

The Planning Board for the Town of Derry held a public meeting on Wednesday, May 9, 2012, at 7:00 p.m. at the Derry Municipal Center (3<sup>rd</sup> floor meeting room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman; Frank Bartkiewicz, Secretary; David Milz, Town Council Representative; Randy Chase, Administrative Representative; Jan Choiniere, Darrell Park, Jim MacEachern, Members; Ann Alongi, Lori Davison, and Joe Donahue, Alternates

Absent: John P. Anderson, Jim MacEachern

Also present: George Sioras, Planning Director; 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 the exits and meeting materials.

Ms. Alongi was seated for Mr. MacEachern.

### **Escrow**

#### **#12-08**

**Project name: Stage Crossing – Hillside Avenue**

**Developer: Stage Crossing, LLC**

**Escrow Account: Stage Crossing, LLC**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: PID 26079, 49 Hillside Avenue**

The request is to establish Letter of Credit P-LBI-412, drawn on Merrimack County Savings Bank, in the amount of \$21,643.20 for the above noted project. The expiration date will be September 30, 2013.

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

#### **#12-09**

**Project name: Proposed Auto Body Shop**

**Developer: Anthony DeRosa**

**Escrow Account: Anthony DeRosa**

**Escrow Type: Cash**

**Parcel ID/Location: 03084, 191 Rockingham Road**

The request is to establish cash escrow in the amount of \$23,930.64 for the above noted project.

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

Ms. Alongi confirmed the location of the project. Mr. Sioras advised this is a plan for a motorcycle repair shop on Route 28.

### **Minutes**

The Board reviewed the minutes of the April 25, 2012, meeting.

Motion by Milz, seconded by Bartkiewicz to accept the minutes of the April 25, 2012, meeting as amended. The motion passed in the affirmative with Chase and O'Connor abstained.

### **Correspondence**

Mr. Bartkiewicz advised the Board is in receipt of the May, 2012 edition of *Town & City* and an updated copy of member contact information.

### **Other Business**

#### Acceptance Policy & Procedures

Mr. Granese advised the Board has previously reviewed the proposed changes for the Policy & Procedures. Mr. O'Connor confirmed there had been two readings of the changes.

Motion by O'Connor, seconded by Bartkiewicz to accept the revisions to the Town of Derry Planning Board Policy & Procedures, as discussed on April 11, 2012, and to make those changes effective immediately.

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

#### Request to Extend Approval – Yvon Cormier

Mr. Sioras advised the Board has received a request to extend the approval for the Yvon Cormier driveway access plan. The lot is located off Ashleigh Drive, adjacent to the new Walmart. The applicant has begun the tree clearing on the lot. This is the first request to extend the approval. If the Board approves it, the approval would be extended to November 30, 2012.

Motion by Choiniere to extend the approval for the Yvon Cormier driveway access plan to November 30, 2012, seconded by Bartkiewicz.

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

### Other

Mr. Sioras advised that there will be no plans to review at the next meeting, however the Board will hold a workshop with Fire Chief, George Klauber to discuss potential changes to the street addressing to be more in compliance with E-911 Addressing Standards. Mrs. Choiniere asked if there were certain streets that would be renamed or renumbered? Mr. Sioras said Chief Klauber would explain in more detail at the next meeting. Mr. Milz felt that the changes would affect new subdivisions, adding the town did apply the E-911 requirements to the Adams Pond subdivision.

### **Public Hearing**

Review proposed amendments to the Town of Derry Land Development Control Regulations to amend Section 170-11, Modifications and Waivers, to add the following, "Pursuant to RSA 674:36, II (n), the Planning Board may include provisions for waiver of any portion of the regulations" and to amend Section 170-50, Waivers, to add the following, "Pursuant to RSA 674:44, III (e), the Planning Board may include provisions for waiver of any portion of the regulations."

Motion by Choiniere 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 only one person in attendance and she had no comment.

Motion by Choiniere to close the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and discussion returned to the Board.

Mr. Sioras advised the Board has discussed this several times as per procedure; the suggestion to change the wording came from Town Counsel. Mr. O'Connor noted this would bring those sections into compliance with state regulations.

Motion by O'Connor to approve the proposed revisions to the LDCR, Section 170-11, Modifications and Waivers, and Section 170-50, Waivers, as presented this evening. The motion was seconded by Bartkiewicz.

