

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

April 17, 2007
Tuesday 7: 30 pm

Member Present:
Chairman Chirichiello
Councilor Carney
Councilor Ferrante
Councilor Bulkley
Councilor Fairbanks
Councilor Coyle
Councilor Metts

Staff Present:
Tom Carrier
Bob Mackey
George Sioras
Ginny Roach, Planning Chair

Acting Town Administrator, John Moody
Town Clerk, Denise Neale

Called to Order at 7:30 pm

Salute to Flag, Notice of Fire Exits & Handicap Access

Roll Call-Present: Fairbanks, Ferrante, Bulkley, Chirichiello, Carney, Coyle, and Metts

Consent Agenda

07-23 Acceptance of Minutes – April 3, 2007
07-36 Acceptance of Non-Public Minutes – April 10, 2007
07-37 Schedule Public Hearing – A Street South from B Street to Rte 28
(Manchester Rd.)

Consent Agenda Accepted

Chairman's Report

Council was in Non-Public before meeting where personnel and land issues were discussed.

NH Metro Center Leadership Forum will be May 23, 2007 from 4:00 – 6:00 p.m.

Thanked EOC and Public Works for their assistance with the Storm and flooding.

Town Administrator's Report

Thanked PW Department for their help out at East Derry School.
Thanked Laid Law Transportation for getting our students home.

Due to the recent storm the Public Works Department anticipates that residents who have flooded basements will bring post-storm debris for disposal. As a result the department would suggest an Emergency Preamble to suspend disposal fees for storm related debris.

Councilor Coyle proposed the following emergency preamble:

Town of Derry

Emergency Preamble

WHEREAS: The Town of Derry was recently subjected to widespread flooding
And damage to personal property; and,

WHEREAS: Several hundred residents experienced damage homes and
Furniture and other household goods; and,

WHEREAS: The Town has established fee structures for disposing of
Construction and demolition debris, furniture and bulky
Items like mattresses at the Derry Transfer Station; and

Therefore, the Derry Town Council declares that an emergency exists.

Vote: 7-0-0

Therefore, be it resolved tat, we, the Derry Town Council suspend the fees charged in
Sections 128:12D (1) limited to the following items:

Construction and demolition debris, furniture, bulky items
and mattresses. The temporary suspension would apply
storm related residential debris only. The suspension of
the fees would end on May 9, 2007 and the fees would revert
back to the regular structure after May 9, 2007. This may be
extended if need indicates – further, with a recommendation
of FEMA reimbursement.

Craig W. Bulkley, Chair
Derry Town Council

Denise E. Neale
Clerk to Council

Received and recorded April 17, 2007.

Town Clerk, *Denise E. Neale*

Motion: by Councilor Coyle, seconded by Councilor Chirichiello. Vote: 7-0-0

Reminder that Spring Clean up is coming up soon and it is going to take a lot of
volunteers. Visit the town website at www.derry-nh.org for information.

Chairman Bulkley wanted to re-establish a practice in regards to the liaison duties of the
Council. This will begin during the 1st meeting in May for the Council to update Public on
these boards and committees. Then updates will be quarterly. This will take place
during the Chairman's report.

Old Business

07-34 Appointments – Boards & Committees.

Nomination: Bill Hoyt Councilor Bulkley, Second Councilor Coyle
Nomination: Jennifer Books Councilor Fairbanks, Second Councilor Metts

Vote: Bill Hoyt - Metts, Chirichiello, Ferrante, Bulkley (4)
Vote: Jennifer Books - Fairbanks, Carney, Coyle (3)

Bill Hoyt
Conservation Committee
(1-yr Alternate Term)

Nomination: Allan Virr Councilor Bulkley, Second Councilor Coyle
Vote: 7-0-0

Zoning Board
Allan Virr
(3-yr Alternate Term)

Openings: Planning Board (1) 3-Year Alternate Term

Zoning Board (1) 1- Year Alternate Term
(1) 2- Year Alternate Term

Public Hearing

07-30 Amend the Code of the Town of Derry, Zoning Ordinance Article II, Section 165-5 Definitions –add Congregate Care Facility & Assisted Living.

