



# Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

**TUESDAY, APRIL 21, 2015**

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Lynn Christensen, Desirea Falt, and Alternates Nelson Disco and Jeff Sebring.

Planning Board member absent: Michael Redding.

Staff present: Community Development Director Tim Thompson and Recording Secretary Zina Jordan.

#### 1. Call to Order

Robert Best called the meeting to order at 7:30 p.m. and welcomed Alternate Jeff Sebring to the Planning Board. He designated Jeff Sebring and Nelson Disco to sit for Michael Redding and the vacant full member position, respectively.

#### 2. Planning & Zoning Administrator's Report

None.

#### 3. Keach-Nordstrom Associates, Inc. (applicant) and Valleyview Revocable Trust, Carol Maggio, Trustee (owner) – Discussion and possible action regarding a request for a reinstatement of conditional final approval and a six-month extension for compliance with conditions of an approval granted by the Planning Board on July 23, 2013, and July 8, 2014, to subdivide one lot into two single-family residential lots located at 15 Valleyview Drive in the R (Residential) District. Tax Map 5C, Lot 142.

Chairman Best read an e-mail from Tony Basso, Vice-President, Keach-Nordstrom Associates, Inc., asking for an extension to May 19, 2015, because there was no construction due to the long and snowy winter. It is scheduled to begin May 4, 2015.

Alastair Millns noted that Michael Maggio, FSB Consulting, had promised to meet the terms of conditional approval by Thanksgiving 2014. Failure to do so cannot be blamed on winter conditions. Tim Thompson explained that the missing piece to meet all the conditions of approval is the emergency access road. The performance bond for it is due in May 2015. He informed Tony Basso that Michael Maggio must either finish the work or the Planning Board would take action on the bond at its May 19, 2015, meeting. The administrative approval that includes the bond for the emergency access road was granted in 2012. Chairman Best noted that the applicant promised to complete the access road as part of the two-lot subdivision. If he does, the Board will look more favorably on the subdivision. Tim Thompson said he suggested a continuance to May 19, 2015; the bond will expire at the end of May 2015. If the Board were to deny tonight's request for reinstatement/extension and if the bond is called, Michael Maggio must return to the Board for the second lot because the approval would have lapsed. He cannot get a building permit for the second lot without Planning Board approval for the subdivision. No extension means no second lot. The process would have to begin again with a new application for a two-lot subdivision. Chairman Best said the site is a "disaster" and a "mess". However people living nearby would be better off if Michael Maggio is in compliance rather than walking away from the property. He supports the continuance. Tim Thompson

said the road to the emergency access road would be completed according to the design that is part of the administrative approval. There are sufficient funds in the performance bond to complete the work and for a two-year maintenance bond. Chairman Best said that the Planning Board had mandated that the destruction to the neighbor's yard must be fixed at their meeting in July 2014. Lynn Christensen said a continuance would encourage Michael Maggio to do what is right. Tom Koenig added that, although the neighbors are frustrated, he would rather see the project finished than see Michael Maggio walk away from it. Chairman Best noted that the barrels blocking the south end of the road are pushed to the side whenever someone feels like using the road. He has kept almost none of his promises.

**The Board voted 6-1-0 to continue this item to May 19, 2015, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Lynn Christensen and seconded by Tom Koenig. Alastair Millns voted in the negative.**

- 4. Old Blood Properties, LLC. and Joseph K. and Mary El Kareh (co-applicants/co-owners) – Review for consideration of Final Approval of an application for a cluster subdivision proposing 72 cluster residential lots and 4 open space lots located at Old Blood Road in the R-1 (Residential) District. Tax Map 5B, Lots 001-01, 002, 003, 003-01, 005, 006, 007, 008, 009 and 231. *This item is continued from the December 16, 2014, January 6, 2015, January 20, 2015, February 17, 2015, and March 17, 2015, Planning Board meetings.***

Tim Thompson said that CLD peer review comments were received only today. Now Meridian Land Services can make plan revisions and work with the Public Works Department (PWD). Ken Clinton, President, Meridian Land Services, Inc., said that CLD made very few substantial comments.

