

The Planning Board for the Town of Derry held a public meeting on Wednesday, September ~~2019~~, 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; Frank Bartkiewicz, Secretary; John O'Connor, Vice Chairman; John P. Anderson, Town Administrator; David Milz, Town Council Representative; Randy Chase, Administrative Representative; Darrell Park, Jim MacEachern, Members; Ann Alongi, Lori Davison, Alternates.

Absent: Jan Choiniere, Joe Donahue,

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Clerk; Robert 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.

Ms. Davison was seated for Mrs. Choiniere.

## **Escrow**

### **#12-20**

**Project Name: William Dearth, 6 Lot Subdivision**

**Developer: Hampshire Ventures, Inc.**

**Escrow Account: Same**

**Escrow Type: Cash Escrow**

**Parcel ID/Location: 45010, 12 Old Chester Road**

The request is to establish cash escrow in the amount of \$162,894.24 for the above noted project.

Motion by O'Connor, seconded by Bartkiewicz to approve as presented. The motion passed unanimously.

## **Minutes**

The Board reviewed the minutes of the September 5, 2012, meeting.

Motion by O'Connor, seconded by Bartkiewicz to accept the minutes of the September 5, 2012, meeting as written. The motion passed in the affirmative with MacEachern and Park abstained.

## Correspondence

None.

## Other Business

Mr. Sioras advised that at the next meeting on October 3, 2012, the Board will hold a workshop to discuss the rezoning at Webster's Corner. There will also be a plan to review that evening. The Municipal Law Lecture Series will be held on October 10, 17, and 24<sup>th</sup> in the Third Floor Meeting room of the Derry Municipal Center. If any Board member would like to attend, please let the Planning Department know so that the Board member can be registered. Mr. Granese reminded the Board members that the second meeting in October will be held on Monday, October 15, 2012.

There was no further business before the Board. Mr. Granese advised the Board would now be entering a workshop. This workshop would not be televised. Minutes will be made available upon request. The workshop began at 7:04 p.m.

## Workshop

### Revisions to Town of Derry Zoning Ordinance, specifically, sign regulations

Mr. Granese advised Mr. O'Connor had headed up the Sign Subcommittee which developed some suggested changes to the Ordinance. He suggested Mr. O'Connor start the discussion this evening.

Mr. O'Connor said the Subcommittee consisted of a group of four members: himself, Mr. Mackey, a member of the ZBA, and a former Town Councilor. They met several times and looked at the issues regarding signs. Part of that process included an analysis of the Town Code which revealed the sign ordinances were scattered throughout the Zoning Ordinance. They decided to consolidate them all under Article XII, Signs and Billboards, so that someone can look in one place to find all the regulations, regardless if they are in a residential or commercial zone. The draft document was submitted to Code Enforcement. The Sign Subcommittee got busy with other things and now this has now been brought forward again. The original document has been revamped to the document before the Board this evening. Mr. O'Connor advised the new Director of the Chamber of Commerce was also interested in providing input on behalf of their members. He advised Bob Mackey was a key component in putting this document together. Mr. O'Connor felt it was important to add some teeth to the document, which he does not see in this version. At the end of the original draft, there had been a section that added enforcement powers to Code Enforcement. He felt enforcement letters could be sent from a Town Prosecuting Attorney, rather than using the contracted legal counsel.

Mr. Anderson noted Mr. O'Connor's committee began the work on the revisions. Town Council charged Mr. Anderson to have staff develop the document and the current draft was developed

by George Sioras, Bob Mackey and Elizabeth Robidoux. This is a staff generated document using work the committee began before. They have consolidated the ordinance to make it cleaner and easier to see what you can and can't do with signs. The ordinance needs to be clean, efficient and easy for residents to work with.

Mr. Milz recalled the original information presented to Town Council was about 50 pages long, with an outline showing how a business person applied for a sign application. That information has been narrowed down to this document and he felt staff did a good job. He noted this regulation will fall under the Zoning Ordinance.

