



Town of Merrimack, New Hampshire

Community Development Department
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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, DECEMBER 18, 2018

Planning Board members present: Robert Best, Alastair Millns, Michael Redding, Lynn Christensen, Dan Ricker, Neil Anketell, and Alternate Nelson Disco.

Planning Board member absent: Tom Koenig.

Staff present: Planning and Zoning Administrator Robert Price and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:00 p.m.

2. Planning & Zoning Administrator's Report

The Board voted 6-0-0 to determine that WiRed Barn waiver of full site plan review is not of regional impact, on a motion made by Alastair Millns and seconded by Lynn Christensen.

3. Discussion of Capital Improvement Program for Town of Merrimack

Paul Micali, Assistant Town Manager/Finance Director, and Kyle Fox, Public Works Director, explained Major Projects General Fund (Expenses) 2019-2025, and their funding and timing. Board members suggested discussed the potential of a shared boat ramp with Nashua and marking bicycle lanes when repaving or widening streets.

4. Discussion of Capital Improvement Program for School Administrative Unit #26

Representatives from SAU #26 did not appear; no discussion.

- 5. Mark Rivet (applicant/owner)** — Continued Review for consideration of a site plan for the construction of a 1,920 s.f. garage and function room addition and associated site improvements. The parcels are located at 425 Daniel Webster Highway in the C-2 (General Commercial) and Aquifer Conservation, Flood Hazard Conservation, Elderly Housing and Town Center Overlay Districts. Tax Map 5D-4, Lots 077 & 078. **This item is continued from the September 4, October 2 and November 13, 2018 meetings.**

The applicant asks for a continuance in order to make revisions necessitated by peer engineering and municipal department review.

At the applicant's request, the Board voted 6-0-0 to continue this item to January 8, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen.

- 6. WiRed Barn, LLC. (applicant/owner)** – Review for acceptance and consideration of a waiver of full site plan review for a change of use to allow a dog boarding and daycare business in addition to the existing residential dwelling. The parcel is located at 3 Wire Road in the R-4 (Residential), Flood Hazard Conservation and Aquifer Conservation Districts. Tax Map 2B, Lot 293-01.

Paul Chisholm, Project Manager/Civil Engineer, Keach-Nordstrom Associates, Inc., said that, on October 31, 2108, the Zoning Board of Adjustment (ZBA) granted the applicant a special exception to have both a residential and a commercial use on the same property. Paul Chisholm met with the Merrimack Conservation Commission (MCC) on December 17, 2018. The parcel is surrounded by a mix of uses. There is a house on the north side, a red barn, and retaining walls between the structures and Baboosic Brook. The applicant (who also owns Pets Choice pet supplies store) intends to establish a small-scale dog day care and boarding business. Kennels would be inside the barn and on the bottom floor of the house plus two fenced play areas outside. There would be five parking spaces, three in front of the barn and two in the rear. There would be employee and residence parking (up to 6 vehicles) in the barn's upper level. One full-time employee would live on site. An ADA/van accessible space would be provided. NH Department of Environmental Services (NH DES) has approved a Shoreland Permit by notification. Paul Chisholm showed how he can get three spaces in the barn.

Chairman Best said this is a creative use of property and this type of business is in high demand. He asked the applicant to make clear employee vs. customer parking. Paul Chisholm would rotate the spaces so that customers would not back onto Wire Road. Whereas Superdogs has 45 dogs in day care and 15 boarding for a total of 60, this facility would have 5-8 dogs in a group, with 35 dogs maximum, and five dogs maximum boarding at night. They have nine parking spaces for customers and two for employees. There would be no training or grooming at WiRed Barn. Dogs would be supervised at all times. A mix of 6'-high stockade and chain link fence would replace the picket fence.

Paul Chisholm described the lighting. Chairman Best suggested putting some where customers and dogs walk.

Paul Chisholm described the traffic pattern. Chairman Best suggested pavement markings/stripes, especially near Wire Road. Paul Chisholm said the driveway is 16' wide. He will work to address on-site traffic circulation.

Nelson Disco wanted a pedestrian way in front. Paul Chisholm will look into what turf surface to use in the play areas. Fecal matter would be picked up immediately so as to not impair the Brook.

Paul Chisholm has a meeting scheduled with the Public Works Department (PWD) on December 19, 2018.

The reason the applicant wishes to waive full site plan review is to avoid making a storm water management plan and a lighting plan. He would need to ask for a waiver from the number of required parking spaces because seven spaces are not needed for four employees per shift as well as a waiver from the required driveway width in order to keep the 16'-wide rather than a 24'-wide driveway. Chairman Best wanted the applicant to actively discourage customers from parking on Wire Road.

