 Linlew Drive
Acceptance/Review, Easement Modification

Mr. Sioras presented the following staff report. The purpose of this plan is for a cross easement agreement modification for access, parking and utilities between 4 and 6 Linlew Drive. He

referred the Board to the letter dated March 27, 2012 from MHF Designs, that was included in the packets for further explanation. A site plan for the existing, vacant building located at 4 Linlew Drive will be submitted shortly to the Planning Board for Burlington Self Storage. Town Department signatures are not required for this plan, there are no waivers or state permits required. He would recommend approval of the request to modify the prior cross easement agreement from 1997 between parcels 4 and 6 Linlew Drive and approve the new cross easement agreement as shown on the plan (note #3), dated March 22, 2012 as submitted to the Planning Board.

Frank Monteiro, of MHF Design Consultants, Inc., presented for the applicant. Jafar Salimi of Sanmina was also present. As background to this application, Mr. Monteiro explained there was an older subdivision, originating in 1995. That took the two existing buildings on the property and subdivided the lots so that there was one for each building. An access agreement was created for the shared driveway. A parking easement for 29 spaces to benefit 08278-001 was placed on 08278 because there was limited parking at the time on 08278-001; the rear parking lot had not yet been created.

Sanmina is selling 4 Linlew Drive to Burlington Self Storage. A title issue has come up. There are three approvals relative to these lots. Each refers to the cross easement agreement. The issue is that the 29 spaces are no longer required for parcel 08278-001. To clear the title, there needs to be a new cross access agreement that clarifies the access off Linlew Drive and deletes the 29 spaces for the benefit of 08278-001.

In March of 1997, a parking lot was added behind the building on parcel 08278-001. That plan also referenced the cross easement agreement and the 29 parking spaces, even though the lot no longer required the parking spaces on parcel 08278. In March of 2011, there was a Lot Line Adjustment between the two parcels that eliminated "Treasure Lane", a paper street that provided access for 08279. This Lot Line Adjustment plan also shows the cross access easement.

Mr. Monteiro advised that tonight, they are asking the Board to remove that old agreement which will allow them to clean up the title. Based on the Burlington Self Storage use, they will not need the 29 spaces. The new agreement itself is private and does not require Planning Board approval; it is supplied for informational purposes only.

Motion by MacEachern to open the public hearing, seconded by Milz. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by MacEachern, seconded by Alongi to close the public hearing. The motion passed with all in favor and the plan came back to the Board for review.

Motion by MacEachern to accept jurisdiction of the application before the Planning Board for Sanmina-SCI Corporation, 4 and 6 Linlew Drive, Parcel ID numbers 08278-001 and 08278. The motion was seconded by Bartkiewicz.

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

Motion by MacEachern, seconded by Alongi to approve, pursuant to RSA 676:4, III, Expedited Review, the modification of the prior cross easement agreement between Parcels 08278 and 08278-001 currently shown on the plan recorded at RCRD at D-25282, and to approve the new cross easement shown on the plan prepared by MHF Design Consultants dated March 22, 2012. The modification nullifies the prior condition of approval that 29 parking spaces on 08278 were set aside for the use of Parcel 08278-001. This approval is granted with the following conditions: Amend Note #3 to include the applicable Book and Page number; subject to owner's signature; that the above conditions shall be met within 6 months, and a \$25.00 check, payable to Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, along with the appropriate recording fees.

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

WORKSHOP

Mr. Sioras advised the Board is in receipt of an Attorney-Client Privilege letter from Attorney Boutin. He recommends adding language to the Land Development Control Regulations (LDCR) with regard to waivers. The suggested changes are as follows.

The proposal is to revise LDCR Section 170-11 to add a preamble, "Pursuant to RSA 674:36, II (n), the Planning Board may include provisions for waiver of any portion of the regulations." The same change would be recommended for LDCR Section 170-50, but referencing RSA 674:44, III (e). The other suggested change would be to add wording to the suggested motions, specifically "After review of the waiver request, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or, specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

Mr. Sioras advised the process would be that after this workshop, at the next meeting, the Board can schedule a public hearing. The first available meeting the Board could hold a public hearing would be May 23rd.

The Board did not have any issues with the suggested changes to the language in the LDCR.

Motion by Anderson, seconded by MacEachern to move forward to schedule a public hearing in May for the proposed changes. All voted in favor and the motion passed.

There was no further business before the Board this evening.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:02 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____