Ken Clinton said that, at the intersection from Old Blood Road to the subdivision, there is a sewer line with 20' access at Lot 42 with a storm water basin on the side slope. The plan was revised to create the four-way intersection that PWD recommended. 1:1 slopes were proposed at the wetland crossings to manage impact and fit the road improvements. There is a 35' easement with an abutter to the north. The unused Class 6 portion of the right-of-way on Old Blood Road places constraints on the use of Madeline Bennett Road and Merrymeeting Drive. A sewer can be placed there because of gravity flow. Since the storm water basin is no longer needed, a four-way intersection can be created and Lot 42 can be reconfigured. Deputy Public Works Director/Town Engineer Kyle Fox does not support 1:1 slopes because PWD cannot effectively maintain them. The compromise is to have 2:1 slopes and a limited 2'-high retaining wall opposite Station 33 plus 00. The impact is a wider footprint. The wall would be built with rectangular blast rocks from the site.

One drawback is eliminating the 3' grass strip and sidewalk in that section because of grading constraints. PWD supports a sidewalk waiver. CLD suggests erecting signs warning that there is no sidewalk in that section. Ken Clinton tried to install a sidewalk, as the Planning Board prefers. There will be a sidewalk on the frontage of every one of the 72 lots, wrapping around the internal loop, and extending to the school entrance. Only one part of Old Blood Road, the spur that was granted a waiver in 2014 and this section will not have a sidewalk. There are no other options.

A sidewalk can be installed on part of the spur to the 2:1 slopes, as Chairman Best suggested, but it makes no sense because there is no connection to Old Blood Road. Chairman Best also suggested making a turnoff to walk out where there is no sidewalk. Ken Clinton said that, because there would be no signs, the default speed limit by State law would be 30 mph.

Nelson Disco suggested a higher wall, but that would require a chain link fence on top. Kyle Fox objects that is too difficult for heavy equipment to maintain a wall higher than 2' at the edge of the easement. He wants more width at the bottom, even with a 2'-high wall. Several wall height and slope options were considered. A 2'-high wall is preferable based on overall design and maintenance considerations.

Ken Clinton stated that the section of sidewalk at Old Blood Road is not absolutely warranted; the School connection is. The sidewalk waiver is the only new waiver request. All others will be requested at the May 19, 2015, meeting. No lots would be affected by not having this section of sidewalk. Lynn Christensen clarified that the sidewalk would stop a little short of and make a safe connection to Old Blood Road, which does not have a sidewalk. She preferred 2:1 slopes and bringing the sidewalk as far as possible. Chairman Best has no issue walking on the road in his neighborhood, which is similar to this subdivision.

Nelson Disco was not persuaded that different wall heights were thoroughly researched. Ken Clinton explained that width is limited. Bringing the wall in 5', as CLD recommends, would make it higher. A sidewalk would make it even higher, possibly 10'-12', which PWD will not maintain. Ken Clinton will review PWD and CLD comments with Kyle Fox.

Chairman Best asked about phasing. Ken Clinton said the current plan refers to the roadwork and not to the lot phasing. The project is too large for all roads to be installed at once. The first phase would consist of upgrading and connecting the entrance points at Madeline Bennett and Old Blood Roads, installing drainage on the downslope section, installing temporary hammerhead turnarounds and easements at Lots 8-9 and 27-28. Hammerhead locations are determined because of minimal grading there and to meet dead end needs. Road lengths of 1,200' determine the phasing. The Board instructed Tim Thompson to find out whether there should be one bond at the beginning to include all the work or a bond for each phase. Ken Clinton said that timing, scheduling and lot numbers for each phase will be discussed with the Planning Board at a later date. There will be a total of 3,600- 3,800 linear feet of sidewalk. Ken Clinton does not know how long it will take to develop the site fully. The bonding would probably be done in pieces, with overlap as each phase is completed and another is begun.

Ken Clinton may ask for a waiver for a 1:1 slope at the ledge. Desirea Falt asked whether the homes would be custom built and Ken Clinton responded that he does not know who will design the homes. The developer may not be the builder.