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

There was no other business before the Board. Mr. Granese announced the Board would be entering a workshop to discuss proposed zoning changes in the area of Webster's Corner

(intersection of Rockingham Road/Island Pond Road, Route 28) and that the workshop would not be televised. If anyone had questions, updates would be provided the next meeting, or a request could be made for the minutes of the meeting.

## **WORKSHOP**

Mr. Sioras suggested members look at the map of the area. The General Commercial zones are identified and the area under consideration includes Clam Haven, Grandview, Dollar Bills, Hillside Plaza, the 40 acre Smith property that is across from Community Electric. Heading north from the intersection, the zone goes beyond Humphrey Road to the Butterfield properties. Further south on Route 28, there is the GC III zone, which surrounds the Robert Frost Farm, a residential zone and then another GC zone, which is also known as Ryan's Hill.

The Board is looking at the uses because Town Council has approved the extension of water and sewer service from the Hess gas station on Rockingham Road, along Rockingham Road to the intersection of Route 28/Island Pond Road. This will increase the value of properties in the area and the Board will want to look at the highest and best uses for the properties. It is anticipated some of the larger parcels will be sold in the future as the land becomes more valuable with the extension of water and sewer. Bill Burke who owns Dollar Bills has indicated in the past that he would like to see water and sewer extended to this area; it would allow him to expand his building. Hillside Plaza has ongoing septic issues and would benefit from the sewer extension.

Mr. Sioras suggested the Board look at the uses that are currently permitted in the General Commercial zone with an eye to amending the current permitted uses, or to consider looking at a different zone. Among the uses allowed in the General Commercial zone are single family detached, hotels, manufactured housing subdivisions (with provisions), inns, retail stores, sales/service offices, administrative offices, manufacturing, some miscellaneous uses, public and semi public uses, and light industry. It was noted retail sales included the sale of automobiles.

The Board discussed the proposed sewer and water expansion plan. For now, it will be expanded to Berry Road. The original plan had called for expansion to South Range, but the residents in the area felt it was too expensive and did not want to tie in to the service. Mr. Sioras noted DPW has the go ahead to look at bids for design work. Construction could begin in 2013. This gives the Board time to look at the zones and decide on the best uses.

The Board discussed existing uses in the area under consideration which include an auto dealer, coal dealer, day care, gift shop, restaurant, and light industry. Grandview Flea Market has closed. It was noted Dr. Butterfield owns four commercially zoned properties and would like to have water and sewer at his properties as well. Mr. Sioras could envision the utilities expanding north to those lots. There is already service at The Fairways.

Ms. Alongi asked if there were any known proposals for any of the vacant lots? Mr. Sioras said he is not aware of any. The Dollar Bills site is for sale, but the location of the existing septic prohibits expansion on that site presently. Ms. Alongi felt the Board had a good opportunity at this time to improve the aesthetics of the area. As one travels down the hill from Lawrence Road, there is a clear view of Pinkerton Academy and other spires. Developers should be

encouraged to build so that it continues to look like one is in New Hampshire. She understands the GCIII is more restrictive, but would like to maintain the aesthetics in this area as well. Mr. Sioras commented the Board has architectural regulations in place. Everything in this area predates plan review. On any new plans, the Board has a right to request a certain kind of look to the building. Ms. Alongi noted Crystal Avenue is very commercial. This area of town should not look like Route 1 in Saugus; she would like to see an aesthetic value that enhances the town.

Mrs. Choiniere asked if anything was happening with the Howard property on Rockingham Road? Mr. Sioras advised that sewer and water are not yet in that area of Rockingham Road. There had been a prior approval for an office medical park. With water and sewer that land also becomes more valuable. The lot is about 20 to 25 acres in size with a lot of wetland.

Mr. Granese asked how many parcels should the Board be considering at this time? Mr. Sioras suggested all of the area noted General Commercial on either side of the intersection of Rockingham Road/Island Pond Road and Route 28. The Board should be consistent and look at the entire GC zone. Mr. O'Connor asked if Office Medical Business (OMB) would be added to the GC zone? Mr. Sioras said one option is to make the area all OMB.

Mr. Granese noted the Board has the ability to restrict the height of buildings, exterior design, drive-thru or no drive-thru, etc. He would not want to see more auto dealerships in this particular area. Mr. Sioras said the Board could retain the retail uses, but prohibit auto sales. Mr. Granese said he would like to see a larger retailer at that intersection. Mr. Sioras said the Board can remove the uses it does not want in the GC zone. Mr. Granese agreed, noting that any existing use would be grandfathered, or someone could apply for a variance.