Paul Chisholm said that operating hours would be 7:30 a.m.-6:30 p.m., Monday-Friday and appointment-only boarding on weekends. Lynn Christensen predicted that barking would be an issue for residential neighbors. Michael Redding suggesting looking into shuttling dogs from the store (Pets Choice) to the subject property in order to reduce the need for parking. Dan Ricker said this is a poor use of space and added that he had issues with parking and waste/runoff near the Brook.

The Planning Board wanted full site plan review because of the potential drainage issues associated with the site's and use's proximity to Baboosic Brook.

Paul Chisholm suggested peer review only of drainage. Chairman Best would agree if the applicant would fix the parking and traffic flow according to Planning Board suggestions. Alastair Millns wanted peer review of traffic issues.

Chairman Best called a five-minute recess at 8:20 p.m.

Paul Chisholm said cars would be staggered for drop-offs and pick-ups. It would be rare to have 35 dogs at once. He can reduce the maximum to 25 dogs, so only five spaces would be required. He noted that a permitted commercial use on the property would have the same issues because it is a non-conforming property. This business is a better fit.

Teresa Machado, co-owner, WiRed Barn, LLC, said pick-ups and drop-offs would be staggered. Customers can text the time they expect to arrive, or the applicant could look into software that staggers scheduled drop-off times for customers. An owner could also notify ahead of time for pickup so their dog would be ready. It is a very small facility with a lot of trees that would help create a "homey personal experience". It is likely that only existing customers would board their dogs. All 25 dogs would not do the same thing at the same time; they would be in groups of 5-8.

Chairman Best suggested a pedestrian way through (rather than around) the retaining wall.

Public comment

Dustin Sherry, 6 Wire Road, owns the multi-family residence across the street. He opposes waiving full site plan review because of the change of use and safety issues, such as ingress/egress, traffic trip generation, and history of 19 accidents at the intersection with Wire Road. He does not want customers on his property because the subject property has limited parking available. He is also concerned about animal

waste near the Brook and barking. Three employees for 25 dogs is not adequate. Dustin Sherry asked whether there would be industrial-sized air cleaners.

Jim Parolin, 1 Wire Road, supports full site plan review. He is concerned that people would drop-off and pick up animals during high traffic times, causing an impact on traffic flow on Wire Road. Snow storage on this own property cuts down the number of parking spaces he has and there is nowhere to put it. He envisions a similar problem on the subject site. Cars accidentally come onto Wire Road and constantly use his parking lot to turn around. School buses wait in line there and block traffic. Jim Parolin wants a study of the impact on traffic and parking. He is concerned about noise that would not be conducive to residential or professional business activities and how the business would affect property values. Jim Parolin wants to involve local conservation committees, river advisory committee, and the NH Environmental Services Watershed Department for input on stormwater runoff to the Brook, which abuts the property. The site is in the Shoreland Protection Area and he is concerned about landscaping changes. No trees should be moved. There should be an impact study for the plan to dispose of waste. Rebuilding the Baboosic Brook and/or Wire Road Bridges may result in traffic pattern changes and congestion and a major impact on traffic on both Wire Road and D.W. Highway.

Chairman Best explained that a low-impact project gets a permit by notification (permit by mail) from NH DES. It is not necessarily reviewed. It is just a rubber-stamp process. The Public Works Department would deal with the issue. There would likely be a temporary bridge on D.W. Highway during construction of the new bridge, when that takes place. Robert Price added that school bus parking is not a Community Development issue. Chairman Best suggested that the Merrimack Police or Highway Safety Committee look into it.

Chairman Best read into the record an e-mail from the Conservation Commission (MCC) stating that the project would not cause a change in stormwater flow. Solid waste would be picked up and moved off site. There would be no grooming. MCC recommends using a non-toxic de-icer and non-phosphate fertilizer. Play area surfaces would be artificial.

John Dunn, 75 Spring Road, Amherst, used to own 6 Wire Road. He said vehicles go faster than the posted speed limit in this area. He suggested a looping traffic pattern on site, extending the incline and making a one-way entry/exit to slow the grade and create a greater line of sight. Chairman Best said the Planning Board would not allow cars to back onto Wire Road.

Bill Barry, 3 Cardinal Court, played a recording of noise from Cloud K9 dog day care that he took from his office on Columbia Circle, 100 yards away with their bay door closed. He, too, supports full site plan review, adding that this is not a good location for a dog day care center. Chairman Best explained that the industrial zone (where Cloud K9 is located) allows noise, but this property is not industrial. Merrimack has no noise ordinance.