George Sioras gave explanation of how these definitions were developed with the help of Atty Steve Clark. He then read the definitions of Congregate Care Facility and Assisted Living.

Motion to open the Public Hearing Vote 7-0-0.

Steve Barry, Kendall Pond Rd – He would like to see a height restriction put on the building. Concerned about safety issues for elderly.

Mike Fuller, Colson & Colson Construction, Salem Or. – Gave an explanation of the building and its height.

Marge Bisson, Cole Rd – wants to see this type of care in town and has worked in this type of a building and never had any problems with moving residence.

Al Dimmock, High St – supports definitions and this type of care.

Steve Barry, Kendall Pond Rd – looking for definition of height restrictions. In favor of this type of care.

Jack Dowd, Sundown Rd – For years people have been looking for this type of facility. Nutfield Heights has five stories.

Ginny Roach, Planning Chairman – The height issue is for the Planning Board not the Council. Planning Board is asking for the approval of the definitions.

Motion to close the Public Hearing. Vote 7-0-0

Councilor Fairbanks asked questions related to the MHD, with age restrictions and height restrictions. Feels that this is “Spot Zoning”.

George Sioras explained the definition of “Spot Zoning”.

Councilor Metts has personal experience with Congregate Care in Salem. Gave highlights of this kind of facility.

Councilor Coyle was concerned with it being zoned just in this district why not in East Derry?

George Sioras explained that this area was zoned as a Medical area because of its availability for growth at the time years ago.

Councilor Chirichiello question height restrictions for this area.

Councilor Ferrante looking at the group as the largest generation and that this area is a good place for them to walk. It's a good start but believes it will be going in other areas of town.

Councilor Fairbanks asked if there were going to be sidewalks put it, as it is a dangerous place to work. Questioned Tsienneto Rd area zoning could be changed to a Medical zone.

Councilor Bulkley expressed that this is what the Town needs. He's had personal experience with this type of facility. We now have residential areas that are being encroached upon by businesses. Supports the definitions.

Councilor Fairbanks asked for more clarification on definitions.

More discussion ensued on the definition Assisted Living and its possible uses. Discussed changing how it should be stated in Article VI. Giving it a specific explanation within the article.

07-30

Motion: Amend Zoning Ordinance; Article II – Section 165-5 – Definitions- Add Congregate Care Facility and Assisted Living Facility as follows:

Congregate Care Facility – A residential facility for elderly persons, (ages 55 and older), the age restriction which shall not be inconsistent with federal and state law, containing efficiency units, one and two bedroom units without kitchen facilities. The facility shall contain common dining facilities and other accessory uses typically needed by elder residents. Services provided shall include but not limited to housekeeping, meals and transportation. Medical services are not required to be provided.

Assisted Living Facility – A residential care facility for elderly persons, the age restrictions which shall not be inconsistent with federal and state law, this is licensed by the State, containing a common dining facility and accessory uses typically needed by elderly residents. Medication dispensing and assistance with daily living activities may be provided.

Discussion: Councilor Fairbanks not comfortable with Assisted Living Facility definition. Does not want to vote on both definitions.
Councilor Bulkley explained that motion is being voted on together cannot separate motion.

**Councilor Ferrante made the motion, Councilor Chirichiello seconded.
Vote 7-0-0**

Discussion on 07-29 regarding “spot zoning” by Councilors Coyle and Fairbanks. Councilor Coyle suggested sending this back to Planning Board to include other areas of the Town. Councilor Carney supports Councilor Coyle’s idea. Councilor Ferrate explained that the Planning Board will be taking a look at the Re- Zoning of the Town but it will take time.

07-29

Motion: Amend Zoning Ordinance, Article VI, Office/Medical/Business District (OMB) Section 165-35B – Permitted Uses- Add #6 Congregate Care and Assisted Living Facilities as permitted uses in the Office Medical Business District.

Discussion: Councilor Fairbanks explained why she is going to vote no.