Mr. Anderson noted enforcement issues are always a concern and the town likes to be able to enforce the ordinance without going to court every time.

Mr. Mackey said staff worked hard on this. They have added some new definitions and revised existing definitions to better reflect the regulations that are in the Ordinance now. They added definitions where there weren't any.

In the Town of Derry Zoning Ordinance, Article XII, Signs And Billboards, the original section had an Applicability section which has been replaced with a Purpose. There have been challenges in the past because the Applicability section mentions exterior signs and the regulations need to speak to interior signs as well. It is important to have all of the sign regulations in one place because some areas of town are more restrictive than others. They also wanted to put most of the regulations under General Provisions if it applied to almost all the districts. Some of the regulations previously found under the Traditional Business Overlay District have been moved to General Provisions, which makes it cleaner and easier to understand.

Regarding enforcement, they took out the suggested wording from the Subcommittee because any zoning violation will fall back to the general enforcement section that speaks to fines and penalties. Their enforcement process typically runs into a slow down once it hits the legal process. He has some specific areas of the ordinance that he would like to discuss with the Board to obtain input.

Mr. Sioras noted the draft document before the Board tonight has areas highlighted in red, which indicate areas where the staff would like to receive input, or have the Board answer questions or provide comment.

Mr. Mackey said the major topics for discussion are where issues and questions have come up. There is an issue with Electronic Signs; they are currently prohibited under the ordinance. He frequently receives inquiries and the technology is evolving. It depends on the way the Board wants to go: other town's regulations either prohibit electronic signs, or limits things like lumens. He may need to research further to see what other towns do if the Board wants to allow them.

Mr. MacEachern said he had no issues with electronic signs, but felt the town needed to be careful as to what it will allow. The town does not want one of those signs that are found at the exit for the mall [in Manchester] that is a large, flat screen TV. We don't need to disallow them. Technology will evolve and people will want a video LCD screen with changeable signs. The town needs to be careful. Reader boards are okay; the town has one. What is good for the town is good for the citizens and business community with appropriate restrictions.

Mr. Mackey said if the Board allows electronic signs, it might want to limit them to certain zones such as General Commercial and Industrial IV because those are the business zones. He did not think that type of sign would be appropriate in the TBOD.

Mr. MacEachern said he could see the Hannaford or Hood Plaza pylon sign evolving to something electronic, but he would not want it to be too bright. Mr. Milz noted the Workout Club has an electronic reader sign; it is best to regulate them than to forbid them. If they are regulated, the signs can be reviewed on a case by case basis. Mr. Granese said if the signs are flashing, they are a distraction. Mr. Mackey said that there had been a previous change in the wording of the ordinance. The town did allow electronic signs at one time, so currently there are four or five of them. The town has always restricted how quickly the sign can change so it is not considered a flashing sign. Mr. Bartkiewicz said he would want to make sure the intensity of electronic signs are not like what is seen in Las Vegas. Mr. O'Connor thought they should be allowed, but restricted. Mr. Mackey said staff would do more research and bring the issue of electronic signs back to the Board. Ms. Alongi said she would not like to see electronic signs on billboards. Ms. Davison agreed. Mr. Granese thought Derry Pizza & Restaurant's sign was a good size; it is not a 20 x 20 billboard. He would be interested to see if other towns restrict the size based on the facade of the building. Mr. Anderson suggested limiting it to a sign of X square feet, where no more than 10% of the sign area could be used as an electronic message board. Mr. Granese asked what happens when someone wants to have a wooden sign and wants to illuminate it externally. Is the size of the sign limited based on the size of the building? Mr. Mackey said the total square foot area is not specific to the building, just specific to limitations in the zone. For example, in the Office Business District, one can have a 10 square foot, non-internally illuminated sign, but that size is not related to the size of the building.