Paul Chisholm located the snow storage areas. A plow could drive to the end of the driveway. If there is too much snow, it would be removed. He will think about changing the parking orientation. Chairman Best suggested labeling snow storage areas on the plan, trucking off the excess snow, noting that there would be no sacrificing of any parking spaces for snow storage, and indicating that driveway width would always be preserved.

Paul Chisholm said there is no noise at the dog day care he patronizes; Chairman Best said there is none at Superdogs either.

Paul Chisholm said that there is an adequate number of employees for groups of five dogs each. DES/Shoreland Water Quality Protection reviewed the plan for compliance and impacts; it can be seen online. Paul Chisholm said the applicant can plant new trees, but cannot remove any without a permit. He will review traffic and circulation with the Public Works Department. WiRed Barn would use a safe, organic de-icer. Nothing would wash into Baboosic Brook. The retaining walls have a lip to prevent runoff. Everything would be drain to the play areas and infiltrate into the ground. There would be no fertilizer on the artificial surface. The barn is a mix of wood and steel.

Chairman Best asked for a report on impervious surfaces.

Jim Parolin said the hard pack area between the properties belongs to him, adding he feels it may have been misrepresented to the buyers that this area is shared-use. He wants the plan to note there would be no parking there.

Staff recommends that the Board continue the application in order to address the review comments from municipal departments. The applicant agreed with this recommendation, adding that they would prefer their next meeting to be on January 8 to provide an update to the Board regarding their meeting with Public Works and the comments heard at this meeting.

The Board voted 6-0-0 to continue both the acceptance and hearing for this item to January 8, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Neil Anketell.

7. Streif, LLC. (applicant/owner) – Review for acceptance and consideration of an amendment to the previously approved residential site plan entitled “Overlook Estates” to revise the previously-approved off-site improvements by allowing excavation of material and installation of water and sewer services on Map 5D-4, Lot 099. The parcel is located at 406 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 099.

Brent Cole, Keach-Nordstrom Associates, Inc., said the .78-acre property abuts a 45-unit elderly housing development that is currently under construction. Both the subject site and the housing development are owned by the applicant. It is proposed to take out approximately 10,000 cubic yards of fill material and re-grade the lot to make one continuous, uniform steep slope, then a flat area to D.W. Highway. The site would be for sale. A 2:1 slope is proposed from East Chamberlain Road to D.W. Highway.

Services for a potential future commercial use would be installed now. All State permits have been received and a pre-construction meeting was held for the housing development. The large lot was clear cut and the site is being prepared now. CSSI will begin road construction in the summer. There is a silt fence along D.W. Highway on the smaller lot.

Nelson Disco noted definite evidence of clear cutting and erosion from rainwater. The subject parcel was not part of "Overlook Estates". Chairman Best instructed the applicant to be sure CSSI is doing things in proper order. He is troubled that the applicant had previously said that it could not realign East Chamberlain Road by using this parcel, but yet now it wants to utilize this parcel as cost savings for Overlook Estates. Brent Cole stated use of this parcel was always considered as part of Overlook Estates. He added that the longer the road (East Chamberlain), the less incline it would have and the more flat it would be. He does not remember saying that the subject parcel was not part of Overlook Estates. He is fixing the drainage ditch along D.W. Highway with this in mind. Chairman Best and Nelson Disco disagreed and claimed that the applicant is pretending the discussion never happened.

Brent Cole said the only water that would flow down the slope is water that hits it directly. He showed the path of the water flow. There is no contributing area to the slope. He would install curbing along the road. A Geotechnical study would check whether fabric is the appropriate stabilizer. The removal of fill and transport to the larger lot, as well as the re-grading of the subject lot all was incorporated into the Alteration of Terrain Permit. No amendment is necessary. Chairman Best instructed the applicant to provide DES confirmation of that.

Brent Cole said Public Works indicated a guard rail is not required, adding that there is enough pavement for an emergency stop before the steeper slope begins.

Michael Redding wanted assurance that there is no chance runoff would go over the edge and cause erosion (by installing plantings, for instance). Brent Cole said all storm water would be caught on site and showed the locations of catch basins. No swale is needed at Abenaki and East Chamberlain Roads. There would be a 2% negative slope there, then 5% the rest of the way. Brent Cole explained the drains and erosion control. There would be a berm instead of a silt fence.

Neil Anketell noted he visited the site before the meeting and wanted construction materials kept on the main site and not next to the road. Signs should not be on neighboring properties. There is currently no dust or erosion control and the roadway is a "mess".

