



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY AUGUST 16, 2022

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, August 16, 2022 in the Matthew Thornton Room.

Members Present:

- Paul McLaughlin (Vice Chair)
- Brian Dano
- Jaimie von Schoen
- Town Councilor Barbara Healey - Ex-Officio
- Haleem Mediouni – Alternate
- Maureen Tracey – Alternate
- Nelson Disco – Alternate

Members Absent:

- Robert Best (Chair)
- Lynn Christensen
- Neil Anketell

Staff Present: Casey Wolfe, Assistant Planner

1. Call to Order

Vice Chair Paul McLaughlin called the meeting to order at 7:00 p.m. Mr. McLaughlin appointed Alternate Nelson Disco to vote for Robert Best, Alternate Maureen Tracy to vote for Lynn Christensen, and Alternate Haleem Mediouni to vote for Neil Anketell.

2. Planning & Zoning Administrator's Report

3. Consent Agenda

- Extension Request: six month conditional approval extension for the Brady Sullivan Properties, project located at 1 Innovation Way (case #PB2022-06).*

The Board voted 7-0-0 to approve the consent agenda on a motion made by Nelson Disco and seconded by Barbara Healey.

4. Bowers Landing of Merrimack II, LLC. (applicant/owner) - Review for consideration of an

amendment to a previously approved site plan to change a proposed clubhouse to a patio. The parcel is located off Bowers Landing Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 1D, Lot 001-04. Case #PB2022-29.

Matt Peterson (Keach-Nordstrom Associates, Inc.) and Kirk Ware (5 Townsend Place and Member of the Advisory Board) presented the application to the Board. Mr. Peterson began by providing an outline of the Bowers Landing projects that have occurred over the last 20 years and shared the Overview plan to demonstrate the location of each of the project phases. He went on to explain that the current request before the Board is to amend the Phase VI plan to change the proposed clubhouse to a patio (Note 33 on the Overview sheet). Mr. Peterson further explained that the draft version of the overview sheet mentions stamped concrete for the patio, however, the final decisions on the surface type have not been made so the final version will leave that detail out and just reference the patio area itself. He explained to the Board that when the plans were created and approved there were not any residents living there yet and now that there are, they expressed a desire not to have the clubhouse because of the added expense it would take to maintain it. Mr. Peterson indicated that the residents were asked to vote on the topic and the majority of them wanted the patio instead of the clubhouse so that is why the change is being requested. Mr. Ware echoed what Mr. Peterson had said about the residents requesting the change and added that their units are large detached condominiums so the residents do not foresee the need of having another indoor space and would much rather have a large outdoor area to use. He added that club houses are not worth the cost because they sit vacant the majority of the time and the Home Owners Association (HOA) will have access to two others within the development to hold their meetings.

Vice Chairman McLaughlin asked if the patio will be the same size as the clubhouse and Mr. Peterson stated it will not be to allow for more green space. Mr. Disco spoke in opposition to the change stating that the residents that purchased their units did so thinking that the development would have a clubhouse. He also feels that a patio is not comparable to a clubhouse and stated that the clubhouse in his condo association is used 2-3 times a week. Vice Chairman McLaughlin asked how close the nearest clubhouse is to these residents and Mr. Peterson used the overview plan to demonstrate the location of the Blanchard Pointe clubhouse. The question on whether or not the agreement to use the abutting association's clubhouse was a verbal agreement or a written one was raised and Mr. Ware stated that it was just a verbal agreement at this time but added that they could get it in writing. Vice Chairman McLaughlin asked staff if the Planning Board could add a condition of approval to their decision stating that the agreement between the associations needs to be documented and Ms. Wolfe stated that they could do that if they chose to. Councilor Healey questioned whether or not the clubhouse cost was factored into the price the residents paid for their properties and Mr. Peterson said he does not think it was included because it was not in the previous phases that have them. She also questioned what will happen years from now when new owners wonder why they do not have a clubhouse. Mr. Peterson argued that the current residents have a right to request changes and they are requesting the patio. Maureen Tracey asked if the HOA fees will be different with a clubhouse versus the patio. Mr. Ware explained that they would increase if the clubhouse is built because they need to factor in money for maintenance and utilities. Mrs. Tracey offered a suggestion that they put a heating element under the concrete to melt the snow so that the patio could be functional in the winter months. She also stated that she owns a condo in Massachusetts as a summer home and their clubhouse is rarely used but the "pocket parks" get a lot of use.