Mr. O'Connor asked with regard to the MHPD adjacent to Clam Haven and on the opposite side of the street. If that was General Commercial, would mobile homes still be allowed? Mr. Sioras explained that it a separate zone and would not be affected by changes to the GC. If the mobile home park gets connected to sewer the value of that land will also go up long term. Changes to this area will not happen over night but they will happen. He noted the changes on Ashleigh Drive once the town opted to do the road improvements in that area. It opened up the area for economic development.

The Board reviewed uses they would not like to see in this area and those included single family detached dwellings, with or without a business attached, car sales, and gas stations. Mr. Granese asked what did the phrase "no other residential structures" mean? Mr. Sioras said the previous Board put that wording in to ensure that rooming houses, duplex and multi family were not allowed in the GC zone. Mr. Granese said there are other areas of town zoned GC and any changes made would affect them all. Mr. Sioras advised GC was in this area, further south on Ryan's Hill from Promises to Keep toward the Windham town line, and on Crystal Avenue, extending back onto Pinkerton Street including Hood Plaza. General Commercial II is Tsienneto Road. Mr. Sioras thought that area was a good example of how town expansion of water and sewer can lead to economic development for the town.

Mr. Milz reviewed the options before the Board tonight: keep General Commercial as is, or keep the area General Commercial and remove gas stations and auto sales, or, to create a new zone.

Mr. Sioras said the Board should decide. There is a lot of retail use in this area and there are many uses that should not be excluded. Specific uses can be removed. There are safeguards in the LDCR that protect the aesthetics.

Mrs. Robidoux suggested changing the area to OMB, which allows some of the General Commercial uses, and then excluding specific ones. Mrs. Choiniere suggested changing the area to GC III, but Mr. Chase thought that was too restrictive. Mr. Sioras advised that staff discussed options for this area today. OMB has uses that complement the hospital. It is possible to take out some of the uses and make it cleaner. The Smith property could have a nice development on it one day. Mr. Chase felt if the zone was to be changed to OMB, then single family detached should be removed from the list of permitted uses. Mrs. Choiniere wondered if single family detached with an office should remain? Mr. Park and Mr. Chase felt it could be removed. Mr. Milz felt that use applied more to old Victorian style homes; he did not think anyone would build a residence with an office attached on purpose today.

Mrs. Choiniere asked if the Board can rezone properties without owner input? Mr. Sioras said the owners would be notified of any potential changes; the Board would hold a public hearing. Mrs. Choiniere asked what would happen if one of the owners did not agree to the change and the town approved it anyway? Mr. Sioras explained the owner could then pursue legal action. Mr. Milz said the Board is not singling out any one property; it is looking at the area as a whole. He likes the idea of changing these lots to OMB with additional restrictions. Mr. Sioras agreed it might be cleaner to make the General Commercial in this area OMB and revise the permitted uses in OMB. Mrs. Robidoux commented if a use is not listed, it is not permitted. Mr. Sioras said if a development project comes in, the Board can control what the development looks like. Mr. Milz noted the uses in the OMB overlap the GC list of permitted uses. He would proposed eliminating single family detached dwellings, single family detached dwellings containing a maximum of one business or professional office; and changing the uses allowed in the GC zone, to exclude gas stations and automobile sales in the OMB. Mr. Granese suggested removing the reference to the uses in the GC and reselecting permitted uses. Mr. Milz thought there was not a lot in the GC the Board would not want to see with the exception of the gas stations and automobile sales.

Mrs. Alongi asked if the Board should be concerned with restricting manufacturing in this area? Mr. Park also thought the Board could reword the uses relative to the GC zone (Section 165-35.B.4). Mrs. Choiniere noted the nuisance provision (165-35.C) that helps to protect from offensive uses. Mr. Sioras noted the only person who has discussed uses allowed in this zone is the broker for the Dollar Bills property.

The Board discussed how to proceed from the workshop. It was determined that staff would compile the changes discussed this evening and bring it back to the Board for discussion at a regular meeting. They can then move forward with the public hearing process. The Board discussed the definition of light industry and determined that use should be permitted in the zone. There was no further discussion.

Motion by Alongi, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:53 p.m.
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Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

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Secretary

Approval date: \_\_\_\_\_