### **Public comment**

Rebecca Statz, 11 Bradford Drive, is a Merrimack school bus driver. She reported that several drivers are concerned about Madeline Bennett Road. Twice daily there are 37 standard school buses, special needs student vans, 1-5 charter buses, coach buses, bicycles, and skateboards, making traffic extremely congested and difficult. Two waves of buses line up on Madeline Bennett Road in the afternoon. As leader of the second wave, Rebecca Statz must sit in the cutout for 7-10 minutes until all the buses fit. Delivery trucks try to cut in front of them. As to the turn from Baboosic Lake Road to McElwain Street, a one-way road is unenforceable and can tie up traffic. It is not an effective fix. Adding non-school traffic on Madeline Bennett Road is risky. There is a concern about safety and about the efficiency of the school buses. If the second wave is held up at Madeline Bennett Middle School, the buses will arrive late at the other schools. Where will the buses stage if traffic is allowed onto Madeline Bennett Road? Blasting is also a safety concern because buses use two-way radios constantly. Rebecca Statz

suggested managing the timing of the blasting. Another concern is that children may pop out of the woods at random spots.

Laurette Cillo, 26 McElwain Street, is also a Merrimack school bus driver. She is concerned about the safety of the children and the parents who drop them off. Stop signs and rolling stops do not work. The hill on Madeline Bennett Road is an “ice skating rink” in winter and an “accident waiting to happen”. The area is overly congested.

Tim Thompson read an April 20, 2015, e-mail from Matt Shevenell, School Business Administrator, stating that the School District would like to see the wetlands permit at the same time it is presented to the NHDES and reserves the right to comment to NHDES directly on any disturbance involving School-owned property in its current easement area. The original easement allows the Town minor encroachment into the easement area only for the purpose of upgrading Old Blood Road from Class 6 to Class 5. Ken Clinton explained that the retaining wall, slope design and awaiting CLD comments are why he has not yet gone to DES. He is committed to giving Matt Shevenell a copy of the permit at the time he submits it to DES.

Alastair Millns wants to be involved in developing signs that require drivers to signal where they are going if the road stays as it is. Ken Clinton said CLD made several comments about signs and bus queues. He will present the Board with a sign and striping plan.

**The Board voted 7-0-0 to continue this item to May 19, 2015, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Desirea Falt and seconded by Alastair Millns.**

**5. Anheuser-Busch, LLC. (applicant/owner)** – Review for acceptance and consideration of Final Approval for a site plan to construct three building additions totaling 55,100 s.f. and associated site improvements at the existing brewery. The site is located at 221 D.W. Highway in the I-1 (Industrial), Aquifer Conservation Districts and 100-year and 500-year Flood Hazard Areas. Tax Map 3D, Lot 031.

Tim Thompson said the applicant proposes to construct three separate additions to the main building. Two of the additions (totaling approximately 50,000 square feet) will function as warehousing and packaging facilities. The third addition of 5,300 square feet will be for brewing. Site improvements associated with the building additions include parking, underground utilities and subsurface storm water management area.

Tom Zajac, Civil Engineer, Hayner/Swanson, Inc., said the 196-acre parcel is surrounded by a mix of industrial and municipally-owned parcels. It is serviced by sewer and water by Pennichuck Water Works. The 590,000 square foot brewery is on the north; athletic fields, tour areas and stables are in the center; and the south portion is wooded and undeveloped. There are 202 full-time employees who work in three shifts 24/7. Access is at the four-way intersection on D.W. Highway. The employee and visitor parking lots on the west have 720 spaces. There are trailer and truck lots throughout the mostly flat property.

To be constructed are a new can and packaging line and brewery and warehouse capacity. There will be a 9% increase in building area: 27,000 square feet for packaging, 5,300 square feet for brewing and 25,000 square feet for a warehouse. There will be 38 new employees and 30 new truck trips daily, new loading docks, and reconfiguration of utility and storm water management. There will be disturbance to 4.7 acres or 2% of the parking or lawn areas, but there will be no new disturbed areas. Anheuser-Busch accepts the Merrimack Conservation Commission (MCC) recommendations about not using salt, de-icers or fertilizers and has a Green SnowPro contract and an Environmental Protection Agency (EPA) Storm Water Permit.