Chairman Best did not like the idea of a permanent fabric to stabilize the slope. Brent Cole said it would be of woven, natural material that would be loamed and seeded with grass. Michael Redding stated that grass would need maintenance on a 2:1 slope with poor sandy soils. He suggested phasing the slope construction for erosion control purposes. Chairman Best stated that all erosion controls must be in place before construction. Alastair Millns said the applicant took away control by cutting trees, etc., with no erosion control. Brent Cole said it was beyond his control and that he would

relay the Planning Board's concerns. Neil Anketell showed photos of the site to Brent Cole and asked that they be placed into the record.

Brent Cole said he turned the existing depression into a stormwater detention pond. Everything settles in one area. He would ask the contractor to remove signs from the Malzone property. He stated he would remind the owner that dust control is required.

Chairman Best said the applicant did everything he said he would not do. Alastair Millns said everything must be stabilized and fixed.

Brent Cole read a letter about drainage from the PWD stating that the slope should not impact East Chamberlain Road, the detention pond should be graded in front of the property, the swale/berm on East Chamberlain Road should be maintained until the slope is stabilized, and the property should drain from D.W. Highway to the detention area.

Chairman Best, Nelson Disco and Michael Redding wanted plantings to be maintained long-term with possible annual inspections. Brent Cole said he would add that to the storm water best practices manual.

Public comment

Mike Malzone, 8 East Chamberlain Road, said wind caused damage to his and the neighbor's homes because no trees were left to slow or block it. Erosion control would not work. He suggested a retaining wall be installed to hold up the road. Something must be done on East Chamberlain Road, where there are no storm drains.

Mike Nako, 409 D.W. Highway, is concerned about erosion from the subject lot coming onto his front lawn. He agreed with Mike Malzone about a retaining wall. The front of his lot floods; he does not know the source.

Chairman Best said that the Geotechnical report would suggest the best stabilization method.

The Board voted 6-0-0 to continue both the acceptance and hearing for this item to January 22, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Michael Redding.

8. Discussion/possible action regarding other items of concern

The Board voted 6-0-0 to set the performance bond for Greenfield Farms IX at \$1,833,810.58 and subsequently reduce that amount to \$1,227,085.26, on a motion made by Alastair Millns and seconded by Lynn Christensen.

Nelson Disco noted that the amount of a sidewalk bond comes nowhere near covering its actual cost, which is 10 times as much. Michael Redding agreed that the amount should be updated. He will look up NH Department of Transportation (DOT) average costs. Chairman Best instructed staff to ask PWD how the rate is set.

Dan Ricker asked whether the Planning Board should write to the Overlook Estates owner about not following procedure. Robert Price said that the Community Development Department has reached out to him, as well as the contractor, in the past

when complaints have been made. He offered that he and PWD Deputy Director/Town Engineer Dawn Tuomala follow up with the owner and/or contractor. Staff/PWD can supervise construction without Planning Board involvement at this time.

Robert Price explained that Merrimack Village District is proposing a new PFAS treatment building that will be located on the same site as the existing well buildings on Front Street. Since this falls under the Governmental Use Statute (RSA 674:54), the Planning Board has a choice of whether or not to hold a non-binding hearing with MVD regarding the proposal.

The Board agreed to hold a non-binding hearing with Merrimack Village District and Underwood Engineers regarding construction of a new PFAS treatment building on Front Street.

The Board voted on the recommended rankings of all Town Capital Improvement Program items as follows:

Urgent: Stormwater drainage improvements/Permit compliance; Paving – Infrastructure improvements; Depot Street boat ramp repairs; Wastewater treatment plant Phase III and pump station upgrades.

Necessary: Bridge replacement – US 3 (DW Highway) Baboosic Brook; Bridge replacement – US 3 (DW Highway) Souhegan River – Chamberlain bridge; Paving – DW Highway; Baboosic Lake Road & Woodbury sidewalks; Daniel Webster sidewalk (place holder); Sewer line extensions (Mayflower and McQuestion sewer basins); Master Plan; Relocate sewer connector under Everett Turnpike (FKA Exec. Pk. pump station).

Desirable: Public safety complex; Wire Road intersection improvements (TYP, FY2027); Turkey Hill Road intersection improvements; Baboosic Lake Road sidewalk (Joppa Road to Madeline Bennett) (place holder).

Deferrable: Paving – Infrastructure improvements – Gravel roads; Merrimack River boat ramp access.

Premature: All Library items; New athletic fields.

No rank: Seaverns Bridge canoe launch ramp access improvement.

9. Approval of Minutes — December 4, 2018

The minutes of December 4, 2018, were approved as submitted, by a vote of 6-0-0, on a motion made by Lynn Christensen and seconded by Alastair Millns.

10. Adjourn

The meeting was adjourned at 11:18 p.m., by a vote of 6-0-0, on a motion made by Alastair Millns and seconded by Neil Anketell.