Mr. Milz wanted to make sure the Board was addressing signs, not signage billboards. Mr. Mackey explained that is another one of the topics for discussion. The current ordinance reads "Signs and Billboards". The regulations however, really deals with on premise signs. There are a few billboards around town that pre-date the regulations. Does the Board want to allow billboards or restrict them? Mr. Milz suggested dealing with billboards later in the discussion. Mr. O'Connor said he would want to see a definition of "billboard" before making a decision. Ms. Davison felt the Board needed to have a working sense of what the Board wants to do with billboards to make sure that signs don't morph into billboards. Mr. Milz thought a billboard would be free standing, and not attached to any building. Mr. Mackey noted they are typically off premise signs, with changeable advertising that is meant to be rented to a business for a certain period of time, for advertising purposes. Ms. Davison asked if that would be the working definition of billboards? Something that is rented out to provide advertising as opposed to signs which are typically connected to a business? Mr. Milz asked that Mr. Mackey come up with a definition of "billboard" for the Board.

The Board reviewed the draft document. Mr. Mackey advised that there have been some additions and changes to Section 165-5, Definitions, for regulations that are reflected further on in the document. There was a question with regard to potential conflicts for directional signs that are identified on site plans. Mr. Mackey commented those types of signs generally don't require a sign permit. Mr. Anderson suggested if the directional signs are not shown on the approved site plan, when the applicant files, the signs don't exist without further discussion. With regard to "abandoned signs", the proposed definition includes a 120 day period. He felt four months was too long. This is policed by Code Enforcement. Mr. Mackey said the question comes up that Code Enforcement needs to know how long the business has been closed; they will need to monitor that. Currently, there are no regulations that deal with that specifically. Mr. Milz thought 120 days was reasonable. Mr. Anderson suggested sending a notice after 30 days that the sign needs to be removed within 30 days. Mr. O'Connor noted that he utilized ordinances from Rochester, Londonderry, and Mt. Vernon. A 120 period is typical in those towns. Mr. Anderson felt if signs were left for four months, it could begin to look like a ghost town; the town should want to make it look like the town is open for business. The Board decided to limit the time to 60 days.

Mr. O'Connor had a question regarding "free standing signs". It is defined as a pole with a flag; would the Subway sign be a free standing sign? Mr. Mackey said if it has advertising on it, it is a sign. The other question to ask is, does the town want to allow sandwich boards? Mr. Anderson thought there should be restrictions such as they could not be displayed on the sidewalk in such a way as to block pedestrian traffic in any way, and they should not exceed the permitted square footage allowed per business for signs under the ordinance. Mr. Mackey said he is hearing from numerous business owners that they would like to have sandwich boards, but agrees they should be controlled. There is a need for them. Currently, there are no provisions for them and Code Enforcement periodically does a sweep of the downtown and asks businesses to remove them. There is a lot of pushback from the business owners who feel they are essential in this economy.

Mr. Granese asked with regard to the blow up or inflatable advertising. Were they signs? Mrs. Robidoux thought they would fall under the definition of "advertising device" and would be regulated.

Mr. Anderson said he would prefer to include sandwich boards in the maximum allowable sign per business. For example, if a business exceeds the allowable square footage for its signs, and then adds a sandwich board, it is circumventing the Ordinance. Under sandwich boards, it should say they are allowed but are included in the total allowable SF permitted per business. Mr. Mackey agreed noting in the TBOD, the total area of all signs is limited to a specific number of square feet.