Tom Zajac described the sewer and infiltration system. There will be 1.5 more impervious acres, but water quality and quantity will improve.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

**The Board voted 7-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

Tom Zajac explained the waiver requests.

Because of the size of the project, it would be an unnecessary hardship to do a boundary and topographical survey for the entire parcel. The site was surveyed previously. Nelson Disco cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

**The Board voted 7-0-0 to waive the requirements of Sections 7.05.D.4 and 7.05.D.15 – Boundary and Topographic Survey - of the Site Plan Regulations - on a motion made by Nelson Disco and seconded by Tom Koenig.**

Tom Zajac explained that the parcel is already landscaped and lit. Only minor modifications will be made. Alastair Millns cited the criterion that that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

**The Board voted 7-0-0 to waive the requirements of Section 10.01 – Landscape Plan - and Section 11.04(2) – Illumination Plan – of the Site Plan Regulations – on a motion made by Alastair Millns and seconded by Desirea Falt.**

Tom Zajac explained the reasons for a sidewalk waiver: 1) The parcel measures 196 ± acres and contains approximately 4,800 linear feet of frontage along Daniel Webster Highway. 2) This section of D.W. Highway contains sidewalks, pedestrian crosswalks and signals along the westerly side, but not along the easterly side/Anheuser-Busch's frontage. 3) The proposed project is minor in nature compared to the overall size of the property and existing development. The proposed brewery expansion will increase the total building area by approximately 55,000 square feet or 9%. The project will disturb approximately 4.7 acres or 2% of the property. 4) The existing facility has been in use for 45+ years without the need for sidewalks along its frontage. The site is unique in that the buildings and parking areas are significantly set back from the roadway. Providing a new pedestrian connection from the site to the roadway would prove difficult and expensive due to topographic conditions. It is likely that portions of the sidewalk construction along the roadway would need retaining walls and guardrails due to steep slopes. 5) This section of D.W. Highway is controlled and operated by the NH Department of Transportation (DOT), which does not favor further sidewalk construction along this section of D.W. Highway.

Nelson Disco questioned the accuracy of the statement about DOT. Tim Thompson and Chairman Best confirmed that DOT will not support sidewalks in its jurisdiction until a Sidewalk Master Plan is complete. Nelson Disco and Chairman Best suggested installing a pedestrian way from the Anheuser-Busch access road/property to D.W. Highway to keep pedestrians out of the traffic flow, especially during large events.

Desirea Falt cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

**The Board voted 7-0-0 to waive the requirements of Section 7.05(D)(19) – Sidewalks – of the Site Plan Regulations – and to encourage an internal pedestrian way, on a motion made by Desirea Falt and seconded by Lynn Christensen.**

Tim Thompson and Alastair Millns complimented the waiver letter and presentation.

There was no public comment.

Greg Kapp, Resident Engineer, Anheuser-Busch, LLC, said that Anheuser-Busch's Workplace Transport Plan can incorporate the Board's suggestions. Trucks stage on an internal road.

Nelson Disco asked how close the wells were to the infiltration. Greg Kapp stated that the wells and the infiltration system are sufficiently separated. All water comes from Pennichuck; the wells are only for irrigation. Tom Jokerst, General Manager, said Anheuser-Busch uses Pennichuck water rather than well water. They monitor water for consistency across all 12 Anheuser-Busch plants.

In answer to Board questions, Tom Zajac said he will provide calculations for the 720 parking spaces along the front, which is 100 over the required minimum. He explained the markings of the flood zones on the plan. Tim Thompson informed that Board that marking the 500-year flood line is no longer required. Fire Department comments about post-Planning Board approval and sprinkler permits were received today and will be incorporated as General/Subsequent Conditions.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