Mr. Disco asked if the vote was unanimous for the clubhouse and Mr. Ware stated that there were 13 votes against it out of 65. Mr. Disco continued to oppose the change stating that the people

that voted in opposition have a point because they bought their unit thinking they would have a clubhouse and a slab of concrete is not an equivalent. He suggested that a playground for children would be a better proposal than the patio. Mr. Ware explained that the concept is more of a small park than just a patio because it will also have grass, landscaping and seating. Mr. Peterson added that he is not trying to say the two are comparable but the residents are the ones that want the patio area to allow more green space instead of another building.

Dave Folsom (Project manager for the development group) provided some background information by explaining that when he was first approached with the request they had a pavilion designed that was partially covered and partially opened and the majority of the residents still did not want it because they want to see the space left as open and unobstructed as possible. Mr. Folsom also clarified that the use of the other clubhouse is limited to HOA Board meetings only.

Brian Dano asked what amenities are in the other clubhouse in the adjacent development and Mr. Ware stated that it is just basically a meeting space with a kitchenette and bathroom. Vice Chairman McLaughlin then asked if the proposed clubhouse in Townsend place would have been similar and Mr. Folsom answered yes.

Public comment

Thomas Breon (27 Toby Circle) spoke in favor of the patio because the majority if the residents have plenty of space to entertain and have their own fitness equipment so the added expense of the clubhouse does not make sense. He would much rather see the space kept open.

Roger Price (17 Townsend Place) spoke in favor of eliminating the clubhouse indicating that future residents will have the right to take a vote to build a clubhouse if that is what they choose but the majority of the current residents voted against it so the majority vote should be applied. He also pointed out that the YMCA is less than a ½ mile walk from their development and they offer a senior discount that would cost less than supporting the clubhouse.

Kathy Bradfield (43 Toby Circle) also spoke in favor of leaving the area as open as possible, echoing a lot of the comments that were previously made by other residents. She pointed out that potential buyers will simply not purchase a home in the development if they prefer having a clubhouse available to them.

John & Lise Linehan (12 Toby Circle) spoke in favor of the patio indicating that he walks by the other clubhouse all the time and it is hardly ever in use so why would they incur the cost to upkeep a building that will sit empty. Mr. Linehan reiterated the concerns about the increase to their HOA fees and stated that he does not feel it's necessary since they have another space they can use for meetings. Mrs. Linehan clarified that when they purchased their condo they were told that there was not going to be a clubhouse and she knows of other residents that were told the same thing.

Mr. Disco reiterated his belief that the patio is not an equivalent replacement to the clubhouse and that there should be something better proposed. Mr. Dano stated that the area is already packed with homes so leaving the greenspace would be nice, especially since it is what the majority of the residents want. Vice Chairman McLaughlin asked Mr. Disco if he would like to see a more detailed plan and then asked staff if that could be a condition of approval. Ms. Wolfe indicated that they could approve it as it is written now or leave the plan design open so that staff can work with the applicant on the final details. She pointed out that the motion just needs to be

clear on what is intended. Councilor Healey stated that she feels if they approve the green space the details on what trees are planted and where should not involve the Planning Board because they would not tell someone what to plant in their backyard. Mrs. Tracey asked if residents can put swing sets in their yards and Mr. Folsom responded that in order to do that they would need approval from the HOA because it is all common space. The board discussed the logistics around approving the plan as is versus requiring more input from staff and Mr. Dano asked how bad the slope is in the area of the patio and if there are concerns with people falling and getting hurt. Mr. Peterson indicated that it is a 3:1 slope and can be mowed, Mr. Folsom added that there is also a fence.

The Board voted 6-1-0 to grant conditional final approval on a motion made by Maureen Tracey and seconded by Barbara Healey. Nelson Disco voted in opposition. The following conditions apply:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars.
2. The applicant shall obtain all required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department.
3. The applicant shall provide draft copies of any applicable legal documents for review at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall address any forthcoming comments from municipal department review, as applicable.
5. The applicant shall address the following Planning Staff Technical Comment:
 - a. The applicant shall make the "Toby Circle – Common Patio" plan part of a construction detail sheet or somehow include a full size version alongside the revised overview plan.

The following general and subsequent conditions are placed on the approval:

1. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions).
2. The applicant shall address any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable (that are not deemed precedent conditions).
3. All General and Subsequent conditions placed on the original site plan approval (signed by the Planning Board on November 13, 2018) and as subsequently amended shall continue to be in place with this amended site plan approval, as applicable.

5. Discussion/possible action regarding other items of concern

None

6. Approval of Minutes — August 2, 2022

The Board voted 7-0-0 to approve the minutes of August 2, 2022, as submitted, on a motion made by Nelson Disco and seconded by Barbara Healey.

9. Adjourn

The Board voted 7-0-0 to adjourn at 7:52 p.m. on a motion made by Nelson Disco and seconded by Barbara Healey.