Mr. Anderson spoke with regard to "unsafe signs". The provided definition is vague. The Board may need some counsel to tighten up the definition a bit. Mr. Milz said for sandwich boards, the Board can allow them at a certain size, but perhaps add wording that they need to be adjacent to the building, not blocking the sidewalk; if the town allows them, where will they be allowed? They should not be on curbs or in the middle of the sidewalk. Mr. Anderson noted if they are

adjacent to the building, it might block the four foot handicap access. They should not be allowed to block pedestrian access. Some businesses do put them in the middle of the sidewalk. Mr. Milz felt most businesses needed a place to be able to display the daily special or special sales. Mr. Sioras said in the TBOD, sidewalk displays are encouraged because they encourage business in the downtown. There is a section in the ordinance that states, "In the interest of public safety, the sidewalks within the public right-of-way within this district shall not be obstructed by merchandise display, seating, or any other permanent or temporary obstructions, except by special permit as may be established by the governing body of the Town of Derry." This has come up once or twice in the past and the town does not want the sidewalk blocked but wants to allow for outside seating and things of that nature. Mr. Sioras said the language was placed with the intent to protect public safety and not obstruct the right of way. Mr. MacEachern agreed, and said that it is restrictive, but it is up to the Administrator to decide to allow it or not. He felt it was better to give the power to the Town Administrator and then the Administrator can determine if the right of way is obstructed by the sign or not, then it is up to Code Enforcement to make sure they comply. Mr. Sioras noted Marianne's now has benches in front of it, which they did not have in years past. Mr. Milz said he liked that the Town Administrator has authority and can set the parameters by the location.

Mr. Sioras related that when Aubuchon was open for business on West Broadway, it had the widest sidewalk. They used to have outside displays. He felt this should be encouraged because it adds life to the downtown. Representatives from The Main Street Program felt this is a good idea if it can be accomplished without blocking the sidewalk. Mr. Anderson suggested making sure that provision is included.

Mr. O'Connor asked with regard to temporary signage? The current definition has a 30 day limit. Mr. Mackey said that is how the ordinance is currently worded; businesses can obtain a temporary permit twice per year. Mr. Milz felt 30 days was sufficient for something that was advertising "new remodeling" or "new menu coming".

The Board continued to review the proposed changes. Mr. Mackey noted that the Applicability had been replaced with a Purpose which better defines what the town wants to accomplish. There is no reference to exterior signs to avoid future confusion. The Board was advised that this section of the draft had no redlining as the sections were proposed to be repealed and replaced, so this would be all new text.

Mr. O'Connor noted Section 165-101.ja, referenced RSA 236. Does the Board want to write in what that is, for example, that particular RSA deals with signs on state highways. Mr. Anderson felt that in instances where a specific RSA was referenced, it should be replaced with "pursuant to current state law" since the laws kept changing. Mr. MacEachern suggested removing "political signs" under 165-101.c, since they are discussed separately and don't really fall under the definition of "temporary sign". Many political signs are larger than three square feet in size. Ms. Alongi asked if the Board would be addressing "people signs" such as the Dominoes employee who held up signs at the Tsienneto Road intersection. Also, was there a time limit as to when political signs needed to be removed? Mr. O'Connor said the time frames for political signs are governed under state law.



Mr. O'Connor asked why, under 165-101.h, the distance was limited to ten feet to a public way? Mr. Mackey said that is what is in the ordinance right now. It is assumed that if the sign is back 10 feet, it will not interfere with sight lines. In some districts, the buildings can be that close.

Mr. O'Connor asked with regard to 165-101.i (animated/electronic-type signs), would that mean that interior signs meeting this definition would be prohibited? Mr. Mackey said any sign of that type would be prohibited under the current ordinance. Ms. Davison felt if a window sign was visible, it should be treated in the same manner as an exterior sign. Mr. Milz suggested the Board go through all eleven pages of the draft and then discuss electronic signs. It appears that topic may be the most controversial and it will need to be well thought out.

Mr. Mackey noted that item "k" asked if the town wanted to allow billboards. He felt they were off premise signs, meant to have changeable type advertising that is intended to be for profit by leasing the space on the billboard for a certain period of time. The current ordinance does not address billboards even though the Article is titled "Signs and Billboards". Mr. Park thought billboards should be phased out and the other Board members agreed. Mr. Mackey said staff will add a specific definition in the ordinance, but prohibit billboards.