**The Board voted 7-0-0 to grant final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco.**

1. Final plans and mylars to provide all professional endorsements and be signed by all property owners;
2. The applicant shall obtain all necessary state permits (including NHDES Alteration of Terrain and an updated NHDOT Driveway permit, as applicable), provide copies of the permits to the Community Development Department file, and note the approvals in the notes on the plan;
3. The applicant may be required to address forthcoming comments (as applicable) from the Lower Merrimack River Local Advisory Committee (LMRLAC) if required by NHDES as part of the Alteration of Terrain Permit;
4. The applicant shall note any waivers granted by the Board on the plan (including Section, and date granted) as applicable;
5. The applicant to add a note to the plan indicating that a full set is on file with the Community Development Department;
6. The applicant shall address all applicable comments from the Town's peer review consultant, CLD;
7. The applicant shall address the following comment from Pennichuck Water Works;
  - a. Sheet 6 of 14, Utility Notes, note number 3 to reflect Pennichuck Water Works, Inc. specifications, not the Merrimack Village District Regulations;
8. The applicant shall address any forthcoming comments from the Wastewater Division (as applicable);

9. The applicant shall address the following comments from the Conservation Commission (as applicable);
  - a. The Commission appreciates and endorses the applicant's use of a NH Green SnowPro certified contractor(s) on their site and their intent to continue with that practice;
  - b. The Commission recommends that only low phosphate, slow release fertilizers be used as part of this project and in the future at the entire site. The Commission further recommends that the applicant's contractor and Anheuser Busch's later use of the site first utilize a soil testing facility to determine what levels and application rates may be necessary before doing any application of fertilizers on the site;
10. The applicant shall address the following planning staff technical comments:
  - a. Applicant to include the following statement that references the Stormwater Management Ordinance: This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 167 of the Town's code of ordinances). A Pre-construction meeting with the Town of Merrimack Community Development Department and Public Works Department shall take place at least two weeks prior to commencement of disturbance in accordance with Chapter 167 of the Stormwater Management Standards adopted by the Town of Merrimack Town Council on July 21, 2011;
  - b. Applicant to show setbacks outlined in note 2, Sheet 1;
  - c. Applicant to include Base Flood Elevation for Zone AE to note 7;
  - d. Applicant to include a note on parking requirements (total required and total provided for existing and additions). The addition of 27,000 SF for Packaging requires 27 spaces (1 per 1,000 SF for wholesale businesses larger than 100,000 SF), 5,300 SF for Brewery requires 5 spaces (1 per 1,000 SF) and 22,752 SF of Warehouse requires 15 spaces (1 per 1,500 SF for Warehouse and Storage larger than 100,000 SF). A total of 47 spaces are required for the 3 additions;
  - e. Applicant to include the following statement on Sheet 1 per the Subdivision Regulations, Section 4.06.1(k): "The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto";
  - f. Applicant to add or revise applicable notes to address Conservation Commission comments.

#### **General and subsequent conditions**

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Applicant shall comply with the following comments from the Fire Department:
  - a. These buildings have an existing NFPA-13 compliant fire sprinkler system. This system shall remain in service during all times the building is occupied. System shutdowns and modifications due to demolition and construction will be permitted only

after the Merrimack Fire Marshal has received notice and approved said shutdown. Any changes and additions to the existing sprinkler system will require a full design plan submittal and permit application. Plans for this sprinkler system shall be provided to the Fire Marshall for review and approval prior to installation;

- b. These buildings have an existing NFPA-72 compliant fire alarm system. This system shall remain in service during all times the building is occupied. System shutdowns and modifications due to demolition and construction will be permitted only after the Merrimack Fire Marshal has received notice and approved said shutdown. Any changes and additions to the existing fire alarm system will require a full design plan submittal and permit application. Plans for this fire alarm system shall be provided to the Fire Marshall for review and approval prior to installation.

#### **6. Discussion/possible action regarding other items of concern**

- Preliminary discussion of soils information for potential ordinance amendments (as requested by Pete Gagnon)

**Rescheduled for May 19, 2015.**

#### **7. Approval of Minutes – April 7, 2015**

**The minutes of April 7, 2015, were approved, with changes, by a vote of 5-0-2, on a motion made by Lynn Christensen and seconded by Alastair Millns. Desirea Falt and Jeff Sebring abstained.**

#### **8. Adjourn**

**The meeting adjourned at 9:25 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Jeff Sebring.**