**Councilor Ferrante made the motion, Councilor Chirichiello seconded.
Vote: 4-2-0 (Coyle, Fairbanks)**

Councilor Metts urged the Planning Board to listen to the residents of this area.

07-17 Town of Derry Water Supply and Well Installation Regulations.
Tom Carrier gave the background on this regulation for the Council. The new regulations are intended to govern Wells for new building construction to include new subdivisions and vacant lots. Reviewed new regulation requirements. Well installers were notified of this meeting as well as builders from a list provided by the Code Enforcement Office.

Motion to Open the Public Hearing. Vote: 7-0-0

Chris Reisdorf, Shelly Dr. – Believes the Well Ordinance should be adopted w/ supply requirements.

Motion to Close the Public Hearing. Vote: 7-0-0

Council with Tom Carrier discussion: Councilors asked questions of Tom Carrier in regards to explanations of the regulations, costs to builders. To enforce this the Well would have to be put in before the building permit was issued or occupancy given through the Code Enforcement Office. Continued, discussion on the required testing of the Well water. Existing homes with Wells would continue regulations under State EPA Standards for Well replacements. Conflict of why these regulations only affect new

buildings not existing. Bob Mackey Code Enforcement Officer was asked to explain some of the issues asked.

Steve Smith, Smith Pump & Well – gave his concerns that some of these requirements are duplicated. Agreed with some of the requirements and some may be hard to comply with.

Motion to extend 10 minutes, by Councilor Coyle, seconded by Councilor Metts. Vote: 7-0-0

Asked Tom Carrier to come back to the Council at the second meeting in May. Councilor Coyle asked that Tom come back with an entire Well regulation that includes existing house and new construction. If it's different that's okay but he would like to see what it is for both. Councilor Metts agrees.

Tom explained that there are no requirements for existing well for placement and quantity.

Councilor Chirichiello and Ferrante expressed that existing well replacement requirements are not necessary to be governed by the town.

Councilor Coyle motioned to table 07-17, second by Councilor Metts. Vote: 7-0-0

Councilor Coyle Motioned to extend another 10 minutes for Public Forum only, seconded by Councilor Carney. Vote: 7-0-0

New Business - None

Public Forum

Al Dimmock, High St – Asked what Derry is doing about the 180th Birthday of Derry. Gave suggestions of activities.

Marge Bisson, Cole Rd – There is a Senior Health Fair to be held at WRB from 11 a.m. – 1 p.m. on April 24th, health screenings and a free lunch. Wanted to thank everyone during the recent power outage due to the storm. Asked the Council to consider the Elderly Exemption and Tax Credit for the budget. Spoke on contracts with a 2.2% cola that the service men aren't getting more than that. Neither should the town employees.

Chris Reisdorf, Shelly Dr – discussed Union Proposal for the Police Department, OT pay.

Motion to adjourn 10:20 p.m.

Denise E. Neale, Town Clerk

Date

Town of Derry NH
Town Council Meeting
April 17, 2007

Be it known that the following vote was amended in the minutes of April 17th, 2007 for a typographical error only.

07-29

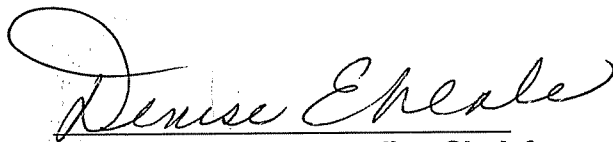
Motion: Amend Zoning Ordinance, Article VI, Office/Medical/Business District (OMB) Section 165-35B – Permitted Uses- Add #6 Congregate Care and Assisted Living Facilities as permitted uses in the Office Medical Business District.

Discussion: Councilor Fairbanks explained why she is going to vote no.

Councilor Ferrante made the motion, Councilor Chirichiello seconded.

Vote: 5-2-0 (Coyle, Fairbanks)

Councilor Metts urged the Planning Board to listen to the residence of this area.



Denise E. Neale, Recording Clerk for
Derry Town Council



Denise E. Neale Town Clerk