For special event signs, it was felt that a three square foot limitation may be too small and did not take into account banners that span roadways. The special event signs would be similar to those Panera has been displaying, saying "now open. Mr. Chase felt the size restriction may be too small. For example, if someone wanted to hold a carnival at the old Grandview site, that site could support a larger sign and the carnival would be a special event as would be a holiday bazaar. It was suggested to limit the size to 32 square feet. Mr. Anderson asked if there needed to be a limitation for special events? Someone could use a tractor trailer and that could be their special event sign. Mr. Park thought the five day prior may be too limiting. It was suggested 14 days prior would be more reasonable. Mr. Anderson asked how many special events could one business have without infringing upon the neighbors? Ms. Davison felt they needed to be limited in the number of events because a large sign could be obtrusive to a neighbor. Mr. Milz suggested that they be regulated in the number and any appeals can be directed to the Town Administrator. Mr. Mackey thought that special events could be limited to twice per year, which is what the town does for temporary signs. Mr. MacEachern felt they could happen more often than that. Ms. Davison asked for special events should there be different regulations for profit and non-profits? The Board did not feel it needed to do that. Mr. Anderson agreed with limiting special events to not more than two per year, and if a business wanted something in excess of that, they would need to apply through the Town Administrator's office. Mr. O'Connor noted in the Town of Bedford, the Town Council approves special events. Mr. MacEachern said he would trust the Administrator's judgment on this. Mr. Mackey said organizations like the Rotary put up their signs for auctions and car shows. There is nothing specifically in the regulations at the moment that prohibits them. They make sure they do not create a hazard. Mr. MacEachern felt the regulations need to be clear so that they don't offend anyone. There should be a rule and then exceptions can be left up to the Town Administrator. Mr. O'Connor referred again to the Town of Bedford's regulation. Mr. MacEachern felt it would be best to use the Town Administrator rather than the Town Council for this type of issue. Section 165-101.o was changed to allow the sign to be in place 14 days prior to the event, removed within 2 days, with

no size restriction. The events are limited to one per quarter per year. Exceptions are requested in writing to the Town Administrator.

Mr. Mackey asked for direction with regard to church signs. Churches are allowed in almost all districts but there are no regulations for their signs. If a church is located in a residential area, he would try to have it be non-internally illuminated and of a size that fits in the neighborhood. In Manchester, a business use located in a residential zone is allowed 20 square feet for its sign. Mr. Anderson wondered if that would be too large? Mr. Mackey thought that was about the size you would expect to see to identify a church. The Board did not feel that type of sign needed to be internally illuminated and 20 SF was a reasonable size.

With regard to Section 165-101.1, Mr. Mackey said that in the residential district, staff added a provision for subdivision signs and prohibited billboards. That prohibition will be added to the commercial zones. For Section 165-1-1.2, he noted to date he has not received an application for a sign in a Neighborhood Commercial district. Section 165-101.3 deals with signs in Commercial, Business and Industrial Districts. Currently, the total allowable sign area is based on the amount of linear square feet of road frontage. This does not include shopping malls. There is a provision that allows up to three signs per business. In a shopping mall, typically you see one sign on the pylon, one sign on the directory and one sign above the entrance, for a total of three. In cases such as Hillside Plaza, if you are allowed a total of three signs, there is only one pylon and no directional sign. So there is a sign on the pylon and one above the entrance and everyone asks to place the third out front near the road. If every business has a third sign, it begins to look very busy. Mr. Granese noted at Hood Plaza, there would be four signs: one on each side of the pylon, one on the directory and one above the door. Mr. Chase noted there are no signs or numbers on the back side of the building, identifying the businesses. When the Fire Department responded to a fire in one of the units, they had a hard time identifying the correct door. Some of them do not have unit numbers on them. The exception is the wing that faces Pinkerton Street.

Mr. Milz felt there should be separate requirements for shopping malls, especially if the Board can put something in place to help the Fire Department. Mr. Anderson felt it made sense that there is appropriate numbers and signage on the doors to the rear of the building to help with emergency response. Mr. Milz suggested tabling the shopping mall requirements until the Board can get further input from the Fire Department. Mr. Mackey said that if the Board was in agreement, having advertising over the entrance, a sign on the pylon and one for the business itself would get rid of that separate lot sign. He can agree that adding proper identification to the rear doors is helpful.

Mr. O'Connor asked with regard to 165-101.3.G, if provisions could be added to place a lien on the property, or could the Board add more teeth to Code Enforcement in the event a sign is not removed within the appropriate time frame for a business that is no longer open? Mr. Anderson noted the time frame should be consistent throughout the sign ordinance and therefore this item should be changed to 60 days rather than one year. Mr. Mackey did not know if liens would apply to sign enforcement; the Board may want to add appropriate language.



With regard to signs located in the Office Business District, the current regulations allow one sign with a maximum size of 10 square feet that is not internally illuminated. Ten square feet can be limiting, especially when there is more than one business on a lot. Mr. Mackey felt it makes sense if each business is allowed a specific number of square feet so that when there are multiple tenants in the OBD or TBOD, they are not limited. Mr. Sioras noted the OBD is located on West Broadway from the Londonderry town line and ends adjacent to Storer Court, where the Derry News is located. Ms. Alongi suggested that for a multi-tenant building, each business be allowed 10 SF so that all the signs are uniform in size; or there could be a directory placed on the side of the building that contains the business logo. Mr. Mackey said in that case if there were three businesses, there would be a listing for the three businesses in one place and the signs would not be spread out all over the building. That may not work with the 10 SF limit per building, so perhaps say that they need to be incorporated into a common sign.

Mr. Mackey advised that the TBOD is along Broadway, between Crystal and Storer Court. The Board has already discussed sandwich boards; there is not much else that has changed but staff did touch on the 50 SF limitation per lot. Again, with a multi business building, it is limiting. A good example is 6 West Broadway. Currently, there is more than 50 SF of signs on that lot. Mr. Sioras noted that some of the signs on that building sat there for a long time when the businesses moved out. Ms. Alongi commented that should not happen in the future with the proposed changes. Mr. Mackey suggested for the TBOD that the signs not exceed 50 SF per lot, or no more than 10 SF per business if it is a multi-tenant building as suggested under p.iv. The question would be the SF limit. The Board felt 10 SF was sufficient for multi-tenants.

Under Section 165-101.6, Campground signs, the Board elected to remove the provision that off premise signs were prohibited. Under Section 165-1-1.7, Political Signs, the Board revised the reference to the specific state statute and inserted “the appropriate RSAs”.

Mr. Mackey spoke to off premise signs. There should be an easement if the sign is located off the property.

Interactive Digital Signs was added to address those signs that are not electronic signs, but are more like those found at gas pumps or touch pad signs.

Mr. MacEachern asked staff to work with the Fire Department on rear signage at shopping malls. Mr. O'Connor felt that could be dealt with during site plan review and the Fire Department should be looking at that while reviewing the plans. Mr. Mackey said that is harder to do with existing, older shopping malls. Mr. Anderson felt the town could ask for identifiers to be placed on new doors. Mr. MacEachern noted that Mr. Mackey is going to research electronic signs and come up with something for the next meeting. Mr. Sioras said the next time the Board can meet on this would be October 15<sup>th</sup>, which is a Monday.

Ms. Alongi noted the time frame should be changed to 60 days under non-conforming signs. Mr. Anderson agreed there should be a 60 day provision throughout the regulation rather than one year. Mr. O'Connor confirmed that Code Enforcement is provided with enforcement power under Article XVI of the Zoning Ordinance. He wanted to make sure there was enough enforcement power to allow the Code Enforcement Officer to have a sign removed.

Motion by MacEachern to adjourn, seconded by Bartkiewicz. The motion passed with all in favor and the meeting stood adjourned at 8:29 p.m.

Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

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